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2017 Edition

Motion Practice in Family Matters

A Guide to Resources in the Law Library

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See Also:

- [Discovery \(Financial\) in Family Matters](#)
- [Enforcement of Family and Foreign Matrimonial Judgments in Connecticut](#)
- [Intent to Argue](#)
- [Motion for Articulation](#)
- [Motion for Clarification](#)
- [Motion for Review](#)
- [Motion to Reargue](#)
- [Post-Judgment Proceedings in Connecticut Family Matters](#)

*Prepared by Connecticut Judicial Branch, Superior Court Operations,
Judge Support Services, Law Library Services Unit*

lawlibrarians@jud.ct.gov

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Section 1: Motions and Requests

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to family motions and requests motion practice in general.

- DEFINITION:**
- **Motion:** "means any application to the court for an order, which application is to be acted upon by the court or any judge thereof . . ." Conn. Practice Book [§ 11-2](#) (2017).
 - **Request:** "means any application to the court which shall be granted by the clerk by operation of these rules unless timely objection is filed." Conn. Practice Book [§ 11-2](#) (2017).
 - **Requirements:** "Every motion, request, application or objection directed to pleading or procedure, unless relating to procedure in the course of a trial, shall be in writing." Conn. Practice Book [§ 11-1](#) (2017).
 - "Each such motion shall state clearly, in the caption of the motion, whether it is a pendente lite or a postjudgment motion." Conn. Practice Book [§ 25-24\(b\)](#) (2017).
 - "In addition, Practice Book § 10-3(a) provides in relevant part that, '[w]hen any claim made in a . . . pleading is grounded on a statute, the statute shall be specifically identified by its number.'" [Remillard v. Remillard](#), 297 Conn. 345, 999 A.2d 713 (2010).
 - **Due Process:** "It is a fundamental premise of due process that a court cannot adjudicate a matter until the persons directly concerned have been notified of its pendency and have been given a reasonable opportunity to be heard in sufficient time to prepare their positions on the issues involved." [Costello v. Costello](#), 186 Conn. 773, 776-777, 443 A.2d 1282 (1982).

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Connecticut Practice Book (2017)
 - [Chapter 11 — Motions, Requests, Orders of Notice, and Short Calendar](#)
 - [Chapter 25 — Procedure in Family Matters](#)
- Connecticut Judicial Branch, Official Court Webforms
 - [Individual Family Forms](#)
 - [Grouped by Type of Case](#)
- Thomas D. Colin, Editor, [Library of Connecticut Family Law Forms](#) (2014).

Official Judicial Branch forms are frequently updated. Please visit the [Official Court Webforms page](#) for the current forms.

- 2 Joel M. Kaye and Wayne D. Efron, [Connecticut Practice Series, Civil Practice Forms](#) (4th ed. 2004).
- 7 Arnold H. Rutkin et al., Connecticut Practice Series, [Family Law and Practice with Forms](#) (3d ed. 2010).
- Mary Ellen Wynn and Ellen B. Lubell, [Handbook of Forms for the Connecticut Family Lawyer](#) (1991).

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Rosenfeld v. Rosenfeld](#), 115 Conn.App. 570, 577-578, 974 A.2d 40 (2009). **"It is hornbook law that a court's decision whether to grant a motion for a continuance ordinarily is left to the court's discretion."**
- [Eckert v. Eckert](#), 285 Conn. 687, 698, 941 A.2d 301 (2008). **"Relying on our decision in *Ahneman v. Ahneman*, 243 Conn. 471, 480, 706 A.2d 960 (1998), the plaintiff contends that the trial court's grant of the defendant's objection without first holding an evidentiary hearing amounted to a refusal to consider her motion for alteration or modification. *Ahneman*, however, is readily distinguishable from the present case. In that case, the trial court had rendered an oral decision specifically declining to consider the subject motions. Id., at 475, 706 A.2d 960. The trial court in the present case did not so decline consideration of the plaintiffs motion. The court heard argument on the defendant's objection on October 12, 2005. During the course of that argument, both parties presented arguments to the court in support of their interpretation of the separation agreement."**
- [Ramin v. Ramin](#), 281 Conn. 324, 338, 915 A.2d 790 (2007). **"We also recognized, in *Ahneman*, however, 'that exceptions to the general rule that a trial court must consider and decide on a reasonably prompt basis all motions properly placed before it may exist *in an extreme, compelling situation*. For example...'"**
- [Ahneman v. Ahneman](#), 243 Conn. 471, 484 (1998). **"More fundamentally, basic principles of jurisprudence refute the plaintiff's proposition that a trial court has discretion, based on notions of judicial efficiency, to decline to exercise its jurisdiction by refusing to consider certain motions. Courts are in the business of ruling on litigants' contentions . . ."**
- [Costello v. Costello](#), 186 Conn. 773, 776-777, 443 A.2d 1282 (1982). **"It is a fundamental premise of due process that a court cannot adjudicate a matter until the persons directly concerned have been notified of its pendency and have been given a reasonable opportunity to be heard in sufficient time to prepare their positions on the issues involved."**

**TEXTS &
TREATISES:**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2017).
- 2 Ralph P. Dupont, [Dupont on Connecticut Civil Practice](#) (2016–2017 ed.)
§§ 25-23 et seq. Motion Practice in Family Matters
- 7 Arnold H. Rutkin et al., Connecticut Practice Series, [Family Law and Practice with Forms](#) (3d ed. 2010).
Chapter 20 – Pretrial Procedures and Preparation
Chapter 52 – Postjudgment Motions
- 1 [Family Law Practice in Connecticut](#) (1996).
Chapter 4, *Motion Practice in Matrimonial Actions*, by Sandra P. Lax
Chapter 5, *Motion Practice before Trial*, by Sheldon A. Rosenbaum
- Barry F. Armata and Campbell D. Barrett, eds., [A Practical Guide to Divorce in Connecticut](#) (2013).

Section 2: Transfer of Action in Family Matters

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to the transfer of action on the family docket

SEE ALSO: • [Transfer of Action](#) (Research Guide)

DEFINITIONS: • **Venue vs. Jurisdiction:** "While jurisdiction is the power and authority of the court to act, venue is the place where the power to adjudicate is to be exercised, that is, the place where the suit may or should be heard. The requirements of jurisdiction are grounded in the state's inherent judicial power, while the requirements of venue are grounded in convenience to litigants. Venue does not involve a jurisdictional question but rather a procedural one, and thus is a matter that goes to process rather than substantive rights. Moreover, although a court's lack of subject-matter jurisdiction cannot be waived, improper venue may be **waived and may be changed by the consent of the parties.**' . . . ("[s]tatutory venue requirements simply [confer] a privilege not to be required to attend court at a particular location" [internal quotation marks omitted])." [Lebron v. Commissioner of Correction](#), 274 Conn. 507, 522, 876 A.2d 1178 (2005).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2017)
[Chapter 890](#). Judicial districts, geographical areas, civil and criminal venue, filing and designation of court locations
§ [51-347b](#). Transfer of causes by court, motion or agreement. Transfer by Chief Court Administrator

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Conn. Practice Book (2017)
[Chapter 12 Transfer of action \[to another Judicial District\]](#)

FORMS:

- 2 Joel M. Kaye and Wayne D. Effron, [Connecticut Practice Series, Civil Practice Forms](#) (4th ed. 2004).
Form 106.13. Motion for change of venue
Form 106.13-A. Motion to Transfer
Form 106.13-B. Stipulation for transfer
Form 106.17. Transfer of Action
Stipulation, Motion and Order. Transfer for trial of issues only.
- Mary Ellen Wynn and Ellen B. Lubell, [Handbook of Forms for the Connecticut Family Lawyer](#) (1991).

- 1 [Family Law Practice in Connecticut](#) (1996)
Chapter 5. Motion Practice Before Trial
§ 5.19 Motion to transfer

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Adams v. Adams](#), 93 Conn. App. 423, 426, 890 A.2d 575, (2006). **“Any cause, or the trial of any issue therein, may be transferred from a judicial district court location to any other judicial court location . . . by order of a judicial authority . . . upon its own motion or upon the granting of a motion of any of the parties . . .” Practice Book § 12-1**; see also General Statutes § 51-347a(a) (transfer of civil jury causes). In the context of criminal actions, a defendant requesting a change of venue bears the burden of showing that, absent a change of venue, he could not receive a fair and impartial trial. ***State v. Reynolds***, 264 Conn. 1, 222, 836 A.2d 224 (2003), cert. denied, 541 U.S. 908, 124 S. Ct. 1614, 158 L.Ed.2d 254 (2004). A trial court exercises broad discretion in considering such a motion . . . Those principles apply, with at least equal force, to the defendant’s request for a change of venue in his divorce proceeding.”
- [Savings Bank of Danbury v. Downs](#), 74 Conn. 87, 90 (1901). **“. . . written stipulation by both parties for a transfer of action has been filed; and, for that, filing an answer cannot be regarded as an equivalent.”**

ENCYCLOPEDIAS:

- 77 [Am Jur 2d Venue](#) (2016)
 - § 1. Definitions
 - § 2. —Jurisdiction distinguished
 - § 3. Party’s choice of venue as right or privilege**
 - § 4. As governed by by statute, rule, constitutional provision
 - § 5. —Constitutional limitations
 - § 7. Retroactive application of venue statute
 - § 8. Determining proper venue; Time as of which determination is made
 - § 9. Right to sue in more than one venue
 - § 43. Objections to venue; Waiver and loss of right to object; Procedural basis
 - § 48. Change of venue; In general; Right to change in general
 - § 54. Grounds, Statutory
 - § 62. Application and determination; Terms and manner of application, generally; form; notice
 - § 71. Order; Form and content; designation of new venue; generally
- 92A [C.J.S. Venue](#) (2010)
 - § 128. Actions in which change may be granted; generally
 - § 129. Special statutory actions
 - § 130. Supplemental, ancillary or incidental proceedings

- § 131. Proceedings to nullify or vacate judgments
- § 133. Domestic relations
- § 139. Who may secure change of venue; Generally
- § 140. Intervenors and impleaded parties
- § 141. Substitute parties
- § 142. Rights of coparties; Consent requirements
- § 143. Nature of consent required
- § 144. Binding nature of change as to coparties
- § 145. Grounds for change of venue; In general
- § 150. Failure to commence action in correct venue

TEXTS & TREATISES:

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- 1 Wesley W. Horton and Kimberly A. Knox, [Connecticut Practice Book Annotated](#) (2016-2017 ed.).
Authors' comments following §§ 12-1 to 12-3
- 1 [Family Law Practice in Connecticut](#) (1996)
Chapter 5. Motion Practice Before Trial
§ 5.19 Motion to transfer
- 1 Ralph P. Dupont, [Dupont on Connecticut Civil Practice](#) (2016-2017 ed.).
§§ 12-1.1 to 12-3.2
- Jeanine M. Dumont, [Pleadings and Pretrial Practice: A Deskbook for Connecticut Litigators](#) (1998 ed.).
§ II. Basic pleading and practice rules
8. Venue, pp. 28-30.

Table 1: Motion for Exclusive Possession of Home

<p>Statutes:</p>	<p>“The court may also award exclusive use of the family home or any other dwelling unit which is available for use as a residence pendente lite to either of the parties as is just and equitable without regard to the respective interests of the parties in the property.” Conn. Gen. Stats. § 46b-83 (2017).</p>
<p>Court Rules:</p>	<p>Motion for Exclusive Possession Each motion for exclusive possession shall state the nature of the property, whether it is rental property or owned by the parties or one of them, the length of tenancy or ownership of each party, the current family members residing therein and the grounds upon which the moving party seeks exclusive possession. Conn. Practice Book § 25-25 (2017).</p>
<p>Forms:</p>	<ul style="list-style-type: none"> • Motion for Orders Before Judgment (Pendente Lite) in Family Cases - JD-FM-176 (Connecticut Judicial Branch Court Form) • Thomas D. Colin, Editor, Library of Connecticut Family Law Forms (2d. 2014). Form 5-034 - <i>Motion for Exclusive Possession</i> • 3 Joel M. Kaye and Wayne D. Effron, Connecticut Practice Series, Civil Practice Forms (4th ed. 2004), § 504.1-M. <i>Motion to vacate premises</i> • Mary Ellen Wynn and Ellen B. Lubell, Handbook of Forms for the Connecticut Family Lawyer (1991). Form VI-E-1. <i>Motion for exclusive possession</i>, p. 120. • 1 Family Law Practice in Connecticut (1996), Chapter 5, <i>Motion Practice before Trial</i> by Sheldon A. Rosenbaum § 5.72. <i>Motion for Exclusive Possession</i>
<p>Texts & Treatises:</p>	<ul style="list-style-type: none"> • 7 Arnold H. Rutkin et al., Connecticut Practice Series, Family Law and Practice with Forms (3d ed. 2010). § 25.7. Temporary use of the marital home • 1 Family Law Practice in Connecticut (1996), Chapter 5, <i>Motion Practice before Trial</i> by Sheldon A. Rosenbaum § 5.71. Exclusive use of residence • Mary Ellen Wynn and Ellen B. Lubell, Handbook of Forms for the Connecticut Family Lawyer (1991). Exclusive possession of the Family Home Pendente Lite: Notes and Comments

	<ul style="list-style-type: none">• Louise Truax, ed., LexisNexis Practice Guide: Connecticut Family Law (2017) § 6.22 Awarding a Party Exclusive Possession of the Home• Barry F. Armata and Campbell D. Barrett, eds., A Practical Guide to Divorce in Connecticut (2013) § 2.5.2 Motion for Exclusive Possession
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Section 3: Request for Conciliation

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to attempts for reconciliation in action for dissolution of marriage, legal separation or annulment.

DEFINITIONS:

- **Conciliation:** "On or after the return day of a complaint seeking the dissolution of a marriage or a legal separation and prior to the expiration of the ninety-day period specified in section 46b-67 either spouse or the counsel for any minor children of the marriage may submit a request for conciliation to the clerk of the court." Conn. Gen. Stats. [§ 46b-53\(a\)](#) (2017).
- **Conciliator:** "The clerk shall forthwith enter an order that the parties meet with a conciliator mutually acceptable to them or, if the parties cannot agree as to a conciliator, with a conciliator named by the court. The conciliator shall, in any case, be a clergyman, a physician, a domestic relations officer or a person experienced in marriage counseling." Conn. Gen. Stats. [§ 46b-53](#) (a) (2017).
- **Mandatory consultations:** (b) "Within such ninety-day period or within thirty days of the request, whichever is later, there shall be two mandatory consultations with the conciliator by each party to explore the possibility of reconciliation or of resolving the emotional problems which might lead to continuing conflicts following the dissolution of the marriage Further consultations may be held with the consent of both parties, or, if the conciliator recommends one or more additional consultations and either one of the parties agrees, the court may order such additional consultations." Conn. Gen. Stats. [§ 46b-53](#) (b) (2017).
- **Failure to attend:** "Failure of the plaintiff or defendant to attend these consultations except for good cause shall preclude further action on the complaint until the expiration of six months from the date of the return day; provided the court may order the termination of such stay, upon the motion of either party and for good cause shown." Conn. Gen. Stats. [§ 46b-53](#) (b) (2017).
- **Privileged communication:** "All communications during these consultations shall be absolutely privileged, except that the conciliator shall report to the court whether or not the parties attended the consultations." Conn. Gen. Stats. [§ 46b-53](#) (c) (2017).
- **Fees:** "The reasonable fees of the conciliator shall be paid by one or both of the parties as the court directs. No fee shall be charged by a domestic relations officer for such services. If the parties are unable to pay the fees which may be charged by the conciliator, only a domestic relations officer may be named as

the conciliator." Conn. Gen. Stats. [§ 46b-53](#) (d) (2017).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#).

- Conn. Gen. Stat. (2017)
[§ 46b-10](#). Attempt at reconciliation in action for dissolution of marriage, legal separation or annulment.

[§ 46b-53](#). Conciliation procedures; privileged communication
See definitions above for text of statute

FORMS:

Official Judicial Branch forms are frequently updated. Please visit the [Official Court Webforms page](#) for the current forms.

- Thomas D. Colin, Editor, [Library of Connecticut Family Law Forms](#), (2008).
Forms 4-012 – 4-014
- Mary Ellen Wynn and Ellen B. Lubell, [Handbook of Forms for the Connecticut Family Lawyer](#) (1991).
Request for Conciliation, Form VI-D-1, p. 118.
- 1 [Family Law Practice in Connecticut](#) (1996).
§ 5.81. Form- Request for Reconciliation, p. 5-69

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Weinberg v. Weinberg](#), 89 Conn. App. 649, 653, 874 A.2d 321 (2005). "The court did not abuse its discretion by denying the defendant's oral motion for conciliation. The statute under which the defendant sought conciliation does not mandate that the court order conciliation on request. Rather, it provides that a court may order conciliation. General Statutes § 46b-10. The court heard ample testimony from the plaintiff that the marriage had broken down irretrievably, and the court was, therefore, within its discretion to find that the marriage had broken down irretrievably."
- [Cabrera v. Cabrera](#), 23 Conn. App. 330, 338, 580 A.2d 1227 (1990). "The public policy underlying this statute in general and the latter provision in particular must, in part, have been intended to encourage marital reconciliation by providing a safe, confidential setting in which problems as well as possible solutions could be explored fully and honestly."
- [Emerick v. Emerick](#), 5 Conn. App. 649, 657-658, 502 A.2d 933 (1985). "A conciliator is, by statutory definition, a clergyman, a physician, a domestic relations officer or a person experienced in marriage counseling. General Statutes 46b-53(a)."

TEXTS & TREATISES:

- 7 Arnold H. Rutkin et al., Connecticut Practice Series, [Family Law and Practice with Forms](#) (3d ed. 2010).
§ 20.7. Requests for conciliation
- Louise Truax, ed., LexisNexis [Practice Guide: Connecticut Family Law](#) (2017)
§ 3.31 CHECKLIST: Providing for Conciliation
§ 3.32 Assessing Conciliation Procedures

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- 1 [Family Law Practice in Connecticut](#) (1996).
§ 5.80. Conciliation
- Mary Ellen Wynn and Ellen B. Lubell, [Handbook of Forms for the Connecticut Family Lawyer](#) (1991).
Conciliation: Notes & Comments, p. 117.

Section 4: Motion to Open Judgment in a Family Matter

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to the motion to open or set aside judgment in a family matter, including opening judgment after statutory four month limitation.

- DEFINITIONS:**
- **Motion to Open or set aside:** "Unless otherwise provided by law and except in such cases in which the court has continuing jurisdiction, any civil judgment or decree rendered in the superior court may not be opened or set aside unless a motion to open or set aside is filed within four months succeeding the date on which notice was sent. The parties may waive the provisions of this subsection or otherwise submit to the jurisdiction of the court." Conn. Practice Book [§ 17-4\(a\)](#) (2017).
 - **Requirements:** "Every motion, request, application or objection directed to pleading or procedure, unless relating to procedure in the course of a trial, shall be in writing." Conn. Practice Book [§ 11-1](#) (2017).
 - "Each such motion shall state clearly, in the caption of the motion, whether it is a pendente lite or a postjudgment motion." Conn. Practice Book [§ 25-24\(b\)](#) (2017).
 - "A judgment rendered may be opened after the four month limitation if it is shown that the judgment was obtained by fraud, in the absence of actual consent, or because of mutual mistake." [Richards v. Richards](#), 78 Conn. App. 734, 739, 829 A.2d 60 (2003).
 - **Fraud:** "consists in deception practiced in order to induce another to part with property or surrender some legal right, and which accomplishes the end designed. . . . The elements of a fraud action are: (1) a false representation was made as a statement of fact; (2) the statement was untrue and known to be so by its maker; (3) the statement was made with the intent of inducing reliance thereon; and (4) the other party relied on the statement to his detriment. . . . A marital judgment based upon a stipulation may be opened if the stipulation, and thus the judgment, was obtained by fraud.' (Citations omitted; internal quotation marks omitted.) [Billington v. Billington](#), 220 Conn. 212, 217-18, 595 A.2d 1377 (1991). "A court's determinations as to the elements of fraud are findings of fact that we will not disturb unless they are clearly erroneous. [Anastasia v. Beautiful You Hair Designs, Inc.](#), 61 Conn. App. 471, 478, 767 A.2d 118 (2001)." [Mattson v. Mattson](#), 74 Conn. App. 242, 245, 811 A.2d 256 (2002).
 - **Clear Proof of Fraud:** ". . . to prevail, the defendant was required to present 'clear proof' of the plaintiff's alleged fraud at

the hearing on his motion to open.” [Mattson v. Mattson](#), 74 Conn. App. 242, 245, 811 A.2d 256 (2002) fn 4.

- **Intention to Remarry:** “Furthermore, the plaintiff’s failure to disclose her intention to remarry cannot amount to fraudulent nondisclosure. The mere intention to perform an act in the future cannot be considered a ‘known fact’ because a party’s intention to perform may never materialize into actual performance.” [Pospisil v. Pospisil](#), 59 Conn. App. 446, 451, 757 A.2d 655 (2000).

STATUTES:

- Conn. Gen. Stat. (2017)
[§ 52-212a](#). Civil judgment or decree reopened or set aside within four months only.

COURT RULES:

- Connecticut Practice Book (2017)
[§ 17-4](#). Setting Aside or Opening Judgments

FORMS:

Official Judicial Branch forms are frequently updated. Please visit the [Official Court Webforms page](#) for the current forms.

- Connecticut Judicial Branch, Official Court Webforms
[JD-FM-206](#). Motion to Open Judgment (Family Matters)
- Thomas D. Colin, Editor, [Library of Connecticut Family Law Forms](#) (2d. 2014).
Form #
16-001 – **Plaintiff’s Motion** for Articulation, Post Judgment
16-002 – **Plaintiff’s Motion** to Open Judgment, Post Judgment
- Mary Ellen Wynn and Ellen B. Lubell, [Handbook of Forms for the Connecticut Family Lawyer](#) (1991).
“**Motion to Open Judgment,**” Form XVI-B-1c, p. 243.
Pension not previously disclosed.

CASES:

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- [Callahan v. Callahan](#), 157 Conn. App. 78, 116 A.3d 317 (2015), cert. denied, 317 Conn. 913, cert. denied, 317 Conn. 914. “**In AC 36617, the plaintiff claims that the court lacked jurisdiction to open the original May, 2012 judgment of dissolution. In AC 34936, as amended, the defendant claims that (1) the court improperly awarded the plaintiff alimony from income generated by the companies plus a portion of the value of the companies, constituting impermissible ‘double dipping,’ and (2) the court abused its discretion by ordering him to purchase the plaintiff’s interest in the companies. We agree with the plaintiff’s claim that the court did not have authority to open the dissolution judgment and, accordingly, reverse the judgment entering substitute financial orders and remand the case with direction to reinstate the May, 2012 financial orders. We otherwise affirm the dissolution judgment.**”
- [Brody V. Brody](#), 153 Conn. App. 625, 103 A.3d 981 (2014), cert. denied, 315 Conn. 910. “The plaintiff’s allegations of fraud arise from conduct subsequent to the entry of judgment and involve the defendant’s allegedly wilful noncompliance with the court’s outstanding orders. For that reason, no motion to open was needed to confer authority on the trial court to allow

discovery, as the court's continuing jurisdiction over the matter necessarily conveyed upon it the authority to do so. See *Rozbicki v. Gisselbrecht*, supra, 152 Conn.App. at 847, 100 A.3d 909. We therefore disagree with Brody's proposition that the strictures of *Oneglia* should be extended to postjudgment motions for contempt alleging fraudulent conduct”.

- [Farren v. Farren](#), 142 Conn. App. 145, 64 A. 3d 352 (2013), cert. denied, 311 Conn. 907 (2014). “In the present case, the court stated two grounds for its decision. First, the defendant failed to comply with Practice Book § 11-10 by failing to file a separate memorandum of law with his motion to open and correct the judgment. The defendant does not dispute the fact of his noncompliance, but, rather, he claims his noncompliance should be excused because he subsequently filed a memorandum of law and the plaintiff had not been prejudiced. We cannot conclude that the trial court abused its discretion by requiring compliance with the rules of practice.”

[Pages 152, 153]

“If the defendant's motion to open and correct the judgment was not filed within the requisite twenty day period, he cannot challenge issues addressed to the dissolution judgment, but may only challenge the court's decision in denying that motion.

‘[B]ecause the defendant did not file his motion to open within twenty days from the date of the judgment, the appeal from the denial of that motion can test only whether the court abused its discretion in failing to open the judgment and not the propriety of the merits of the underlying judgment.’ *Berzins v. Berzins*, 105 Conn.App. 648, 649 n. 1, 938 A.2d 1281, cert. denied, 289 Conn. 932, 958 A.2d 156 (2008). Because no filing fee had been paid at the time the defendant filed his motion by facsimile transmission, the clerk's office date-stamped the pleading as being filed on July 7, 2011, when the fee was paid, which was twenty-one days after notice of the judgment had been given to the parties.”

[Pages 153, 154]

- [Dogan v. Dogan](#), 301 Conn. 361, 369, 21 A. 3d 791 (2011). “It necessarily follows that if the judgment conforms to the stipulation it cannot be altered or set aside without the consent of all the parties, unless it is shown that the stipulation was obtained by fraud, accident or mistake. . . . For a judgment by consent is just as conclusive as one rendered upon controverted facts.’ (Citations omitted; internal quotation marks omitted.) *Gillis v. Gillis*, 214 Conn. 336, 339-40, 572 A.2d 323 (1990); see also *Afkari-Ahmadi v. Fotovat-Ahmadi*, 294 Conn. 384, 389-90, 985 A.2d 319 (2009).”
- [Weinstein v. Weinstein](#), 275 Conn. at 671, 685, 882 A.2d 53 (2005). “There are three limitations on a court's ability to grant relief from a dissolution judgment secured by fraud: (1) there must have been no laches or unreasonable delay by the injured

party after the fraud was discovered; (2) there must be clear proof of the fraud; and (3) there is a substantial likelihood that **the result of the new trial will be different.**' (Citations omitted; internal quotation marks omitted.) *Mattson v. Mattson*, 74 Conn. App. 242, 244-46, 811 A.2d 256 (2002). Because there is no claim of undue delay in the present case, we limit our consideration to whether there was sufficient proof of fraud and whether the result in a new trial would differ."

- [Richards v. Richards](#), 78 Conn. App. 734, 740-741, 829 A.2d 60 (2003). "Because there was no finding of mutual mistake as to the definition of 'cash disbursement' or any other basis established by § 52-212a, the defendant is correct in challenging the court's authority to open the judgment. We therefore have jurisdiction to hear the claim and conclude that **the court lacked authority to open the judgment.**"
- [Mattson v. Mattson](#), 74 Conn. App. 242, 245-246, 811 A.2d 256 (2002). "There are three limitations on a court's ability to grant relief from a dissolution judgment secured by fraud: '(1) there must have been no laches or unreasonable delay by the injured party after the fraud was discovered; (2) there must be **clear proof** of the fraud; and (3) there is a substantial likelihood that **the result of the new trial will be different.**' *Billington v. Billington*, supra, [220 Conn. 212,] 218 [595 A.2d 1377 (1991)].' (Emphasis added.) *Pospisil v. Pospisil*, supra, 59 Conn. App. [446,]450 [757 A.2d 655(2000)]."
- [Pospisil v. Pospisil](#), 59 Conn. App. 446, 450-451, 757 A.2d 655 (2000). "In the present case, it is clear that the plaintiff harbored, but never disclosed, an intention to remarry at some point after the dissolution of her marriage with the defendant. At no point during the dissolution proceedings, however, did the court or the defendant ever question the plaintiff about her intentions to remarry. Thus, we are satisfied that the plaintiff did not deliberately conceal or purposely mislead the court or **the defendant about her intention to remarry.**"
- [Townesley v. Townesley](#), 37 Conn. App. 100, 101, 654 A.2d 1261 (1995). "The dispositive issue on appeal is whether the trial court improperly opened the dissolution judgment as to all issues when the plaintiff's motion to open was for a limited discrete purpose."
"By opening the judgment as to all issues, the trial court abused its discretion." (p. 104).
- [Billington v. Billington](#), 220 Conn. 212, 214, 595 A.2d 1377 (1991). "The principal issue in this certified appeal is whether a party to a marital dissolution judgment must establish, in order subsequently to open the judgment based upon a claim of fraud, that she was diligent during the original action in attempting to discover the fraud. We conclude that the movant need not establish such diligence, and accordingly reverse the judgment of the Appellate Court."

- [Breen v. Breen](#), 18 Conn. App. 166, 172, 557 A.2d 140 (1989). "It is well recognized that "[t]he opening . . . of a judgment . . . is at the legal discretion of the court. *Tyler v. Aspinwall*, 73 Conn. 493, 47 A. 755 [1901] . . . [I]t "is not to be granted readily, nor without strong reasons" *Wildman v. Wildman*, 72 Conn. 262, 270, 44 A. 244 [1899].' *McCulloch v. Pittsburgh Plate Glass Co.*, 107 Conn. 164, 167, 140 A. 114 (1927). "The motion should not be granted merely to allow the court to reconsider its decisions on the facts and its exercise of discretion.
- [Oneglia v. Oneglia](#), 14 Conn. App. 267, 540 A.2d 713 (1988). **"In family matters, the court exercises its equitable powers. The balancing of equities is a matter which falls within the discretion of the trial court. . . .For that reason, equitable remedies are not bound by formula but are molded to the needs of justice."** (Citations omitted.)

TEXTS & TREATISES:

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- 1 Wesley Horton and Kimberly A. Knox, [Connecticut Practice Book Annotated](#) (2016-2017 edition).
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