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DHAMEER BRADLEY ET AL. *v.*
NIKKI YOVINO ET AL.
(AC 45040)

Prescott, Cradle and DiPentima, Js.

Syllabus

The plaintiff B sought damages from the defendant university, claiming that the university had breached its contractual obligations under the student handbook when it suspended B, then a student, after the university was informed by the police that he was under investigation for an alleged sexual assault of a fellow student, Y, without having first determined the veracity of the allegations against him. Although B was cleared of any wrongdoing and eventually was allowed to resume his academic studies and graduate, B claimed that he suffered monetary damages as a result of losing his football scholarship and academic credit while on suspension. During discovery, the university disclosed information regarding a prior unsubstantiated rumor of sexual misconduct by B involving someone other than Y, after the depositions of two university employees, W and C, had already been conducted. B filed a motion to compel a second round of depositions of W and C, arguing that the information was disclosed late, was responsive to his discovery requests, and highly relevant to the prosecution of his case. The university responded by filing a motion for a protective order and an objection to the motion to compel, as well as a motion for summary judgment. B thereafter filed a motion for an extension of time to respond to the motion for summary judgment, arguing that the resolution of the discovery dispute regarding the second round of depositions would assist his opposition to the motion for summary judgment. Subsequently, the trial court denied B's motion for an extension of time, sustained the university's objection to his motion to compel the second round of depositions and granted the university's motion for a protective order. Thereafter, the trial court granted the university's motion for summary judgment, which was unopposed by B, and rendered judgment in favor of the university. The trial court thereafter denied the plaintiff's motion to reargue. On B's appeal to this court, *held*:

1. B could not prevail on his claim that the trial court abused its discretion in denying his motion to compel a second round of depositions of W and C and his related motion for an extension of time: B failed to provide this court with an adequate record from which it could conclude that the documents regarding a rumor of prior sexual misconduct were responsive to an outstanding discovery request such that the university failed to timely disclose them, the discovery requests with which B asserts the university failed to comply were not contained in either the trial court record or the appellate record, despite B having had numerous opportunities to make or supplement those records, and B did not provide any support for his claim during oral argument before this court that the rumor documents were responsive to any particular discovery request; moreover, B could not prevail on his claim that he was harmed by his inability to further depose W and C, as he failed to establish that an opportunity to conduct a second round of depositions was reasonably likely to have affected the court's decision to render summary judgment against him, B's theory of liability rested on the alleged contract between the university and himself as provided by the student handbook and the university's purported obligation to investigate the truthfulness of Y's accusation of sexual assault before making a determination as to whether to suspend B from the university, and B never alleged in his complaint or amended his complaint to include claims that the university's awareness of facts related to an unsubstantiated rumor of prior sexual misconduct played any role in the university's decision to suspend him immediately and without investigation, and, therefore, facts relating to the rumor of prior sexual misconduct had little to no bearing on B's breach of contract claim as pleaded and would not have raised a genuine issue of material fact that would have defeated summary judgment in favor of the university.

2. This court concluded that the trial court's procedural error in granting the university's motion for summary judgment without hearing oral argument on that motion pursuant to the applicable rule of practice (§ 11-18) was harmless: although B's right to oral argument was improperly denied because the court adjudicated the motion for summary judgment without providing the parties with an opportunity to mark the motion according to the schedule set forth in the short calendar on which the motion appeared, B could not demonstrate that such error likely affected the court's decision rendering summary judgment as to his breach of contract claim against the university; moreover, the university met its initial burden in establishing that there was no genuine issue of material fact that the university had breached its contract by suspending B without investigating the allegations of sexual misconduct against him, the university's dean of students, in relying on the clear contractual language in the student handbook, was authorized to suspend students immediately to preserve the benefit and welfare of the university community and to suspend students facing allegations of serious criminal activity without first investigating the allegations against them, and, accordingly, the burden then shifted to B to show, on the basis of the timely submission of evidentiary materials, that a genuine issue of material fact existed in order to defeat the university's motion, which B failed to do during the six month period the motion was pending and, thus, in light of the procedural posture and this court's independent review of the record, oral argument on the university's motion for summary judgment likely would not have resulted in a decision other than the one granting the motion in favor of the university.
3. B could not prevail on his claim that the trial court abused its discretion in denying his motion to reargue his motion to compel and the summary judgment rendered against him on the ground that the court subsequently granted the motion to reargue filed by a second plaintiff, H, despite both motions to reargue having the same legal arguments and the court's failure to provide an explanation for this alleged disparate treatment: because this court determined that the trial court did not err in denying B's motion to compel and rendering summary judgment against him, there was no abuse of its discretion in denying the motion to reargue; moreover, although the trial court denied B's motion without articulating the basis for its decision, B, having the burden to establish that the trial court abused its discretion, failed to file a motion for articulation pursuant to the relevant rule of practice (§ 66-5); furthermore, the record sufficiently demonstrated that B's and H's cases were in different procedural positions, specifically, the trial court denied B's motion for an extension of time prior to rendering summary judgment against him, but the court had not denied H's motion for an extension of time prior to rendering summary judgment against H, and, accordingly, the trial court's dissimilar treatment of B's and H's motions for reargument was insufficient for this court to conclude that the trial court's denial of B's motion was a miscarriage of justice.

Argued November 10, 2022—officially released March 7, 2023

Procedural History

Action to recover damages for, inter alia, an alleged breach of contract, brought to the Superior Court in the judicial district of Fairfield, where the trial court, *Jacobs, J.*, denied the named plaintiff's motion for extension of time to respond to the motion for summary judgment filed by the defendant Sacred Heart University, Inc.; thereafter, the court granted the motion for protective order filed by the defendant Sacred Heart University, Inc., and sustained its objection to the named plaintiff's motion to compel a second round of depositions; subsequently, the court, *Jacobs, J.*, granted the motion for summary judgment filed by the defendant Sacred Heart University, Inc., as to the named plaintiff's revised complaint and rendered judgment thereon; thereafter, the court, *Jacobs, J.*, denied the named plaintiff's motion for reargument, and the named

plaintiff appealed to this court. *Affirmed.*

Jeffrey M. Cooper, for the appellant (named plaintiff).

James M. Sconzo, with whom was *Brendan N. Gooley*, for the appellee (defendant Sacred Heart University, Inc.).

Opinion

PRESCOTT, J. This appeal arises out of an action brought by the plaintiffs, Dhameer Bradley and Malik St. Hilaire, two former students of the defendant Sacred Heart University, Inc. (university), against the university and the defendant Nikki Yovino. Yovino, a fellow student at the university, accused the plaintiffs of sexually assaulting her but later recanted her allegations and pleaded guilty to the charges of falsely reporting an incident in the second degree in violation of General Statutes § 53a-180c and interfering with an officer in violation of General Statutes § 53a-167a. In this action, the plaintiffs allege that Yovino committed various torts against them by falsely accusing them of sexual assault and that the university breached its contract with them in the manner in which it conducted an investigation into Yovino's accusations and by suspending them from the university.¹

Bradley appeals from the summary judgment of the trial court rendered in favor of the university as to the count of the complaint brought by him against the university.² On appeal, he claims that the court improperly (1) denied his motion to compel a round of second depositions of certain university employees and his related motion for an extension of time to respond to the university's motion for summary judgment,³ (2) rendered summary judgment against him without permitting oral argument on the university's motion in violation of Practice Book § 11-18, and (3) denied his motion for reargument of his motion to compel and the summary judgment rendered against him. We conclude that the court did not abuse its discretion by denying Bradley's motion to compel a second round of depositions or his motion for an extension of time. We also conclude that, although the court improperly deprived the plaintiff of oral argument pursuant to Practice Book § 11-18, that error was harmless because, in light of the procedural posture of this case, there is not a reasonable probability that oral argument would have resulted in the trial court denying the motion for summary judgment. Finally, we conclude that the court did not abuse its discretion by denying Bradley's motion for reargument.⁴ Accordingly, we affirm the summary judgment rendered against Bradley and in favor of the university.

The record reveals the following relevant facts and procedural history. On Saturday, October 15, 2016, Bradley, St. Hilaire, and Yovino attended an off campus party in Bridgeport. During the party, Bradley and St. Hilaire engaged in sexual intercourse with Yovino in a bathroom.⁵ After leaving the bathroom, Yovino told her friends who were with her at the party that Bradley and St. Hilaire had sexually assaulted her. Early Sunday morning, Yovino and her friends went to St. Vincent's Medical Center in Bridgeport, and Yovino reported the sexual assault to hospital staff. Hospital staff performed

a sexual assault examination and contacted the police. At the hospital, Yovino gave a statement to a police officer alleging that she was sexually assaulted by Bradley and St. Hilaire.

On October 17, 2016, the following Monday, a detective from the Bridgeport Police Department, Walberto Cotto, Jr., informed the university's dean of students, Larry Wielk, that, over the weekend, Yovino had reported that she was sexually assaulted by Bradley and St. Hilaire. Cotto also informed Wielk that an investigation into the alleged sexual assault was underway.⁶

The next day, Wielk approached Bradley on campus and informed him that, on the basis of allegations of sexual assault that had been made to the Bridgeport Police Department, he was suspended from the university. The suspension barred Bradley from participating in any university classes or sponsored events, and from playing on the football team of which Bradley was a member. He was permitted, however, to maintain contact with his professors through email.⁷

On the advice of counsel, Bradley withdrew from the university on November 4, 2016, which caused him to lose his football scholarship. The university later reinstated Bradley as a student, and he returned to complete his studies, graduating in December, 2018. His scholarship to play football, however, was not restored.

Bradley and St. Hilaire subsequently commenced the underlying action. In addition to Bradley's claims against Yovino, his operative complaint contains a single count by Bradley against the university sounding in breach of contract.⁸ Bradley pleaded that the student handbook obligates the university and its officials to treat Bradley with "respect, dignity, and compassion" and mandates that "a presumption of guilt should not be made as a result of any allegations." Bradley alleged that the university's student handbook, which includes a policy on sexual misconduct, created a contract between the university and its students. Bradley further alleged that the university breached that contract by immediately suspending Bradley on the basis of an uncorroborated accusation of sexual assault by a fellow student and without any prior investigation by the university into the allegation. By way of relief, Bradley requested monetary damages to compensate him for the loss of his football scholarship and academic credits that Bradley forfeited due to his withdrawal from the university.

According to the court's scheduling orders, all disclosures pertaining to written discovery requests were due on March 30, 2020, and all depositions of fact witnesses and parties were to be completed by January 31, 2021. On November 17, 2020, the university disclosed additional documents that purportedly came to the university's attention in late October, 2020. The email sent to

Bradley disclosing the documents stated: “We recently obtained the attached documents, which may be responsive to the discovery requests and/or may be relevant evidence.” The newly disclosed documents included notes taken by Leonora P. Campbell, the university’s Title IX coordinator, regarding a rumored sexual assault that purportedly was committed by Bradley prior to the incident involving Yovino (prior rumor documents). The rumored sexual assault had been brought to the attention of the university’s football coach, Mark Nofri, by students who had heard of the alleged sexual assault from a third party. Neither the name of an alleged victim nor the name of any third party that informed the students of a possible sexual assault were ever disclosed to, or identified by, university employees.

Following the disclosure of the prior rumor documents, on January 8, 2021, Bradley filed a motion to compel a second round of depositions of Wielk and Campbell, who previously had been deposed on March 3, 2020, and March 5, 2020, respectively. Bradley argued that a second round of depositions was warranted because of the university’s late disclosure of the prior rumor documents, which he asserted were responsive to his discovery requests and highly relevant to the case. In support of his motion, Bradley attached excerpts from Campbell’s previous deposition, the email sent by the university disclosing the prior rumor documents, and the prior rumor documents. Bradley did not attach any of his prior discovery requests to demonstrate that the prior rumor documents were in fact responsive to any discovery requests he had served on the university. On January 18, 2021, the court marked off Bradley’s motion to compel without prejudice to reclaiming it and instructed Bradley and the university to confer in good faith to resolve or narrow the disputes.

On January 21, 2021, the university filed a motion for a protective order and an objection to Bradley’s motion to compel a second round of depositions. In its motion for a protective order and objection, the university argued that the principles of equity and fairness should preclude a second round of depositions.

On February 1, 2021, the university filed a motion for summary judgment with respect to Bradley’s breach of contract claim, accompanied by a memorandum of law in support of the motion. On March 4, 2021, Bradley filed a motion for an extension of time to respond to the motion, in which he adopted the arguments set forth in St. Hilaire’s motion for extension of time, namely, that there remained an unresolved discovery dispute over Bradley’s motion to compel a second round of depositions and that this evidence would help him oppose the university’s motion for summary judgment.⁹ The university filed an objection to Bradley’s motion for an extension of time and filed a renewed motion

for a protective order and objection to Bradley's motion to compel additional depositions.

Bradley subsequently filed case flow requests asking the court to clarify a schedule for resolving the university's motion for summary judgment in light of his pending motion for an extension of time. On May 3, 2021, a status conference was held, off the record, to address Bradley's case flow requests and set deadlines for the parties to submit all motions and memoranda relating to the discovery dispute, prior to the court ruling on the university's motion for summary judgment. The university and Bradley agreed that, on the basis of the discussions at the status conference, any motions and memoranda in favor of a second round of depositions were to be filed by May 11, 2021, and any opposition to a second round of depositions was to be filed by May 18, 2021.

According to this agreed upon schedule, Bradley filed a memorandum of law in support of his motion to compel a second round of depositions of Campbell and Wielk on May 7, 2021. Bradley primarily incorporated his arguments from his previous motions to compel and argued that additional depositions were necessary to inquire into their knowledge of the prior rumor. On May 18, 2021, the university filed a motion for a protective order and objection to Bradley's motion to compel a second round of depositions of Wielk and Campbell. The university's motion primarily incorporated its arguments from its previous motions for protective orders and objections on the matter but also argued that the prior rumor documents were not responsive to Bradley's discovery requests and, therefore, their disclosure did not justify additional depositions.

Two days after all motions, objections, and memorandum were due, the court, on May 20, 2021, denied Bradley's motion for an extension of time.¹⁰ On July 15, 2021, the court sustained the university's renewed objection to Bradley's motion to compel a second round of depositions of Wielk and Campbell and granted the university's motion for a protective order, effectively denying Bradley's motion to compel.¹¹

Bradley did not file an objection to the motion for summary judgment by March 15, 2021, the date he was required to do so by the court's scheduling order, and he never received any additional extensions of time. On July 26, 2021, the court granted the university's unopposed motion for summary judgment directed at Bradley's breach of contract count. In granting the motion for summary judgment, the court concluded that the student handbook created an enforceable contract between the university and its students but that the handbook authorized the university's immediate suspension of students facing allegations of serious criminal activity without further investigation. The court also concluded that the affidavit from Wielk, which the uni-

iversity submitted in support of its motion for summary judgment, evidenced that Wielk had suspended Bradley only after learning that he was facing an allegation of serious criminal activity. For these reasons, and in light of the lack of contrary evidence, the court concluded that there was no genuine issue of material fact as to whether the university breached its contract with Bradley by suspending him. Accordingly, the court rendered summary judgment in favor of the university.

Bradley subsequently filed a motion for reargument, arguing that the court should reconsider its denial of his motion to compel because the court abused its discretion in declining to permit additional depositions in light of the fact that he did not have the prior rumor documents at the time the first depositions were conducted. Bradley also argued that the motion for summary judgment was granted in violation of Practice Book § 11-18 because Bradley had not been provided an opportunity for oral argument. The university filed an objection to Bradley's motion for reargument and, on October 12, 2021, the court denied Bradley's motion for reargument without further explanation.¹² This appeal followed. Additional facts will be set forth as necessary.

I

We first consider Bradley's argument that the court abused its discretion by effectively denying his motion to compel a second round of depositions of Wielk and Campbell and his related motion for an extension of time to respond to the university's motion for summary judgment. Bradley argues that the court should have granted the motions because of the university's purportedly late disclosure of the prior rumor documents. In response, the university argues that the court did not abuse its discretion because the prior rumor documents were not responsive to Bradley's discovery requests and, therefore, it did not disclose them "late." Alternatively, the university argues that, even if the court had granted Bradley's motion to compel and motion for an extension of time, further depositions would not have helped him establish that the university breached the student handbook and, in turn, would not have aided him in opposing the university's motion for summary judgment. We agree with the university and conclude that, because Bradley has failed to identify the discovery request, if any, to which the prior rumor documents were responsive, Bradley cannot establish that the court abused its discretion by denying his motions to compel and for an extension of time. Even if we were to conclude that the court abused its discretion, which it did not, Bradley was not harmed by his inability to conduct a second round of depositions of Wielk and Campbell regarding the prior rumor documents because it would not have likely affected the result.

The relevant standard of review is well established.

“We have long recognized that the granting or denial of a discovery request rests in the sound discretion of the [trial] court, and is subject to reversal only if such an order constitutes an abuse of that discretion. . . . [I]t is only in rare instances that the trial court’s decision will be disturbed. . . . Therefore, we must discern whether the court could [have] reasonably conclude[d] as it did.” (Internal quotation marks omitted.) *Barry v. Quality Steel Products, Inc.*, 280 Conn. 1, 16–17, 905 A.2d 55 (2006). Similarly, a trial court’s denial of a motion for an extension of time to respond to a motion for summary judgment is reviewed for an abuse of discretion. See *Goody v. Bedard*, 200 Conn. App. 621, 626–27, 241 A.3d 163 (2020).

“As with any discretionary action of the trial court, appellate review requires every reasonable presumption in favor of the action, and the ultimate issue for us is whether the trial court could have reasonably concluded as it did. . . . Under an abuse of discretion standard, a court’s decision must be legally sound and [the court] must [have] honest[ly] attempt[ed] . . . to do what is right and equitable under the circumstances of the law, without the dictates of whim or caprice.” (Citations omitted; internal quotation marks omitted.) *Gianetti v. Neigher*, 214 Conn. App. 394, 437–38, 280 A.3d 555, cert. denied, 345 Conn. 963, 285 A.3d 390 (2022). The appellant has the burden to provide this court with a record from which we can review any alleged abuse of discretion. See *Misata v. Con-Way Transportation Services, Inc.*, 106 Conn. App. 736, 744–45, 943 A.2d 537 (2008) (“[i]t is incumbent upon the appellant to take the necessary steps to sustain its burden of providing an adequate record for appellate review” (internal quotations marks omitted)).

“[I]n order to establish reversible error in nonconstitutional claims, the [appellant] must prove both an abuse of discretion and harm” (Internal quotation marks omitted.) *Cunniffe v. Cunniffe*, 141 Conn. App. 227, 235, 60 A.3d 1051, cert. denied, 308 Conn. 934, 66 A.3d 497 (2013). “The harmless error standard in a civil case is whether [an] improper ruling would likely affect the result. . . . In the absence of a showing that the [claimed error] would have affected the final result, its [error] is harmless.” (Internal quotation marks omitted.) *Kalams v. Giacchetto*, 268 Conn. 244, 249–50, 842 A.2d 1100 (2004).

A

We first address whether Bradley has demonstrated that the court abused its discretion in denying his motion to compel and motion for an extension of time. We conclude that he has failed to provide this court with an adequate record from which we can conclude that the prior rumor documents were responsive to an outstanding discovery request such that the university failed to timely disclose them. Therefore, Bradley can-

not demonstrate that the court abused its discretion in denying Bradley's motions to compel and for an extension of time on the basis of the university's alleged delayed disclosure.

The discovery requests with which Bradley asserts the university failed to comply on a timely basis are not contained in the record before the trial court or in the record on appeal. Bradley had numerous opportunities to make or supplement the record by providing the trial court with his discovery requests that purportedly required the university to disclose the prior rumor documents. Bradley repeatedly has failed to provide this information. Bradley first argued, on January 8, 2021, in his motion to compel a second round of depositions, that the prior rumor documents were responsive to discovery requests that he served on the university, which he claimed improperly delayed in disclosing them to him. Bradley also asserted the same claim in his May 7, 2021 memorandum of law. In support of his motions to compel, Bradley attached a copy of the email sent by the university with the prior rumor documents, but he did not provide the court with a copy of the particular discovery request that purportedly required their disclosure. In its email, the university stated only that the documents "may" be responsive to discovery.

In its May 18, 2021 motion for a protective order and objection to Bradley's motion to compel, the university argued that "[t]he documents that Bradley now claims justify second depositions of [Wielk and Campbell] are not responsive to any of Bradley's requests for production." Bradley never subsequently indicated to the trial court which discovery request, if any, required the university to disclose the prior rumor documents.

On appeal, Bradley continues to maintain that the prior rumor documents were responsive to discovery and disclosed late by the university. Bradley, however, again failed to include his discovery requests in the appendix to his brief and has not directed our attention to where they may be found in the record. In his principal brief on appeal, Bradley again does not specify which of his discovery requests required the disclosure of the prior rumor documents. Moreover, even though the university's brief on appeal discussed this lacuna in the record, Bradley entirely failed to respond to this argument in his reply brief. Finally, during oral argument before this court, Bradley's counsel was asked to address the university's argument that the prior rumor documents were not encompassed by Bradley's discovery requests. In response, Bradley's counsel failed to provide any support for his argument that the prior rumor documents were responsive to any particular discovery request. Instead, Bradley's counsel simply directed this court to the email sent by the university with the prior rumor documents, which stated that the documents "may" be responsive.

Because Bradley cannot establish that his discovery requests required the university to disclose the prior rumor documents, he has failed to demonstrate that the university did not disclose responsive documents on a timely basis. Moreover, because Bradley's argument that the court abused its discretion by denying his motions to compel and for an extension of time is based solely on the university's purportedly late disclosure, his claim necessarily fails.

B

Even if we conclude, which we do not, that the court abused its discretion by denying Bradley's motions, we are not persuaded that he was harmed because he has failed to establish that an opportunity to conduct a second round of depositions of Wielk and Campbell was reasonably likely to have affected the court's decision to render summary judgment against him.

It is well established that "[t]he pleadings determine which facts are relevant and frame the issues for summary judgment proceedings or for trial." *White v. Mazda Motor of America, Inc.*, 313 Conn. 610, 621, 99 A.3d 1079 (2014). The gravamen of Bradley's claim, as pleaded in his complaint, is that the university breached its contract by immediately suspending Bradley as a result of Yovino's sexual assault allegations before it investigated those allegations. Specifically, Bradley pleaded in the operative complaint only that "[the university] breached its contract with Bradley as a [university] student when, on October 18, 2016, without any investigation, and based on the unilateral accusation of a Caucasian female student, it immediately suspended [Bradley] . . . and barred him from campus. . . ." In other words, Bradley's theory of liability in this case is that the student handbook constituted a contract between the university and himself and that, in order to avoid breaching that contract, the university was obligated to investigate the truthfulness of Yovino's accusation of sexual assault before making a determination as to whether to suspend Bradley from the university. Bradley never alleged in any of the complaints he filed that the university's awareness of facts relating to unsubstantiated rumors that he previously sexually assaulted another student played any role in the university's decision to suspend him immediately and without investigation after it learned of the sexual assault allegations against Bradley reported by Yovino to the Bridgeport Police Department. In our view, facts relating to the prior rumors have little to no bearing on Bradley's breach of contract claim as pleaded and would not have raised a genuine issue of material fact that would have defeated summary judgment in favor of the university.

Importantly, Bradley had the opportunity to amend his complaint and plead new theories of liability or allege additional facts after learning of the university's

knowledge of the prior rumor, but he failed to do so. Specifically, the university disclosed to Bradley the documents relating to the prior rumor on November 17, 2020. On January 11, 2021, Bradley filed an amended complaint that did not articulate any theory of liability different from the one he previously had pleaded. Nor did he allege that the university had acted improperly or in breach of its contractual obligations because of its knowledge of the unsubstantiated rumors of a prior sexual assault. As we discuss at greater length in part II of this opinion, the student handbook permits the university to suspend a student facing allegations of serious criminal conduct without first investigating the veracity of those allegations. The undisputed facts demonstrate that Yovino made such an allegation and that the university acted in a manner authorized by the student handbook. The existence of a prior rumor and the university's knowledge of it does not vitiate that fact. Accordingly, we are not persuaded that, even if the court should have permitted the additional discovery, Bradley was harmed by his inability to depose further Wielk and Campbell.

II

Bradley next claims that, because a motion for summary judgment is arguable as a matter of right pursuant to Practice Book § 11-18, the court improperly failed to provide him with an opportunity for oral argument before rendering summary judgment.¹³ The university argues, in part, that any procedural error was harmless because the court properly granted its motion for summary judgment and Bradley has failed to demonstrate that oral argument likely would have affected that result. We agree with the university that the court's procedural error was harmless because Bradley has failed to demonstrate, under the circumstances of this case, that oral argument likely would have resulted in the court denying the motion for summary judgment.

The following procedural history is relevant to Bradley's claim. On February 1, 2021, the university filed its motion for summary judgment with respect to Bradley's breach of contract claim. According to the court's scheduling order, any opposition to the motion was due by March 15, 2021. On March 4, 2021, Bradley filed a motion for an extension of time, which was denied on May 20, 2021. The court did not provide an explanation for its order denying the motion, and Bradley did not request an articulation.

On July 20, 2021, after the court resolved the discovery dispute by declining to permit a second round of depositions, the university reclaimed its motion for summary judgment to the short calendar. The motion appeared on the short calendar for August 2, 2021. According to the marking rules found on the short calendar, the dates on which a party was permitted to mark a motion were from July 27, 2021, to July 29, 2021.

Bradley failed to file any opposition to the university's motion for summary judgment between May 20, 2021, the date Bradley's continuance request was denied, and July 20, 2021, when the university reclaimed its motion to the short calendar. Moreover, Bradley did not oppose the motion by filing an affidavit that additional discovery was needed pursuant to Practice Book § 17-47.¹⁴

On July 26, 2021, prior to the date short calendar markings were due, the court granted the university's unopposed motion for summary judgment on count four of Bradley's operative complaint. In rendering summary judgment, the court first determined that the student handbook created an enforceable contract between the university and its students. The court then reviewed the language of the student handbook and the other evidence and affidavits the university submitted in support of its motion. "In his November 1, 2019 affidavit, [Wielk] stated that [o]n October 17, 2016, I met with [Cotto] [and Cotto] told me that [Yovino] . . . reported that two [of the university's] students had sexually assaulted her at an off campus party. [Cotto] . . . informed me that . . . the victim had identified the men as . . . Bradley and . . . St. Hilaire. . . . In [the university's] interim suspension letter, sent by [Wielk] to [Bradley] . . . Wielk wrote, in relevant part: I am writing to inform you that based on an allegation of sexual assault that has been filed with both [the university] and the Bridgeport Police Department . . . you are hereby [s]uspended effective immediately As such, pending an investigation and, if necessary, a disciplinary hearing, you are not allowed on the premises of [the university]" (Internal quotation marks omitted.)

On the basis of this evidence, the court concluded that "it is undisputed that [Wielk] became aware, upon meeting [Cotto] on October 17, 2016, that Yovino had reported to the Bridgeport Police Department that she was sexually assaulted by Bradley and St. Hilaire. . . . It is undisputed that [Wielk] subsequently suspended [Bradley] on October 18, 2016, and that he specifically cited Yovino's allegation of sexual assault as the basis for [Bradley's] immediate suspension. . . . The [student handbook] expressly and unambiguously authorized [Wielk], as the dean of students, to suspend students who were facing allegations of serious criminal activity [I]t was within [Wielk's] discretion and right to impose an immediate suspension from residency and/or partial or full academic suspension from [the university] until a student conduct hearing can be scheduled. . . . This court finds that there is no genuine issue of material fact that [Wielk] suspended [Bradley] upon learning that he was facing an allegation of serious criminal activity." (Internal quotation marks omitted.)

We begin by setting forth the standard of review and

legal principles relevant to Bradley’s claim. “Practice Book [§ 17-49] provides that summary judgment shall be rendered forthwith if the pleadings, affidavits and any other proof submitted show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. . . . In deciding a motion for summary judgment, the trial court must view the evidence in the light most favorable to the nonmoving party. . . . The party seeking summary judgment has the [initial] burden of showing the absence of any genuine issue [of] material facts which, under applicable principles of substantive law, entitle him to a judgment as a matter of law” (Internal quotation marks omitted.) *Deming v. Nationwide Mutual Ins. Co.*, 279 Conn. 745, 756–57, 905 A.2d 623 (2006). “Once the moving party has met its burden, however, the opposing party must present evidence that demonstrates the existence of some disputed factual issue.” (Internal quotation marks omitted.) *Bayview Loan Servicing, LLC v. Frimel*, 192 Conn. App. 786, 792–93, 218 A.3d 717 (2019). “[T]he party opposing such a motion must provide an evidentiary foundation to demonstrate the existence of a genuine issue of material fact. . . . A material fact . . . [is] a fact which will make a difference in the result of the case. . . . [T]he scope of our review of the trial court’s decision to grant the . . . motion for summary judgment is plenary.” (Internal quotation marks omitted.) *Deming v. Nationwide Mutual Ins. Co.*, supra, 757.

“The elements of a breach of contract claim are the formation of an agreement, performance by one party, breach of the agreement by the other party, and damages.” (Internal quotation marks omitted.) *Meyers v. Livingston, Adler, Pulda, Meiklejohn & Kelly, P.C.*, 311 Conn. 282, 291, 87 A.3d 534 (2014). “[T]he intent of the parties is to be ascertained by a fair and reasonable construction of the written words and . . . the language used must be accorded its common, natural, and ordinary meaning and usage where it can be sensibly applied to the subject matter of the [writing]. . . . Where the language of the [writing] is clear and unambiguous, the [writing] is to be given effect according to its terms.” (Internal quotation marks omitted.) *Connecticut National Bank v. Rehab Associates*, 300 Conn. 314, 319, 12 A.3d 995 (2011).

Practice Book § 11-18 (a) provides in relevant part: “Oral argument is at the discretion of the judicial authority except as to . . . motions for summary judgment . . . and/or hearing on any objections thereto. For those motions, oral argument shall be a matter of right, provided: (1) the motion has been marked ready in accordance with the procedure that appears on the short calendar on which the motion appears, or (2) a nonmoving party files and serves on all other parties . . . a written notice stating the party’s intention to argue the motion Such a notice shall be filed on

or before the third day before the date of the short calendar date” Finally, the legal principles pertaining to harmless error analysis set forth in part I of this opinion are also applicable to Bradley’s claim of procedural error.

The court adjudicated the motion for summary judgment without providing the parties with an opportunity to mark the motion according to the schedule set forth in the short calendar on which the motion appeared. Bradley also had a right to oral argument on the motion pursuant to Practice Book § 11-18 (a) and this right was improperly denied.

To prevail on his claim of procedural error, however, Bradley must also demonstrate that the court’s erroneous actions likely affected the result. See *Kraus v. Newton*, 211 Conn. 191, 195, 558 A.2d 240 (1989) (ruling must be both erroneous and harmful to constitute reversible error); *Wasilewski v. Commissioner of Transportation*, 152 Conn. App. 560, 570, 99 A.3d 1181 (2014) (court applied harmless error analysis to Practice Book § 11-18 motion).¹⁵ Bradley has not demonstrated that the court’s failure to provide oral argument on the motion likely affected the court’s decision rendering summary judgment as to his breach of contract claim against the university. Accordingly, we cannot conclude that the court committed reversible error.

It is clear from our plenary review of the record that the university met its initial burden in establishing that there was no genuine issue of material fact that the university breached its contract by suspending Bradley without investigating Yovino’s allegations. Bradley alleges, and there is no dispute that, the student handbook formed an enforceable contract between Bradley and the university. Therefore, we must first look to the language of the student handbook to determine the parties’ respective rights and obligations. The student handbook states: “In the event that the Dean of Students deems it necessary in order to preserve the benefit and welfare of the [the university] community and the individual student(s), he/she . . . reserves the right to impose *an immediate suspension* from residency and/or partial or full academic suspension from [the university] until a student conduct hearing can be scheduled. . . . [T]he Dean of Students or designee *may* impose restrictions and/or *separate a student* from the *community pending the scheduling of a campus hearing on alleged* violation(s) of the Code [of Student Conduct and Community Standards] when a student represents a threat of serious harm to others, [or] *is facing allegations of serious criminal activity* During an interim suspension, a student may be denied access to [the university’s] housing and/or [the university’s] campus/facilities/events. As determined appropriate by the Dean of Students or designee, this restriction may include classes and/or all other University activities or

privileges for which the student might otherwise be eligible.” (Emphasis added.) The policy on sexual misconduct included in the student handbook states: “The Title IX Coordinator in coordination with the Dean of Students will initiate an immediate response to separate the Complainant and Respondent from engaging each other in common areas, residence halls, campus buildings, and student activities Nothing herein shall preclude an immediate suspension in order to preserve the safety of the campus community”

The language of the student handbook, considered as a whole, clearly authorizes the dean of students to suspend *immediately* a student if the dean of students deems it necessary to preserve the benefit and welfare of the university’s community. The student handbook further authorizes the dean of students to suspend a student “facing allegations of serious criminal activity.” Such a suspension may include denying the student access to campus, events, and classes when the dean of students determines that such a restriction is appropriate. Read together, the language of the handbook prioritizes the welfare and safety of the university’s community and gives the dean of students discretion to act as necessary to serve this purpose. This broad discretion explicitly includes imposing an immediate suspension, when such an action is deemed necessary by the dean.

The university further established that Wielk, in his position as the dean of students, suspended Bradley because he was facing an allegation of serious criminal activity—the purported sexual assault of Yovino. In Wielk’s affidavit submitted in support of the university’s motion for summary judgment, Wielk stated that, on October 17, 2016, he met with Cotto who informed him that, over the previous weekend, Yovino had reported to Bridgeport police that she had been sexually assaulted by Bradley and St. Hilaire. Wielk further attested that, on the basis of the information he received from Cotto, he imposed an immediate suspension on Bradley pending an investigation and, if necessary, a disciplinary proceeding.

Given Wielk’s affidavit and the clear contractual language that authorizes Wielk to suspend immediately a student to preserve the benefit and welfare of the university community and to suspend students facing allegations of serious criminal activity, it is apparent that Wielk was authorized to immediately suspend Bradley without first investigating Yovino’s allegations.

Wielk suspended Bradley due to an allegation of sexual assault, made by another student, that was filed with the Bridgeport Police Department. This allegation of sexual assault established not only that Bradley was facing allegations of serious criminal activity, but that, if true, Bradley posed a risk to the welfare of the university community due to the possibility that he had

inflicted serious harm on another student. Rather than requiring Wielk first to substantiate this allegation, during which time the university community's welfare could potentially be at risk, the student handbook provided Wielk with discretion to immediately suspend the alleged perpetrator. Finally, it is important to note that the student handbook does not contain any language obligating the university to investigate allegations of serious criminal activity before suspending the student.

Under these circumstances, Wielk clearly was authorized to immediately suspend Bradley because he was facing an allegation of sexually assaulting another student. Therefore, the university met its initial burden in establishing that there was no genuine issue of material fact that the university had not breached its contract when Wielk immediately suspended Bradley prior to any investigation.

Because the university met its initial burden, the burden then shifted to Bradley to show, on the basis of a timely submission of evidentiary materials, that a genuine issue of material fact existed in order to defeat the university's motion. During the approximately six month period after the motion for summary judgment was filed and before it was granted, Bradley did not file any opposition to the motion and, therefore, failed to meet his burden to defeat the motion for summary judgment. See *Bayview Loan Servicing, LLC v. Frimel*, supra, 192 Conn. App. 794–95 (court must first consider whether summary judgment movant met initial burden before granting summary judgment on basis that opposing party failed to file any objection); see also *Chase Home Finance, LLC v. Scroggin*, 194 Conn. App. 843, 856 n.7, 222 A.3d 1025 (2019) (“it is only upon the satisfaction of a summary judgment movant's initial burden that the burden shifts to the nonmovant to demonstrate, on the basis of a timely submission of an evidentiary showing, that there exists a genuine issue of material fact to defeat summary judgment”).¹⁶ In light of this procedural posture and our independent review of the record, we are not persuaded that oral argument on the university's motion for summary judgment likely would have resulted in a decision other than the one granting the motion in favor of the university. Accordingly, the court's improper denial of oral argument was harmless and Bradley's claim fails.

III

Finally, Bradley claims that the court abused its discretion by denying his motion for reargument of his motion to compel and the summary judgment rendered against him because, after denying his motion, the court subsequently granted St. Hilaire's motion for reargument of the summary judgment rendered against St. Hilaire. Bradley argues that this disparate treatment was an abuse of discretion because St. Hilaire's and Bradley's reargument motions set forth the same legal

arguments. We disagree.

The relevant legal principles and standard of review are well established. “[T]he purpose of a reargument is . . . to demonstrate to the court that there is some decision or some principle of law which would have a controlling effect, and which has been overlooked, or that there has been a misapprehension of facts. . . . It also may be used to address [alleged inconsistencies in the trial court’s memorandum of decision as well as] claims of law that the [movant] claimed were not addressed by the court. . . . [A] motion to reargue [however] is not to be used as an opportunity to have a second bite of the apple [or to present additional cases or briefs which could have been presented at the time of the original argument]” (Internal quotation marks omitted.) *Klass v. Liberty Mutual Ins. Co.*, 341 Conn. 735, 741, 267 A.3d 847 (2022).

“We review a trial court’s decision to deny a litigant’s motion for reargument and reconsideration for an abuse of discretion. . . . [A]s with any discretionary action of the trial court, appellate review requires every reasonable presumption in favor of the action, and the ultimate issue for us is whether the trial court could have reasonably concluded as it did. . . . In addition, where a motion is addressed to the discretion of the court, the burden of proving an abuse of that discretion rests with the appellant.” (Citations omitted; internal quotation marks omitted.) *Carriage House I-Enfield Assn., Inc. v. Johnston*, 160 Conn. App. 226, 236, 124 A.3d 952 (2015). “We will find that such an abuse of discretion exists when the court’s decision creates a miscarriage of justice.” *Campbell v. Plymouth*, 74 Conn. App. 67, 85, 811 A.2d 243 (2002).

In his motion for reargument, Bradley raised the same challenges that we have rejected in resolving his prior claims pertaining to the court’s effective denial of his motion to compel; see part I of this opinion; and the court’s rendering of summary judgment. See part II of this opinion. Because we have concluded that the court’s denial of Bradley’s motion to compel and its rendering of summary judgment against him did not constitute reversible error, we further conclude that the court’s denial of Bradley’s motion for reargument was not an abuse of its discretion. See *LendingHome Marketplace, LLC v. Traditions Oil Group, LLC*, 209 Conn. App. 862, 873, 269 A.3d 195, cert. denied, 343 Conn. 927, 281 A.3d 1187 (2022) (“[b]ecause there was no error in the court’s ruling, we also conclude that the court did not abuse its discretion in denying the defendant’s motion to reargue/reconsider); see also *Campbell v. Plymouth*, supra, 74 Conn. App. 85–86 (court’s denial of motion to reargue summary judgment motion not abuse of its discretion because court properly granted party’s motion for summary judgment).

The sole new argument that Bradley raises in support

of his claim that the court abused its discretion in denying his motion for reargument is that the court granted St. Hilaire's motion for reargument, which relied on the same arguments that Bradley made in his motion, and the court has provided no explanation for this disparate treatment. Bradley, however, has the burden to establish that the court abused its discretion. The court denied Bradley's motion without articulating the basis for its decision and Bradley did not file a motion for articulation pursuant to Practice Book § 66-5. See, e.g., *Hartford v. Pan Pacific Development (Connecticut), Inc.*, 61 Conn. App. 481, 488–89, 764 A.2d 1273 (2001); see also Practice Book § 61-10. Furthermore, as the university argues, Bradley's and St. Hilaire's cases were in different procedural positions. In particular, the court had denied Bradley's motion for an extension of time prior to rendering summary judgment against him, but the court had not denied St. Hilaire's motion for an extension of time prior to rendering summary judgment against him. On the basis of this record, the court's dissimilar treatment of Bradley's and St. Hilaire's motions for reargument is not enough for us to conclude that the court's denial of Bradley's motion was a miscarriage of justice.

The judgment is affirmed.

In this opinion the other judges concurred.

¹ For purposes of clarity, we refer to the parties hereafter by name rather than their party status.

² Bradley and St. Hilaire each alleged separate breach of contract claims against the university, which filed separate motions for summary judgment with respect to those counts. The court granted both motions in separate decisions. Because the court also granted the university's separate motion for summary judgment directed at St. Hilaire's breach of contract claim, the two decisions of the court disposed of all counts of the operative complaint brought against the university. As a result, Bradley has appealed from a final judgment, pursuant to Practice Book § 61-3, because all causes of action against the university had been finally adjudicated by the court's decisions rendering summary judgment. This appeal involves only the court's decision granting the university's motion for summary judgment as to Bradley's breach of contract claim.

After the present appeal was filed, the court granted St. Hilaire's motion for reargument as it pertained to the summary judgment rendered against him. The court's decision to reconsider the summary judgment rendered against St. Hilaire, however, does not vitiate the finality of the judgment from which Bradley has appealed. See *Paniccia v. Success Village Apartments, Inc.*, 215 Conn. App. 705, 716 n.11, 284 A.3d 341 (2022) ("a court's decision to allow reargument does not affect the finality of the judgment").

³ We address Bradley's claim concerning the court's denials of his motions to compel and for an extension of time together because Bradley briefed these issues together in his principal appellate brief and relies on the same legal arguments regarding why the court abused its discretion in denying both motions.

⁴ After the present appeal was filed, the university filed a motion to dismiss St. Hilaire's breach of contract count against the university for lack of subject matter jurisdiction. The trial court subsequently stayed any further proceedings in the action underlying this appeal, including reargument on the university's motion for summary judgment against St. Hilaire on his breach of contract count, until our Supreme Court decides *Khan v. Yale University*, Docket No. SC 20705.

That case is currently pending before our Supreme Court upon its acceptance of certified questions of law from the United States Court of Appeals for the Second Circuit pertaining to whether Title IX proceedings are quasi-judicial in nature such that statements made or actions taken within those

proceedings are subject to absolute or qualified immunity. The university's motion to dismiss St. Hilaire's breach of contract count relied on the United States District Court's decision in *Khan v. Yale University*, 511 F. Supp. 3d 213 (D. Conn. 2021), which dismissed the claims of the plaintiff in that case against one of the defendants because the claims relied on defamatory statements made during Title IX proceedings conducted by that university. The District Court concluded that Title IX proceedings are quasi-judicial proceedings and, therefore, the defendant was entitled to "absolute immunity as to any allegedly defamatory statements made therein." *Id.*, 226.

In the underlying action, St. Hilaire alleged that the university breached its contract when it suspended him and alleged that the university also breached its contract in the manner in which it conducted the Title IX proceeding. In this appeal, the university has not challenged the trial court's subject matter jurisdiction over Bradley's breach of contract count against the university, which alleged only that the university breached its contract when it suspended Bradley.

We recognize that the doctrine of absolute immunity implicates a court's subject matter jurisdiction. *Carter v. Bowler*, 211 Conn. App. 119, 121–22, 271 A.3d 1080 (2022). We also are mindful that subject matter jurisdiction cannot be waived, and it may be raised by this court sua sponte. See *Ajadi v. Commissioner of Correction*, 280 Conn. 514, 532–33, 911 A.2d 712 (2006). We are not convinced, however, that the doctrine of absolute immunity is implicated by Bradley's breach of contract count, which challenged only the university's decision to suspend Bradley. Notably, the university's decision to suspend Bradley occurred prior to the scheduling of a Title IX hearing regarding his alleged misconduct. Consequently, we conclude that the trial court had subject matter jurisdiction over Bradley's breach of contract count.

⁵ Despite her guilty pleas, Yovino continues to maintain that the sexual conduct was not consensual. That factual issue, however, is not before us on appeal. Yovino first reported to the Bridgeport Police Department that she did not consent to the sexual acts. Yovino later admitted to the Bridgeport police that her initial statements pertaining to the sexual encounter were inaccurate. The Bridgeport Police Department subsequently obtained an arrest warrant for Yovino on two counts of falsely reporting an incident in the second degree and one count of interfering with an officer. Yovino pleaded guilty to those charges and was sentenced to a term of incarceration. Nevertheless, she maintains that she did not consent to the sexual acts that occurred on October 15, 2016.

⁶ Prior to Cotto informing Wielk of the sexual assault allegations, Leonora P. Campbell, the university's Title IX coordinator, had learned of the incident from a resident hall director who, in turn, had received a report from a third party on Sunday, October 16, 2016. No disciplinary action was taken against Bradley until Wielk had been informed that Yovino had made allegations of sexual assault to the Bridgeport Police Department.

⁷ At that time, Wielk also hand delivered a letter to Bradley informing him of his suspension. The letter stated in relevant part: "I am writing to inform you that based on an allegation of sexual assault that has been filed with both [the university] and the Bridgeport Police Department stemming from an off campus incident this past Sunday morning (Oct. 16, 2016) you are hereby Suspended effective immediately, from [the university]. As such, pending an investigation, and, if necessary, a disciplinary hearing, you are not allowed on the [university's] premises . . . including attendance in any scheduled classes as well as participating in any [university] sponsored activities including intercollegiate athletics until further notice. At this time, you may remain in contact with your professors via electronic means. . . ." St. Hilaire was also suspended on October 19, 2016.

⁸ The pleadings are not a model of clarity. The initial complaint was filed jointly by Bradley and St. Hilaire. Subsequent amended complaints often only included counts brought by one of the two plaintiffs or did not include all of the counts contained in prior versions of the complaint. In a request for leave to file a second amended complaint, St. Hilaire asserted that he had removed the counts pertaining to Bradley as per a request of the university. Accordingly, the operative complaint pertaining to St. Hilaire is a second amended complaint dated August 19, 2019, while Bradley filed a third amended complaint, dated January 11, 2021. We treat Bradley's third amended complaint as the operative complaint with respect to his breach of contract count because the university did not object to Bradley's request to file the amended pleading; see Practice Book § 10-60; it filed an answer to that complaint, along with its motion for summary judgment; and the trial

court referred to the third amended complaint as the operative complaint in its memorandum of decision rendering summary judgment against Bradley on his claim against the university. In Bradley's third amended complaint, count four is the operative breach of contract count alleged against the university.

⁹ The motion stated: "Pursuant to Practice Book §17-45, [Bradley], in the above-captioned matter hereby requests the same sixty (60) day extension of time requested by [St. Hilaire], on March 2, 2021." St. Hilaire's motion for an extension of time stated that, "[w]hile the parties have engaged in extensive discovery to date, there remains certain issues unresolved including, it appears, the need for further depositions [Bradley has] . . . moved to compel further depositions in light of a recent disclosure by [the university] . . . [and the] anticipated evidence . . . would prove useful in opposing [the university's] motion for summary judgment."

¹⁰ The court did not provide an explanation regarding why it was denying the motion for a continuance, and Bradley never asked the court to articulate its reasons.

¹¹ In sustaining the university's renewed objection to Bradley's motion to compel, the court stated: "This court adopts the reasoning set forth by the court in *Wheelis v. Backus Hospital Corp.*, Superior Court, judicial district of New London, [Docket No. CV-14-6022485-S (January 20, 2017)], in denying a motion for a continued deposition despite the fact that there might have been new information potentially to be had after the depositions of the witnesses Campbell and [Wielk] were completed. [The] defendant's motion for [a] protective order is granted. [The] defendant's objection to [the] plaintiff's motion to compel is sustained."

¹² As previously discussed, the court also granted the university's separate motion for summary judgment directed at the breach of contract claim brought against it by St. Hilaire. St. Hilaire also filed a motion for reargument, which the court granted on December 21, 2021, as it pertained to the court's granting of the university's motion for summary judgment with respect to St. Hilaire's breach of contract claim. In granting reargument, the court concluded that counsel for St. Hilaire reasonably understood the court's consideration of the motion for summary judgment to be deferred until after the court rendered its decisions on the discovery dispute.

¹³ Bradley further contends that the court improperly rendered summary judgment because there was a "temporary stay" on the adjudication of the motion until the court resolved the discovery dispute regarding a second round of depositions. Bradley contends that, at the May 3, 2021 status conference, the court "unequivocally stayed the motion for summary judgment in order to resolve the ongoing discovery dispute" This claim fails for two reasons.

First, Bradley has not provided any citations to the record demonstrating that the court had implemented a "temporary stay" on the motion for summary judgment. Our independent review of the record has not revealed any evidence of a temporary stay. Second, even if Bradley was correct in assuming that a temporary stay was in place, that stay would have been in effect only until the discovery dispute was resolved. Bradley acknowledges that the court granted the university's motion for a protective order and sustained the objection to Bradley's motion to compel a second round of depositions on July 15, 2021. Therefore, even if any adjudication of the university's motion for summary judgment was stayed until the court resolved the discovery dispute, the temporary stay ended on July 15, 2021, when the court effectively denied Bradley's motion to compel.

¹⁴ Practice Book § 17-47 provides: "Should it appear from the affidavits of a party opposing the motion that such party cannot, for reasons stated, present facts essential to justify opposition, the judicial authority may deny the motion for judgment or may order a continuance to permit affidavits to be obtained or discovery to be had or may make such other order as is just."

¹⁵ On appeal, Bradley does not argue that the court committed structural error by denying him oral argument on the motion for summary judgment. Nor does he argue that the court deprived him of his constitutional rights.

¹⁶ We note that in *Bayview Loan Servicing, LLC*, and *Chase Home Finance, LLC*, this court held that the trial court's failure to provide oral argument on a party's motion for summary judgment constituted reversible error. See *Chase Home Finance, LLC v. Scroggin*, supra, 194 Conn. App. 857; *Bayview Loan Servicing, LLC v. Frimel*, supra, 192 Conn. App. 796-97. The trial court's rulings on the moving party's motions for summary judgment in *Bayview Loan Servicing, LLC*, and *Chase Home Finance, LLC*, are

distinguishable from the present case because, in those cases, the trial court failed to consider whether the moving party met its burden in establishing that there was no genuine issue of material fact and, instead, granted the motions solely on the ground that no timely opposition to the motions had been filed. *Chase Home Finance, LLC v. Scroggin*, supra, 850, 859; *Bayview Loan Servicing, LLC v. Frimel*, supra, 794–95.;
