

Assumed or Fictitious Names in Connecticut

A Guide to Resources in the Law Library

- **CRIMINAL IMPERSONATION:** “General Statutes 53a-130 (a) provides, in relevant part, that a person is guilty of criminal impersonation when he or she “[i]mpersonates another and does an act in such assumed character with intent to obtain a benefit or to injure or defraud another.” The gravamen of the defendant’s challenge to his criminal impersonation conviction is that giving a false name is not impersonation of another unless the name given is that of a real person. State v. Smith, 194 Conn. 213, 220-221, 479 A.2d 814 (1984).
- **DOING BUSINESS AS (d/b/a):** “It appears well settled that the use of a fictitious or assumed business name “does not create a separate legal entity . . . [and that] [t]he designation [d/b/a] . . . is merely descriptive of the person or corporation who does business under some other name.” (Internal quotation marks omitted.) *Pinkerton’s, Inc. v. Superior Court*, 49 Cal.App.4th 1342, 1348, 57 Cal.Rptr.2d 356 (1996), quoting *Providence Washington Ins. Co. v. Valley Forge Ins. Co.*, 42 Cal.App.4th 1194, 1200, 50 Cal.Rptr.2d 192 (1996); see *Duval v. Midwest Auto City, Inc.*, 425 F. Sup. 1381, 1387 (D.Neb. 1977), aff’d, 578 F.2d 721 (8th Cir.1978); *Wood Mfg. Co. v. Schultz*, 613 F. Sup. 878, 884 n. 7 (W.D.Ark. 1985); *Jaffe v. Nocera*, 493 A.2d 1003, 1008 (D.C. 1985); *Southern Ins.Co. v. Consumer Ins. Agency, Inc.* 442 F. Sup. 30, 31 (E.D.La. 1977); *Patterson v. V & M Auto Body*, 63 Ohio St.3d 573, 575, 589 N.E.2d 1306 (1992); *Carlson v. Doekson Gross, Inc.*, 372 N.W.2d 902, 905 (N.D. 1985); see also *American Express Travel Related Services Co. v. Berlye*, 202 Ga. App. 358, 360, 414 S.E.2d 499 (1991), cert. denied, 202 Ga. 905 (1992) (“The use of d/b/a or ‘doing business as’ to associate a tradename with the corporation using it does not create a legal entity separate from the corporation but is merely descriptive of the corporation”).

Sections in this chapter

§ 1 Use of Fictitious Names in Connecticut courts	1
§ 2 Use of fictitious business names in Connecticut.....	4
§ 3 Criminal impersonation in Connecticut.....	9

Tables in this section:

Table 1 Use of Fictitious Business Names	8
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Use of Fictitious Names in Connecticut Courts

A Guide to Resources in the Law Library

- SCOPE:** Bibliographic resources relating to the use of fictitious or assumed names in Connecticut courts (Federal and state).
- SEE ALSO:**
- [Names and name changes in Connecticut](#)
- DEFINITIONS:**
- “The privilege of using fictitious names in actions should be granted only in the rare case where the nature of the issue litigated and the interest of the parties demand it and no harm can be done to the public interest.” Buxton v. Ullman, 147 Conn. 48, 60, 156 A.2d 508 (1959).
 - **Presumption of openness of court proceedings:** “This policy of openness is not to be abridged lightly. In fact, the legislature has provided for very few instances in which it has determined that, as a matter of course, certain privacy concerns outweigh the public's interest in open judicial proceedings.”
 - “The privilege of using fictitious names in actions should be granted only in the rare case where the nature of the issue litigated and the interest of the parties demand it and no harm can be done to the public interest.” Buxton v. Ullman, 147 Conn. 48, 60, 156 A.2d 508 (1959).
 - Doe v. Connecticut Bar Examining Committee, 263 Conn. 39, 60, 818 A.2d 14 (2003). “Simultaneously with the filing in the trial court of this petition for admission to the Connecticut bar, the plaintiff applied for permission to prosecute this action in a fictitious name. The trial court granted the application ex parte. The defendant subsequently moved for reconsideration of the ex parte order, which the trial court granted. After hearing argument on the application, the trial court concluded that Practice Book § 2-50(a), which restricts the availability of ‘[t]he records and transcripts . . . of hearings conducted by the [defendant],’ provides for a ‘presumption of confidentiality’ throughout the application process. The trial court stated: ‘[T]he presumption of confidentiality is one which any applicant to the [defendant] would have, and that presumption of confidentiality extends, not just through the application proceeding, but subsequent proceedings as well which this proceeding is. This proceeding in fact being a reconsideration so to speak or an appeal from the [defendant's] decision. On that basis, the court is going to allow the [plaintiff] to continue to prosecute this case in a fictitious name.’”
- FORMS:**
- 18A Am Jur Pleading & Practice *Name* (2006)
- § 49. Notice of motion—To amend complaint to correct fictitious name—
Defendant’s true name unknown to plaintiff when complaint filed
 - § 52. Affidavit—Supporting motion to amend complaint to correct fictitious name—Defendant’s real name unknown to plaintiff when complaint filed

§ 58. Order—Granting leave to amend complaint—Substitute true name for fictitious name of party

CASES:

- America's Wholesale Lender v. Pagano, 87 Conn. App. 474, 477, 866 A.2d 698 (2005). “Although a corporation is a legal entity with legal capacity to sue, a fictitious or assumed business name, a trade name, is not a legal entity; rather, it is merely a description of the person or corporation doing business under that name.”
- State v. Peary, 176 Conn. 170, 176-177, 405 A.2d 626 (1978). “The defendant further claims that the court erred in denying his motion to have stricken from the information the two aliases by which he was named. The information under which he was prosecuted named the defendant as ‘Willie J. Peary, alias Willie J. Peay, alias Willie Peay.’ During the course of the trial the defendant cross-examined several state’s witnesses to determine whether they had ever known him under the name of ‘Peary.’ Each conceded that the defendant had only been known under the name ‘Peay,’ the state’s main witness stating that the name ‘Peary’ could well have come from the way in which he had written the defendant’s name on the back of a photograph of him. Having ascertained this information, the defendant moved that the aliases be stricken, and that the information name him only under his proper name, Willie J. Peay. The defendant reasoned that use of the term ‘alias’ was prejudicial, that the name ‘Peary’ was erroneously supplied by the state, and that the presence or absence of a middle initial does not constitute an alias. The court denied the motion, noting that the aliases had nothing to do with the merits of the case.”
- Buxton v. Ullman, 147 Conn. 48, 60, 156 A.2d 508 (1959). “Because of the intimate and distressing details alleged in these complaints, it is understandable that the parties who are allegedly medical patients would wish to be anonymous. To obviate any possibility that the parties and the issues raised are fictitious and that the jurisdiction of the court is being invoked to decide moot questions, a plaintiff who desires to use a name other than his own should, before the case is presented in court, acquaint the court of his desires, establish the fact that the parties and issues are real although the names used are fictitious, and secure the court’s consent, as was done in these cases. The privilege of using fictitious names in actions should be granted only in the rare case where the nature of the issue litigated and the interest of the parties demand it and no harm can be done to the public interest.”

WEST KEY NUMBERS:

- *Parties* # 72. Unknown parties
 - # 72.1. —In general
 - #73. —Designation by fictitious names
 - # 74. —Description
- Corporations # 46. Acting in false or assumed name

DIGESTS:

- DOWLING’S CONNECTICUT DIGEST: *NAMES*

ENCYCLOPEDIAS

- 57 AM. JUR. 2d (2001). *Name*
 - IV. Fictitious or assumed name
 - A. In general
 - § 64. Generally
 - § 65. Designation of person by commonly known name
- 59 AM. JUR. 2d *Parties* (2002).

III. Designation and description

B. Unknown or fictitious parties

§ 17. Generally

§ 18. Anonymous plaintiffs

§ 19. Unknown or fictitious defendants

§ 20. —Necessity of lack of knowledge of defendant's identity

§ 21. —Naming unknown or fictitious defendant

§ 22. —Duty to identify fictitious defendant

§ 23. Business or trade names

- David M. Epstein, Annotation, *Propriety of Use of Fictitious Name of Defendant in Federal District Court*, 139 ALR Fed. 553 (1997).
- Francis M. Dougherty, Annotation, *Propriety And Effect Of Use Of Fictitious Name In Federal Court*, 97 ALR Fed. 369 (1990).
- Michele Meyer McCarthy, Annotation, *Right of Corporation, Absent Specific Statutory Subpoena Power, To Disclosure of Identity or Anonymous or Pseudonymous Internet User*, 120 ALR5th 195 (2004).
- Gregory G. Sarno, Annotation, *Use Of Assumed Or Trade Name As Ground For Disciplining Attorney*, 26 ALR4th 1083 (1983).
- Joel E. Smith, Annotation, *Relation Back Of Amending Pleading Substituting True Name Of Defendant For Fictitious Name Used In Earlier Pleading So As To Avoid Bar Of Limitation*, 85 ALR3d 130 (1978).

INDEXING:

- ALR INDEX: *Assumed or Fictitious Names*

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Use of Fictitious Business Names in Connecticut

A Guide to Resources in the Law Library

- SCOPE:** Bibliographic resources relating to the use of fictitious or assumed names in business, corporations in Connecticut including trade names
- SEE ALSO:**
- Names and name changes in Connecticut
- DEFINITIONS:**
- **Designation d/b/a:** “The complaint named ‘ _____, d/b/a _____ ’ as the defendant. We note that ‘the use of a fictitious or assumed business name does not create a separate legal entity . . . [and that] [t]he designation [d/b/a] . . . is merely descriptive of the person or corporation who does business under some other name.’” (Internal quotation marks omitted.) *Bauer v. Pounds*, 61 Conn. App. 29, 36, 762 A.2d 499 (2000).
 - **Corporation using trade name:** “The dispositive issue in this appeal is whether a corporation that brings an action solely in its trade name, without the corporation itself being named as a party, has standing so as to confer jurisdiction on the court. We conclude that, because a +trade name is not an entity with legal capacity to sue, the corporation has no standing to litigate the merits of the case. We, therefore, reverse the judgment of the trial court.” *America's Wholesale Lender v. Pagano*, 87 Conn. App. 474, 475, 866 A.2d 698 (2005).
 - **Trade Name:** “The dispositive issue in this appeal is whether a corporation that brings an action solely in its trade name, without the corporation itself being named as a party, has standing so as to confer jurisdiction on the court. We conclude that, because a trade name is not an entity with legal capacity to sue, the corporation has no standing to litigate the merits of the case. We, therefore, reverse the judgment of the trial court. *America's Wholesale Lender v. Pagano*, 87 Conn. App. 474, 475, 866 A.2d 698 (2005).
- STATUTES:**
- CONN. GEN. STAT. (2007)
 - Title 35. Trade regulations, trademarks and collective and certification marks
 - Chapter 620. Trade names
 - § 35-1. Use of fictitious business names. Prohibitions and exceptions. Penalty. Unfair trade practices
 - § 35-2. Use of word “banking” and similar words as part of business name.
- LEGISLATIVE:**
-
- FORMS:**
- 18A American Jurisprudence Pleading and Practice (2006)
 - § 47. Complaint, petition, or declaration—Allegation—Individual plaintiff doing business under fictitious name

- § 48. Petition or application —To register fictitious name of particular business
- § 50. Affidavit —Individual conducting business under assumed name
- § 51. Affidavit—Publication of fictitious name certificate
- § 53. Answer—Defense —Failure to comply with fictitious name statute—Lack of capacity to sue
- § 54. Answer—Defense—Failure to file certificate of doing business under fictitious name—Individual
- § 55. Answer—Defense—Failure to file certificate of doing business under fictitious name—Partnership
- § 56. Order to show cause—Why public official should not be required to file fictitious name certificate
- § 57. Order—Directing public official to file fictitious name certificate

CASES:

- *America's Wholesale Lender v. Pagano*, 87 Conn. App. 474, 477, 866 A.2d 698 (2005). “Although a corporation is a legal entity with legal capacity to sue, a fictitious or assumed business name, a trade name, is not a legal entity; rather, it is merely a description of the person or corporation doing business under that name.”

WEST KEY NUMBERS:

- *Parties* # 72. Unknown parties
 - # 72.1. —In general
 - #73. —Designation by fictitious names
 - # 74. —Description

DIGESTS:

- DOWLING’S CONNECTICUT DIGEST: *NAMES*

ENCYCLOPEDIAS

- 57 AM. JUR. 2d (2001). *Name*
 - IV. Fictitious or assumed name
 - B. Doing business under fictitious or assumed name
 - 1. *In general*
 - § 66. In general
 - § 67. Statutory regulation
 - § 68. Purpose
 - § 69. Construction
 - § 70. —Form and content
 - § 71. Filing
 - 2. *Applicability*
 - § 72. Transactions prior to statute
 - § 73. Names or designations within statute
 - § 74. —Foreign concerns; interstate transactions and commerce
 - § 75. Tort actions
 - 3. *Validity and enforceability of contracts where statute is violated*
 - § 76. Under statutes forbidding suits without compliance; time of compliance
 - § 77. Under statutes forbidding suits without compliance ; time of compliance
 - § 78. Contracts entered into under real name
 - 4. Pleading and practice
 - § 79 Generally
- Michele Meyer McCarthy, Annotation, *Right Of Corporation, Absent Specific Statutory Subpoena Power, To Disclosure Of Identity Or Anonymous Or Pseudonymous Internet User*, 120 ALR5th 195 (2004).

- *Proof of liability for entity's failure to acquire fictitious name certification*, 56 POF3d 103 (2000).
- Jeffrey F. Ghent, Annotation, *Use of "Family Name" By Corporation As Unfair Competition*, 72 ALR3d 8 (1976).
- Wade R. Habeeb, Annotation, *Incorporation Of Company Under Particular Name As Creating Exclusive Right To Such Name*, 68 ALR3d 1168 (1976).
- Howard J. Alperin, Annotation, *Right of Charitable or Religious Association or Corporation To Protection Against Use of Same or Similar Name By Another*, 37 ALR3d 277 (1971). .
- Annotation, *Construction And Effect Of Statute As To Doing Business Under An Assumed Or Fictitious Name Or Designation Not Showing The Names Of The Persons Interested*, 42 ALR2d 516 (1955).

INDEXING:

- ALR INDEX: *Assumed or Fictitious Names*

TEXTS & TREATISES:

- MARILYN J. WARD FORD, *CONNECTICUT CORPORATION LAW & PRACTICE* (2007).
 - Chapter 2. Business corporations
 - § 2.02. Limitations on corporate name
 - § 2.03. Name reservation and registration
 - (C) Doing business under an assumed or trade name

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Table 1 Use of Fictitious Business Names

<h2 style="text-align: center;">Trade Names</h2> <p style="text-align: center;">Conn. Gen. Stats. (2007)</p>	
§ 35-1	<p>Use of fictitious business names. Prohibitions and exceptions. Penalty. Unfair trade practices. (a) No person, except as provided in this subsection, shall conduct or transact business in this state, under any assumed name, or under any designation, name or style, corporate or otherwise, other than the real name or names of the person or persons conducting or transacting such business, unless there has been filed, in the office of the town clerk in the town in which such business is or is to be conducted or transacted, a certificate stating the name under which such business is or is to be conducted or transacted and the full name and post-office address of each person conducting or transacting such business or, in the case of a corporation or limited liability company using such an assumed name, its full name and principal post-office address. Such certificate shall be executed by all of such persons or, in the case of a corporation or limited liability company, by an authorized officer thereof, and acknowledged before an authority qualified to administer oaths. Each town clerk shall keep an alphabetical index of the names of all persons filing such certificates and of all names or styles assumed as provided in this subsection and, for the indexing and filing of each such certificate, shall receive the statutory filing fee for documents established in section 7-34a, to be paid by the person filing such certificate. A copy of any such certificate, certified by the town clerk in whose office the same has been filed, shall be presumptive evidence, in all courts in this state, of the facts contained in such certificate. The provisions of this subsection shall not prevent the lawful use of a partnership name or designation if such partnership name or designation includes the true surname of at least one of the persons composing such partnership. This subsection shall not apply to: (1) Any limited partnership, as defined in section 34-9, provided such limited partnership (A) has (i) filed a certificate as provided for in section 34-10, or (ii) registered with the Secretary of the State as provided in section 34-38g and (B) conducts or transacts business under the name stated in the certificate or registered with the Secretary of the State, or (2) any limited liability company, as defined in section 34-101, provided such limited liability company (A) has (i) filed articles of organization as provided for in section 34-120, or (ii) registered with the Secretary of the State as provided in section 34-223 and (B) conducts or transacts business under the name stated in the articles of organization or registered with the Secretary of the State. Any person conducting or transacting business in violation of the provisions of this subsection shall be fined not more than five hundred dollars or imprisoned not more than one year. Failure to comply with the provisions of this subsection shall be deemed to be an unfair or deceptive trade practice under subsection (a) of section 42-110b.</p> <p>(b) No person shall use, in any printed advertisement, an assumed or fictitious name for the conduct of such person's business that includes the name of any municipality in this state in such a manner as to suggest that such person's business is located in such municipality unless: (1) Such person's business is, in fact, located in such municipality; or (2) such person includes in any such printed advertisement the complete street address of the location from which such person's business is actually conducted, including the city or town and, if located outside of Connecticut, the state in which such person's business is located. This subsection shall not apply to the use of (A) any trademark or service mark registered under the laws of this state or under federal law, (B) any such name that, when applied to the goods or services of such person's business, is merely descriptive of them, or (C) any such name that is merely a surname. A violation of the provisions of this subsection by a person conducting business under an assumed or fictitious name that includes the name of a municipality in this state shall be deemed an unfair or deceptive trade practice under subsection (a) of section 42-110b.</p>

	Nothing in this subsection shall be construed to impose any liability on any publisher that relies on the written assurances of a person placing such printed advertisement that such person has authority to use any such assumed or fictitious name.
§ 35-2	Use of word "banking" and similar words as part of business name. No partnership, common law trust or association, or individual using a trade name, shall use, either as a part of its name or as a prefix or suffix thereto or as a designation of the business carried on by it, the word "bank", "banking", "banker", "bankers", "trust" or "savings", provided either the word "bankers" or the word "trust" may be so used when qualified and immediately preceded by the word "investment", but not followed by the word "company" or "corporation". The provisions of this section shall not apply to any charitable or athletic association. No provision of this section shall prevent any savings and loan association organized under the provisions of section 36a-70 from using the term "savings" either as a part of its name or as a prefix or suffix thereto or as a designation of the business carried on by it.

Criminal Impersonation in Connecticut

A Guide to Resources in the Law Library

- SCOPE:** Bibliographic resources relating to criminal impersonation in Connecticut
- SEE ALSO:**
- Names and name changes in Connecticut
- DEFINITIONS:**
- **Criminal Impersonation:** “In *Smith*, [*State v. Smith*, 194 Conn. 213, 479 A.2d 814 (1984)] the defendant was convicted of criminal impersonation for providing a false name to an arresting police officer. *Id.*, 216. Our Supreme Court reversed the conviction, concluding that “[t]he statute as written does not prohibit giving a false name; it prohibits impersonating another.” *Id.*, 222. If Henderson had only provided Hutchinson with a fictitious name, then we agree that, under *Smith*, there may have been insufficient evidence that she had impersonated another.” *State v. Moore*, 97 Conn. App. 243, 249, 903 A.2d 669 (2006).
- STATUTES:**
- **Criminal impersonation: Class B misdemeanor.** (a) A person is guilty of criminal impersonation when he: (1) Impersonates another and does an act in such assumed character with intent to obtain a benefit or to injure or defraud another; or (2) pretends to be a representative of some person or organization and does an act in such pretended capacity with intent to obtain a benefit or to injure or defraud another; or (3) pretends to be a public servant other than a sworn member of an organized local police department or the Division of State Police within the Department of Public Safety, or wears or displays without authority any uniform, badge or shield by which such public servant is lawfully distinguished, with intent to induce another to submit to such pretended official authority or otherwise to act in reliance upon that pretense. (b) Criminal impersonation is a class B misdemeanor. CONN. GEN. STAT. § 53a-130(2007).
- LEGISLATIVE:**
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- CASES:**
- *State v. Frazier*, 194 Conn. 233, 238-239, 478 A.2d 1013 (1984). “The criminal impersonation statute, 53a-130 (a)(1), is violated when an individual impersonates another and does an act ‘in such assumed character with [the] intent to obtain a benefit or to injure or defraud another.’”
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