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2022 Edition

Default Motions and Judgments

A Guide to Resources in the Law Library

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References to online legal research databases refer to in-library use of these databases. Remote access is not available.

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<https://www.jud.ct.gov/policies.htm>

Introduction

A Guide to Resources in the Law Library

- “If a party fails to comply with an order of a judicial authority or a citation to appear or fails without proper excuse to appear in person or by counsel for trial, the party may be nonsuited or defaulted by the judicial authority.” Conn. Practice Book § [17-19](#) (2022).
- “. . . there is a clear distinction between a default . . . and a judgment upon default. A default is not a judgment. It is an order of the court the effect of which is to preclude the defendant from making any further defense in the case so far as liability is concerned. A judgment upon default, on the other hand, is the final judgment in the case which is entered after the default and after a hearing in damages.” [Automotive Twins, Inc. v. Klein](#), 138 Conn. 28, 33, 82 A.2d 146, 149 (1951).
- “A default ‘admits the material facts that constitute a cause of action’; [Travelers Indemnity Co. v. Rubin](#), 209 Conn. 437, 445, 551 A.2d 1220 (1988); and ‘entry of default, when appropriately made, conclusively determines the liability of a defendant.’ [Ratner v. Willametz](#), 9 Conn. App. 565, 579, 520 A.2d 621 (1987). Despite the entries of default, had the defendants sought to challenge the right of the plaintiffs to maintain their action, or had they intended to prove any matter of defense, they would have been permitted to do so at the hearing in damages upon written notice to the plaintiffs. See Practice Book § 367 [now 17-34]. Moreover, pursuant to Practice Book § 374 [now 17-40], the defendants would have been permitted to appear and offer evidence to reduce the amount of damages claimed without giving any notice.” [LaRosa v. Kline](#), 36 Conn. App. 501, 503-504, 651 A.2d 1324, 1326 (1995).

Section 1: Failure to Appear

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to a motion for default for failure to appear (without judgment).

SEE ALSO:

- [Setting Aside or Opening a Default for Failure to Appear Before Judgment](#)
- [Judgment upon Default for Failure to Appear](#)
- [Motion for Default for Failure to Appear and Judgment](#)

DEFINITIONS:

- "Except as provided in subsection (b), if no appearance has been entered for any party to any action on or before the second day following the return day, any other party to the action may make a motion that a nonsuit or default be entered for failure to appear." Conn. Practice Book § [17-20\(a\)](#) (2022).
- "The motion shall be granted by the clerk if the party who is the subject of the motion has not filed an appearance." Conn. Practice Book § [17-20\(d\)](#) (2022).
- "If the defaulted party files an appearance in the action prior to the entry of judgment after default, the default shall automatically be set aside by operation of law." Conn. Practice Book § [17-20\(d\)](#) (2022).

COURT RULES:

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

- Conn. Practice Book (2022)
 - [Chapter 3](#). Appearances
 - § 3-2. Time to file appearance
 - [Chapter 9](#). Parties
 - § 9-1. Continuance for absent or nonresident defendant
 - [Chapter 17](#). Judgments
 - § 17-20. Motion for default . . . for failure to appear
 - § 17-21. Defaults under Servicemembers Civil Relief Act

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. (2022)
 - [Chapter 897](#). Parties and Appearances
 - § [52-84](#). When judgment by default may be rendered.
 - § [52-87](#). Continuance on account of absent or nonresident defendant. Exceptions.
 - § [52-88](#). Defense by garnishee. Continuance, postponement or adjournment of action.

FORMS:

- *LexisNexis Practice Guide: Connecticut Civil Pretrial Practice*, Margaret Penny Mason, general editor, 2021 ed., LexisNexis (also available on Lexis Advance).
Chapter 9. Appearance and Default

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

Part IV: Forms

§ 9.28. Form: Motion for Default for Failure to Appear or Plead

§ 9.29. Form: Motion for Default for Failure to Appear, Judgment and Order for Weekly Payments—Form [JD-CV-49](#)

§ 9.30. Form: Affidavit of Debt Re: Motion for Default for Failure to Appear, Judgment and Order for Weekly Payments—Form [JD-CV-52](#)

- 2 Connecticut Practice Series, *Connecticut Civil Practice Forms*, 4th ed., by Joel M. Kaye et al., Thomson West, 2004, with 2020-2021 supplement (also available on Westlaw).
 - Form 102.4-A. Motion for default for failure to appear—Nonresident defendant
 - Form 107.8-A. Motion for default for failure to appear
- 2 *DuPont on Connecticut Civil Practice*, Ralph P. DuPont, 2020-2021 ed., LexisNexis (also available on Lexis Advance).
 - F.17-20. Motion for Default for Failure to Appear
- *Civil Litigation in Connecticut: Anatomy of a Lawsuit*, Kimberly A. Peterson, 1998, Prentice-Hall.
 - Chapter 14. Pleadings: Motions against defendants who do not file an appearance
 - I. Motion for default for failure to appear: Two different types
 - II. Motion for default for failure to appear
 - III. Motion for default for failure to appear and judgment
- *Library of Connecticut Collection Law Forms*, Robert M. Singer, 2016, Connecticut Law Tribune (also available on Lexis Advance).
 - Form 9-001. Motion for default for failure to appear
- *Library of Connecticut Personal Injury Forms*, Koskoff Koskoff & Bieder, PC, Joshua Koskoff and Sean K. McElligott, Editors, 2nd ed. 2014, Connecticut Law Tribune (also available on Lexis Advance).
 - Form 5-001. Motion for default for failure to appear
- *Motion for Default for Failure to Appear*, Connecticut Appellate Court Records and Briefs (December 2009). [Abbott Terrace Health Center, Inc. v. Parawich](#), 120 Conn. App. 78, 990 A.2d 1267 (2010). [Figure 1](#).
- [City of Stamford v. Rahman et al.](#), 188 Conn. App. 1, 204 A3d 24 (2019). "On August 14, 2012, the plaintiff commenced the present action by way of a one count complaint seeking foreclosure of a blight lien held by the plaintiff and recorded in the Stamford land records. The

RECORDS & BRIEFS:

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.

complaint also named other defendants, including Wells Fargo, and alleged that these defendants may claim an interest in the property.” (p. 7)

“We also reject the determination underlying the court’s finding of diligence that Wells Fargo was entitled to notice of the supplemental judgment proceedings despite its default for failure to appear ‘in the first part of the foreclosure action.’ Our rules of practice do not require service of motions on nonappearing, defaulted parties.” (p. 16)

- [Appleton v. J&M Plumbing & Constr., LLC](#), Superior Court, Judicial District of New London at New London, No. CV18-6037552 (September 3, 2019) (2019 WL 4739123) “On December 7, 2018, the defendants Michael Watkinson and Sean P. Tatro were defaulted for failure to appear. On December 17, 2018, the defendant J&M was defaulted for failure to appear. A hearing in damages was held on August 6, 2019. None of the defendants appeared for, or participated in, the hearing. For the following reasons, the court finds this matter in favor of the plaintiff, and awards fair, just and reasonable damages.”
- [Little v. Mackeyboy Auto, LLC](#), 142 Conn. App. 14, 20, 62 A.3d 1164 (2013). “. . . the defendant never claimed that it had not received notice of the plaintiff’s action. As reflected in the record, the plaintiff’s counsel certified that copies of the motion for default for failure to appear . . . were mailed to the defendant at its business address in New Haven. The court noted . . . that the defendant never claimed that it had not received those copies. The court, then, reasonably could have determined that the defendant had legal and actual notice of the plaintiff’s action.”
- [Abbott Terrace Health Center, Inc. v. Parawich](#), 120 Conn. App. 78, 85-86, 990 A.2d 1267, 1272 (2010). “In the present case, the defendant was defaulted pursuant to Practice Book § 17-20 due to his failure to enter an appearance. As we recently observed, ‘[c]ase law makes clear . . . that once the defendants had been defaulted and had failed to file a notice of intent to present defenses, they, by operation of law, were deemed to have admitted to all the essential elements in the claim and would not be allowed to contest liability at the hearing in damages.’ [Richey v. Main Street Stafford, LLC](#), 110 Conn. App. 209, 218, 954 A.2d 889 (2008); see also 1 E. Stephenson, Connecticut Civil Procedure (3d Ed. 1997) § 96, p. 282 (‘[t]he entry of a default constitutes a technical admission by the defendant of the truth of the facts alleged in the complaint’). ‘A default admits the material facts that constitute a cause of action . . . and entry of default, when appropriately made, *conclusively*

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.

determines the liability of a defendant.’ (Emphasis added; internal quotation marks omitted.) [Schwartz v. Milazzo](#), 84 Conn. App. 175, 178, 852 A.2d 847, cert. denied, 271 Conn. 942, 861 A.2d 515 (2004). Accordingly, ‘the entry of default against the defendant commands the rendering of judgment in favor of the plaintiff.’ [Peterson v. Woldeyohannes](#), 111 Conn. App. 784, 791, 961 A.2d 475 (2008). Following the entry of a default, all that remains is for the plaintiff to prove the amount of damages to which it is entitled. [DeBlasio v. Aetna Life & Casualty Co.](#), supra, 186 Conn. 401. At a minimum, the plaintiff in such instances is entitled to nominal damages. See id.; [Cardona v. Valentin](#), 160 Conn. 18, 26, 273 A.2d 697 (1970).”

- [Angiolillo v. Buckmiller](#), 102 Conn. App. 697, 715, 927 A.2d 312 (2007). “The rule concerning appearances is a rule of convenience, and as such should be observed . . . however, there may be an actual appearance for all the purposes of a defense without an entry on the docket. . . . Additionally, [t]he entry of an appearance need not necessarily be made by filing a formal appearance form. . . . The rules of practice will be interpreted liberally in any case where it shall be manifest that a strict adherence to them will work an injustice.’ . . . [Fontaine v. Thomas](#), supra, 51 Conn. App. 81. The fact that Corona was included in an answer that was filed on behalf of several of the defendants does not indicate that he had made an appearance in fact and is distinguishable from cases concluding that such an appearance had been made.”
- [Beardsley v. Beardsley](#), 144 Conn. 725, 730-731, 137 A.2d 752 (1957). “The entry of an appearance need not necessarily be made by filing a formal appearance form. The conduct of a party may operate as a general appearance. [Ives v. East Haven](#), 48 Conn. 272, 286; [Schoonmaker v. Albertson & Douglass Machine Co.](#), 51 Conn. 387, 393; [Rommell v. Walsh](#), 127 Conn. 16, 18, 15 A.2d 6. ‘A general appearance may arise by implication from the defendant’s seeking, taking, or agreeing to, some step or proceeding in the cause, beneficial to himself or detrimental to the plaintiff, other than one contesting the jurisdiction only.’ 3 Am. Jur. 787, § 10; [People v. Estep](#), 6 Ill. 2d 127, 128, 126 N.E.2d 637. The defendant’s letter came within the scope of this rule. The court was entitled to consider the whole course of conduct of the defendant, both in filing the general appearance forms and in writing the letter, in determining whether he had voluntarily submitted himself to the in personam jurisdiction of the court. It concluded that he had. This conclusion cannot be disturbed.”
- *Appearance*
29. Failure to appear
Default Judgment - Appearance

WEST KEY NUMBERS:

143. Excuses for Default

ENCYCLOPEDIAS:

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References to online databases refer to in-library use of these databases. Remote access is not available.

- 46 *Am Jur 2d* Judgments, Thomson West, 2017, with 2021 supplement (also available on Westlaw).
 - IV. Particular Kinds of Judgments
 - E. Judgment by Default
 - §§ 245-251. Failure to appear, plead, or otherwise defend
 - § 262. Effect of defendant's appearance on entry of default judgment by court
 - § 272. Notice of default judgment requirement where there has been no appearance
 - § 273. Effect of appearance on notice of default judgment requirement
 - §§ 274-276. What constitutes an appearance
 - §§ 277-278. Form of notice; failure to give notice
- 6 *CJS* Appearances, Thomson West, 2016, with 2021 supplement (also available on Westlaw).
 - In General
 - § 3. Failure to appear
- 49 *CJS* Judgments, Thomson West, 2021, with 2021 supplement (also available on Westlaw).
 - IX. Judgment by Default
 - § 254. Default judgments, generally; definitions and distinctions
 - §§ 255-264 (much relevant material)
 - § 265. Grounds for default judgment, generally
 - Failure to enter appearance
 - Failure to appear after withdrawal of attorney
- *LexisNexis Practice Guide: Connecticut Civil Pretrial Practice*, Margaret Penny Mason, general editor, 2021 ed., LexisNexis (also available on Lexis Advance).
 - Chapter 9. Appearance and Default
 - Part III: Practical Guidance – Default
 - § 9.10. Topical Overview of Obtaining Default Judgments
 - [1] Distinguishing Entry of Default and Default Judgment
 - § 9.11. Motion for Default for Failure to Appear
 - [1] Determining Whether Grounds for Motion for Default Exist
 - [a] Verify Proper Service on Opposing Party
 - [b] Confirm Lack of Appearance by Opposing Party
 - [2] Motion for Entry of Default
 - [3] Clerk May Enter Default
 - [4] Claim for Hearing in Damages
 - [5] Motion for Default for Failure to Appear

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and Servicemembers Civil Relief Act
§ 9.14. Court's Discretionary Authority to Grant Default
§ 9.15. Notice of Default by Clerk

- 2 *DuPont on Connecticut Civil Practice*, Ralph P. DuPont, 2021-2022 ed., LexisNexis (also available on Lexis Advance).
 - Chapter 17. Judgments
 - E.2. Default for Failure to Appear
 - § 17-19.1. Failure to Appear at Trial
 - § 17-20.1. Defaults on Failure to Appear, Entry of
- 1 *Stephenson's Connecticut Civil Procedure*, 3rd ed., Renee Bevacqua Bollier et al., Atlantic Law Book Co., 1997, with 2014 supplement.
 - § 96. Judgment on Default
 - d. Defaults for failure to appear
- *Pleadings and Pretrial Practice: A Deskbook for Connecticut Litigators*, Jeanine M. Dumont, 1998 ed., Connecticut Law Tribune.
 - V. Timing, Waivers and Defaults
 - 3. Motions for Default
 - a. Motion for default for failure to appear, p. 71
- *Civil Litigation in Connecticut: Anatomy of a Lawsuit*, Kimberly A. Peterson, 1998, Prentice-Hall.
 - Chapter 14. Pleadings: Motions against defendants who do not file an appearance
 - II. Motion for Default for Failure to Appear
- 2 Connecticut Practice Series, *Connecticut Civil Practice Forms*, 4th ed., by Joel M. Kaye et al., Thomson West, 2004, with 2020-2021 supplement (also available on Westlaw).
 - Authors' Commentary for Form 107.7
- 1 Connecticut Practice Series, *Superior Court Civil Rules*, by Wesley W. Horton and Kenneth J. Bartschi, 2020-2021 ed., Thomson West (also available on Westlaw).
 - Authors' Commentary for § 17-20
- 1 *West's Connecticut Rules of Court Annotated*, 2021 ed., Thomson West.
 - Notes of Decisions for § 17-20

Figure 1: Motion for Default for Failure to Appear

DOCKET NO.: CV-08-5010555-S : SUPERIOR COURT
ABBOTT TERRACE HEALTH CENTER, INC. : J.D. OF WATERBURY
V. : AT WATERBURY
ANNA PARAWICH, ET AL. : NOVEMBER 21, 2008

MOTION FOR DEFAULT FOR FAILURE TO APPEAR

Pursuant to Practice Book § 17-20, Plaintiff, Abbott Terrace Health Center, Inc., moves that a default be entered against Defendants, ANNA PARAWICH and WILLIAM HULSTRUNK a/k/a WILLIAM HULSTRUCK, for their failure to appear. The return date in this matter was November 18, 2008. As of the date of filing this motion, the Defendants have not filed an Appearance with the Court.

NO ORAL ARGUMENT REQUESTED
NO TESTIMONY REQUIRED

PLAINTIFF,
ABBOTT TERRACE HEALTH CENTER, INC.

BY: _____

Name
Firm
Address
Phone Number

ORDER

The foregoing Motion for Default for Failure to Appear having been filed by the plaintiff, it is hereby Ordered:

GRANTED/DENIED.

BY THE COURT

Judge/Clerk

[separate page]

CERTIFICATION OF SERVICE

This is to certify that a copy of the foregoing has been mailed to on November 21, 2008 to all counsel and pro se parties of record, as follows:

Name(s)

Section 1a: Setting Aside or Opening Default for Failure to Appear Before Judgment

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to setting aside or opening a default for failure to appear prior to judgment.

SEE ALSO: • [Judgment upon Default for Failure to Appear](#)

DEFINITIONS:

- "If the defaulted party files an appearance in the action prior to the entry of judgment after default, the default shall automatically be set aside by operation of law." Conn. Practice Book § [17-20\(d\)](#) (2022).
- "A motion to set aside a default where no judgment has been rendered may be granted by the judicial authority for good cause shown upon such terms as it may impose . . . Certain defaults may be set aside by the clerk pursuant to Sections 17-20 and 17-32." Conn. Practice Book § [17-42](#) (2022).
- "Section 376 [now § 17-42] applies to all defaults and permits the court to set aside such defaults prior to judgment." [Whalen v. Ives](#), 37 Conn. App. 7, 13, 654 A.2d 798, 801 (1995).

COURT RULES:

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

- Conn. Practice Book (2022)
 - [Chapter 3](#). Appearances
 - § 3-2. Time to file appearance
 - [Chapter 17](#). Judgments
 - § 17-20(d). Motion for default and nonsuit for failure to appear
 - § 17-42. Opening defaults where judgment has not been rendered

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.

- [Ventura Law v. Ganim Legal, P.C.](#), Superior Court, Judicial District of Danbury at Danbury, No. DBDCV20-6035299-S (October 30, 2020). "Practice Book §17-42, which governs the opening of a default where judgment has not been rendered, provides in relevant part that a 'motion to set aside a default where no judgment has been rendered may be granted by the judicial authority for good cause shown upon such terms as it may impose.' See [Rowe v. Goulet](#), 89 Conn. App. 836, 841, 875 A.2d 564 (2009). In deciding whether good cause has been shown, as contemplated by Practice Book §17-42, the court, in its discretion, 'may consider not only the presence of mistake accident, inadvertence, misfortune or other reasonable cause . . . factors such as the seriousness of the default, its duration, the reasons for it and the degree of contumacy involved; . . . but also the totality of the circumstances, including whether the delay has caused

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prejudice of the nondefaulting party.’ (Citations omitted; internal quotation marks omitted.) [Higgins v. Karp](#), 243 Conn. 495, 508, 706 A.2d 1 (1998). Id. ‘[A] court should not open a default when the defendant admits that he received actual notice and chose to disregard the court’s authority.’ [Rowe](#) at 842.”

- [Ryan v. Cassella](#), 180 Conn. App. 461, 465, 184 A.3d 311 (2018). “On June 16, 2014 the plaintiff filed a motion for default due to the defendant’s failure to appear. By order dated June 24, 2014, the trial court clerk granted that motion...The order further indicated that if the defendant filed an appearance before judgment was rendered, ‘the default for failure to appear shall automatically be set aside by operation of law.’ A copy of that order was sent to the defendant. When the defendant did not file an appearance or otherwise respond to the order, the plaintiff, on July 25, 2014 filed a certificate of closed pleadings and a claim for a hearing in damages on the previously entered default.”
- [Deutsche Bank National Trust Company v. Bertrand](#), 140 Conn. App. 646, 648, 59 A.3d 864, 866 (2013). “On March 6, 2009, the plaintiff filed a motion to default the defendant for failure to appear, which the clerk of the court granted on March 9, 2009. See Practice Book § 17-20 (d). That same day, the defendant filed an appearance as a self-represented party, which automatically set aside the default as a matter of law. See Practice Book § 17-20 (d).”
- [Thorndike v. Polmon Custom Carpentry, LLC](#), Superior Court, Judicial District of Ansonia-Milford At Milford, No. CV07-5004722-S (December 13, 2013) (2013 WL 6926160). “[I]t is axiomatic that the right to move to open and vacate a judgment assumes that the party who is to exercise the right be given the opportunity to know that there is a judgment to open. [The Appellate Court] ha[s] indicated that for the purpose of opening a default judgment . . . a delay in notifying the defendant of the judgment would . . . extend the time in which the defendant could move to set aside the judgment.’ (Internal quotation marks omitted.) [Tyler E. Lyman, Inc. v. Lodrini](#), 63 Conn. App. 739, 746, 780 A.2d 932, ‘[T]he mailing of a properly addressed letter creates a presumption of timely notice unless contrary evidence is presented.’ [Daniels v. Statewide Grievance Committee](#), 72 Conn. App. 203, 211, 804 A.2d 1027 (2002). ‘Negligence of a party or his counsel [however] is insufficient for purposes of §52-212 to set aside a default judgment.’ [State v. Ritz Realty Corp.](#), 63 Conn. App. 544, 549, 776 A.2d 1195 (2001).” (p. 4-5)

“The plaintiff’s failure to properly serve the motion to

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TEXTS & TREATISES:

default on the defendant and the defendant's lack of actual notice of those proceedings also satisfy the defendant's responsibility under §52-212 for demonstrating that he had a good defense to the default that some reasonable cause prevented him from asserting. See *Wilson v. Troxler*, 91 Conn. App. 864, 871-72, 883 A.2d 18 (failure to serve party with motion to default which resulted in party's lack of notice of motion's pendency was both a good defense and reasonable cause not to have defended against that motion), cert. denied, 276 Conn. 928, 889 A.2d 819 (2005).” (p. 7-8)

- *Judgment*
135-177. Opening or setting aside default.
- 21 *A.L.R.3d* 1255, *Opening Default or Default Judgment Claimed To Have Been Obtained Because Of Attorney's Mistake As To Time Or Place Of Appearance, Trial, Or Filing Of Necessary Papers*, A.S. Klein, Annotation, Thomson West, 1968 (also available on Westlaw).
- 47 *Am Jur 2d* Judgments, Thomson West, 2017, with 2021 supplement (also available on Westlaw).
 - IX. Relief from Judgments
 - A. Opening, Modifying, and Vacating Judgments
 - Character of Judgment
 - § 639. Motion for relief from judgment by default
 - § 652. Grounds for relief from entry of default or default judgment
- 50 *CJS* Judgments, Thomson West, 2021, with 2021 supplement (also available on Westlaw).
 - G. Judgments by Default
 - XI. Alteration of and Relief from Judgment
 - §§ 525-534. Right to and grounds for opening or vacating
- *LexisNexis Practice Guide: Connecticut Civil Pretrial Practice*, Margaret Penny Mason, general editor, 2021 ed., LexisNexis (also available on Lexis Advance).
 - Chapter 9. Appearance and Default
 - Part III: Practical Guidance – Default
 - § 9.21. Opening Defaults
 - [1] Opening Default When Judgment Has Not Been Rendered
 - [2] Different Procedures Depending on Whether Plaintiff Has Filed Claim for a Hearing in Damages
- 2 *DuPont on Connecticut Civil Practice*, Ralph P. DuPont, 2020-2021 ed., LexisNexis (also available on Lexis Advance).

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Chapter 17. Judgments

E.2. Default for Failure to Appear

§ 17-20.3. Setting Aside Default for Failure to Appear

—Before entry of judgment by default

- 1 *Stephenson's Connecticut Civil Procedure*, 3rd ed., by Renee Bevacqua Bollier et al., Atlantic Law Book Co., 1997, with 2014 supplement.
 - § 96. Judgment on Default
 - f. Reopening defaults
- *Pleadings and Pretrial Practice: A Deskbook for Connecticut Litigators*, Jeanine M. Dumont, 1998 ed., Connecticut Law Tribune.
 - V. Timing, Waivers and Defaults
 - 3. Motions for Default
 - b. Automatic cure of default for failure to appear, p. 71
 - XIV. Motions to Set Aside or Open, Reargue, Correct, Articulate and Enforce Settlements, and the Accidental Failure of Suit Statute
 - 5. Motions to Set Aside Default, p. 153
- *Civil Litigation in Connecticut: Anatomy of a Lawsuit*, Kimberly A. Peterson, 1998, Prentice-Hall.
 - Chapter 14. Pleadings: Motions against defendants who do not file an appearance
 - II. Motion for Default for Failure to Appear
 - A. Opening or setting aside a default
- 1 Connecticut Practice Series, *Superior Court Civil Rules*, by Wesley W. Horton and Kenneth J. Bartschi, 2020-2021 ed., Thomson West (also available on Westlaw).
 - Authors' Commentary for §§ 17-20 and 17-42
- 1 *West's Connecticut Rules of Court Annotated*, 2021 ed., Thomson West.
 - Notes of Decisions for §§ 17-20 and 17-42

Section 1b: Judgment upon Default for Failure to Appear

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to a judgment after default for failure to appear, and opening or setting aside a judgment upon default for failure to appear.

SEE ALSO:

- [Setting Aside or Opening a Default for Failure to Appear Before Judgment](#)

DEFINITIONS:

- “. . . an appearance for a party after the entry against such party of a . . . judgment after default for failure to appear shall not affect the entry of . . . any judgment after default.” Conn. Practice Book § [3-2](#) (2022).
- “Any judgment rendered or decree passed upon a default or nonsuit may be set aside within four months succeeding the date on which notice was sent, and the case reinstated on the docket on such terms in respect to costs as the judicial authority deems reasonable, upon the written motion of any party or person prejudiced thereby, showing reasonable cause, or that a good cause of action or defense in whole or in part existed at the time of the rendition of such judgment or the passage of such decree, and that the plaintiff or the defendant was prevented by mistake, accident or other reasonable cause from prosecuting or appearing to make the same.” Conn. Practice Book [§ 17-43\(a\)](#) (2022).
- “A default is not a judgment. It is an order of the court the effect of which is to preclude the defendant from making any further defense in the case so far as liability is concerned. A judgment upon default, on the other hand, is the final judgment in the case . . .” [Automotive Twins, Inc. v. Klein](#), 138 Conn. 28, 33, 82 A.2d 146 (1951).
- “A judgment rendered upon a default or nonsuit may be set aside only if the moving party demonstrates that he has been prejudiced by the judgment, that ‘reasonable cause’ or a ‘good cause of action or defense . . . existed at the time of the rendition of the judgment’ and that the movant was prevented by ‘mistake, accident or other reasonable cause from prosecuting the action or making the defense.’” [Steve Viglione Sheet Metal Co. v. Sakonchick](#), 190 Conn. 707, 712, 462 A.2d 1037 (1983).

COURT RULES:

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

- Conn. Practice Book (2022)
 - [Chapter 3](#). Appearances
 - § 3-2. Time to file appearance
 - [Chapter 17](#). Judgments
 - § 17-22. Notice of judgments of . . . default for

failure to enter an appearance
§ 17-43(a). Opening judgment upon default or
nonsuit

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2022)
 - [Chapter 873](#). Court Clerks
 - § [51-55](#). Judgments of default or nonsuit.
 - [Chapter 900](#). Court Practice and Procedure
 - § [52-212](#). Opening judgment upon default or nonsuit. (Amended by [P.A. 21-104](#), § 43, effective from passage.)
 - § [52-212a](#). Civil judgment or decree opened or set aside within four months only. (Amended by [P.A. 21-104](#), § 44, effective from passage.)
 - [Chapter 897](#). Parties and Appearances
 - § [52-84](#). When judgment by default may be rendered.

COURT FORMS:

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

- [JD-CV-107](#). Motion to Open Judgment (Civil Matters Other Than Small Claims and Housing Matters) (rev. 7/19)
- [Forms to File if You Would Like to Have a Judgment Opened](#) (Connecticut Judicial Branch – Civil Forms)

FORMS:

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- 2 Connecticut Practice Series, *Connecticut Civil Practice Forms*, 4th ed., by Joel M. Kaye et al., Thomson West, 2004, with 2020-2021 supplement (also available on Westlaw).
 - Form 107.7. Judgment by default against corporate defendant
 - Form 107.8. Judgment by default against individual defendant
 - Form 107.8-F. Motion to open judgment upon default
- *Civil Litigation in Connecticut: Anatomy of a Lawsuit*, Kimberly A. Peterson, 1998, Prentice-Hall.
 - Chapter 14. Pleadings: Motions against defendants who do not file an appearance
 - Example 2, Motion to open judgment of default for failure to appear
 - Example 3, Affidavit to be filed with motion to open judgment upon default

RECORDS & BRIEFS:

- *Motion to Open Judgment Upon Default*, Connecticut Appellate Court Records and Briefs (April 2013). [Dziedzic v. Pine Island Marina, LLC](#), 143 Conn. App. 644, 72 A.3d 406 (2013). [Figure 2](#).

CASES:

- [Town of Stratford v. LeBlanc](#), 175 Conn. App. 362, 368-369, 167 A.3d 1015 (2017). “The burden of demonstrating reasonable cause for the nonappearance is

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.

on the defaulted party, and [t]he judgment should not ordinarily be opened if his failure to appear ... resulted from his own negligence.' (Internal quotation marks omitted.) [People's Bank v. Horesco](#), 205 Conn. 319, 323, 533 A.2d 850 (1987). 'A court should not open a default judgment in cases where the defendants admit they received actual notice and simply chose to ignore the court's authority. ... Negligence of a party or his counsel is insufficient for purposes of § 52-212 to set aside a default judgment.' (Citations omitted.) [State v. Ritz Realty Corp.](#), 63 Conn. App. 544, 548-49, 776 A.2d 1195 (2001). Because the failure to satisfy either prong of § 52-212 is fatal, and the defendant failed to satisfy the reasonable cause prong, we need not address the good defense prong. See [Weinstein & Wisser, P.C. v. Cornelius](#), 151 Conn. App. 174, 180, 94 A.3d 700 (2014) (movant must satisfy both prongs of § 52-212; failure to meet either prong is fatal). Accordingly, we conclude that the court did not abuse its discretion in denying the defendant's motions to open."

- [Oquendo v. Club Assist Rd. Serv. U.S., Inc.](#), Superior Court, Judicial District of New Britain, HHB-CV14-6026540-S (Aug. 9, 2016) (2016 Conn. Super. Lexis 2195) (2016 WL 5012349). "General Statutes § 52-212 (a) sets forth the requirements of a motion to open a judgment upon default or nonsuit if filed within four months on which the judgment was rendered or passed. Practice Book § 17-43 (a) tracks the language of General Statutes § 52-212 (a) and adds language that the four months runs succeeding the date notice was sent. The 1997 comment to the rule change clearly states that this notice is sent by the court. The rule and comment do not require the notice to be sent by the court to nonappearing defendants. The JDNO only goes to appearing parties. Therefore, no court notice is sent to nonappearing defendants nor is there any obligation on the court to do so.

Practice Book § 17-22, however, does obligate the prevailing party to send notice of the judgment after default for failure to enter an appearance to the party against whom it is directed, which necessarily, is the nonappearing party. Service must be made in accordance with Practice Book § 10-14 with a copy filed with the clerk's office. Section 10-14 requires the certification to a nonappearing party be made in accordance with Practice Book § 10-12 (a) and (b) and specify the address upon which it is made. . . .

In [McLaughlin v. Smoron](#), 62 Conn. App. 367, 771 A.2d 201 (2001), the court determined that the defendants' motion to open, although filed more than two years later, was timely because the plaintiff did not send proper notice of the default judgment required by Practice Book § 17-22. See also [Tyler E. Lyman, Inc. v. Lodrini](#), 63

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.

Conn. App. 739, 746, 780 A.2d 932, cert. denied, 258 Conn. 902, 782 A.2d 137 (2001) ('Where the defendants have not *received* notice of the default judgment . . . the time within which they may move to set aside the judgment is extended by the delay in notification.'

[Emphasis in original; internal quotation marks omitted.]

With [McLaughlin](#) in mind, because the plaintiff did not send notice as required by Practice Book § 17-22, the defendant's four month period is extended, and the motion is timely."

- [710 Long Ridge Operating Company II, LLC v. Randolph Stebbins](#), 153 Conn. App. 288, 295-296, 101 A.3d 292, 297 (2014). "The statutory limitation imposed on motions to open judgments does not implicate the court's jurisdiction. Rather, our Supreme Court has explained that General Statutes '§ 52-212a operates as a constraint, not on the trial court's jurisdictional authority, but on its substantive authority to adjudicate the merits of the case before it.' [Kim v. Magnotta](#), 249 Conn. 94, 104, 733 A.2d 809 (1999) . . . In the present case, the trial court lacked authority to open the judgment because the defendant never filed a motion to open pursuant to § 52-212 . . . Although the defendant filed his motion to dismiss within the four month time limit imposed by § 52-212, the motion to dismiss did not satisfy the requirements of § 52-212 (a), specifically as to 'reasonable cause, or that a good cause of action or defense in whole or in part existed at the time of the rendition of the judgment or the passage of the decree, and that the plaintiff or defendant was prevented by mistake, accident or other reasonable cause from prosecuting the action or making the defense.'"
- [Chambers v. Tyles](#), Superior Court, Judicial District of Hartford at Hartford, No. HHDCV106011127S (July 2, 2012) (2012 Conn. Super. Lexis 1720) (2012 WL 3089736). "The defendant argues that the court should open the default judgment because the court lacked personal jurisdiction to render the judgment against him due to insufficiency of service of process . . . In the present case, the marshal's return of service . . . states that the marshal made personal service on the defendant . . . In the defendant's motion to open, the defendant argues that on the date recited in the marshal's return, he was in New York, New York, and, therefore, was not personally served by the marshal . . . For the foregoing reasons, the defendant has satisfied the statutory requirements set forth in General Statutes § 52-212(a) and Practice Book § 17-43, and the court grants the defendant's motion to open the default judgment rendered against him."

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.

- [Wilson v. Troxler](#), 91 Conn. App. 864, 883 A.2d 18 (2005). "The defendant state of Connecticut, fleet operations (state fleet operations), appeals from the judgment of the trial court denying its motion to open the judgment rendered in favor of the plaintiff, JoLynn Wilson, after it had been defaulted for failure to appear. . . . On appeal, state fleet operations claims that the court improperly denied (1) its motion to open because it did not receive actual notice of the plaintiff's motion for default for failure to appear We agree with the first claim and, accordingly, reverse the judgment of the trial court as to the motion to open. We affirm its judgment as to the motion to dismiss." (p. 866)

"The court determined that state fleet operations had received notice of the plaintiff's motion for default for failure to appear because the plaintiff had mailed a copy of that motion to the attorney general's office. The plaintiff also mailed her motion for judgment after default and certificate of closed pleadings to the attorney general's office. The court concluded that the plaintiff properly had addressed those pleadings to the attorney general's office rather than to state fleet operations because state fleet operations had not filed an appearance and the attorney general's office is state fleet operations' agent for service of process. In support of its conclusion, the court cited General Statutes § 52-64, which provides that 'service of civil process in any civil action or proceeding maintainable against . . . the state or against any institution, board, commission, department or administrative tribunal thereof . . . may be made by leaving a true and attested copy of the process, including the declaration or complaint, with the Attorney General or at his office in Hartford.'" (p. 869-870)

"Section 52-64, however, concerns civil process, not subsequent pleadings. Civil process is the manner in which civil actions are commenced. General Statutes § 52-45a provides that civil process 'consists of a writ of summons or attachment, describing the parties, the court to which it is returnable, the return day, the date and place for the filing of an appearance and information required by the Office of the Chief Court Administrator. The writ shall be accompanied by the plaintiff's complaint. . . .' Service of subsequent pleadings is not by process, but instead usually by mail. See Practice Book § 10-13. The court therefore improperly relied on General Statutes § 52-64. The court should have relied on Practice Book § 10-12 (b), which provides: 'It shall be the responsibility of counsel or a pro se party at the time of filing a motion for default for failure to appear to serve the party sought to be defaulted with a copy of the motion. Upon good cause shown, the judicial authority may dispense with this requirement when judgment is rendered.'" (p. 870)

**WEST KEY
NUMBERS:**

ENCYCLOPEDIAS:

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- *Judgment*
 - 92-177. Judgment by Default.
 - 92. Nature of judgment by default.
 - 140. Judgments which may be opened or set aside.

- 102 *A.L.R.5th* 647, *Imposition Of Default Judgment Against Codefendant—Modern Treatment*, James L. Buchwalter, Annotation, Thomson West, 2002 (also available on Westlaw).

- 78 *A.L.R.3d* 150, *Fraud in Obtaining or Maintaining Default Judgment as Ground for Vacating or Setting Aside in State Courts*, James O. Pearson, Jr., Annotation, Thomson West, 1977 (also available on Westlaw).

- 21 *A.L.R.3d* 1255, *Opening Default or Default Judgment Claimed To Have Been Obtained Because Of Attorney's Mistake As To Time Or Place Of Appearance, Trial, Or Filing Of Necessary Papers*, A.S. Klein, Annotation, Thomson West, 1968 (also available on Westlaw).

- 8 *A.L.R.3d* 1272, *Appealability of Order Setting Aside, or Refusing to Set Aside, Default Judgment*, D.E. Ytreberg, Annotation, Thomson West, 1966 (also available on Westlaw).

- 77 *A.L.R.2d* 1410, *Doctrine of Res Judicata as Applied To Default Judgments*, E.H. Schopler, Annotation, Thomson West, 1961 (also available on Westlaw).

- 46 *Am Jur 2d* Judgments, Thomson West, 2017, with 2021 supplement (also available on Westlaw).
 - IV. Particular Kinds of Judgments
 - §§ 222-295. Judgment by default

- 47 *Am Jur 2d* Judgments, Thomson West, 2017, with 2021 supplement (also available on Westlaw).
 - IX. Relief from Judgments
 - A. Opening, Modifying, and Vacating Judgments
 - Character of Judgment
 - § 639. Motion for relief from judgment by default
 - § 652. Grounds for relief from entry of default or default judgment
 - §§ 669-675. Practice and procedure for opening, modifying, and vacating judgments

- 49 *CJS* Judgments, Thomson West, 2021, with 2021 supplement (also available on Westlaw).
 - IX. Judgment by Default
 - §§ 254-294. In General

XI. Alteration of and Relief from Judgment
§§ 520-613. Judgments by default

**TEXTS &
TREATISES:**

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- *LexisNexis Practice Guide: Connecticut Civil Pretrial Practice*, Margaret Penny Mason, general editor, 2021 ed., LexisNexis (also available on Lexis Advance).
 - Chapter 9. Appearance and Default
 - Part III: Practical Guidance – Default
 - § 9.17. Motion for Default Judgment
 - [1] Defendant May Appear Before Entry of Default Judgment
 - [2] Motion for Default Judgment
 - [3] Affidavit Regarding Military Service Required With Motion for Judgment After Default
 - [a] Affidavit Contents
 - [b] Court May Appoint Attorney for Defendant in Military
 - [c] Bond May Be Required
 - [d] Stay
 - [e] Defendant May Seek Stay
 - [f] Defendant May Seek Additional Stay
 - [7] Plaintiff's Relief on Default
 - § 9.19. Notice of Judgment for Default for Failure to Enter an Appearance
 - § 9.20. Topical Overview of Obtaining Relief from Default Judgments
 - § 9.21. Opening Defaults
 - [3] Opening Judgment Rendered upon Default
 - [a] Grounds
 - [b] Time Limit for Filing Motion
 - [c] Motion Must Be Verified
 - [d] Notice of Motion to Adverse Party
 - [4] Motion to Reopen Judgment Based on Equitable Grounds
 - [5] Appeal of Order on Motion to Open Judgment
- *2 DuPont on Connecticut Civil Practice*, Ralph P. DuPont, 2020-2021 ed., LexisNexis (also available on Lexis Advance).
 - Chapter 17. Judgments
 - § 17-43. Opening judgment upon default or nonsuit
 - § 17-43.1. Reasonable Cause; Existence of Good Cause of Action or Defense
 - § 17-43.2. Reasonable Cause for Failure to Appear
- *1 Stephenson's Connecticut Civil Procedure*, 3rd ed., by Renee Bevacqua Bollier et al., Atlantic Law Book Co., 1997, with 2014 supplement.
 - § 96. Judgment on Default
 - b. Default judgment and default distinguished
 - g. Reopening judgments on default

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References to online databases refer to in-library use of these databases. Remote access is not available.

- *Pleadings and Pretrial Practice: A Deskbook for Connecticut Litigators*, Jeanine M. Dumont, 1998 ed., Connecticut Law Tribune.
 - XIV. Motions to Set Aside or Open, Reargue, Correct, Articulate and Enforce Settlements, and the Accidental Failure of Suit Statute
 - 4. Motions to open default judgments, p. 152
 - 5. Motions to set aside default, p. 153
- *Civil Litigation in Connecticut: Anatomy of a Lawsuit*, Kimberly A. Peterson, 1998, Prentice-Hall.
 - Chapter 14. Pleadings: Motions against defendants who do not file an appearance
 - II. Motion for Default for Failure to Appear
 - When a defendant fails to appear after default: Judgment
 - IV. Motion to Open Judgment Upon Default: Four Month Deadline
- 2 Connecticut Practice Series, *Connecticut Civil Practice Forms*, 4th ed., by Joel M. Kaye et al., Thomson West, 2004, with 2020-2021 supplement (also available on Westlaw).
 - Authors' Commentary for Forms 107.7, 107.8, 107.8-F
- 1 Connecticut Practice Series, *Superior Court Civil Rules*, by Wesley W. Horton and Kenneth J. Bartschi, 2020-2021 ed., Thomson West (also available on Westlaw).
 - Authors' Commentary for § 17-43
- 1 *West's Connecticut Rules of Court Annotated*, 2021 ed., Thomson West.
 - Notes of Decisions for § 17-43

Figure 2: Motion to Open Default Judgment for Failure to Appear

DOCKET NO.: CV-11-5014143-S : SUPERIOR COURT
JEFF DZIEDZIC : J.D. OF NEW LONDON
V. : AT NEW LONDON
PINE ISLAND MARINA, LLC : NOVEMBER 9, 2011

MOTION TO OPEN JUDGMENT UPON DEFAULT

The Defendant, Pine Island Marina, LLC, respectfully requests that the Default granted on September 28, 2011 be opened pursuant to Prac. Book §§ 17-43. Prac. Book §§ 17-43 allows “any judgment rendered...upon a default or non-suit may be set aside within four months succeeding the date on which notice was sent.” In this, case Notice was sent on July 12, 2011. That is less than four months from the filing date of this motion. The Defendant was ill advised that it should take no action in this case on the basis that no judgment could be rendered against it because of the dissolution. This was obviously error and is why the Defendant failed to file an appearance.

The Defendant has a number of good faith defenses to present. In this case the Defendant will allege that the limited liability company was dissolved prior to the claim being submitted. The Defendant will claim that the Plaintiff breached contract with the Defendant in that he did not properly manage the company as was his duty. The Defendant will also claim that the Plaintiff failed to act in the best interest of the business by soliciting interference from a manager at People’s United Bank which interfered with the relationship between the Plaintiff and the Defendant. The Plaintiff failed to give the Defendant full disclosure in accounting with regards to financial matters nor did the Plaintiff advise the Defendant of the financial decline of the business. Further, the Plaintiff failed to run the business in accordance with the quality and standards recognized and promulgated by the marina and boating

community, the Company and applicable federal, state, and local laws and ordinances. Finally, the Plaintiff failed to outline to the court that the employment agreement which is at the core of this lawsuit is subject to binding arbitration rather than judgment by the court. The Defendant may claim this right.

Given that the Defendant has numerous good faith defenses to this case, the Defendant respectfully requests that the Judgment against them be opened.

THE DEFENDANT

BY: _____

Name
Firm
Address
Phone Number

[separate page]

ORDER

The foregoing motion, it having been heard, is hereby ordered
GRANTED/DENIED.

BY THE COURT

Judge/Clerk

[separate page]

CERTIFICATION

I hereby certify that a copy of the foregoing motion was mailed postage prepaid on this the 9th day of November, 2011 to:

Name(s)

Section 1c: Motion for Default for Failure to Appear and Judgment

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to a motion for default for failure to appear and a motion for judgment; used in contract actions seeking judgment under Conn. Practice Book § [17-25](#) (2022).

DEFINITIONS:

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- “The motion for Default for Failure to Appear and Judgment is a procedure which allows the plaintiff to file a Motion for Default for Failure to Appear simultaneously with a Motion for Judgment and an order requesting weekly payments.”
 - “a Practice Book 17-25 motion is limited to contract actions seeking judgment”
 - “The motion is reviewed by the civil clerk’s office and is forwarded to a judge for approval and for signature.”
 - “The motion is not claimed to a calendar and court appearance is not required.”

Hartford Superior Court Civil Clerk’s Office, Practice Book Section 17-25 Motions Manual. Reprinted in 2 DuPont on Connecticut Civil Practice, Ralph P. DuPont, 2020-2021 ed., LexisNexis (also available on Lexis Advance), Appendix 1.

- “In any action based upon an express or implied promise to pay a definite sum and claiming only liquidated damages, which may include interest, a reasonable attorney’s fee and other lawful charges, the procedure set forth in Section 17-20 and in Sections 17-25 through 17-28 shall be followed, if there is a default of appearance.” Conn. Practice Book § [17-24\(a\)](#) (2022).

COURT RULES:

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

- Conn. Practice Book (2022)
 - [Chapter 17. Judgments](#)
 - § 17-23. Contract actions to pay a definite sum where there is a default for failure to appear; Limitations
 - § 17-24. —Promise to pay liquidated sum
 - § 17-25. —Motion for default and judgment; Affidavit of debt; Military affidavit; Bill of costs; Debt instrument
 - § 17-26. —Order for weekly payments
 - § 17-27. —Entry of judgment
 - § 17-28. —Enforcement of judgment
 - § 17-29. —Default motion not on short calendar

COURT FORMS:

- [JD-CV-49](#). Motion for Default for Failure to Appear, Judgment and Order for Weekly Payments (rev. 8/99)

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

- [JD-CV-49*](#). Motion for Default for Failure to Appear, Judgment and Order for Weekly Payments (* with automatic calculations)
- [JD-CV-50](#). Notice of Judgment and Order for Weekly Payments (rev. 9/09)
- [JD-CV-50*](#). Notice of Judgment and Order for Weekly Payments (* with automatic calculations)
- [JD-CV-52](#). Affidavit of Debt Re: Motion for Default For Failure To Appear, Judgement and Order For Weekly Payments (rev. 5/99)
- *Hartford Superior Court Civil Clerk's Office, Practice Book Section 17-25 Motions Manual*. Reprinted in 2 *DuPont on Connecticut Civil Practice*, Ralph P. DuPont, 2020-2021 ed., LexisNexis (also available on Lexis Advance), Appendix 1.

COURT PUBLICATIONS:

LAW REVIEWS:

- Carl Schoenherr. *Is the Application of a Materiality Standard Misleading?*, 14 Connecticut Public Interest Law Journal 269 (Spring-Summer 2015).

TEXTS & TREATISES:

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- *LexisNexis Practice Guide: Connecticut Civil Pretrial Practice*, Margaret Penny Mason, general editor, 2021 ed., LexisNexis (also available on Lexis Advance).
 - Chapter 9. Appearance and Default
 - Part III: Practical Guidance – Default
 - § 9.16. Streamlined Procedures for Entry of Default and Default Judgment for Contract Actions to Pay a Definite Sum
 - [1] Motion for Default and Judgment to Enforce Promise to Pay Liquidated Sum
 - [2] Motion Must Include Affidavits
 - [3] Order for Weekly Payments
 - [4] Entry of Judgment after Default in Action to Enforce Promise to Pay Liquidated Sum and Notice to All Parties
 - [5] Enforcement of Judgment after Default in Action to Enforce Promise to Pay Liquidated Sum and Notice to All Parties
- 2 *DuPont on Connecticut Civil Practice*, Ralph P. DuPont, 2020-2021 ed., LexisNexis (also available on Lexis Advance).
 - Chapter 17. Judgments
 - E.3. Default of Appearance in Contract Action; Judgment
 - Introduction
 - § 17-23. Contract Actions to Pay a Definite

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

Sum Where There is a Default for Failure to Appear; Limitations

§ 17-24. Promise to Pay Liquidated Sum

§ 17-24.1. Attorney's fees; Recovery of

§ 17.25. Motion for Default and Judgment;

Affidavit of Debt; Military Affidavit; Bill of

Costs; Debt Instrument

§ 17-25.1. Affidavit of Debt

§ 17-26. Order for Weekly Payments

§ 17-27. Entry of Judgment [Clerk to Present Papers]

§ 17-28. Enforcement of Judgment

§ 17-29. Default Motion Not on Short Calendar

- 1 *Stephenson's Connecticut Civil Procedure*, 3rd ed., by Renee Bevacqua Bollier et al., Atlantic Law Book Co., 1997, with 2014 supplement.
 - § 96. Judgment on Default
 - d. Defaults for failure to appear (see especially p.285)
 - § 101. Affidavit of Debt and Related Procedures
 - b. Contract actions for liquidated damages

- *Civil Litigation in Connecticut: Anatomy of a Lawsuit*, Kimberly A. Peterson, 1998, Prentice-Hall.
 - Chapter 14. Pleadings: Motions against defendants who do not file an appearance
 - III. Motion for Default for Failure to Appear and Judgment

- 2 Connecticut Practice Series, *Connecticut Civil Practice Forms*, 4th ed., by Joel M. Kaye et al., Thomson West, 2004, with 2020-2021 supplement (also available on Westlaw).
 - Authors' Commentary for Form 107.7-A

- 1 Connecticut Practice Series, *Superior Court Civil Rules*, by Wesley W. Horton and Kenneth J. Bartschi, 2020-2021 ed., Thomson West (also available on Westlaw).
 - Authors' Commentary for §§ 17-23 through 17-28

- 1 *West's Connecticut Rules of Court Annotated*, 2021 ed., Thomson West.
 - Notes of Decisions for § 17-28

Section 2: Failure to Plead

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to a motion for default for failure to plead.

SEE ALSO:

- [Setting Aside or Opening a Default for Failure to Plead Before Judgment](#)
- [Judgment upon Default for Failure to Plead](#)

DEFINITIONS:

- "Where a defendant is in default for failure to plead pursuant to Section 10-8, the plaintiff may file a written motion for default which shall be acted on by the clerk not less than seven days from the filing of the motion, without placement on the short calendar." Conn. Practice Book § [17-32\(a\)](#) (2022).

COURT RULES:

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

- Conn. Practice Book (2022)
 - [Chapter 10](#). Pleadings
 - § 10-8. Time to plead
 - [Chapter 17](#). Judgments
 - § 17-31. Procedure where party is in default
 - § 17-32. Where defendant is in default for failure to plead

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2022)
 - [Chapter 898](#). Pleading
 - § [52-119](#). Pleading to be according to rules and orders of court.
 - § [52-120](#). Pleading filed by consent after expiration of time.
 - § [52-121](#). Pleading may be filed after expiration of time fixed, but prior to hearing on motion for default judgment or nonsuit. Judgment or penalty for failure to plead.

FORMS:

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

- *LexisNexis Practice Guide: Connecticut Civil Pretrial Practice*, Margaret Penny Mason, general editor, 2021 ed., LexisNexis (also available on Lexis Advance).
 - Chapter 9. Appearance and Default
 - Part III: Practical Guidance – Default
- 2 Connecticut Practice Series, *Connecticut Civil Practice Forms*, 4th ed., by Joel M. Kaye et al., Thomson West, 2004, with 2020-2021 supplement (also available on Westlaw).
 - Form 107.8-C. Motion for default for failure to plead
- 2 *DuPont on Connecticut Civil Practice*, Ralph P. DuPont, 2020-2021 ed., LexisNexis (also available on Lexis Advance).
 - F.17-32. Motion for Default for Failure to Plead

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

F.17-32(1). Objection to Motion for Default [for Failure to Plead]

- *Civil Litigation in Connecticut: Anatomy of a Lawsuit*, Kimberly A. Peterson, 1998, Prentice-Hall.
Chapter 15. Pleadings: Motions against defendants who do not file pleadings
Example 1. Motion for default for failure to plead
- *Library of Connecticut Collection Law Forms*, Robert M. Singer, 2016, Connecticut Law Tribune (also available on Lexis Advance).
Form 9-002. Motion for default for failure to plead
- *Motion for Default for Failure to Plead*, Connecticut Appellate Court Records and Briefs (May 2012). [Giano v. Salvatore](#), 136 Conn. App. 834, 46 A.3d 996, (2012). [Figure 3](#).
- [Deutsche Bank National Trust Co. v. Thompson](#), 163 Conn. App. 827, 835, 136 A.3d 1277, 1282 (2016).
"Although it is established that entry of default conclusively establishes the *liability* of a defendant, the plaintiff offers no authority to support its position that entry of default conclusively establishes the *subject matter jurisdiction* of the court. Moreover, we disagree with this position because it essentially posits that a party can waive a subject matter jurisdiction challenge by virtue of a pleading deficiency, namely, a failure to reply to jurisdictional allegations during the pleading stage."
- [People's United Bank v. Bok](#), 143 Conn. App. 263, 70 A.3d 1074 (2013). "Practice Book § 17-32 (a) provides: 'Where a defendant is in default for failure to plead pursuant to Practice Book § 10-8, the plaintiff may file a written motion for default which shall be acted on by the clerk not less than seven days from the filing of the motion, without placement on the short calendar.' Practice Book § 17-32 (b) provides in relevant part: 'If a claim for a hearing in damages or a motion for judgment has been filed the default may be set aside only by the judicial authority.'" (p. 269)

"In [Connecticut Light & Power Co. v. St. John](#), supra, 80 Conn. App. 775-76, this court concluded that a trial court was required to set aside a default judgment as a matter of law when the default had been rendered improperly. After the defendants in that case had filed answers and counterclaims to the plaintiff's complaint, the plaintiff filed a request to revise the defendants' counterclaim. *Id.*, 769-70. The plaintiff subsequently moved for default for failure to plead when the defendants did not respond to the request to revise the counterclaim. *Id.*, 770. The court clerk granted the motion, defaulting the defendants on

RECORDS & BRIEFS:

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.

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both the complaint and their counterclaims. *Id.*, 770, 773.” (p. 269-270)

“The clerk's entry of default for failure to plead after the defendants had filed a responsive pleading was wrong as a matter of law and constituted good cause to set aside the default under Practice Book § 17-42; it was error for the court not to do so.” (p. 272)

- [Giano v. Salvatore](#), 136 Conn. App. 834, 843-844, 46 A.3d 996, 1003 (2012). “The defendant’s counsel admitted on the witness stand that he had actual notice that a default had entered against the defendant . . . yet he failed to file any responsive pleadings . . . The defendant’s mistaken belief that the plaintiff would be withdrawing the case is no excuse for her failure to plead after she received actual notice of the default and of the impending judgment.”
- [Argentinis v. Fortuna](#), 134 Conn. App. 538, 539, 39 A.3d 1207, 1213 (2012). “A motion for default for failure to plead may enter against a defendant who fails to answer a complaint; see Practice Book § 17-32; and judgment may be rendered on the default.”
- *Judgment*
 - 105. Default in pleading.
 - 106. Failure to plead in general.

WEST KEY NUMBERS:

ENCYCLOPEDIAS:

You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the treatises cited.

References to online databases refer to in-library use of these databases.

- 46 *Am Jur 2d* Judgments, Thomson West, 2017, with 2021 supplement (also available on Westlaw).
 - IV. Particular Kinds of Judgments
 - E. Judgment by Default
 - §§ 243-277. Judgment by default
- 49 *CJS* Judgments, Thomson West, 2021, with 2021 supplement (also available on Westlaw).
 - IX. Judgment by Default
 - Grounds for Judgment
 - §§ 267-272. Default in pleading
- *LexisNexis Practice Guide: Connecticut Civil Pretrial Practice*, Margaret Penny Mason, general editor, 2021 ed., LexisNexis (also available on Lexis Advance).
 - Chapter 9. Appearance and Default
 - Part III: Practical Guidance – Default
 - § 9.10. Topical Overview of Obtaining Default Judgments
 - [2] Default for Failure to Plead
 - § 9.12. Motion for Default for Failure to Plead
 - [1] Filing Motion for Default for Failure to Plead
 - [2] Defendant May File Answer Before Judgment Rendered

TEXTS & TREATISES:

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Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- § 9.13. Effect of Default for Failure to Plead
- § 9.14. Court's Discretionary Authority to Grant Default
- § 9.15. Notice of Default by Clerk

- 2 *DuPont on Connecticut Civil Practice*, Ralph P. DuPont, 2020-2021 ed., LexisNexis (also available on Lexis Advance).
 - Chapter 17. Judgments
 - E.5. Defaults Involving Pleadings and Discovery Orders
 - § 17-31. Procedure Where Party is in Default
 - § 17-32. Where Defendant is in Default for Failure to Plead
 - § 17-32.1. Defaulted Party, Pleadings by
- 1 *Stephenson's Connecticut Civil Procedure*, 3rd ed., by Renee Bevacqua Bollier et al., Atlantic Law Book Co., 1997, with 2014 supplement.
 - § 96. Judgment on Default
 - e. Other Grounds for Default
 - (1) Failure to plead
- *Pleadings and Pretrial Practice: A Deskbook for Connecticut Litigators*, Jeanine M. Dumont, 1998 ed., Connecticut Law Tribune.
 - V. Timing, Waivers and Defaults
 - 3. Motions for Default
 - c. Defaults for failure to plead or disclose a defense, p. 71
- *Civil Litigation in Connecticut: Anatomy of a Lawsuit*, Kimberly A. Peterson, 1998, Prentice-Hall.
 - Chapter 15. Pleadings: Motions against defendants who do not file pleadings
 - I. Motion for default for failure to plead
- 2 Connecticut Practice Series, *Connecticut Civil Practice Forms*, 4th ed., by Joel M. Kaye et al., Thomson West, 2004, with 2020-2021 supplement (also available on Westlaw).
 - Authors' Commentary for Form 107.8-C
- Connecticut Practice Series, *Superior Court Civil Rules*, by Wesley W. Horton and Kenneth J. Bartschi, 2020-2021 ed., Thomson West (also available on Westlaw).
 - Authors' Commentary for § 17-31 and 17-32
- 1 *West's Connecticut Rules of Court Annotated*, 2021 ed., Thomson West.
 - Notes of Decisions for §§ 17-31 and 17-32

Figure 3: Motion for Default for Failure to Plead

DOCKET NO.: CV-10-6005967-S : SUPERIOR COURT
JOHN GIANO : J.D. OF NEW BRITAIN
V. : AT NEW BRITAIN
VANNA SALVATORE, PAUL RACZYNKSI
and TD BANK, N.A. : SEPTEMBER 1, 2010

PLAINTIFF'S MOTION FOR DEFAULT FOR FAILURE TO PLEAD
AGAINST DEFENDANT VANNA SALVATORE

Pursuant to the Connecticut Rules of Practice, including § 17-32, the plaintiff John Giano respectfully requests that the Court enter a default against Vanna Salvatore for failure to plead. In support, the plaintiff states as follows:

1. Plaintiff commenced this action by marshal's service of a true and attested copy of the original Writ, Summons, Complaint, and Statement of Amount of defendant on or about June 21, 2010.
2. The return date was July 27, 2010.
3. To date, defendant Vanna Salvatore has failed to plea.

WHEREFORE, plaintiff respectfully requests that the Court enter a default against defendant Vanna Salvatore for failure to plead.

THE PLAINTIFF,

JOHN GIANO

BY: _____

Name
Firm
Address
Phone Number

ORAL ARGUMENT REQUESTED
TESTIMONY NOT REQUIRED

ORDER

The foregoing Motion having been heard, it is hereby:

GRANTED/DENIED.

BY THE COURT

Judge/Clerk

[separate page]

CERTIFICATION

This is to certify that a copy of the foregoing was sent by first class mail, postage prepaid, to the following counsel of record this 1st day of September 2010:

Name(s)

Section 2a: Setting Aside or Opening Default for Failure to Plead Before Judgment

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to setting aside or opening a motion for default for failure to plead prior to judgment.

SEE ALSO:

- [Judgment upon Default for Failure to Plead](#)

DEFINITIONS:

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

- "If a party who has been defaulted under this section files an answer before a judgment after default has been rendered by the judicial authority, the default shall automatically be set aside by operation of law unless a claim for a hearing in damages or a motion for judgment has been filed. If a claim for a hearing in damages or a motion for judgment has been filed, the default may be set aside only by the judicial authority. A claim for a hearing in damages or motion for judgment shall not be filed before the expiration of fifteen days from the date of notice of issuance of the default under this subsection." Conn. Practice Book § [17-32\(b\)](#) (2022).
- "A motion to set aside a default where no judgment has been rendered may be granted by the judicial authority for good cause shown upon such terms as it may impose. As part of its order, the judicial authority may extend the time for filing pleadings or disclosure in favor of a party who has not been negligent. Certain defaults may be set aside by the clerk pursuant to Sections 17-20 and 17-32." Conn. Practice Book § [17-42](#) (2022).

COURT RULES:

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

- Conn. Practice Book (2022)
[Chapter 17](#). Judgments
§ 17-32(b). Where defendant is in default for failure to plead
§ 17-42. Opening defaults where judgment has not been rendered

FORMS:

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

- *Library of Connecticut Collection Law Forms*, Robert M. Singer, 2016, Connecticut Law Tribune (also available on Lexis Advance).
Form 9-018. Motion to set aside default (for failure to plead)

RECORDS & BRIEFS:

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.

- *Motion for Set Aside Default*, Connecticut Appellate Court Records and Briefs (October 1994). [Whalen v. Ives](#), 37 Conn. App. 7, 654 A.2d 798 (1995). [Figure 4](#).
- [Kaye v. Housman](#), 184 Conn. App. 808, 821-822, 195 A.3d 1168 (2018). "In the present case, the defendant filed an answer and four special defenses, which the plaintiff did not ask him to revise, before the court granted the plaintiff's motion for default. "[T]here is ... support for the proposition that a court commits plain error if, prior to rendering a **judgment on default**, the court fails to accept for filing a defaulted party's pleading solely on the ground that the pleading is untimely.... General Statutes § 52-121 (a) provides in relevant part: Any pleading in any civil action may be filed after the expiration of the time fixed by statute or by any rule of the court until the court has heard any motion for judgment by default ... for failure to plead which has been filed in writing with the court in which the action is pending." (Internal quotation marks omitted.) [People's United Bank v. Bok](#), supra, 143 Conn. App. at 268, 70 A.3d 1074. "Moreover, '[o]ur Supreme Court has expressed a policy to bring about a trial on the merits of a dispute whenever possible to secure for the litigant his day in court.'" Id., quoting [Connecticut Light & Power Co. v. St. John](#), supra, 80 Conn. App. at 775, 837 A.2d 841. The court, therefore, was without authority to grant the motion for default against the defendant and, thus, should have granted his motion to strike the matter from the hearing in damages list. "
- [Bank of New York Mellon v. Talbot](#), 174 Conn. App. 377, 383, 165 A.3d 1253 (2017). "'General Statutes § 52-119 provides that [p]arties failing to plead according to the rules and orders of the court may be . . . defaulted Section 10-18 of our rules of practice essentially mirrors that language.'" (Internal quotation marks omitted.) [People's United Bank v. Bok](#), supra, 143 Conn. App. 268. "[T]he effect of a default is to preclude the defendant from making any further defense in the case so far as liability is concerned" Practice Book § 17-33 (b). Practice Book § 17-33 (b) provides that when a party is in default for failure to plead, "the judicial authority, at or after the time it renders the default . . . may also render judgment in foreclosure cases" If the defaulted party has filed an answer before judgment is rendered, however, the default is automatically set aside by operation of law. Practice Book § 17-32 (b). If a motion for judgment already has been filed by the adverse party at the time the defaulted party files his answer, however, "the default may be set aside only by the judicial authority." Practice Book § 17-32 (b)."
- [Wells Fargo Bank, N.A. v. Treglia](#), 156 Conn. App. 1, 111

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.

A.3d 524 (2015). “The defendant Patrick Treglia argues first that the default must be opened as a matter of right because Connecticut Practice Book section 17-32 requires the clerk to set aside a default entered for failure to plead if the defaulted party files an answer before a judgment after default has been rendered. However, the court finds that it is the second sentence of section 17-32 (b) that controls. ‘If a claim for [a] hearing [in] damages or a motion for judgment has been filed, the default may be set aside only by the judicial authority.’ In the case at bar the plaintiff filed a motion for summary judgment on August 11, 2012, almost three months before [Patrick Treglia] filed his motion to open the default. . . . Accordingly, the decision of whether or not to open the default is one that is within the court’s discretion. In determining whether or not to exercise that discretion the court is guided by Practice Book section 17-42 which states ‘a motion to set aside a default when no judgment has been rendered may be granted by the judicial authority for good cause shown.’ . . . In the instant case [Patrick Treglia] has offered no credible justification for the failure to plead within the time allowed by law, or for failure to move to open the default within a reasonable time thereafter.” (p. 7-8)

“The plaintiff argues that ‘there is no reason courts should distinguish between motions for judgment and motions for summary judgment in this context.’ We disagree.” (p. 13)

“We conclude that, under the facts of the present case, a ‘motion for judgment’ for the purposes of § 17-32 (b) does not encompass a motion for summary judgment. We further conclude that, because Patrick Treglia filed an answer to the plaintiff’s complaint and the plaintiff never filed a motion for judgment upon default, the clerk, pursuant to § 17-32 (b), was required to set aside the default entered against Patrick Treglia, and there was no need for judicial discretion to be employed. Once the default was opened, the court did not have discretion over Patrick Treglia’s motion to set aside the default and improperly denied it. The judgment of strict foreclosure against Patrick Treglia must be reversed and the clerk must set aside the default against him.” (p. 13-14)

- [Spilke v. Wicklow](#), 138 Conn. App. 251, 267-268, 53 A.3d 245, 254-255 (2012). “The defendants then filed a motion to open the default for failure to plead on October 18, 2010. In the motion, the defendants argued that the default was due to miscommunication between the defendants and their attorney as well as their attorney’s chronic illness . . . The court stated that, although the defendants had apprised it that their attorney had health issues in late 2009, that ‘does not answer, or even address, the question of how or why defaults which

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entered in March, 2007, were permitted to stand unchallenged for more than three years. The only explanation given, essentially that [the defendants] had instructed [their counsel] to try to handle their case "on the cheap" ... is hardly "good cause" for allowing three years ... or even the first two of those years, before [the defendants' attorney's] health problems created additional problems ... to pass without taking any action with respect to the defaults.' The court therefore determined that there was no good cause to set aside the default and denied the defendants' motion."

- [Giano v. Salvatore](#), 136 Conn. App. 834, 46 A.3d 996 (2012). "It is this court's 'well settled jurisprudence that [a] court should not open a default judgment in cases where the defendants admit they received actual notice and simply chose to ignore the court's authority. . . . Negligence is no ground for vacating a judgment, and it has been consistently held that the denial of a motion to open a default judgment should not be held an abuse of discretion where the failure to assert a defense was the result of negligence. . . . Negligence of a party or his counsel is insufficient for purposes of § 52-212 to set aside a default judgment.'" (p. 843)

"The defendant's mistaken belief that the plaintiff would be withdrawing the case is no excuse for her failure to plead after she received actual notice of the default and of the impending judgment. See [Nelson v. The Contractor Group, LLC](#), supra, 127 Conn. App. 50-51 (trial court did not abuse discretion in denying motion to open after defendant failed to raise defense because of mistaken belief that plaintiff's counsel would contact him before moving forward with litigation). Accordingly, this claim fails." (p. 844)

- [Snowdon v. Grillo](#), 114 Conn. App. 131, 138, 968 A.2d 984, 989 (2009). "The distinction between whether Practice Book § 17-32 applies or Practice Book § 17-42 applies is whether a claim for a hearing in damages is filed before, or after, a motion to set aside the default is filed."
- [Wieselmann v. Hoeniger](#), Superior Court, Judicial District of Litchfield at Litchfield, No. CV00-89558 (December 7, 2004) (2004 WL 3105911) "A default may be automatically set aside by the filing of an answer. Practice Book § 17-32(b)." [Wright v. USAA Casualty Insurance](#), supra, Superior Court, Docket No. CV 03 0069913. 'Section [17-32] . . . mandates that the clerk set the default aside upon the filing of the answer before judgment is entered. In return for the guaranteed set aside of the default, the defendant gives up the right to file a motion to dismiss, a request to revise or a motion to

strike.' *Whalen v. Ives*, 37 Conn. App. 7, 12, 654 A.2d 798, cert. denied, 233 Conn. 905, 657 A.2d 645 (1995); see also *Wright v. USAA Casualty Insurance*, supra, Superior Court, Docket No. CV 03 0069913. "A defendant who wants to file a pleading that precedes the answer may also resort to [§ 17-42]. In contrast, § [17-32] applies only to defaults for failure to plead and only when the defendant elects to waive the right to file preceding pleadings by filing an answer prior to judgment" *Id.*, 13; see also *Wright v. USAA Casualty Insurance*, supra, Superior Court, Docket No. CV 03 0069913. . . . In the present case, the defendant is in default for failure to plead and therefore his motion to strike is not properly before the court. The motion to strike is denied."

WEST KEY NUMBERS:

ENCYCLOPEDIAS:

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References to online databases refer to in-library use of these databases.

TEXTS & TREATISES:

You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the treatises cited.

References to online databases refer to in-library use of these databases.

- *Judgment*
135-177. Opening or setting aside default.
- 21 *A.L.R.3d* 1255, *Opening Default or Default Judgment Claimed To Have Been Obtained Because Of Attorney's Mistake As To Time Or Place Of Appearance, Trial, Or Filing Of Necessary Papers*, A.S. Klein, Annotation, Thomson West, 1968 (also available on Westlaw).
- 47 *Am Jur 2d* Judgments, Thomson West, 2017, with 2021 supplement (also available on Westlaw).
 - IX. Relief from Judgments
 - Opening, Modifying, and Vacating Judgments
 - § 639. Motion for relief from judgment by default
 - § 652. Grounds for relief from entry of default or default judgment
- 49 *CJS* Judgments, Thomson West, 2021, with 2021 supplement (also available on Westlaw).
 - XI. Alteration of and Relief from Judgment
 - §§ 525-564. Right to and grounds for opening or vacating
- *LexisNexis Practice Guide: Connecticut Civil Pretrial Practice*, Margaret Penny Mason, general editor, 2021 ed., LexisNexis (also available on Lexis Advance).
 - Chapter 9. Appearance and Default
 - Part III: Practical Guidance – Default
 - § 9.21. Opening Defaults
 - [1] Opening Default when judgment Has Not Been Rendered
 - [2] Different Procedures Depending on Whether Plaintiff Has Filed Claim for a Hearing in Damages
- 2 *DuPont on Connecticut Civil Practice*, Ralph P. DuPont, 2020-2021 ed., LexisNexis (also available on Lexis Advance).

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Chapter 17. Judgments

E.5. Defaults Involving Pleadings and Discovery Orders

§ 17-32.1. Defaulted Party, Pleadings by

- 1 *Stephenson's Connecticut Civil Procedure*, 3rd ed., by Renee Bevacqua Bollier et al., Atlantic Law Book Co., 1997, with 2014 supplement.
 - § 96. Judgment on Default
 - f. Reopening defaults
- *Pleadings and Pretrial Practice: A Deskbook for Connecticut Litigators*, Jeanine M. Dumont, 1998 ed., Connecticut Law Tribune.
 - V. Timing, Waivers and Defaults
 - 3. Motions for Default
 - d. Automatic cure of default for failure to plead, p. 71
 - e. Motions to dismiss and strike and requests to revise
- *Civil Litigation in Connecticut: Anatomy of a Lawsuit*, Kimberly A. Peterson, 1998, Prentice-Hall.
 - Chapter 15. Pleadings: Motions against defendants who do not file pleadings
 - II. Two Ways to Open a Default
- 1 Connecticut Practice Series, *Superior Court Civil Rules*, by Wesley W. Horton and Kenneth J. Bartschi, 2020-2021 ed., Thomson West (also available on Westlaw).
 - Authors' Commentary for §§ 17-32 and 17-42
- 1 *West's Connecticut Rules of Court Annotated*, 2021 ed., Thomson West.
 - Notes of Decisions for §§ 17-32 and 17-42

Figure 4: Motion to Set Aside Default (for Failure to Plead)

DOCKET NO.: CV-91-0048216-S : SUPERIOR COURT
DANIEL J. WHALEN : J.D. OF TOLLAND
V. : AT ROCKVILLE
MILTON E. IVES, SR. : FEBRUARY 5, 1992

MOTION TO SET ASIDE DEFAULT

The Defendant in the above-captioned matter hereby represents that:

1. Default for Failure to Plead was entered against the Defendant by the Court, acting through the Clerk, on January 17, 1992.

2. The responsive pleading of the Defendant was mailed to the Court on January 21, 1992.

3. Notice of the entered Default for Failure to Plead was sent by the Clerk on January 22, 1992, and received by the undersigned on January 24, 1992.

The Defendant wishes to have the opportunity to be heard by the Court.

WHEREFORE, the Defendant moves that the default for failure to plead be set aside pursuant to Section 376 [now § 17-42] of the Connecticut Practice Book (Rev. 1978 as amended).

THE DEFENDANT,

BY: _____

Name
Firm
Address
Phone Number

ORAL ARGUMENT NOT REQUESTED
TESTIMONY NOT REQUIRED

ORDER

The foregoing Motion having been heard, it is hereby ORDERED

GRANTED/DENIED.

BY THE COURT

Judge/Clerk

[separate page]

CERTIFICATION

I hereby certify that the foregoing was mailed to all counsel of record on this the 5th day of February, 1992.

Name(s)

Section 2b: Judgment upon Default for Failure to Plead

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to a judgment after default for failure to plead, and opening or setting aside a judgment upon default for failure to plead.

SEE ALSO:

- [Setting Aside or Opening a Default for Failure to Plead Before Judgment](#)

DEFINITIONS:

- “Any judgment rendered . . . upon a default . . . may be set aside within four months succeeding the date on which notice was sent, and the case reinstated on the docket on such terms in respect to costs as the judicial authority deems reasonable, upon the written motion of any party or person prejudiced thereby, showing reasonable cause, or that a good cause of action or defense in whole or in part existed at the time of the rendition of such judgment . . . and that the plaintiff or the defendant was prevented by mistake, accident or other reasonable cause from prosecuting or appearing to make the same.” Conn. Practice Book § [17-43\(a\)](#) (2022).
- “A default is not a judgment. It is an order of the court the effect of which is to preclude the defendant from making any further defense in the case so far as liability is concerned. A judgment upon default, on the other hand, is the final judgment in the case . . .” [Automotive Twins, Inc. v. Klein](#), 138 Conn. 28, 33, 82 A.2d 146, 149 (1951).

COURT RULES:

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

- Conn. Practice Book (2022)
[Chapter 17](#). Judgments
§ 17-33(b). When judgment may be rendered after a default
§ 17-43. Opening judgment upon default or nonsuit

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2022)
[Chapter 900](#). Court Practice and Procedure
§ [52-212](#). Opening judgment upon default or nonsuit. (Amended by [P.A. 21-104](#), § 43, effective from passage.)
§ [52-212a](#). Civil judgment or decree opened or set aside within four months only. (Amended by [P.A. 21-104](#), § 44, effective from passage.)

COURT FORMS:

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

FORMS:

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RECORDS & BRIEFS:

CASES:

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- [JD-CV-107](#). Motion to Open Judgment (Civil Matters Other Than Small Claims and Housing Matters) (rev. 7/19)
- [Forms to File if You Would Like to Have a Judgment Opened](#) (Connecticut Judicial Branch – Civil Forms)
- *LexisNexis Practice Guide: Connecticut Civil Pretrial Practice*, Margaret Penny Mason, general editor, 2021 ed., LexisNexis (also available on Lexis Advance).
Chapter 9. Appearance and Default
Part IV: Forms
§ 9.34. Form: Motion to Set Aside Default Judgment
- 2 Connecticut Practice Series, *Connecticut Civil Practice Forms*, 4th ed., by Joel M. Kaye et al., Thomson West, 2004, with 2020-2021 supplement (also available on Westlaw).
Form 107.8-F. Motion to open judgment upon default
- *Library of Connecticut Collection Law Forms*, Robert M. Singer, 2016, Connecticut Law Tribune (also available on Lexis Advance).
Form 9-029. Motion to open judgment (for default for failure to plead)
- *Motion to Open Judgment Upon Default*, Connecticut Appellate Court Records and Briefs (January 2007). [Insurance Co. of Pennsylvania v. Waterfield](#), 102 Conn. App. 277, 925 A.2d 451 (2007). [Figure 5](#).
- [Meribear Productions, Inc. v. Frank](#), 328 Conn. 709, 183 A.3d 1164 (2018). "The plaintiff filed an action against the defendants in a California Superior Court. The defendants did not appear or defend. The California court entered a default judgment against the defendants..."

"Approximately one month later, the plaintiff commenced the present action in Connecticut seeking to hold the defendants jointly and severally liable under the foreign default judgment and to recover additional attorney's fees, costs, and postjudgment interest." (p. 712)

"The court acknowledged at the outset that the three count complaint was for 'common-law enforcement of a foreign default judgment, and alternatively, for breach of contract and quantum meruit.'" (p. 713)
- [City of Bridgeport v. Grace Building, LLC](#), 181 Conn. App. 280, 298, 186 A.3d 754 (2018). "To open a [default] judgment pursuant to Practice Book § 17-43 (a) and General Statutes § 52-212 (a), the movant must make a

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two part showing that (1) a good defense existed at the time an adverse judgment was rendered; and (2) the defense was not at that time raised by reason of mistake, accident or other reasonable cause.... The party moving to open a default judgment must not only allege, but also make a showing sufficient to satisfy [that] two-pronged test [B]ecause the movant must satisfy both prongs of this analysis, failure to meet either prong is fatal to its motion.' (Internal quotation marks omitted.) [Little v. Mackeyboy Auto, LLC](#), 142 Conn. App. 14, 18-19, 62 A.3d 1164 (2013)."

- [Kearse v. Taylor](#), Judicial District of New Haven At New Haven, No. NNHCV08-5025041-S (Nov. 21, 2016) (Not Reported) (2016 WL 7655969). "This matter was heard before this court on October 19, 2016. The purpose of the hearing was to conduct an evidentiary hearing regarding the remand of this case from the Appellate Court decision of [Kearse v. Taylor](#), 165 Conn. App. 780, 140 A.3d 389 (2016)." (p. 1)

"The Appellate Court remanded the case regarding the following: 'The issue of whether the defendants received notice of the rendering of the default judgment, and, if so, when they received that notice, is a question of fact for the fact finder.' Id., at 790-91." (p. 1)

"The defendant filed her Motion to Open Judgment on March 27, 2015. (See #138 Court File.) March 27, 2015 is more than four (4) months after actual notice provided to the plaintiff on February 10, 2014 of this court's order. . . The court concludes that the Motion to Open the Judgment was untimely. Therefore, the court denies the Motion to Open the Judgment." (p. 5-6)

- [Dawson v. Britagna](#), 162 Conn. App. 801, 806, 133 A.3d 880 (2016). "Although . . . § 52-212 . . . normally limit[s] the authority [of the trial court] to open judgments to a four month period, [this statute does] not preclude the opening of a default judgment that is rendered without jurisdiction over a defendant As a matter of law, in the absence of jurisdiction over the parties, a judgment is void ab initio and is subject to both direct and collateral attack A trial court's authority to open such judgments does not arise from . . . § 52-212(a) or Practice Book [§17-43] but from its inherent power to open a judgment rendered without jurisdiction In other words, a court always has the inherent authority to open a default judgment, irrespective of the four month rule and the valid defense and good cause requirement in Practice Book § 17-43 and General Statutes § 52-212(a), if the judgment was rendered without jurisdiction of the parties or of the subject

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matter.’ (Internal quotation marks omitted.) [Weinstein & Wisser, P.C. v. Cornelius](#), 151 Conn. App. 174, 180-81, 94 A.3d 700 (2014).”

- [Insurance Co. of Pennsylvania v. Waterfield](#), 102 Conn. App. 277, 284-285, 925 A.2d 451, 456 (2007). “The defendant argues that the court improperly refused to open the judgment. Specifically, the defendant argues that the court failed to follow General Statutes §§ 52-120 and 52-121(a) and (c) . . . Section 52-120, which requires a written agreement, is inapplicable because no such agreement exists. The defendant argues that the federal scheduling order was the written agreement. He neither cites, nor does our research reveal, however, any legal support for his argument. Likewise, § 52-121(c) is not applicable in this case because the court did not impose a penalty on the defendant for failure to plead, but rather rendered judgment of default for failure to plead pursuant to General Statutes § 52-121(b). Finally, § 52-121(a) does not result in an automatic grant of a motion to open, as the defendant claims; rather, the granting of a motion to open is within the court’s discretion. The defendant had ample time to respond to the amended complaint, which was filed on May 7, 2004. Furthermore, the fact that the defendant filed a third motion for an extension of time is irrelevant to the court’s denial of the defendant’s motion to open. In this case, on the basis of the detailed time line, which reveals that the defendant’s dilatory tactics permeate this litigation, the court was well within its discretion to handle the situation as it did.”
- [Richards v. Trudeau](#), 54 Conn. App. 859, 863, 738 A.2d 215, 217 (1999). “An examination of the transcript of the hearing in damages, held on May 17, 1996, discloses that the defendants offered an answer to the trial court, which they were attempting to file that morning. The trial court ruled, however, that it would not permit the defendants to file the answer at that time. It noted that it had been almost one year since the default had been entered against them and ruled that to permit the filing of the answer, the result of which would have been to set aside the default under Practice Book § 17-32, would have been ‘highly improper.’ The trial court found that the attempted filing of the defendants’ answer at that time was ‘a patent attempt to stall unfairly and unreasonably a matter that has already been defaulted.’ Our review of the record reveals that the trial court did not abuse its discretion in refusing to accept the defendants’ answer or in refusing to set aside the default judgment for failure to plead.”
- *Judgment*
92-177. Judgment by Default.
92. Nature of judgment by default.

**WEST KEY
NUMBERS:**

140. Judgments which may be opened or set aside.

ENCYCLOPEDIAS:

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- 102 *A.L.R.5th* 647, *Imposition Of Default Judgment Against Codefendant—Modern Treatment*, James L. Buchwalter, Annotation, Thomson West, 2002 (also available on Westlaw).
- 78 *A.L.R.3d* 150, *Fraud in Obtaining or Maintaining Default Judgment as Ground for Vacating or Setting Aside in State Courts*, James O. Pearson, Jr., Annotation, Thomson West, 1977 (also available on Westlaw).
- 21 *A.L.R.3d* 1255, *Opening Default or Default Judgment Claimed To Have Been Obtained Because Of Attorney's Mistake As To Time Or Place Of Appearance, Trial, Or Filing Of Necessary Papers*, A.S. Klein, Annotation, Thomson West, 1968 (also available on Westlaw).
- 8 *A.L.R.3d* 1272, *Appealability of Order Setting Aside, or Refusing to Set Aside, Default Judgment*, D.E. Ytreberg, Annotation, Thomson West, 1966 (also available on Westlaw).
- 77 *A.L.R.2d* 1410, *Doctrine of Res Judicata as Applied To Default Judgments*, E.H. Schopler, Annotation, Thomson West, 1961 (also available on Westlaw).
- 46 *Am Jur 2d* Judgments, Thomson West, 2017, with 2021 supplement (also available on Westlaw).
 - IV. Particular Kinds of Judgments
 - §§ 222-295. Judgment by default
- 47 *Am Jur 2d* Judgments, Thomson West, 2017, with 2021 supplement (also available on Westlaw).
 - IX. Relief from Judgments
 - § 639. Motion for relief from judgment by default
 - § 648. Time to move for relief from judgment by default or confession.
 - § 652. Grounds for relief from entry of default or default judgment
 - §§ 669-675. Practice and procedure for opening, modifying, and vacating judgments
- 49 *CJS* Judgments, Thomson West, 2021, with 2021 supplement (also available on Westlaw).
 - IX. Judgment by Default
 - §§ 254-294. Judgment by default
 - XI. Alteration of and Relief from Judgment
 - §§ 520-613. Judgments by default

**TEXTS &
TREATISES:**

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References to online databases refer to in-library use of these databases. Remote access is not available.

- *LexisNexis Practice Guide: Connecticut Civil Pretrial Practice*, Margaret Penny Mason, general editor, 2021 ed., LexisNexis (also available on Lexis Advance).
 - Chapter 9. Appearance and Default
 - Part III: Practical Guidance – Default
 - § 9.17. Motion for Default Judgment
 - [1] Defendant May Appear Before Entry of Default Judgment
 - [2] Motion for Default Judgment
 - [3] Affidavit Regarding Military Service Required With Motion for Judgment After Default
 - [a] Affidavit Contents
 - [b] Court May Appoint Attorney for Defendant in Military
 - [c] Bond May Be Required
 - [d] Stay
 - [e] Defendant May Seek Stay
 - [f] Defendant May Seek Additional Stay
 - [7] Plaintiff's Relief on Default
 - § 9.21. Opening Defaults
 - [3] Opening Judgment Rendered upon Default
 - [a] Grounds
 - [b] Time Limit for Filing Motion
 - [c] Motion Must Be Verified
 - [d] Notice of Motion to Adverse Party
 - [4] Motion to Reopen Judgment Based on Equitable Grounds
 - [5] Appeal of Order on Motion To Open Judgment
- *2 DuPont on Connecticut Civil Practice*, Ralph P. DuPont, 2020-2021 ed., LexisNexis (also available on Lexis Advance).
 - Chapter 17. Judgments
 - § 17-43. Opening Judgment Upon Default . . .
 - § 17-43.1. Reasonable Cause; Existence of Good Cause of Action or Defense
- *1 Stephenson's Connecticut Civil Procedure*, 3rd ed., by Renee Bevacqua Bollier et al., Atlantic Law Book Co., 1997, with 2014 supplement.
 - § 96. Judgment on Default
 - b. Default judgment and default distinguished
 - g. Reopening judgments on default
- *Pleadings and Pretrial Practice: A Deskbook for Connecticut Litigators*, Jeanine M. Dumont, 1998 ed., Connecticut Law Tribune.
 - XIV. Motions to Set Aside or Open, Reargue, Correct, Articulate and Enforce Settlements, and the Accidental Failure of Suit Statute
 - 4. Motions to open default judgments, p. 152
 - 5. Motions to set aside default, p. 153

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References to online databases refer to in-library use of these databases. Remote access is not available.

- *Civil Litigation in Connecticut: Anatomy of a Lawsuit*, Kimberly A. Peterson, 1998, Prentice-Hall.
Chapter 15. Pleadings: Motions against defendants who do not file pleadings
III. Judgment Upon Default
- 2 Connecticut Practice Series, *Connecticut Civil Practice Forms*, 4th ed., by Joel M. Kaye et al., Thomson West, 2004, with 2020-2021 supplement (also available on Westlaw).
Authors' Commentary for Forms 107.8-F
- 1 Connecticut Practice Series, *Superior Court Civil Rules*, by Wesley W. Horton and Kenneth J. Bartschi, 2020-2021 ed., Thomson West (also available on Westlaw).
Authors' Commentary for § 17-43 (includes examples of good cause to open judgment and where no good cause existed to open judgment)
- 1 *West's Connecticut Rules of Court Annotated*, 2021 ed., Thomson West.
Notes of Decisions for § 17-43

Figure 5: Motion to Open Default Judgment for Failure to Plead

DOCKET NO.: CV-03-0071645-S : SUPERIOR COURT
INSURANCE COMPANY OF THE :
STATE OF PENNSYLVANIA : J.D. OF WINDHAM
V. : AT PUTNAM
DEAN J. WATERFIELD : DECEMBER 2, 2005

MOTION TO OPEN JUDGMENT UPON DEFAULT

The Defendant in the above-captioned case, hereby requests this Honorable Court to open the judgment upon default entered by the Court on August 4, 2005. This Court has jurisdiction because this motion is timely filed within the four months allowed by Conn. Gen. Stat. §52-212 (2005) and the \$70 filing fee required by Conn. Gen. Stat. § 52-259c (2005) has been paid.

This is not a case where I placed my head in the sand and hoped for the best. I have diligently opposed the Plaintiff's claims, at every step of the litigation. The August 30, 2004 default was granted on the same day that my motion to extend the time to Respond to Plaintiffs' Revised Complaint was denied. As explained above, subsequent to the State Court's denial of my request for an extension within which to respond to the plaintiff's complaint, while in Federal Court, the parties signed an agreement to give me an extension. I have not ignored this litigation, and I request the opportunity to clear my name of these scandalous, unfounded larceny charges, and to prove my Special Defenses and Counterclaims, all of which is in the best interests of justice.

THE DEFENDANT,
DEAN J. WATERFIELD
BY: _____

Name
Firm
Address
Phone Number

ORDER

The foregoing Motion, having been presented to this Court, is hereby
ORDERED: GRANTED/DENIED.

BY THE COURT

Judge/Clerk

[separate page]

CERTIFICATION

I hereby certify that a copy of the foregoing Motions was mailed on December
2, 2005 to all counsel and pro se parties of record, namely:

Name(s)

Section 3: Other Grounds for Default

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to defaults for failure to:

- Prosecute the suit
- Comply with order of judicial authority
- Appear for trial
- Make disclosures, answer interrogatories or comply with a discovery order
- Disclose defense
- Obey pretrial orders

Also, opening or setting aside a default prior to judgment, and opening or setting aside a judgment upon default for the grounds listed above.

DEFINITIONS:

- **Nonsuit:** "Generally speaking, a nonsuit is the name of a judgment rendered against a party in a legal proceeding upon his inability to maintain his cause in court, or when he is in default in prosecuting his suit or in complying with orders of the court. (Citations omitted; footnote omitted; internal quotation marks omitted.) [Rodriguez v. Mallory Battery Co.](#), 188 Conn. 145, 149–50, 448 A.2d 829 (1982); see General Statutes § [52-119](#)." [Herrick v. Monkey Farm Café, LLC](#), 163 Conn. App. 45, 50, 134 A.3d 643 (2016)
- **Comply with order:** "If a party fails to comply with an order of a judicial authority or a citation to appear or fails without proper excuse to appear in person or by counsel for trial, the party may be nonsuited or defaulted by the judicial authority." Conn. Practice Book § [17-19](#) (2022).
- **Trial:** "If a defendant is defaulted for failure to appear for trial, evidence may be introduced and judgment rendered without notice to the defendant." Conn. Practice Book § [17-33\(a\)](#) (2022).
- **Discovery:** "If any party has failed to answer interrogatories or to answer them fairly, or has intentionally answered them falsely or in a manner calculated to mislead, or has failed to respond to requests for production or for disclosure of the existence and contents of an insurance policy or the limits thereof, or has failed to submit to a physical or mental examination, or has failed to comply with a discovery order made pursuant to Section 13-13, or has failed to comply with the provisions of Section 13-15, or has failed to appear and testify at a deposition duly noticed pursuant to this chapter, or has failed otherwise substantially to comply with any other discovery order made pursuant to Sections 13-6 through 13-11, the judicial authority may, on motion, make such order proportional to the noncompliance as the ends of justice require. (b) Such

orders may include the following: (5) An order of dismissal, nonsuit or default.” Conn. Practice Book § [13-14](#) (2022).

- **Disclosure of Defense:** “In any action to foreclose or to discharge any mortgage or lien or to quiet title, or in any action upon any written contract, in which there is an appearance by an attorney for any defendant, the plaintiff may at any time file and serve in accordance with Sections 10-12 through 10-17 a written demand that such attorney present to the court, to become a part of the file in such case, a writing signed by the attorney stating whether he or she has reason to believe and does believe that there exists a bona fide defense to the plaintiff’s action and whether such defense will be made, together with a general statement of the nature or substance of such defense. If the defendant fails to disclose a defense within ten days of the filing of such demand in any action to foreclose a mortgage or lien or to quiet title, or in any action upon any written contract, the plaintiff may file a written motion that a default be entered against the defendant by reason of the failure of the defendant to disclose a defense. If no disclosure of defense has been filed, the judicial authority may order judgment upon default to be entered for the plaintiff at the time the motion is heard or thereafter, provided that in either event a separate motion for such judgment has been filed. The motions for default and for judgment upon default may be served and filed simultaneously but shall be separate motions.” Conn. Practice Book § [13-19](#) (2022).
- **Pretrial Procedure:** “If any person fails to attend or to be available by telephone pursuant to this rule, the judicial authority may make such order as the ends of justice require, which may include the entry of a nonsuit or default against the party failing to comply and an award to the complying party of reasonable attorney’s fees.” Conn. Practice Book § [14-13](#) (2022).

COURT RULES:

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

- Conn. Practice Book (2022)
 - [Chapter 13.](#) Discovery and Depositions
 - § 13-14. Order for compliance; Failure to answer or comply with order
 - § 13-19. Disclosure of defense
 - [Chapter 14.](#) Dockets, Trial Lists, Pretrials and Assignment Lists
 - § 14-13. Pretrial; Assignment for pretrial—Pretrial procedure
 - [Chapter 17.](#) Judgments
 - § 17-19. Procedure where party fails to comply with order of judicial authority or to appear for trial
 - § 17-33(a). When judgment may be rendered after a default
 - § 17-42. Opening defaults where judgment has not

been rendered
§ 17-43. Opening judgment upon default or nonsuit

STATUTES:

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

COURT FORMS:

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

FORMS:

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CASES:

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- Conn. Gen. Stat. (2022)
[Chapter 900](#). Court Practice and Procedure
§ [52-212](#). Opening judgment upon default or nonsuit. (Amended by [P.A. 21-104](#), § 43, effective from passage.)
§ [52-212a](#). Civil judgment or decree opened or set aside within four months only. (Amended by [P.A. 21-104](#), § 44, effective from passage.)
- [JD-CV-107](#). Motion to Open Judgment (Civil Matters Other Than Small Claims and Housing Matters) (rev. 7/19)
- [Forms to File if You Would Like to Have a Judgment Opened](#) (Connecticut Judicial Branch – Civil Forms)
- 3A Connecticut Practice Series, *Connecticut Civil Practice Forms*, 4th ed., by Joel M. Kaye et al., Thomson West, 2004, with 2020-2021 supplement (also available on Westlaw).
 - Form S-1. Demand for disclosure of defense
 - Form S-2. Motion for default for failure to disclose defense
 - Form S-2-A. Motion for judgment upon default for failure to disclose defense
 - Form S-7. Motion for sanctions for failure to comply with discovery
- *Library of Connecticut Collection Law Forms*, Robert M. Singer, 2016, Connecticut Law Tribune (also available on Lexis Advance).
 - Form 9-009. Motion for order of default for failure to respond to discovery
- [Gutierrez v. Mosor](#), 206 Conn. App. 818, 261 A.3d 850 (2021). "Thereafter, on March 26, 2018, the plaintiff filed a motion for default for the defendant's failure to appear at his deposition. In support of his motion for default, the plaintiff attached the deposition notice, as well as a brief transcript of the deposition's preliminary proceeding on March 14, 2018, in which his attorney recounted the events leading up to the deposition. The motion simply asserted that the defendant had notice, and was aware of the scheduled deposition and failed to appear. In granting the plaintiff's motion for default, the court, Shapiro, J., stated: "The defendant filed no objection in response to the motion for default. Since the defendant failed to attend his scheduled deposition, a default may enter against the defendant." Notice of the default was issued

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by the court on April 11, 2018.” (p. 821-822)

“The defendant claims that the trial court abused its discretion in defaulting him as a sanction for his failure to attend the deposition. Specifically, the defendant claims that the court’s imposition of the sanction of default was an abuse of discretion because (1) there was nothing in the record demonstrating that he acted in bad faith, that his failure to attend the deposition resulted from wilful misconduct, or that he engaged in a repeated pattern of misbehavior, (2) his conduct did not rise to the level of being contumacious, and (3) the sanction imposed was disproportionate to the conduct at issue. We agree.” (p. 825)

- [Spatta v. American Classic Cars, LLC](#), 150 Conn. App. 20, 23-24, 90 A.3d 318, 320-321 (2014). “In the course of ruling on the motion for sanctions, the court did not impose the sanction of default that was threatened in the court’s July 25, 2011 order. Instead, the court ... gave the defendants another opportunity to meet their discovery obligations . . . The responses to all seven requests for production are woefully deficient and suggest bad faith by the defendants . . . In view of the history regarding discovery issues in this case, the inadequate responses by the defendants justify the imposition of sanctions at this time. [See] Practice Book [§] 13-14(b).”
- [Thompson v. Orcutt](#), 70 Conn. App. 427, 442, 800 A.2d 530, 541 (2002). “Entry of a default for failure to appear for trial is a matter left to the sound discretion of the trial court. [Brunswick School, Inc. v. Hutter](#), 53 Conn. App. 455, 459, 730 A.2d 1206 (1999). Practice Book § 17-19 provides in relevant part: ‘If a party ... fails without proper excuse to appear in person or by counsel for trial, the party may be nonsuited or defaulted by the judicial authority.’ In response to the defendants’ motion for articulation, the trial court stated that the bankruptcy trustee had been defaulted for failure to appear at trial. Apart from the entry of a formal appearance on February 23, 1999, O’Neil did not submit any pleadings in the case, did not appear on the scheduled trial date and has not filed a motion to open the default. We conclude that the court did not abuse its discretion in defaulting O’Neil for his failure to appear at trial.”

Reopening default

- [Janetty Racing Enterprises, Inc. v. Site Development Technologies, LLC et al.](#), Superior Court, Judicial District of Waterbury at Waterbury, No. UWYCV050444820 (October 8, 2010) (2010 Conn. Super. Lexis 2543) (2010 WL 4352712). “Given the court’s decision to open the Judgment of Default in this matter, defendants’ Motion to Set Aside the Default that entered on May 15, 2008 when

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they failed to attend the pretrial is governed by Practice Book § 17-42: 'A motion to set aside a default where no judgment has been rendered may be granted by the judicial authority for good cause shown upon such terms as it may impose.' The record clearly demonstrates that the only notice defendants received of the May 15, 2008 pretrial was Attorney Miller's certified letter informing them of his intention to seek leave to withdraw as their counsel. Attorney Miller mentions the pretrial on the second page of his letter and it is understandable defendants may have overlooked it or simply did not realize what a pretrial was or that they had to attend. This is particularly plausible in light of the evidence that the letter was sent as a result of a deteriorated relationship between defendants and Attorney Miller. As a result, the court finds that good cause existed for defendants' failure to attend the pretrial and the default entered on May 15, 2008 is hereby set aside."

Reopening judgment upon default

- [Jaconski v. AMF, Inc.](#), 208 Conn. 230, 237-238, 543 A.2d 728 (1988). "In *Eastern Elevator Co. v. Scalzi*, supra, 131-32, we reiterated that in granting or denying a motion to open a judgment, the trial court is required to exercise a sound judicial discretion and its decision will be set aside only for an abuse of such discretion. We noted in *Jaquith v. Revson*, supra, that the denial of a motion to set aside a nonsuit should not be held to be an abuse of discretion in any case in which it appears that a plaintiff has not been prevented from prosecuting the claim by mistake, accident or other reasonable cause. Further, we have long held that negligence is no ground for vacating a judgment, and that the denial of a motion to open a nonsuit judgment should not be held an abuse of discretion where the failure to prosecute the claim was the result of negligence. [People's Bank v. Horesco](#), 205 Conn. 319, 323-24, 533 A.2d 850 (1987); [Jaquith v. Revson](#), supra, 432; [Automotive Twins, Inc. v. Klein](#), 138 Conn. 28, 34, 82 A.2d 146 (1951)."
- [Automotive Twins, Inc. v. Klein](#), 138 Conn. 28, 34, 82 A.2d 146, 149-150 (1951). "An application to open a judgment upon default is, when not based on a pure error of law, addressed to the sound discretion of the court. [Jartman v. Pacific Fire Ins. Co.](#), 69 Conn. 355, 362, 37 A. 970. For this discretion to be exercised in favor of the defaulted party, it must be shown that he was prevented from appearing by 'mistake, accident or other reasonable cause.' The judgment should not ordinarily be opened if his failure to appear or procure a continuance resulted from his own negligence. [Schoonmaker v. Albertson & Douglass Machine Co.](#), supra, 392.

The defendant's excuse for not appearing was that he was engaged in trial elsewhere. We are cognizant of the

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custom which has grown up of adjourning the trial of a case if, when it is reached, counsel for any party is actually engaged in the trial of another case. Such an adjournment, however, is not a matter of right. It is a matter of courtesy - a courtesy extended by both opposing counsel and the court. Its exercise calls for the reciprocal courtesy on the part of the lawyer engaged elsewhere of at least communicating the fact of his engagement to both opposing counsel and the court in advance of the time set for the trial. Under ordinary circumstances, an attorney who fails so to advise of his inability to attend the trial thereby evinces a lack of proper respect for the court. If a default results from such failure, he has no ground for complaint. The default is the result of his own neglect."

WEST KEY NUMBERS:

- *Judgment*
 - 92-177. Judgment by Default.
 - 92. Nature of judgment by default.
 - 103. Default of appearance.
 - 109. Absence at trial or other proceeding.
 - 135-177. Opening or setting aside default.
 - 140. Judgments which may be opened or set aside.

- *Pretrial Procedure*
 - 46. Failure to disclose; Sanctions — Dismissal or default judgment
 - 226. Failure to appear or testify; Sanctions — Dismissal or default judgment
 - 316. Failure to answer; Sanctions — Default judgment
 - 435. Failure to comply; Sanctions — Dismissal or default judgment

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- 30 *A.L.R.4th* 9, *Judgment in favor of plaintiff in state court action for defendant's failure to obey request or order to answer interrogatories or other discovery questions*, John E. Theuman, Annotation, Thomson West, 1984 (also available on Westlaw).
- 26 *A.L.R.4th* 849, *Judgment in favor of plaintiff in state court action for defendant's failure to obey request or order for production of documents or other objects*, John E. Theuman, Annotation, Thomson West, 1983 (also available on Westlaw).
- 55 *A.L.R.3d* 303, *Failure of party or his attorney to appear at pretrial conference*, J. A. Bryant, Jr., Annotation, Thomson West, 1974 (also available on Westlaw).
- 21 *A.L.R.3d* 1255, *Opening Default or Default Judgment Claimed To Have Been Obtained Because Of Attorney's Mistake As To Time Or Place Of Appearance, Trial, Or Filing Of Necessary Papers*, A.S. Klein, Annotation, Thomson West, 1968 (also available on Westlaw).

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- *8 A.L.R.3d 1272, Appealability of Order Setting Aside, or Refusing to Set Aside, Default Judgment*, D.E. Ytreberg, Annotation, Thomson West, 1966 (also available on Westlaw).
- *23 Am Jur 2d Depositions and Discovery*, Thomson West, 2013, with 2021 supplement (also available on Westlaw).
 - IX. Enforcing Discovery; Sanctions
Sanctions for Failure to Comply with Discovery Order
 - § 231. Default judgment
 - § 232. Particular applications
- *46 Am Jur 2d Judgments*, Thomson West, 2017, with 2021 supplement (also available on Westlaw).
 - IV. Particular Kinds of Judgments
Judgment by Default
 - § 251. Excusable neglect; Fault of attorney
 - § 252. Failure to appear at trial as grounds for default judgment
 - § 253. Failure to appear at trial – Judgment on merits as opposed by default
- *47 Am Jur 2d Judgments*, Thomson West, 2017, with 2021 supplement (also available on Westlaw).
 - IX. Relief from Judgments
 - § 639. Motion for relief from judgment by default
 - § 648. Time to move for relief from judgment by default or confession.
 - § 652. Grounds for relief from entry of default or default judgment
 - §§ 669-675. Practice and procedure for opening, modifying, and vacating judgments
- *27 CJS Discovery*, Thomson West, 2020, with 2021 supplement (also available on Westlaw).
 - I. In General
 - § 67. Contempt and related sanctions; monetary sanctions
 - III. Interrogatories and Examination Thereunder
 - § 118. Judgment by default as sanction for failure or refusal to answer interrogatory
 - VI. Requests for Admissions
 - F. Failure to Respond; Sanctions
 - § 202. Relief from default for failure to respond to request for admissions
- *49 CJS Judgments*, Thomson West, 2021, with 2021 supplement (also available on Westlaw).
 - IX. Judgment by Default
 - §§ 254-294. Judgment by default
 - XI. Alteration of and Relief from Judgment
 - §§ 520-613. Judgments by default

§§ 525-564. Right to and grounds for opening or vacating

TEXTS & TREATISES:

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References to online databases refer to in-library use of these databases. Remote access is not available.

- *LexisNexis Practice Guide: Connecticut Civil Pretrial Practice*, Margaret Penny Mason, general editor, 2021 ed., LexisNexis (also available on Lexis Advance).
 - Chapter 9. Appearance and Default
 - Part III: Practical Guidance – Default
 - § 9.17. Motion for Default Judgment
 - [4] Default Judgment After Defendant’s Failure To Appear for Trial
- 1 *DuPont on Connecticut Civil Practice*, Ralph P. DuPont, 2020-2021 ed., LexisNexis (also available on Lexis Advance).
 - Chapter 13. Discovery and Depositions
 - § 13-14. Order for compliance; Failure to answer or comply with order
 - § 13-14.1. Sanctions, discovery — Depositions
 - § 13-14.2. Sanctions; Hearing required
 - § 13-19. Disclosure of defense
- 2 *DuPont on Connecticut Civil Practice*, Ralph P. DuPont, 2020-2021 ed., LexisNexis (also available on Lexis Advance).
 - Chapter 14. Dockets, Trial Lists, Pretrials and Assignment Lists
 - § 14-13. Pretrial procedure
 - Chapter 17. Judgments
 - E.1. Defaults and Nonsuits. In General.
 - § 17-19. Procedure where party fails to comply with order of judicial authority or to appear for trial
 - § 17-19.1. Failure to appear at trial
 - § 17-19.2. Failure to comply with court order
 - § 17-19.3. Dismissal for failure to prosecute with due diligence, Distinguished
 - E.5. Defaults Involving Pleadings and Discovery Orders
 - § 17-31. Procedure where party is in default
 - § 17-31.2. Discovery; Sanctions under P.B. Secs. 13-14 or 13-11
 - E.6. Judgment After Default Entered
 - § 17-33. When judgment may be rendered after a default
 - § 17-33.2. Case assigned for trial; Non-Appearing party
 - § 17-43. Opening judgment upon default or nonsuit
- 1 *Stephenson’s Connecticut Civil Procedure*, 3rd ed., by Renee Bevacqua Bollier et al., Atlantic Law Book Co., 1997, with 2014 supplement.
 - § 96. Judgment on Default

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- e. Other Grounds for Default
 - (2). Failure to make disclosures, answer interrogatories or comply with a discovery order
 - (3). Failure to obey pretrial orders
 - (4). Failure to disclose a defense
 - f. Reopening defaults
 - g. Reopening judgments on default
- *2 Stephenson's Connecticut Civil Procedure*, 3rd ed., by Renee Bevacqua Bollier et al., Atlantic Law Book Co., 2002, with 2003 supplement.
 - § 128. Discovery sanctions
 - § 159. Nonsuits and defaults for reasons not evidential
 - *Pleadings and Pretrial Practice: A Deskbook for Connecticut Litigators*, Jeanine M. Dumont, 1998 ed., Connecticut Law Tribune.
 - V. Timing, Waivers and Defaults
 - 3. Motions for Default
 - c. Defaults for failure to plead or disclose a defense, p. 71
 - XIV. Motions to Set Aside or Open, Reargue, Correct, Articulate and Enforce Settlements, and the Accidental Failure of Suit Statute
 - 4. Motions to open default judgments, p. 152
 - 5. Motions to set aside default, p. 153
 - *Civil Litigation in Connecticut: Anatomy of a Lawsuit*, Kimberly A. Peterson, 1998, Prentice-Hall.
 - Chapter 26. Discovery: Motions for order of compliance
 - Chapter 28. Closing the pleadings and pretrial
 - IV. Failure to Appear at a Pretrial
 - *A Practical Guide to Discovery and Depositions in Connecticut*, 2nd ed., Sara R. Simeonidis, editor, MCLE, 2021.
 - Chapter 7. Requests for Production, Inspection, and Examination
 - § 7.4. Seeking an order for compliance
 - Chapter 11. Other Discovery Rules and Devices
 - § 11.4. Disclosure of defense
 - Chapter 12. Motions for Orders of Compliance
 - *6 Connecticut Practice Series, Connecticut Practice Series: Trial Practice*, 2nd ed., Robert B. Yules, Thomson West, 2000, with 2021-2022 supplement (also available on Westlaw).
 - Chapter 2. Preliminary Matters
 - § 2.17. Failing to appear for trial (also see 2021-2022 supplement)
 - *3A Connecticut Practice Series, Connecticut Civil Practice Forms*, 4th ed., by Joel M. Kaye et al., Thomson West, 2004, with 2020-2021 supplement (also available on

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Westlaw).

Authors' Commentary for Forms S-1 and S-7

- 1 Connecticut Practice Series, *Superior Court Civil Rules*, by Wesley W. Horton and Kenneth J. Bartschi, 2020-2021 ed., Thomson West (also available on Westlaw).
Authors' Commentary for §§ 17-42 and 17-43
- 1 *West's Connecticut Rules of Court Annotated*, 2021 ed., Thomson West.
Notes of Decisions for §§ 13-14, 13-19, 17-19, 17-42 and 17-43

Table 1: Default in Summary Process (Eviction)

Default in Summary Process	
<p>STATUTES:</p> <p>You can visit your local law library or search the most recent statutes and public acts on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.</p>	<ul style="list-style-type: none"> • § 47a-26. Failure to appear. Judgment. “If the defendant does not appear within two days after the return day and a motion for judgment for failure to appear and an endorsed copy of the notice to quit is filed with the clerk, the court shall, not later than the first court day after the filing of such motion, enter judgment that the complainant recover possession or occupancy of the premises with the complainant's costs, and execution shall issue subject to the provisions of sections 47a-35 to 47a-41, inclusive.” • § 47a-26a. Failure to plead. Judgment. “If the defendant appears but does not plead within two days after the return day, the complainant may file a motion for judgment for failure to plead, served upon the defendant in the manner provided in the rules adopted by the judges of the Superior Court for the service of pleadings. If the defendant fails to plead within three days after receipt of such motion by the clerk, the court shall forthwith enter judgment that the complainant recover possession or occupancy with his costs.” • § 47a-26c. Advancement of pleadings. Failure to plead. “All pleadings, including motions, shall advance at least one step within each successive period of three days from the preceding pleading or motion. If the defendant fails to plead within any such period, the complainant may file a motion for judgment for failure to plead, served upon the defendant in the manner provided in the rules adopted by the judges of the Superior Court for the service of pleadings. If the defendant fails to plead within three days after receipt of such motion by the clerk, the court shall forthwith enter judgment that the complainant recover possession or occupancy with costs.”
<p>COURT RULES (2022):</p> <p>Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted online.</p>	<ul style="list-style-type: none"> • § 17-30(a). “If the defendant in a summary process action does not appear within two days after the return day and a motion for judgment for failure to appear and the notice to quit signed by the plaintiff or plaintiff’s attorney and endorsed, with his or her doings thereon, by the proper officer or indifferent person who served such notice to quit is filed with the clerk, the judicial authority shall, not later than the first court day after the filing of such motion, enter judgment that the plaintiff recover possession or occupancy of the premises with costs, and execution shall issue subject to the statutory provisions.”

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

- [§ 17-30\(b\)](#). "If the defendant in a summary process action appears but does not plead within two days after the return day or within three days after the filing of the preceding pleading or motion, the plaintiff may file a motion for judgment for failure to plead, served in accordance with Sections 10-12 through 10-17. If the defendant fails to plead within three days after receipt of such motion by the clerk, the judicial authority shall forthwith enter judgment that the plaintiff recover possession or occupancy with costs."
- [§ 17-30\(c\)](#). "In summary process actions, a motion for judgment by default that is sent to the court either electronically or is hand-delivered to the court shall be deemed to be filed on the third business day following such delivery unless the party filing the motion for judgment by default certifies that the motion has also been sent electronically or hand-delivered on the same day to all opposing parties or their counsel."
- [§ 17-32\(a\)](#). Where a defendant is in default for failure to plead pursuant to Section 10-8, the plaintiff may file a written motion for default which shall be acted on by the clerk not less than seven days from the filing of the motion, without placement on the short calendar.
- [§ 17-32\(b\)](#). If a party who has been defaulted under this section files an answer before a judgment after default has been rendered by the judicial authority, the default shall automatically be set aside by operation of law unless a claim for a hearing in damages or a motion for judgment has been filed. If a claim for a hearing in damages or a motion for judgment has been filed, the default may be set aside only by the judicial authority. A claim for a hearing in damages or motion for judgment shall not be filed before the expiration of fifteen days from the date of notice of issuance of the default under this subsection.
- [§ 17-33\(b\)](#). "Since the effect of a default is to preclude the defendant from making any further defense in the case so far as liability is concerned, the judicial authority, at or after the time it renders the default, notwithstanding Section 17-32 (b), may also render judgment in foreclosure cases, in actions similar thereto and in summary process actions, provided the plaintiff has also made a motion for judgment and provided further that any necessary affidavits of debt or accounts or statements verified by oath, in proper form, are submitted to the judicial authority. The judicial authority may render judgment in any contract action where the damages are liquidated provided that the plaintiff has made a motion for judgment and submitted the affidavits and

	<p>attachments specified in Section 17-25 (b) (1).”</p>
<p>FORMS:</p> <p>Official Judicial Branch forms are frequently updated. Please visit the Official Court Webforms page for the current forms.</p> <p>You can contact us or visit our catalog to determine which of our law libraries own the treatises cited.</p> <p>References to online databases refer to in-library use of these databases.</p>	<ul style="list-style-type: none"> • JD-HM-9. Motion for Default for Failure to Appear and Judgment for Possession (rev. 5/19) • JD-HM-10. Motion for Judgment for Possession for Failure to Plead (rev. 3/20) • JD-CV-051. Motion to Open Judgment (Small Claims and Housing Matters) (rev. 6/19) • Connecticut Practice Series, <i>Connecticut Civil Practice Forms</i>, 4th ed., by Joel M. Kaye et al., Thomson West, 2004, with 2020-2021 supplement (also available on Westlaw). <ul style="list-style-type: none"> Form 107.8-D. Motion for judgment for failure to plead—Summary process (vol. 2) Form 704.10-A Motion for judgment for failure to appear (vol. 3) Form 704.10-B Motion for judgment for failure to plead (vol. 3) • <i>Connecticut Summary Process Manual</i>, Paul J. Marzinotto, Connecticut Law Tribune, 1986, with 2002 supplement. <ul style="list-style-type: none"> VI. Summary Process Motions—Plaintiff <ul style="list-style-type: none"> Form 6.1. Motion for Judgment for Failure to Appear Form 6.3. Motion for Judgment for Failure to Plead
<p>TEXTS & TREATISES:</p> <p>Each of our law libraries own the Connecticut treatises cited. You can contact us or visit our catalog to determine which of our law libraries own the other treatises cited or to search for more treatises.</p> <p>References to online databases refer to in-library use of these databases. Remote access is not available.</p>	<ul style="list-style-type: none"> • <i>A Landlord’s Guide to Summary Process (Eviction)</i>, 6/20 Rev., State of Connecticut Judicial Branch, 2020. Default Judgments, p. 5 • <i>Connecticut Landlord and Tenant Law with Forms</i>, 3rd ed., Noble F. Allen, Connecticut Law Tribune, 2021 (also available on Lexis Advance). <ul style="list-style-type: none"> 9-1:3 Responsive pleadings to summary process complaint <ul style="list-style-type: none"> 9-1:3.1 Failure to appear 9-1:3.2 Failure to plead • 1 <i>Stephenson’s Connecticut Civil Procedure</i>, 3rd ed., by Renee Bevacqua Bollier et al., Atlantic Law Book Co., 1997, with 2014 supplement. <ul style="list-style-type: none"> § 101c. Failure to appear for trial, foreclosure, summary process • 1 <i>Connecticut Foreclosures: An Attorney’s Manual of Practice and Procedure</i>, Denis R. Caron and Geoffrey K. Milne, 11th ed., Connecticut Law Tribune, 2021 (also available on Lexis Advance). <ul style="list-style-type: none"> Chapter 6. Motions, the hearing on judgment, the judgment file, and the bill of costs

<p>Each of our law libraries own the Connecticut treatises cited. You can contact us or visit our catalog to determine which of our law libraries own the other treatises cited or to search for more treatises.</p> <p>References to online databases refer to in-library use of these databases. Remote access is not available.</p>	<p>§ 6-1:3. Defaulting the defendants</p> <p>§ 6-1:3.1. For failure to appear</p> <p>§ 6-1:3.1a. Military Affidavits</p> <p>§ 6-1:3.1b. When the Defendant Is a Servicemember</p> <p>§ 6-1:3.2. For failure to plead</p> <p>§ 6-1:3.2a. Practice Book § 17-32 "Automatic" Reopening Provision</p> <p>§ 6-1:3.3. Disclosure of defense</p> <ul style="list-style-type: none"> • 2 <i>DuPont on Connecticut Civil Practice</i>, Ralph P. DuPont, 2020-2021 ed., LexisNexis (also available on Lexis Advance). <ul style="list-style-type: none"> Chapter 17. Judgments <ul style="list-style-type: none"> E.4 Summary Process <ul style="list-style-type: none"> § 17-30.1. Default of appearance in summary process action § 17-30.2. Default for failure to plead; Summary process • <i>Connecticut Lawyers' Deskbook: A Reference Manual</i>, Victor A. Feigenbaum, 3rd ed., Law First Publishing, 2008. <ul style="list-style-type: none"> Chapter 18. An overview of Connecticut housing law Procedure and Pleadings, p. 461 • 1 Connecticut Practice Series, <i>Superior Court Civil Rules</i>, by Wesley W. Horton and Kenneth J. Bartschi, 2020-2021 ed., Thomson West (also available on Westlaw). <ul style="list-style-type: none"> Authors' Commentary for 17-30 and 17-33 • 3 Connecticut Practice Series, <i>Connecticut Civil Practice Forms</i>, 4th ed., by Joel M. Kaye et al., Thomson West, 2004, with 2020-2021 supplement (also available on Westlaw). <ul style="list-style-type: none"> Authors' Commentary for Form 704.10 <ul style="list-style-type: none"> IV-H-1. Motion for judgment for failure to appear IV-H-2. Motion for judgment for failure to plead • <i>Connecticut Summary Process Manual</i>, Paul J. Marzinotto, Connecticut Law Tribune, 1986, with 2002 supplement. <ul style="list-style-type: none"> VI. Summary Process Motions—Plaintiff <ul style="list-style-type: none"> A. Motion for default for failure to appear and judgment for possession, p. 64 B. Motion for default for failure to plead and judgment for possession, p. 64
<p><u>CASES:</u></p>	<ul style="list-style-type: none"> • Federal National Mortgage Association v. Buhl, 186 Conn. App. 743, 754, 201 A.3d 485 (2018). "It is well established that "[e]ntry of a ... default for failure to appear for trial is a matter left to the sound discretion of the trial court.... Practice Book § 17-19 provides in relevant part: If a party ... fails without proper excuse to appear in person or by counsel for trial, the party may be nonsuited or defaulted by

<p>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.</p>	<p>the judicial authority.’ (Internal quotation marks omitted.) Housing Authority v. Weitz, 163 Conn. App. 778, 782, 134 A.3d 749 (2016). It is uncontested that Luce Buhl failed to appear for all three days of trial. Additionally, the defendants failed to present evidence that there was a proper excuse for Luce Buhl's nonappearance.”</p> <ul style="list-style-type: none"> • City of Bridgeport v. Grace Building, LLC, 181 Conn. App. 280, 308-309, 186 A.3d 754 (2018). “The undisputed circumstances and the unique procedural history of this case convince us that the court improperly found that the defendant had not established reasonable cause for its failure to appear with counsel at the ... proceeding. In this case, we are left with a firm conviction that a mistake has been made, and we are mindful that the trial court's discretion to open a default judgment must be ‘exercised in conformity with the spirit of the law and in a manner to subserve and not to impede or defeat the ends of substantial justice.... In addition, the court's discretion should be exercised mindful of the policy preference to bring about a trial on the merits of a dispute whenever possible and to secure for the litigant [its] day in court.’ (Internal quotation marks omitted.) Multilingual Consultant Associates, LLC v. Ngoh, supra, 163 Conn. App. at 735, 137 A.3d 97.” • Mackenzie v. Rascati, Superior Court, Judicial District of New Haven at New Haven, Housing Session, No. SPNH 941241586 (January 17, 1995) (13 Conn. L. Rptr. 450, 451) (1995 Conn. Super. Lexis 344) (1995 WL 55087). “The Court finds that the Defendant’s request for discovery establishes good cause for extension of time to plead.”
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Table 2: Default in Family and Paternity Matters

<h2 style="text-align: center;">Default in Family and Paternity Matters</h2>	
<p>STATUTES:</p> <p>You can visit your local law library or search the most recent statutes and public acts on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.</p>	<ul style="list-style-type: none"> • § 46b-160(4)(e)(2). [Paternity] Petition by mother or expectant mother. Venue. Continuance of case. Evidence. Jurisdiction over nonresident putative father. Personal service. Petition to include answer form, notice and application for appointment of counsel. Genetic tests. Default judgment, when. “The notice to the alleged parent shall inform the alleged parent that (A) the alleged parent has a right to be represented by an attorney, and if the alleged parent is indigent, the court will appoint an attorney for such parent, (B) if the alleged parent is found to be the parent, the alleged parent will be required to financially support the

<p>You can visit your local law library or search the most recent statutes and public acts on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.</p>	<p>child until the child attains the age of eighteen years, (C) if the alleged parent does not admit parentage and such person is alleged to be a genetic parent, the court or family support magistrate may, pursuant to section 44 of this act, order a genetic test to determine parentage and that the cost of such test shall be paid by the state in IV-D support cases, and in non-IV-D cases shall be paid by the petitioner, except that if the alleged parent is subsequently adjudicated to be the parent of the child, such person shall be liable to the state or the petitioner, as the case may be, for the amount of such cost, and (D) if the alleged parent fails to return the answer form or fails to appear for a scheduled genetic test without good cause, a default judgment of parentage shall be entered.” (Amended by P.A. 21-15, § 118, effective January 1, 2022.)</p> <ul style="list-style-type: none"> • § 46b-160(g) [Paternity] Petition by mother or expectant mother. Venue. Continuance of case. Evidence. Jurisdiction over nonresident putative father. Personal service. Petition to include answer form, notice and application for appointment of counsel. Genetic tests. Default judgment, when. “The court or family support magistrate shall enter a default judgment against a nonresident alleged parent if such alleged parent (1) fails to answer or otherwise respond to the petition, or (2) in cases in which the alleged parent is an alleged genetic parent, fails to appear for a scheduled genetic test without good cause, provided a default judgment shall not be entered against a nonresident alleged parent unless (A) there is evidence that the nonresident alleged parent has received actual notice of the petition pursuant to subsection (b) of this section and (B) there is verification that the process served upon the alleged parent included the answer form, notice to the defendant and an application for appointment of counsel required by subsection (d) of this section. Upon entry of a default judgment, a copy of the judgment and a form for a motion to reopen shall be served upon the adjudicated parent in the same manner as provided in subsection (b) of this section.” (Amended by P.A. 21-15, § 118, effective January 1, 2022.)
<p><u>COURT RULES:</u></p> <p>Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted online.</p>	<ul style="list-style-type: none"> • § 25-51(a). “If, in any case involving a dissolution of marriage or civil union, legal separation, or annulment, the defendant has not filed an appearance by the case management date, the plaintiff may proceed to judgment on the case management date without further notice to such defendant. Section 17-20 concerning motions for default shall not apply to such cases.” • § 25-51(b). “If the defendant files an appearance by the case management date, the presiding judge or a designee shall determine which track the case shall take pursuant to

	<p>Section 25-50.”</p> <ul style="list-style-type: none"> • § 25-52. “If a party fails to appear in person or by counsel for a scheduled disposition, the opposing party may introduce evidence and the case may proceed to judgment without further notice to such party who failed to appear.”
<p>FORMS:</p> <p>Official Judicial Branch forms are frequently updated. Please visit the Official Court Webforms page for the current forms.</p>	<ul style="list-style-type: none"> • Default – Waive 90 (Waiving statutory waiting period upon defendant’s failure to appear – Divorce or Legal Separation) “If papers were delivered (“served”) to the other spouse and certain conditions are met, the court may waive the 90-day waiting period and grant the divorce without having to see a judge. If the conditions are not met, a court date will be provided and you will be required to see a judge.” • JD-FM-206. Motion to Open Judgment (Family Matters) (rev. 1/22)
<p>TEXTS & TREATISES:</p> <p>Each of our law libraries own the Connecticut treatises cited. You can contact us or visit our catalog to determine which of our law libraries own the other treatises cited or to search for more treatises.</p> <p>References to online databases refer to in-library use of these databases. Remote access is not available.</p>	<ul style="list-style-type: none"> • <i>7 Connecticut Practice Series: Family Law And Practice with Forms</i>, Arnold H. Rutkin et al., 3rd ed., Thomson West, 2010, with 2021-2022 supplement (also available on Westlaw). <ul style="list-style-type: none"> Part 4. Dissolution of Marriage <ul style="list-style-type: none"> Chapter 18. Process <ul style="list-style-type: none"> § 18.11. Appearance of defendant Part 5. Pre-Trial Proceedings in Dissolution <ul style="list-style-type: none"> Chapter 20. Pretrial Procedures and Preparation <ul style="list-style-type: none"> § 20.4. Default, non-suit and dismissal Part 6. Evidentiary Matters and Trial <ul style="list-style-type: none"> Chapter 24. Trial; Procedural Aspects <ul style="list-style-type: none"> § 24.12 Default • <i>LexisNexis Practice Guide: Connecticut Family Law</i>, Louise Truax, editor, 2021 ed., LexisNexis (also available on Lexis Advance). <ul style="list-style-type: none"> Chapter 10: Parentage <ul style="list-style-type: none"> § 10.15. Entering a Default Judgment • <i>2 Stephenson’s Connecticut Civil Procedure</i>, 3rd ed., by Renee Bevacqua Bollier et al., Atlantic Law Book Co., 2002, with 2003 supplement. <ul style="list-style-type: none"> Chapter 20. Family Law Procedures <ul style="list-style-type: none"> § 258d. Proceeding without the defendant § 258f. Setting aside or opening judgments

<p>CASES:</p> <p>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.</p>	<ul style="list-style-type: none"> • O'Brien v. Davis, Superior Court, Judicial District of Stamford-Norwalk At Stamford, No. FA-04 4000138-S (September 29, 2005) (49 Conn. Supp. 474). “. . . [t]he uncontested assignment procedure with a nonappearing defendant after the adoption of the case management program by the Superior Court judges is as follows: (1) The defendant is served with the writ, summons and complaint . . . (8) since 1998, a default of the defendant for failure to file an appearance is no longer part of the uncontested procedure. Practice Book § 25-51.”
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Table 3: Default in Foreclosure Cases

Default in Foreclosure Cases	
<p>STATUTES:</p> <p>You can visit your local law library or search the most recent statutes and public acts on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.</p>	<ul style="list-style-type: none"> • § 49-311(c). Foreclosure mediation: Notice of foreclosure mediation program. Forms. Procedure. Stay of litigation. “(7) With respect to foreclosure actions with a return date during the period from July 1, 2011, to June 30, 2023, inclusive, notwithstanding any provision of the general statutes or any rule of law to the contrary, the mortgagee shall be permitted following the eight-month or fifteen-day period described in subdivision (6) of this subsection, to simultaneously file, as applicable, (A) a motion for default, and (B) a motion for judgment of strict foreclosure or a motion for judgment of foreclosure by sale with respect to the mortgagor in the foreclosure action.” • § 49-311s(a). Simultaneous filing of motions for judgment of foreclosure and for default for failure to appear permitted for vacant, abandoned and unoccupied real property. “In a foreclosure action, the mortgagee may, notwithstanding any other law or rule to the contrary, file a motion for judgment of foreclosure simultaneously with a motion for default for failure to appear, if such mortgagee proves, by clear and convincing evidence and the use of a proper affidavit, that the real property that is the subject of the foreclosure action is not occupied by a mortgagor, tenant or other occupant and not less than three of the following conditions exist. . .”

COURT RULES:

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

- [§ 13-19](#). "If the defendant fails to disclose a defense within ten days of the filing of such demand in any action to foreclose a mortgage or lien or to quiet title, or in any action upon any written contract, the plaintiff may file a written motion that a default be entered against the defendant by reason of the failure of the defendant to disclose a defense. If no disclosure of defense has been filed, the judicial authority may order judgment upon default to be entered for the plaintiff at the time the motion is heard or thereafter, provided that in either event a separate motion for such judgment has been filed. The motions for default and for judgment upon default may be served and filed simultaneously but shall be separate motions."
- [§ 17-20\(b\)](#). "In an action commenced by a mortgagee prior to July 1, 2014, for the foreclosure of (1) a mortgage on residential real property consisting of a one to four-family dwelling occupied as the primary residence of the mortgagor, with a return date on or after July 1, 2008, or (2) a mortgage on real property owned by a religious organization with a return date during the period from October 1, 2011, to June 30, 2014, inclusive, if no appearance has been entered for the mortgagor on or before the fifteenth day after the return day or, if the court has extended the time for filing an appearance and no appearance has been entered on or before the date ordered by the court, any other party to the action may make a motion that a default be entered for failure to appear."
- [§ 17-33\(b\)](#). "Since the effect of a default is to preclude the defendant from making any further defense in the case so far as liability is concerned, the judicial authority, at or after the time it renders the default, notwithstanding Section 17-32 (b), may also render judgment in foreclosure cases, in actions similar thereto and in summary process actions, provided the plaintiff has also made a motion for judgment and provided further that any necessary affidavits of debt or accounts or statements verified by oath, in proper form, are submitted to the judicial authority. The judicial authority may render judgment in any contract action where the damages are liquidated provided that the plaintiff has made a motion for judgment and submitted the affidavits and attachments specified in Section 17-25 (b) (1)."
- [§ 17-33A](#). "In all foreclosure actions, motions for judgment shall not be filed prior to the expiration of 30 days after the return date."

<p>FORMS:</p> <p>Official Judicial Branch forms are frequently updated. Please visit the Official Court Webforms page for the current forms.</p>	<ul style="list-style-type: none"> • JD-CV-107. Motion to Open Judgment (Civil Matters Other Than Small Claims and Housing Matters) (rev. 7/19)
<p>LEGISLATIVE:</p> <p>Office of Legislative Research reports summarize and analyze the law in effect on the date of each report's publication. Current law may be different from what is discussed in the reports.</p>	<ul style="list-style-type: none"> • <i>Foreclosure Laws</i>, Christopher Reinhart, Connecticut General Assembly, Office of Legislative Research Report 98-R-1010 (October 14, 2003).
<p>TEXTS & TREATISES:</p> <p>Each of our law libraries own the Connecticut treatises cited. You can contact us or visit our catalog to determine which of our law libraries own the other treatises cited or to search for more treatises.</p> <p>References to online databases refer to in-library use of these databases. Remote access is not available.</p>	<ul style="list-style-type: none"> • 1 <i>Connecticut Foreclosures: An Attorney's Manual of Practice and Procedure</i>, Denis R. Caron and Geoffrey K. Milne, 11th ed., Connecticut Law Tribune, 2021 (also available on Lexis Advance). <ul style="list-style-type: none"> Chapter 6. Motions, the hearing on judgment, the judgment file, and the bill of costs <ul style="list-style-type: none"> § 6-1:3. Defaulting the defendants <ul style="list-style-type: none"> § 6-1:3.1. For failure to appear <ul style="list-style-type: none"> § 6-1:3.1a. Military Affidavits § 6-1:3.1b. When the Defendant Is a Servicemember § 6-1:3.2. For failure to plead <ul style="list-style-type: none"> § 6-1:3.2a. Practice Book § 17-32 "Automatic" Reopening Provision § 6-1:3.3. Disclosure of defense • <i>A Practical Guide to Residential Real Estate Transactions and Foreclosures in Connecticut</i>, 2nd ed., Christian R. Hoheb, editor, MCLE New England, 2021. <ul style="list-style-type: none"> Chapter 9. Foreclosure Procedure from Complaint Through Sale <ul style="list-style-type: none"> § 9.2. Motions <ul style="list-style-type: none"> § 9.2.1. Defaults <ul style="list-style-type: none"> (a) Failure to Appear (b) Failure to Plead § 9.2.2. Disclosure of Defense § 9.4. Judgment <ul style="list-style-type: none"> § 9.4.1. Findings and Orders <ul style="list-style-type: none"> (a) Defaults

	<ul style="list-style-type: none"> • <i>A Practical Guide to Discovery and Depositions in Connecticut</i>, 2nd ed., Sara R. Simeonidis, editor, MCLE, 2021. Chapter 11. Other Discovery Rules and Devices § 11.4. Disclosure of Defense • <i>Representing Yourself in Foreclosure: A Guide for Connecticut Homeowners</i>, 11th ed., Connecticut Fair Housing Center, 2015 (also available online). Stage 3. Court Proceedings and Mediation <ol style="list-style-type: none"> 1. Motions and Court Proceedings <ul style="list-style-type: none"> Motion for Default for Failure to Appear Motion for Default for Failure to Plead • 1 <i>West's Connecticut Rules of Court Annotated</i>, 2021 ed., Thomson West. <ul style="list-style-type: none"> § 13-19 Disclosure of Defense § 17-20 Motion for Default and Nonsuit for Failure to Appear § 17-32 Where Defendant Is in Default for Failure to Plead § 17-33 When Judgment May Be Rendered After a Default
<p>CASES:</p> <p>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.</p>	<ul style="list-style-type: none"> • Town of Newtown v. Ostrosky, 202 Conn. App. 13, 19, 245 A.3d 490 (2020). "The plaintiff asserts, and the court agrees, that the foregoing fifteen day limitation of Practice Book § 17-32 (b) is excused by Practice Book § 17-33 (b) in the case [of] a judgment entered in a foreclosure case such as this. Practice Book § 17-33 (b) provides: 'Since the effect of a default is to preclude the defendant from making any further defense in the case so far as liability is concerned, the judicial authority, at or after the time that it renders the default, notwithstanding Section 17-32 (b), may also render judgment in foreclosure cases, in actions similar thereto and in summary process actions, provided the plaintiff has also made a motion for judgment and provided further that any necessary affidavits of debt or accounts or statements verified by oath, in proper form, are submitted to the judicial authority.'" • Deutsche Bank National Trust Co. v. Cornelius, 170 Conn. App. 104, 117-118, 154 A.3d 79 (2017). "In the present case, however, the court did not deny the defendant's motion to strike because it was untimely. The court denied the motion because it could not act on it while the default was still in effect. 'In an action at law, the rule is that the entry of a default operates as a confession by the defaulted defendant of the truth of the material facts alleged in the complaint which are essential to entitle the plaintiff to some of the relief prayed. . . . [I]ts effect is to preclude the defaulted defendant from making any further defense and to

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.

permit the entry of a judgment against him on the theory that he has admitted such of the facts alleged in the complaint as are essential to such a judgment. . . . Thus, [a] default admits the material facts that constitute a cause of action . . . and entry of default, when appropriately made, conclusively determines the liability of a defendant.' (Citation omitted; internal quotation marks omitted.) [Connecticut Light & Power Co. v. St. John](#), 80 Conn. App. 767, 775, 837 A.2d 841 (2004). Therefore, the court correctly concluded that it could not consider the defendant's motion to strike until the default was set aside."

- [Deutsche Bank National Trust Co. v. Thompson](#), 163 Conn. App. 827, 835, 136 A.3d 1277 (2016). "Although it is established that entry of default conclusively establishes the *liability* of a defendant, the plaintiff offers no authority to support its position that entry of default conclusively establishes the *subject matter jurisdiction* of the court. Moreover, we disagree with this position because it essentially posits that a party can waive a subject matter jurisdiction challenge by virtue of a pleading deficiency, namely, a failure to reply to jurisdictional allegations during the pleading stage."
- [U.S. Bank National Association v. Works](#), 160 Conn App. 49, 60, 124 A.3d 935 (2015). "The court then had to decide whether to set aside the default entered against the defendant. 'A default is not a judgment. It is an order of the court the effect of which is to preclude the defendant from making any further defense in the case so far as liability is concerned.' [Automotive Twins, Inc. v. Klein](#), 138 Conn. 28, 33, 82 A.2d 146 (1951). In setting aside the default, the court permitted the defendant to file an answer and any special defenses and, in fact, instructed her to do so. The court's ruling setting aside the default was interlocutory, as it did not result in a final judgment, and therefore we may not review it at this time."

Table 4: Default in Small Claims Actions

Default in Small Claims Actions	
<p>COURT RULES:</p> <p>Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted online.</p>	<ul style="list-style-type: none"> • § 24-16(a). "A defendant, unless the judicial authority shall otherwise order, shall be defaulted and judgment shall enter in accordance with the provisions of Section 24-24, unless such defendant shall, personally or by representative, not later than the answer date, file an answer or file a motion to transfer pursuant to Section 24-21. The answer should state fully and specifically, but in concise and untechnical form, such parts of the claim as are contested, and the grounds thereof, provided that an answer of general denial shall be sufficient for purposes of this section. Each defendant shall send a copy of the answer to each plaintiff and shall certify on the answer form that the defendant has done so, including the address(es) to which a copy has been mailed. Upon the filing of an answer, the clerk shall set the matter down for hearing by the judicial authority." • § 24-24. "(a) In any action based on an express or implied promise to pay a definite sum and claiming only liquidated damages, which may include interest and reasonable attorney's fees, if the defendant has not filed an answer by the answer date and the judicial authority has not required that a hearing be held concerning any request by the defendant for more time to pay, the judicial authority may render judgment in favor of the plaintiff without requiring the presence of the plaintiff or representative before the court, provided the plaintiff has complied with the provisions of this section and Section 24-8. Nothing contained in this section shall prevent the judicial authority from requiring the presence of the plaintiff or representative before the court prior to rendering any such default and judgment if it appears to the judicial authority that additional information or evidence is required prior to the entry of judgment. (b) In order for the judicial authority to render any judgment pursuant to this section at the time set for entering a judgment whether by default, stipulation or other method, the following affidavits must have been filed by the plaintiff. . ." • § 24-25. "If the defendant does not file an answer by the answer date, a notice of default shall be sent to all parties or their representatives and if the case does not come within the purview of Section 24- 24, the clerk shall set a date for hearing, and the judicial authority shall require the presence of the plaintiff or representative. Notice of the hearing shall be sent to all parties or their representatives. If a defendant files an answer at any time before a default

	<p>judgment has been entered, including at the time of a scheduled hearing in damages, the default shall be vacated automatically. If the answer is filed at the time of a hearing in damages, the judicial authority shall allow the plaintiff a continuance if requested by the plaintiff, or representative.”</p>
<p>FORMS:</p> <p>Official Judicial Branch forms are frequently updated. Please visit the Official Court Webforms page for the current forms.</p>	<ul style="list-style-type: none"> • JD-CV-51. Motion to Open Judgment (Small Claims and Housing Matters) (rev. 6/19)
<p>TEXTS & TREATISES:</p> <p>You can contact us or visit our catalog to determine which of our law libraries own the treatises cited.</p> <p>References to online databases refer to in-library use of these databases.</p>	<ul style="list-style-type: none"> • How Small Claims Court Works, Rev. 6/20, State of Connecticut Judicial Branch Superior Court. • 1 Connecticut Practice Series, <i>Superior Court Civil Rules</i>, by Wesley W. Horton and Kenneth J. Bartschi, 2020-2021 ed., Thomson West (also available on Westlaw). <ul style="list-style-type: none"> Official and Authors’ Commentary <ul style="list-style-type: none"> § 24-16 Answers; Requests for Time to Pay § 24-24 Judgments in Small Claims; When Presence of the Plaintiff or Representative is Not Required for Entry of Judgment § 24-25 Judgments in Small Claims; When Presence of the Plaintiff or Representative is Not Required for Entry of Judgment—Failure of the Defendant to Answer § 24-26 Judgments in Small Claims; When Presence of the Plaintiff or Representative is Not Required for Entry of Judgment—Failure of a Party to Appear Before the Court when Required § 24-28 Judgments in Small Claims; When Presence of the Plaintiff or Representative is Not Required for Entry of Judgment—Finality of Judgments and Decisions § 24-31 Judgments in Small Claims; When Presence of the Plaintiff or Representative is Not Required for Entry of Judgment—Opening Judgment; Costs • 3A Connecticut Practice Series, <i>Connecticut Civil Practice Forms</i>, 4th ed., by Joel M. Kaye et al., Thomson West, 2004, with 2020-2021 supplement (also available on Westlaw). <ul style="list-style-type: none"> Authors’ Commentary for Form S-143 • 1 <i>West’s Connecticut Rules of Court Annotated</i>, 2021 ed., Thomson West. <ul style="list-style-type: none"> Notes of Decisions <ul style="list-style-type: none"> § 24-24 Judgments in Small Claims; When Presence of the Plaintiff or Representative Is Not Required for

	<p style="text-align: center;">Entry of Judgment § 24-31 —Opening Judgment; Costs.</p>
<p>CASES:</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>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.</p> </div>	<ul style="list-style-type: none"> <li data-bbox="521 302 1373 590"> <p>• Veterans Memorial Medical Center v. Townsend, 49 Conn. App. 198, 202-203, 712 A.2d 993, 995-996 (1998). “Small claims proceedings are governed by Practice Book § 547 et seq., now Practice Book (1998 Rev.) § 24–1 et seq. These rules establish a procedure in the event that the defendant does not file an answer by the answer date, as occurred in the present case. Pursuant to these rules, a defendant shall be defaulted unless he answers the small claims complaint by the answer date . . .</p> <p>Therefore, under § 24–24, the trial court could have rendered judgment for the plaintiff because the defendant did not answer by the answer date or, if it appeared to the trial court that additional information or evidence was required, it should have held a hearing prior to rendering judgment.”</p> <li data-bbox="521 848 1373 1461"> <p>• Cannavo Enterprises, Inc. v. Burns, 194 Conn. 43, 47, 478 A.2d 601 (1984). “Upon reconsideration we now hold that a party suffering from a default judgment may bring a writ of error where no statutory right of appeal exists. We reach this conclusion relying upon our test, now well established, for determining when a party is aggrieved: ‘The fundamental test for determining aggrievement encompasses a well-settled twofold determination: first, “the party claiming aggrievement must successfully demonstrate a specific personal and legal interest in the subject matter of the decision, as distinguished from a general interest, such as is the concern of all members of the community as a whole. Second, the party claiming aggrievement must successfully establish that this specific personal and legal interest has been specially and injuriously affected by the decision.” . . .’ (Citations omitted.) Local 1303 & Local 1378 v. FOIC, 191 Conn. 173, 176, 463 A.2d 613 (1983). See Kulmacz v. Kulmacz, 177 Conn. 410, 418 A.2d 76 (1979).”</p>

Table 5: Other Unreported Decisions on Defaults and Default Judgments

Unreported Decisions	
<p><u>Kinsella v. Maines Paper & Food Service, Inc.</u>, Superior Court, Judicial District of New Haven at New Haven, No. NNHCV10-6016043-S (November 25, 2014) (2014 WL 7497400).</p>	<p>“The court will next consider whether the defendants have met their burden of showing reasonable cause for granting the motion to open. As stated earlier, ‘[t]he power of a court to set aside a default judgment is governed by § 52–212(a). Section 52–212 requires a party moving for the opening of a judgment to make a two part showing that: (1) a good defense existed at the time an adverse judgment was rendered; and (2) the defense was not at that time raised by reason of mistake, accident or other reasonable cause.’ (Internal quotation marks omitted.) <u>Tsitaridis v. Tsitaridis</u>, 100 Conn. App. 115, 119, 916 A.2d 877 (2007) . . . The defendants assert that they had a defense of comparative negligence; the plaintiffs do not dispute this, but rather focus on whether there was a reasonable cause for the defendants’ failure to cure the default. The plaintiffs also extensively discuss the discovery history in this case, claiming that the defendants’ frequent delays in producing evidence and witnesses for depositions justify the court denying the motion to open.”</p>
<p><u>McCarthy v. Ward Leonard Electric Co.</u>, Superior Court, Judicial District of Hartford at Hartford, No. CV05-4011472 (December 22, 2006) (2006 WL 3919870)</p>	<p>“The defendants question the validity of the service of the motion for default and motion for judgment by citing Practice Book §§ 10-12 through 10-14 and <u>Triton Assocs. v. Six New Corp.</u>, 14 Conn. App. 172, 178, 540 A.2d 95 (1988). Practice Book § 10-12(b) provides that a motion for default for failure to appear be served upon the pro se party. The defendants incorrectly cite <u>Triton Associates v. Six New Corp.</u>, 14 Conn. App. 172, 540 A.2d 95 cert. denied 208 Conn. 806, 545 A.2d 1104 (1988) for the proposition that a motion for default for failure to appear must be served upon a party's agent for service of process. Triton, holds that a notice of entry of default and a motion for judgment were properly served on a non-appearing party's agent for service; it does not hold that a motion for default must be so served on the agent rather than the party. In a subsequent case, the Appellate Court explained that its holding in Triton was based on the fact that the defendant in Triton had actual notice of both the entry of default and motion for judgment even though the pleadings had not been sent directly to them. <u>Wilson v. Troxler</u>, 91 Conn. App. 864, 872-73, 883 A.2d 18 (2005). In that case the court distinguished between service of process initiating an action and service of pleadings after a case has been initiated. . . .”</p>
<p><u>Fiamengo v. Duffy</u>, Superior Court, Judicial District of Hartford</p>	<p>“Practice Book § 17-32 (b) provides that ‘[a] claim for a hearing in damages or motion for judgment shall not be filed before the expiration of fifteen days from the date of the issuance of the</p>

<p>at Hartford, No. CV00-0801777-S (April 3, 2001) (2001 WL 417650).</p>	<p>default under this section.’ The plaintiffs claim, having been filed only four days after the granting of his request for a default, was thus filed too early. The same Practice Book section also provides that ‘[i]f a claim for a hearing in damages or a motion for a judgment has been filed the default may be set aside only by the judicial authority.’ Practice Book § 17-32 (b). Construing these two provisions together, it would appear that a defendant’s remedy when, as here, a claim for a hearing in damages is filed too early is to move to set aside the default under Practice Book § 17-42. This section provides that ‘[a] motion to set aside a default where no judgment has been rendered may be granted by the judicial authority for good cause shown upon such terms as it may impose.’ Certainly the plaintiff’s premature filing of a claim for a hearing in damages may constitute the ‘good cause’ that would justify setting aside the default under this section. Because, in this case, the defendant failed to file a motion to set aside the default, the court will not relieve him of his default for failure to plead.”</p>
<p><u>Deercliff Homeowners Assn. v. Seraya</u>, Superior Court, Judicial District of New Britain at New Britain, No. CV97-0482805-S (February 28, 2001) (2001 WL 283015).</p>	<p>“Concerning the determination as to whether to open a default, rule of practice § 17-42 states: ‘[a] motion to set aside a default may be granted by the judicial authority for good cause shown upon such terms as it may impose.’ The court, in its discretion, may consider the presence of mistake, inadvertence, misfortune or other reasonable cause. See Higgins v. Karp, 243 Conn. 495, 508, 706 A.2d 1 (1998) (previously cited by the court in its November 3, 2000 order). It may consider ‘factors such as the seriousness of the default, its duration, the reasons for it and the degree of contumacy involved . . . [as well as] the totality of the circumstances, including whether the delay has caused prejudice to the nondefaulting party.’ (Internal quotation marks and citation omitted.) Id.</p> <p>As noted, except for its procedural arguments, which the court addressed above, and its advancement of what it claims are meritorious defenses, which the court addresses below, Seraya has advanced no argument explaining why the defaults should be vacated. It has not even contended, for example, that the November, 1997 default was the result of mistake, inadvertence, misfortune or other reasonable cause. Instead, it has chosen to act as though that court action, taken over three years ago, did not exist. It has done so in the face of being put on notice of it again, by the court, on the record, on September 18, 2000. Deercliff also pleaded the existence of this default in its objection to the September, 2000 motion to open the April, 2000 default for failure to plead.”</p>

Section 4: Hearing in Damages

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources related to hearing in damages following a default.

DEFINITIONS:

- “In any hearing in damages upon default, the defendant shall not be permitted to offer evidence to contradict any allegations in the plaintiff’s complaint, except such as relate to the amount of damages, unless notice has been given to the plaintiff of the intention to contradict such allegations and of the subject matter which the defendant intends to contradict, nor shall the defendant be permitted to deny the right of the plaintiff to maintain such action, nor shall the defendant be permitted to prove any matter of defense, unless written notice has been given to the plaintiff of the intention to deny such right or to prove such matter of defense.” Conn. Practice Book § [17-34\(a\)](#) (2022).

COURT RULES:

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

- Conn. Practice Book (2022)
 - [Chapter 17](#). Judgments
 - § 17-34. Hearings in damages; Notice of defenses
 - § 17-35. —Requirements of notice; Time
 - § 17-36. —Notice by clerk
 - § 17-37. —Notice of defense to be specific
 - § 17-38. —Amending notice of defense
 - § 17-39. —No reply allowed
 - § 17-40. —Evidence to reduce damages
 - § 17-41. Relief permissible on default

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. (2022)
 - [Chapter 900](#). Court Practice and Procedure
 - § [52-220](#). Hearing in damages: When to jury.
 - § [52-221](#). Hearing in damages: Evidence. Notice.
 - § [52-221a](#). Hearing in damages: Proof of damages on defendant’s failure to appear.

COURT FORMS:

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

- [JD-CV-11](#). Certificate of Closed Pleadings (rev. 10/20)

FORMS:

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CASES:

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- 2 Connecticut Practice Series, *Connecticut Civil Practice Forms*, 4th ed., by Joel M. Kaye et al., Thomson West, 2004, with 2020-2021 supplement (also available on Westlaw).
Form 107.8-G. Notice as to hearing in damages
- *Library of Connecticut Personal Injury Forms*, Koskoff Koskoff & Bieder, PC, Joshua Koskoff and Sean K. McElligott, Editors, 2nd ed. 2014, Connecticut Law Tribune (also available on Lexis Advance).
Form 6-010. Objection to Motion for Stay of Hearing in Damages
- [Torla v. Torla](#), 152 Conn. App. 241, 247, 101 A.3d 275 (2014). “A default admits the material facts that constitute a cause of action . . . and entry of default, when appropriately made, conclusively determines the liability of a defendant. . . . Upon default, the plaintiff ordinarily becomes entitled to recover nominal damages. . . . The right to further substantial damages remains to be established by the plaintiff at a hearing in damages. . . . After a default, a defendant may still contest liability. Practice Book §§ 17-34, 17-35 and 17-37 delineate a defendant's right to contest liability in a hearing in damages after default. . . . Unless the defendant provides the plaintiff written notice of any defenses, the defendant is foreclosed from contesting liability. . . . If written notice is furnished to the plaintiff, the defendant may offer evidence contradicting any allegation of the complaint and may challenge the right of the plaintiff to maintain the action or prove any matter of defense. . . . This approximates what the defendant would have been able to do if he had filed an answer and special defenses.’ (Citations omitted; internal quotation marks omitted.) [Schwartz v. Milazzo](#), 84 Conn. App. 175, 178-79, 852 A.2d 847, cert. denied, 271 Conn. 942, 861 A.2d 515 (2004).”
- [Commission on Human Rights and Opportunities v. Peterson](#), Superior Court, Judicial District of Litchfield at Litchfield, No. LLICV106002882S (September 23, 2013) (2013 Conn. Super. Lexis 2138) (2013 WL 5663282). “The court’s function at a hearing in damages is to assess and award damages. Because the defendant has been defaulted for failure to plead, all allegations in the plaintiffs’ complaint as to the defendant’s liability are deemed true. ‘A default admits the material facts that constitute a cause of action and entry of default, when appropriately made, conclusively determines the liability of a defendant Following the entry of a default, all that remains is for the plaintiff to prove the amount of damages to which it is entitled. At a minimum, the plaintiff in such instances is entitled to nominal damages.’ (Citations omitted; internal quotation marks omitted.)”

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.

[Argentinis v. Fortuna](#), 134 Conn. App. 538, 545-46 (2012).

Because the entry of a default conclusively determines the liability of the defendant, the plaintiff is not obligated to prove the allegations of the complaint except as to the damages. [Bank of New York v. National Funding](#), 97 Conn.App. 133, 138-39, cert. denied, 280 Conn. 925 (2006)."

- [Venkatesan et al. v. Venkatesan](#), Superior Court, Judicial District of Middlesex at Middletown, No. MMXCV100-6002880-S (January 4, 2013) (2013 WL 388126). "In a hearing in damages the plaintiff must prove its damages by a preponderance of the evidence.' *Enfield Family Dental v. Erickson*, Superior Court, judicial district of Hartford, Docket No. CV 99 0586994 (August 8, 2002, Hennessey, J.); see also [Whitaker v. Taylor](#), 99 Conn. App. 719, 735, 916 A.2d 834 (2007) (stating that although the elements of fraud must be proved by clear and convincing evidence, damages may be proved by the preponderance of the evidence). '[T]he trial court has broad discretion in determining whether damages are appropriate.' (Internal quotation marks omitted.) [Barber v. Mulrooney](#), 61 Conn. App. 108, 111, 762 A.2d 520 (2000). 'Where the court has found that the plaintiff has suffered a technical legal injury, the plaintiff is entitled to at least nominal damages.' [Lyons v. Nichols](#), 63 Conn. App. 761, 768, 778 A.2d 246, cert. denied, 258 Conn. 906, 782 A.2d 1244 (2001). 'The award of nominal damages is appropriate when there is a clear invasion of a legal right . . . but no finding of a compensable injury.' *Id.*, 769."
- [Bonenfant v. Rota](#), Superior Court, Judicial District of Hartford at Hartford, No. CV01-0811769-S (August 5, 2003) (2003 WL 22041458). "Upon default, the plaintiff ordinarily becomes entitled to recover nominal damages . . . The right to further substantial damages remains to be established by the plaintiff at a hearing in damages.' (Citations omitted.) [Kloter v. Carabetta Enterprises, Inc.](#), 186 Conn. 460, 464, 442 A.2d 63 (1982). '[The] entry of default, when appropriately made, conclusively determines the liability of a defendant . . . In an action at law, the rule is that the entry of a default operates as a confession by the defaulted defendant of the truth of the material facts alleged in the complaint which are essential to entitle the plaintiff to some of the relief prayed. It is not the equivalent of an admission of all of the facts pleaded. The limit of its effect is to preclude the defaulted defendant from making any further defense and to permit the entry of a judgment against him on the theory that he has admitted such of the facts alleged in the complaint as are essential to such a judgment. It does not follow that the plaintiff is entitled to a judgment for the full

amount of the relief claimed. The plaintiff must still prove how much of the judgment prayed for in the complaint he is entitled to receive.’ (Internal quotation marks omitted and citation omitted.) *Murray v. Taylor*, 65 Conn. App. 300, 334-35, 782 A.2d 702, cert. denied, 258 Conn. 928, 783 A.2d 1029 (2001).”

- [CAS Construction Co. v. Dainty Rubbish Service, Inc.](#), 60 Conn. App. 294, 300, 759 A.2d 555, 559 (2000). “A plaintiff may not claim a case to the trial list (a hearing in damages) without first having obtained a default for failure to plead. *Wooding v. Zasciurinskas*, 14 Conn. App. 164, 167, 540 A.2d 93 (1988). A hearing in damages cannot be conducted unless there has been compliance with Practice Book § 363, now 17-31...If a judgment is rendered prematurely, it must be set aside if it deprives a party of a right to which there is entitlement under the rules of practice. *New Milford Savings Bank v. Jajer*, 52 Conn. App. 69, 84-85, 726 A.2d 604 (1999).”

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References to online databases refer to in-library use of these databases. Remote access is not available.

- 15 *A.L.R.3d* 586, *Defaulting Defendant’s Right to Notice and Hearing as to Determination of Amount of Damages*, B. Finberg, Annotation, 1967 (also available on Westlaw).
- 46 *Am Jur 2d* Judgments, Thomson West, 2017, with 2021 supplement (also available on Westlaw).
 - IV. Particular Kinds of Judgments
 - §§ 279-284. Motion, Hearing and Notice of Judgment
 - §§ 285-293. Determination of Liability and Damages
 - §§ 294-295. Operation and Effect
- 25A *CJS* Damages, Thomson West, 2012, with 2021 supplement (also available on Westlaw).
 - X. Proceedings for Assessment
 - §§ 397-399. Hearing and verdict or finding
- 49 *CJS* Judgments, Thomson West, 2021, with 2021 supplement (also available on Westlaw).
 - IX. Judgment by Default
 - §§ 288-291. Hearing, Determination, and Relief
- *LexisNexis Practice Guide: Connecticut Civil Pretrial Practice*, Margaret Penny Mason, general editor, 2021 ed., LexisNexis (also available on Lexis Advance).
 - Chapter 9. Appearance and Default
 - Part III: Practical Guidance – Default
 - § 9.11. Motion for Default for Failure to Appear
 - [4] Claim for Hearing in Damages
 - § 9.18. Hearing on Motion for Default Judgment and Defendant’s Notice of Defense
 - [1] Defendant Must Give Notice to Present Defense

TEXTS & TREATISES:

You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

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- [2] Notice of Defense Must Be Specific
- [3] Deadline to File Notice of Defense
- [4] Amending Notice of Defense
- [5] Plaintiff May Not Reply to the Notice of Defense
- [6] Defendant's Burden to Prove Defense
- § 9.21. Opening Defaults
- [2] Different Procedures Depending on Whether Plaintiff Has Filed Claim for a Hearing in Damages

- 2 *DuPont on Connecticut Civil Practice*, Ralph P. DuPont, 2020-2021 ed., LexisNexis (also available on Lexis Advance).

Chapter 17. Judgments

F. Hearings in Damages Only

- § 17-34. Hearings in damages; Notice of defenses
 - § 17-34.1. Hearing in damages. P.B. Secs. 17-34 through 17-41
 - § 17-34.2. Notice of defense; Scope of and defenses
 - § 17-34.3. Hearing in damages; Evidence; Notice
 - § 17-34.4. Hearing in damages; Jury
 - § 17-34.5. Hearing in damages list; Motion to strike
 - § 17-34.6. Time within which to claim jury trial; Hearing damages
- § 17-35. Requirements of notice; Time
 - § 17-35.1. Ten days allowed within which to file notice of defenses
- § 17-36. Notice by clerk
- § 17-37. Notice of defense to be specific
- § 17-38. Amending notice of defense
- § 17-39. No reply allowed
- § 17-40. Evidence to reduce damages
- § 17-41. Relief permissible on default

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- *Pleadings and Pretrial Practice: A Deskbook for Connecticut Litigators*, Jeanine M. Dumont, 1998 ed., Connecticut Law Tribune.

V. Timing, Waivers and Defaults

3. Motions for Default

f. Hearing in damages, p.72

- *Civil Litigation in Connecticut: Anatomy of a Lawsuit*, Kimberly A. Peterson, 1998, Prentice-Hall.

Chapter 14. Pleadings: Motions against defendants

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who do not file an appearance

II. Motion for Default for Failure to Appear

B. When a defendant fails to appear after default: Judgment

1. Hearings in damages: C.G.S. sec. 52-220 et seq.

2. Motion for judgment instead of a hearing in damages

Chapter 15. Pleadings: Motions against defendants who do not file pleadings

I. Motion for default for failure to plead

C. After the Default is Granted

IV. Hearing in Damages

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Authors' Commentary for §§ 17-34 through 17-41
- 1 *West's Connecticut Rules of Court Annotated*, 2021 ed., Thomson West.
Notes of Decisions for §§ 17-34 through 17-41