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2023 Edition

Frivolous Lawsuits in Connecticut

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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Introduction

A Guide to Resources in the Law Library

- **"A sham lawsuit is** one instituted by plaintiff in bad faith, on grounds so flimsy that no reasonable prudent person could hold a bona fide belief in the existence of facts **necessary to prove the case."** (Citations omitted; internal quotation marks omitted.) [New Milford Savings Bank v. Jajer, et al.](#), Superior Court, Judicial District of Litchfield at Litchfield, No. CV920061073 (Jan. 2, 2001) (28 Conn. L. Rptr. 490, 493) (2001 WL 51829) (2000 Conn. Super. LEXIS 3619).
- **"The definition of a frivolous appeal is set forth in the comment to Rule 3.1, wherein it is stated that '[t]he action is frivolous if the client** desires to have the action taken primarily for the purpose of harassing or maliciously injuring a person or if the lawyer is unable either to make a good faith argument on the merits of the action taken or to support the action taken by a good faith argument for an extension, modification or **reversal of existing law."** [Texaco, Inc. v. Golart](#), 206 Conn. 454, 463-464, 538 A.2d 1017 (1988).
- Sham Pleading: **"A sham pleading is one that is so bad in fact and so obviously false that it has no possible substance and could not conceivably result in a triable issue."** [Municipal Serv. Co v. Town of Colonie](#), 12 A.D.2d 22, 23 [3d Dept 1960], 208 N.Y.S.2d 193.
- **"A sham pleading is one incompatible with the law or the nature and condition of things** within the judicial knowledge, or appearing to be false by comparison with other declarations of the pleadings. *Flatt v. Norman*, **91 Mont. 543, 549.**" [Tulin v. Johnson](#), 18 Conn. Supp. 395, 396 (1953).
- **"Accordingly, a claim or defense is frivolous (a) if maintained primarily for the purpose of harassing or maliciously injuring a person, (b) if the lawyer is unable either to make a good faith argument on the merits of the action, or (c) if the lawyer is unable to support the action taken by a good faith argument for an extension, modification or reversal of existing law...."** [Brunswick v. Statewide Grievance Comm.](#), 103 Conn. App. 601, 614, 931 A.2d 319 (2007).
- Summary Judgment Procedure: **"Our Supreme Court has explained that '[t]he** summary judgment procedure is designed to eliminate the delay and expense incident to a trial where there is no real issue to be tried. . . . It is an attempt to dispose of cases involving sham or frivolous issues in a manner which is speedier and less expensive for all concerned than a full-dress trial." **(Citations omitted; internal quotation marks omitted.)** [Mac's Car City, Inc. v. American National Bank](#), 205 Conn. 255, 261, 532 A.2d 1302 (1987).

Section 1: Frivolous Lawsuits in Connecticut

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to frivolous lawsuits in Connecticut including Connecticut federal courts

SEE ALSO: [Vexatious Litigation in Connecticut](#) (Research Guide)

- Vexatious Suits
- Malicious Prosecution
- Abuse of Process

DEFINITIONS:

- **Frivolous Appeal:** "The definition of a frivolous appeal is set forth in the comment to Rule 3.1, wherein it is stated that "[t]he action is frivolous if the client desires to have the action taken primarily for the purpose of harassing or maliciously injuring a person or if the lawyer is unable either to make a good faith argument on the merits of the action taken or to support the action taken by a good faith argument for an **extension, modification or reversal of existing law.**" [Texaco, Inc. v. Golart](#), 206 Conn. 454, 463-464, 538 A.2d 1017 (1988).
- **Test for Frivolous Appeal:** "We hereby adopt this test, and further hold that the burden of proof lies on the moving party to establish the frivolity of the appeal. On the present record, we find that the plaintiff has not met that burden of proof. As to the first prong, the plaintiff has not established facts tending to show that the defendants brought this appeal for the purpose of harassing or maliciously injuring the plaintiff. As to the second prong, we have concluded that the defendants' arguments on appeal did have some merit, even **though they did not warrant a reversal.**" [Texaco, Inc. v. Golart](#), 206 Conn. 454, 464, 538 A.2d 1017 (1988).
- **Right of Access to the Courts:** "Plaintiff's blatant abuse of the judicial process can no longer continue unchecked. Plaintiff's right of access to the court is not absolute or unconditional. *Green v. Warden*, 699 F.2d 364, 369 (7th Cir.1983), *See also Green v. White*, 616 F.2d 1054 (8th Cir.1980). This is particularly true where plaintiff has demonstrated a propensity for filing numerous meritless and vexatious lawsuits which clutter the docket of this court and put defendants to the time and expense of answering frivolous and frequently incomprehensible allegations. Henceforth, plaintiff will be required to seek leave from this court before filing a civil action in this district." [Brown v. Gibson](#), 571 F. Supp. 1075, 1076-1077 (1983).
- "The unfortunate tendency of some individuals to abuse the litigation process has prompted courts to adopt a variety of techniques to protect both themselves and the public from the harassing tactics of vexatious litigants. Usually these techniques are rules of general application, such as Rule 11 of the Federal Rules of Civil Procedure, authorizing sanctions for

groundless lawsuits, and Rule 38 of the Federal Rules of Appellate Procedure, authorizing damages for taking a frivolous appeal. Occasionally, however, the tactics of certain individuals so far exceed the bounds of tolerable litigation conduct that courts have responded with specially crafted sanctions that impose severe limitations on the opportunity of such individuals to pursue their penchant for vexatious litigation” [In re Martin-Trigona](#), 9 F.3d 226, 227 (2d Cir. 1993).

- Sham Litigation: “Activities found to be a sham involve actions rife with abusive intent and absent any indicia of success. Factors present in sham litigation include, but are not limited to, the presence of repetitive litigation (although one action may constitute a sham under certain conditions), deliberate fraud, supplying false information, and whether lower courts have stated or implied that the action is frivolous or objectively baseless and whether they have dismissed it out of hand.” (Citations omitted) [Zeller v. Consolini](#), 59 Conn. App. 545, 555, 758 A.2d 376 (2000).

LEGISLATIVE:

[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.A. 21-78](#), sec. 10, effective October 1, 2021 – An Act Concerning The Definition Of Domestic Violence, Revising Statutes Concerning Domestic Violence, Child Custody, Family Relations Matter Filings And Bigotry Or Bias Crimes And Creating A Program To Provide Legal Counsel To Indigents In Restraining Order Cases.
“In any family relations matter described in section 46b-1 of the general statutes, as amended by this act, if the court finds that a pattern of frivolous and intentionally fabricated pleadings or motions are filed by one party, the court shall sanction such party in an appropriate manner so as to allow such matter to proceed without undue delay or obstruction by the party filing such pleadings or motions.”
- [P.A. 13-310](#) - An Act Concerning the Court’s Authority to Deny an Application for the Waiver of Court Fees.
[OLR Summary](#)
- *Remedies for Frivolous Lawsuits*, Sandra Norman-Eady, Connecticut General Assembly, Office of Legislative Research Report, [98-R-0916](#) (October 10, 2003).
- *Limitations on Frivolous Lawsuits in Connecticut, Attempts to Enact Them, and Laws of Other States*, Christopher Reinhart, Connecticut General Assembly, Office of Legislative Research Report, [98-R-0858](#) (July 6, 1998).

STATUTES:

- Conn. Gen. Stat. (2021)
- [Chapter 14](#). Freedom of Information Act
 § [1-206](#)(b)(2). Denial of access to public records or meetings. Appeals. Notice. Orders. Civil penalty. Petition for relief from vexatious requester. Service of process upon commission. Frivolous appeals. ([2022 Supplement](#))

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.

- § [1-241](#). Injunctive relief from frivolous, unreasonable or harassing freedom of information appeals.
- [Chapter 53](#). Claims Against the State ([2022 Supplement](#))
 - § [4-165b](#). Claims against the state by inmates.
 - (c) The Claims Commissioner may not grant a waiver of the filing fee prescribed in section 4-147 to an inmate when, on three or more prior occasions, the inmate filed with the Office of the Claims Commissioner a claim that was dismissed on grounds that it was frivolous, duplicative, malicious or otherwise failed to state a claim upon which relief could be granted. (Emphasis added).*
- [Chapter 55e](#). False Claims and Other Prohibited Acts Under State-Administered Health or Human Services Programs
 - § [4-279](#). Civil action when Attorney General declines to proceed.
 - (c) If a defendant prevails in the action conducted under this section and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious or brought primarily for purposes of harassment, the court may award reasonable attorneys' fees and expenses to the defendant.*
- [Chapter 567](#). Unemployment compensation ([2022 Supplement](#))
 - § [31-272](#). Protection of rights and benefits.
 - (b) . . . but when any appeal is taken to the Superior Court from the finding of the board and such appeal is found by said court to be frivolous, said court may tax costs in its discretion against the appellant.*
- [Chapter 568](#). Workers' compensation act ([2022 Supplement](#))
 - § [31-301c](#). Costs of appeal. Interest added to award affirmed on appeal.
 - (a) . . . provided, if an appeal is taken to the Appellate Court from a decision of the Compensation Review Board, and such appeal is found by said court to be either frivolous or taken for the purpose of vexation or delay, said court may tax costs in its discretion against the person so taking the appeal.*
- [Chapter 898](#). Pleading
 - § [52-99](#). Untrue allegations or denials; costs
- [Chapter 901](#). Damages, costs and fees ([2022 Supplement](#))
 - § [52-240a](#). Award of attorney's fees in product liability action.
 - If the court determines that the claim or defense is frivolous, the court may award reasonable attorney's fees to the prevailing party in a products liability action.*
- § [52-251a](#). Costs, attorney's fees on small claim matters transferred to regular docket.

§ [52-259b](#). Waiver of fees and payment of the cost of service of process for indigent party.
*(c) Nothing in this section shall preclude the court from (1) finding that a person whose income does not meet the criteria of subsection (b) of this section is indigent and unable to pay a fee or fees or the cost of service of process, or (2) denying an application for the waiver of the payment of a fee or fees or the cost of service of process when the court finds that (A) the applicant has repeatedly filed actions with respect to the same or similar matters, (B) such filings establish an extended pattern of frivolous filings that have been without merit, (C) the application sought is in connection with an action before the court that **is consistent with the applicant's previous** pattern of frivolous filings, and (D) the granting of such application would constitute a flagrant misuse of Judicial Branch resources. If an application for the waiver of the payment of a fee or fees or the cost of service of process is denied, the court clerk shall, upon the request of the applicant, schedule a hearing on the application. Nothing in this section shall affect the inherent authority of the court to manage its docket." (Emphasis added.)*

COURT RULES:

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

- Conn. Practice Book (2023)
 - Chapter 1. Scope of Rules.
 - § [1-25](#). Actions subject to sanctions
 - Chapter 4. Pleadings
 - § [4-2](#). Signing of pleadings
 - (b). The signing of any pleading, motion, objection or request shall constitute a certificate that the signer has read such document, that to the best of the signer's knowledge, information and belief there is good ground to support it, and that it is not interposed for delay, and that the signer has complied with the requirements of Section 4-7 regarding personal identifying information. Each pleading and every other court-filed document signed by an attorney or party shall set forth the signer's telephone number and mailing address.
 - Chapter 10. Pleadings
 - § [10-5](#). Untrue allegations or denials
 - Chapter 24. Small Claims
 - § [24-33](#). Costs in small claims ([See: Table 2](#))
 - Chapter 85. Sanctions [*Rules of Appellate Procedure*]
 - § [85-2](#). Other actions subject to sanctions
 - (5). Presentation of a frivolous appeal or frivolous issue on appeal

§ [85-3](#). Procedure on sanctions

RULES OF PROFESSIONAL CONDUCT:

Amendments to the Rules of Professional Conduct are published in the [Connecticut Law Journal](#) and posted [online](#).

- [Rules of Professional Conduct](#)

- [Rule 3.1](#). Meritorious Claims And Contentions

- "A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. . . ."

- [Comment to Rule 3.1](#)

- "The filing of an action or defense or similar action taken for a client is not frivolous merely because the facts have not first been fully substantiated or because the lawyer expects to develop vital evidence only by discovery. What is required of lawyers, however, is that they inform themselves about **the facts of their clients' cases and the applicable law** and determine that they can make good faith arguments in support **of their clients' positions. Such action** is not frivolous even though the lawyer believes that the **client's position ultimately** will not prevail. The action is frivolous, however, if the lawyer is unable either to make a good faith argument on the merits of the action taken or to support the action taken by a good faith argument for an extension, modification or reversal of existing law."

FORMS:

- *2 Am Jur Pleading & Practice Forms* Appeal and Error, Thomson West, 2019 (Also available on Westlaw).
 - § 21 Affidavit—Appeal not taken for purpose of delay,
 - § 350 Complaint, petition, or declaration—Undertaking on appeal from money judgment—Dismissal of appeal—Sanctions awarded for frivolous appeal or appeal taken solely for delay
- *23A Am Jur Pleading & Practice Forms* Torts, Thomson West, 2014 (Also available on Westlaw).
 - § 8 Complaint, petition, or declaration—Intentional interference with business—Baseless lawsuits to force abandonment of lease
- *19C Am Jur Pleading & Practice Forms* Pleading, Thomson West, 2019 (Also available on Westlaw).
 - § 300 Motion—Allegation—Frivolous matter
 - § 426 Motion—For judgment on the pleadings—Sham and frivolous defense.

CASES:

- [Chief Disciplinary Couns. v. Burbank](#), 195 Conn. App. 416, 435, 224 A.3d 1185 (2020) cert. denied, 335 Conn. 906, 226 A.3d 707 (2020), and cert. denied sub nom. *Burbank v. Connecticut Off. of Chief Disciplinary Couns.*, 141 S. Ct. 1059, **208 L. Ed. 2d 526 (2021)**. "The petitioner notes that the respondent has provided no direct authority that his presentation of legal issues that the Maine Supreme Judicial

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Court found to be 'meritless,' 'frivolous,' and 'devoid of legal authority to support them,' was protected speech exempt from the application of disciplinary rules, or that his status as a self-represented party should have precluded any finding that he violated the Rules of Professional Conduct. On the basis of the briefing and record provided, we conclude that the respondent's arguments are unpersuasive and, for the reasons that follow, the court's finding that the respondent failed to meet his burden of demonstrating a defense to the Maine disciplinary proceeding by clear and convincing proof **was not clearly erroneous."**

- Caires v. JP Morgan Chase Bank, N.A., Superior Court, Judicial District of Stamford/Norwalk at Stamford, No. FSTCV096002651S (Mar. 10, 2020) (2020 WL 1893448). **"At this juncture (if not much earlier), the claims by the plaintiff have become redundant and frivolous. Any subsequent appeal by the plaintiff can only be for purposes of delay. Furthermore, the due administration of justice requires such a prospective termination. In connection there with, this court has considered the factors set forth in *Griffin Hospital v. Commissioner of Hospitals*, 196 Conn. 451, 458 (1985) in balancing the equities of the parties. This court believes that further appeals by the plaintiff raising the same issues which have already been decided would likely suffer the same adverse result. Further, prospective termination of an appellate stay would not cause the plaintiff irreparable harm. Its consequences would be largely financial in nature which could be rectified should the plaintiff ultimately prevail in any pre-existing appeals. Conversely, it is the defendant which has sustained direct harm as a result of the plaintiff's incessant and meritless pleadings and appeals. The defendant has been obliged to incur costs to defend against the plaintiff's tactics of delay, and over these past ten years it has been forced to carry an ever increasing unproductive loan. On a still larger stage, it is the judicial system, designed to protect all litigants, which has been compromised by having its resources continuously stretched by this single case."**
- Deutsche Bank Nat'l Tr. Co. v. Speer, Superior Court, Judicial District of New London at New London, No. CV-11-6011364 (Sept. 29, 2016) (2016 WL 6393610) (2016 Conn. Super. LEXIS 2513), aff'd and remanded, 172 Conn. App. 905, 159 A.3d 240 (2017). **"This court finds that the appellant defendant has taken this appeal solely for delay and that the due administration of justice requires a termination of the stay automatically entered by this appeal.**

Here, for reasons that were discussed in multiple decisions in the underlying foreclosure case, the defendant has not demonstrated any merit to her arguments or defenses that were asserted. She has not provided the court with any evidentiary information that might support those claims or have prevented the entry of a summary judgment motion. The case has been pending for more than five years. In this time the defendant has continued to collect rents and the

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plaintiff has incurred expenses for the payment of taxes on the property to avoid the incurring of interest on those obligations that are prior in right to its mortgage. The debt, which has not been directly contested far exceeds the value of the property which the plaintiff is seeking to foreclose. The equities therefore support the plaintiff's position. Further, the court finds there is a public interest in the due administration of justice and the defendant procedural practice and motion practice has abused a system designed to deliver justice to all parties before it."

- [Covey Meadow Common, LLC v. The Burlington Academy of Learning, LLC](#), Superior Court, Judicial District of New Britain at New Britain, No. NBSP051029 (December 23, 2010) (2010 WL 6486969) (2010 Conn. Super. LEXIS 3447). "Bad faith is defined as the opposite of good faith, generally implying a design to mislead or to deceive another, or a neglect or refusal to fulfill some duty or some contractual obligation not prompted by, an honest mistake as to one's rights or duties. Bad faith does not imply bad judgment or negligence, but rather it implies the conscious doing of a wrong because of dishonest purpose or moral obliquity. It contemplates a state of mind affirmatively operating with furtive design or ill will. (Internal quotation marks omitted.) *Hutchinson v. Farm Family Casualty Insurance Co.*, 273 Conn. 33, n.4, 867 A.2d 1 (2005), citing *Buckman v. People's Express, Inc.*, 205 Conn. 166, 171, 530 A.2d 596 (1987)."
- [Ostapowicz v. J.M. Equipment & Transp., Inc.](#), Superior Court, Judicial District of Hartford at Hartford, No. HHDCV066000866S (October 4, 2010) (2010 WL 4351737) (2010 Conn. Super. LEXIS 2513). "**Our Supreme Court has adopted a definition of a 'frivolous action' set forth in an earlier version of the commentary to the rule. The commentary, in effect in 1988, stated: 'The action is frivolous, however, if the client desires to have the action taken primarily for the purpose of harassing or maliciously injuring a person or if the lawyer is unable either to make a good faith argument on the merits of the action taken or to support the action taken by a good faith argument for an extension, modification or reversal of existing law.'** Practice Book, 1986, Rule 3.1, Comment. In *Texaco, Inc. v. Golart*, 206 Conn. 454, 465 (1988), the Court held: '**We hereby adopt this test, and further hold that the burden of proof lies on the moving party to establish the frivolity of the appeal.'**"
- [Ameriquest Mortgage Company v. Donata DeLulio](#), Superior Court, Judicial District of New London at New London, No. CV-04-0569629 (December 23, 2008) (2008 WL 5540456) (2008 Conn. Super. LEXIS 3307). "The history of this case shows, and the court so finds as claimed by the plaintiff, that defendant has repeatedly engaged in dilatory tactics. Throughout the course of the underlying litigation, Defendant: (1) raised vague and unsupported claims, (2) twice moved to open judgment, (3) engaged in settlement negotiations that in retrospect were a sham, as she had no intention of

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complying with the terms to which she had agreed, (4) requested numerous extensions of the trial date, (5) requested numerous extensions of filing deadlines, (6) requested numerous extensions of court hearings, and (7) filed an appeal and subsequently failed to pursue that appeal diligently.

The due administration of justice likewise mandates that any stay be lifted.

Even where a party is *pro se*, courts will terminate a stay if the history of the case indicates that the appeal was taken only for delay and would frustrate the due administration of justice. See *Hill v. Hill*, Superior Court, judicial district of Fairfield at Bridgeport, Docket No. FA 91 0374254 (January 8, 2001, Dewey, J.)."

- [Brunswick v. Statewide Grievance Comm.](#), 103 Conn. App. 601, 614, 931 A.2d 319 (2007). "Accordingly, a claim or defense is frivolous (a) if maintained primarily for the purpose of harassing or maliciously injuring a person, (b) if the lawyer is unable either to make a good faith argument on the merits of the action, or (c) if the lawyer is unable to support the action taken by a good faith argument for an **extension, modification or reversal of existing law....** In [Schoonmaker v. Lawrence Brunoli, Inc.](#), 265 Conn. 210, 255, 828 A.2d 64 (2003), the court indicated that the test is an objective one. Accord 2 G. Hazard & W. Hodes, *The Law of Lawyering* (3d Ed. Sup.2007) § 27.12 ('[r]ule 3.1 adopts an objective as opposed to a subjective standard'); J. MacFarlane, 'Frivolous Conduct Under Model Rule of Professional Conduct 3.1,' 21 J. Legal Prof. 231 (1997) (same); 2 Restatement (Third), Law Governing Lawyers § 110, comment (d), p. 172 (2000) ('frivolous position is one that a lawyer of ordinary competence would recognize as so lacking in merit that there is no substantial possibility that the tribunal would accept it')."
- [Costanzo v. Mulshine](#), 94 Conn. App. 655, 665 (2006). "Fifteen years ago, in *Burns v. Bennett*, 220 Conn. 162, 595 A.2d 877 (1991), our Supreme Court considered the purposes behind the statute permitting an award of attorney's fees to a prevailing plaintiff on a case transferred from small claims court by a defendant. The court stated: 'Section 52-251a . . . creates a substantial and effective disincentive for a defendant who might otherwise raise defenses bordering on the frivolous in an effort to gain a tactical advantage over a plaintiff by obtaining a transfer of a **case from the Small Claims division.**' *Id.*169. This court recently applied that interpretation to a case in affirming an award of attorney's fees that was ten times the amount in **dispute. We stated that '[t]he very purpose of § 52-251a is to deter . . . defendants from transferring a case from the small claims session and turning a relatively clear-cut case into a pitched legal battle.'** *Krack v. Action Motors Corp.*, supra, 87 Conn. App. [687,] 697[2005]."

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- [Krack v. Action Motors Corp.](#), 87 Conn. App. 687, 697, 867 A.2d 86 (2005). "The very purpose of § 52-251a is to deter similarly situated defendants from transferring a case from the small claims session and turning a relatively clear-cut case into a pitched legal battle. The defendant claims that the court's award was punitive, and that is not entirely untrue. As **stated by our Supreme Court:** 'Section 52-251a thus creates a substantial and effective disincentive for a defendant who might otherwise raise defenses bordering on the frivolous in an effort to gain a tactical advantage over a plaintiff by obtaining a transfer of a case from the Small Claims division.'" (Citations omitted; internal quotation marks omitted).
- [Burritt Mut. Sav. Bank of New Britain v. Tucker](#), 183 Conn. 369, 373, 439 A.2d 396 (1981). "Courts have an inherent power to disregard sham or frivolous pleadings which have been interposed for the purpose of thwarting the orderly progress of a case."
- [Town Bank & Trust Co. v. Benson](#), 176 Conn. 304, 307-308, 407 A.2d 971 (1978). "Summary judgment procedure, generally speaking, is an attempt to dispose of cases involving sham or frivolous issues in a manner which is speedier and less expensive for all concerned than a full-dress trial."

WEST KEY NUMBERS:

- Action
 - # 8. Frivolous or collusive action
 - # 9. Unnecessary or vexatious actions
- Attorneys and Legal Services
 - XIII. Standards of professional conduct; ethical obligations—Particular standards and obligations—In general—Conduct as to courts and administration of justice in general*
 - #744. Meritorious claims and contentions
 - XVI. Liability of attorneys for litigation costs and sanctions—Grounds for imposition*
 - # 1238. Unwarranted, groundless, or frivolous papers or claims
- Costs, Fees, and Sanctions
 - III. Awards of costs and fees—A. In general; Grounds and factors considered—Meritless or bad-faith litigation*
 - # 661. In general
 - # 662. Frivolousness
 - # 663. Particular litigation conduct
 - V. Costs and fees in criminal proceedings—On appeal or other review—Indigence; Proceedings in forma pauperis*
 - # 1154. In general; right to allowance
 - # 1155. Frivolous or futile appeals; good faith

VI. Sanctions—Sanctions on appeal or other review—
Grounds

1367. Frivolousness or delay in general

- Pleading
 - # 358. Frivolous pleading
 - # 359. Sham answer or defense
- *LexisNexis Practice Guide: Connecticut Civil Pretrial Practice*, Margaret Penny Mason, editor, 2022 ed., LexisNexis.
Chapter 19. Sanctions
 - § 19.02. Topical Overview of Sanctions
 - § 19.03. Sanctions Under Practice Book Sec. 4-2
 - § 19.04. Sanctions for Untrue Allegations or Denials in Pleadings
 - § 19.05. Sanctions for Filing a Frivolous Action
- 1 *Dupont on Connecticut Civil Practice*, by Ralph Dupont, 2022-2023 ed., LexisNexis.
 - § 10-5. Untrue allegations or denials
 - § 10-5.1. Sanctions
 - § 10-5.2. Sanctions taxed as costs
 - Appealing from sanctions
 - § 10-5.3. Sanctions imposed on attorneys
- 2 *The Law of Lawyering*, 4th ed., by Geoffrey C. Hazard, Jr. et al., Wolters Kluwer, 2015, with 2021-1 Supplement.
Chapter 30 Meritorious Claims and Contentions
 - A. Model Rule 3.1
 - B. Rule 11 of the Federal Rules of Civil Procedure and Other Devices to Deter Abusive Litigation Practices
 - C. Frivolousness and Good Faith Under the Model Rules of Professional Conduct
- *Professional Responsibility in Litigation*, 2d., by Douglas R. Richmond et al., American Bar Association, 2016.
Chapter 1. Pre-Suit Investigation and the Pursuit of Frivolous Claims
 - I. Introduction and Overview
 - II. The Ethical Prohibition Against Pursuing Frivolous **Claims and Lawyers' Duty to Investigate**
 - III. **Ethical Restrictions Affecting Lawyers' Ability to Investigate Clients' Claims or Contentions**
 - IV. Other Liability Concerns Arising from the Pursuit of Frivolous ClaimsChapter 15. Ethics on Appeal
 - IV. Frivolous Appeals and Other Bad Faith Litigation
 - V. **Lawyers' Ethical Duties to Avoid Delay and Expedite Litigation**
- 2 *Restatement (Third), The Law Governing Lawyers*, American Law Institute Publishers, 2000, with 2022 supplement (also available on Westlaw).
Chapter 7. Representing Clients in Litigation
 - Topic 2. Limits on Advocacy
 - § 110. Frivolous Advocacy

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.

- *An Introduction to Professional Responsibility*, by Nathan M. Crystal, Aspen Law & Business, 1998.
Chapter 5. Zealousness and Its Limitations

ENCYCLOPEDIAS:

- 1A *CJS Actions*, Thomson West, 2016, with 2022 supplement (Also available on Westlaw).
§ 72. Unnecessary, vexatious, or frivolous actions
- 61A *Am Jur 2d Pleading*, Thomson West, 2021, with 2022 supplement (Also available on Westlaw).
§ 32. Sham and frivolous pleadings
§ 379. Striking sham or frivolous pleadings
§ 386. Ruling on motion to strike sham or frivolous pleading
- 45 *A.L.R.6th 493, Validity, Construction, and Application of State Vexatious Litigant Statutes*, by Robin Miller, Thomson West, 2009, with 2018 Supplement (Also available on Westlaw).
- 85 *A.L.R.4th 544, Bringing a Frivolous Civil Claim or Action as Ground for Discipline of Attorney*, by Susan L. Thomas, Thomson West, 1991 (Also available on Westlaw).
- 91 *A.L.R.3d 661, Award of Damages for Dilatory Tactics in Prosecuting Appeal in State Court*, Thomson West, 1979 (Also available on Westlaw).

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

- Michael Darlinga, *The Frivolous Litigation Narrative: Web of Deception or Cautionary Tale?*, 36 Review of Litigation 711 (2018).
- Michael P. Stone, *The Impact of Frivolous Lawsuits on Deterrence: Do They Have Some Redeeming Value?*, 10 Journal of Law, Economics & Policy 301 (2014).
- ***Straight Talk About 'Frivolous' Lawsuits***, 42 Trial 11 (December 2006).
- Mark Fass, *New York Court Boosts Sanctions Over 'Entirely Frivolous' Appeal*, New Jersey Law Journal (July 17, 2006).
- Bruce A. Green, *Selectively Disciplining Advocates*, 54 Connecticut Law Review 151 (March 2022).

Table 1: Frivolous Actions

Frivolous Actions in Connecticut State and Federal	
Appeal (State)	<p>"Finally, we consider the plaintiff's renewed motion for sanctions for a frivolous appeal, and its request for attorney's fees incurred in defending the appeal. Deciding the motion as a matter of first impression, we find that the defendants' appeal was not frivolous." Texaco, Inc. v. Golart, 206 Conn. 454, 463, 538 A.2d 1017 (1988).</p>
In forma pauperis actions (Federal)	<p>"Under 28 U.S.C. § 1915(e)(2)(B), 'the court shall dismiss the case at any time if the court determines that ... the action ... is frivolous or malicious, ... fails to state a claim on which relief may be granted; or ... seeks monetary relief against a defendant who is immune from such relief.' 28 U.S.C. §§ 1915(e)(2)(B)(i)-(iii). An action is 'frivolous' within the meaning of § 1915(e)(2)(B)(i) 'when either: (1) the factual contentions are clearly baseless, such as when allegations are the product of delusion or fantasy; or (2) the claim is based on an indisputably meritless legal theory ... [i.e.,] either the claims lacks an arguable basis in law or a dispositive defense clearly exists on the face of the complaint.'" McCulley v. Chatigny, 390 F.Supp.2d 126, 129 (D. Conn. 2005).</p>
Federal Rules of Civil Procedure, Rule 11	<p>"In establishing the requisite element of lack of probable cause, reference must be made to the definition existing at the time of the enactment of § 1983. At that time, probable cause was defined as follows:</p> <p style="padding-left: 40px;">Probable cause--or, as the expression oftener is, reasonable and probable cause--is any such combination of facts and proofs as may fairly lead the reasonable mind to the belief (and the person relying on it must believe) that, in the absence of hitherto unknown qualifying or rebutting evidence, the prosecution or other suit ought to be successful.</p> <p>... It is interesting to note that a more modern definition of probable cause to initiate civil proceedings incorporates similar elements:</p> <p>One who takes an active part in the initiation, continuation or procurement of civil proceedings against another has probable cause for doing so if he reasonably believes in the existence of the facts upon which the claim is based, and either</p> <p style="padding-left: 40px;">(a) correctly or reasonably believes that under those facts the claim may be valid under the applicable law, or</p> <p style="padding-left: 40px;">(b) believes to this effect in reliance upon the advice of counsel, sought in good faith and given after full disclosure of all relevant facts within his knowledge and information." Pinsky v. Duncan, 79 F.3d 306, 312 (2nd Cir. 1996).</p>

Table 2: Costs in Small Claims

Costs in Small Claims Conn. Practice Book § 24-33 (2023)	
Conn. Practice Book § 24-33 (2023)	The actual legal disbursements of the prevailing party for entry fee, witness' fees, execution fees, fees for copies, fees of an indifferent person, and officers' fees shall be allowed as costs. No other costs shall be allowed either party except by special order of the judicial authority. The judicial authority shall have power in its discretion to award costs, in a sum fixed by the judicial authority, not exceeding \$100 (exclusive of such cash disbursements, or in addition thereto) against any party, whether the prevailing party or not, who has set up a frivolous or vexatious claim, defense or counterclaim, or has made an unfair, insufficient or misleading answer, or has negligently failed to be ready for trial, or has otherwise sought to hamper a party or the judicial authority in securing a speedy determination of the claim upon its merits, and it may render judgment and issue execution therefor, or set off such costs against damages or costs, as justice may require. In no case shall costs exceed the amount of the judgment. (Emphasis added.)

Table 3: Small Claims Transferred to Regular Docket

Costs, Attorney's Fees on Small Claim Matters Transferred to Regular Docket	
Conn. Gen. Stat. § 52-251a (2021)	"Whenever the plaintiff prevails in a small claims matter which was transferred to the regular docket in the Superior Court on the motion of the defendant, the court may allow to the plaintiff his costs, together with reasonable attorney's fees to be taxed by the court."