

Cumulative Table of Cases
Connecticut Appellate Reports
Volume 176

(Replaces Prior Cumulative Table)

A Better Way Wholesale Autos, Inc. v. Rodriguez.	392
<i>Arbitration; whether trial court properly denied application to vacate arbitration award; whether submission to arbitrator was unrestricted; whether issue of possession and title to vehicle was within scope of submission; whether arbitrator, by ordering return of vehicle to plaintiff, exceeded power by rendering award that was beyond unrestricted submission of parties; reviewability of claim that trial court improperly ordered plaintiff to pay attorney's fees and costs; failure to brief claim adequately.</i>	
Aldin Associates Ltd. Partnership v. Hess Corp.	461
<i>Contracts; claim that defendant franchisor violated Connecticut Petroleum Product Franchise Act (§ 42-133j et seq.) and Connecticut Unfair Trade Practices Act (CUTPA) (§ 42-110a et seq.), and breached implied covenant of good faith and fair dealing; whether trial court improperly sustained objection to claim for jury trial; whether trial court erroneously found that plaintiff failed to prove damages with sufficient degree of certainty; whether plaintiff failed to prove by preponderance of evidence that it did not intend to be bound by jury waiver provisions in franchise agreements; whether jury trial waivers were void under Connecticut Petroleum Product Franchise Act; claim that trial court abused discretion by failing to overrule objection to jury trial claim on ground that objection was untimely; whether trial court's finding that plaintiff failed to provide evidence needed to compute damages with reasonable certainty was clearly erroneous; whether trial court improperly conflated question of damages with question of causation; whether trial court's finding that CUTPA claim failed because plaintiff did not present sufficient evidence of ascertainable loss was clearly erroneous.</i>	
Amica Mutual Ins. Co. v. Piquette.	559
<i>Declaratory judgment; action to determine scope of coverage provided under automobile insurance policy; whether wife's loss of consortium claim should be considered separately from husband's bodily injury claim for purposes of per person limitation in policy; claim that policy language was ambiguous and required that policy be construed against plaintiff; whether trial court properly granted motion for summary judgment; whether trial court properly applied Izzo v. Colonial Penn Ins. Co. (203 Conn. 305), to facts of present case.</i>	
Cariglio v. Dept. of Social Services (See Freese v. Dept. of Social Services)	64
Dejana v. Dejana.	104
<i>Dissolution of marriage; whether trial court abused discretion in denying postjudgment motion for contempt; claim that defendant failed to pay plaintiff full amount due for unallocated alimony and child support as required under parties' separation agreement; whether claim on appeal that trial court should have awarded plaintiff arrearage consisting of 30 percent of defendant's compensation from stock incentive program for additional unallocated alimony and support owed was preserved and reviewable; whether trial court properly determined that language of separation agreement governing unallocated alimony and child support was clear and unambiguous, and required defendant to pay unallocated alimony and child support based on percentage of base salary and annual incentive cash bonus, and to use entirety of any income received from stock incentive program to fund college education expenses of parties' son; whether income received from stock incentive program constituted form of bonus compensation under separation agreement.</i>	
Dinino v. Federal Express Corp.	248
<i>Workers' compensation; exceptions to exclusivity provision of Workers' Compensation Act (§ 31-293a); summary judgment; claim court erred in concluding there was no genuine issue of material fact regarding motor vehicle exception based on coworker's alleged negligence; claim court erred in concluding there was no genuine issue of material fact regarding substantial certainty exception for employer's alleged intentional tort.</i>	

Financial Freedom Acquisition, LLC v. Griffin.	314
<i>Foreclosure; whether trial court properly determined that substitute plaintiff established prima facie case of foreclosure; whether trial court's conclusion that substitute plaintiff was holder and owner of note executed by decedent was legally and factually correct; whether production of note, endorsed in blank, at trial created rebuttable presumption that substitute plaintiff was owner of note; claim that substitute plaintiff's status as holder and owner of note and foreclosure action were affected by merger and change of name of substitute plaintiff that occurred during pendency of foreclosure action; claim that named plaintiff breached covenant of good faith and fair dealing when it initiated foreclosure action instead of communicating with executrix to facilitate sale of property; whether trial court properly found that defendants failed to meet burden of proof with respect to special defense and counterclaim sounding in breach of implied covenant of good faith and fair dealing; whether note created contractual right to extend deadline for payment.</i>	
Freese v. Dept. of Social Services.	64
<i>Administrative appeals; appeals to trial court, pursuant to statute (§ 4-183 [a]), from decisions of defendant Department of Social Services denying applications for Medicaid benefits filed by plaintiffs on behalf of their mothers, both of whom died before defendant rendered final decisions in underlying administrative proceedings; whether trial court improperly dismissed appeals and determined that because plaintiffs' decedents died before they brought appeals and because plaintiffs did not bring appeals as executors or administrators of decedents' estates, plaintiffs lacked standing; whether trial court improperly denied requests to cure jurisdictional defect by substituting plaintiffs, in capacities as estate fiduciaries, as plaintiffs in administrative appeals pursuant to remedial savings statute (§ 52-109); claim that plaintiffs had standing pursuant to state regulations (§ 17b-10-1) to assert decedents' rights in representative capacities; whether state regulations could diminish standing requirements set forth in enabling statutes; whether, pursuant to enabling statute (§ 17b-61 [b]), person who applied for fair hearing may appeal from decision to Superior Court provided that person is aggrieved; whether plaintiffs failed to plead facts establishing aggravement; whether plaintiffs failed to allege facts establishing standing to appeal under right of survival statute (§ 52-599); whether trial court improperly granted motions to dismiss instead of giving plaintiffs opportunity to cure jurisdictional defect by allowing substitution; whether trial court improperly denied substitution on ground that plaintiffs' administrative appeals were not legally cognizable actions capable of being cured by §§ 52-109 or 52-599 because they were commenced by parties without authorization to sue and, consequently, were nullities; failure of trial court to determine whether failure of plaintiffs in each case to bring actions in capacities as fiduciaries of decedents' estates was due to error, misunderstanding or misconception as required for substitution under § 52-109.</i>	
Fuller v. Baldino.	451
<i>Third party petition for visitation; motion to dismiss for lack of subject matter jurisdiction; whether trial court properly dismissed plaintiff's visitation petition for lack of subject matter jurisdiction without evidentiary hearing; whether court properly determined that petition failed to sufficiently allege that denial of visitation would subject child to real and significant harm.</i>	
Gostyla v. Chambers.	506
<i>Negligence; whether trial court abused discretion in admitting expert testimony concerning causation; whether biomechanical engineer expert witness was qualified to testify as to whether motor vehicle collision caused plaintiff's injuries; whether record was adequate to determine whether evidentiary impropriety was harmful.</i>	
Kenneson v. Eggert.	296
<i>Fraud; whether trial court improperly granted motion for summary judgment as to claim for intentional misrepresentation and determined that claim was precluded by collateral estoppel; whether claim for intentional misrepresentation was fully and fairly litigated and actually decided in prior action; whether for collateral estoppel to bar relitigation issue sought to be relitigated must be identical to one decided in prior proceeding; claim that because alleged misrepresentation did not relate to past or existing fact, it was not actionable; claim that, given inconsistencies in plaintiff's allegations, claim against defendants should be disposed of pursuant to sham affidavit rule; credibility of witnesses; whether trial court properly determined that no genuine issue of material fact existed as</i>	

	<i>to whether plaintiff could establish claim for fraudulent nondisclosure; whether, to establish claim of fraudulent nondisclosure, plaintiff had to prove that parties' relationship imposed duty on defendant to disclose; whether trial court abused discretion in denying motions for compliance; whether trial court properly determined that documents sought by plaintiff were protected by attorney-client privilege and work product doctrine.</i>	
Lugo v. Lugo		149
	<i>Dissolution of marriage; child custody; claim that trial court improperly granted motion for modification and awarded plaintiff sole legal custody of minor child where motion for modification did not specifically include claim for sole legal custody, as required by applicable rule of practice (§ 25-26); whether defendant had adequate notice that custody issues would be raised at hearing on motion for modification; failure of defendant to provide transcripts of proceedings on motion.</i>	
Luongo Construction & Development, LLC v. MacFarlane.		272
	<i>Contracts; unfair trade practices; claim that trial court improperly denied motions to dismiss that were based on prior pending action doctrine; whether court properly denied motion for summary judgment as to counterclaim; whether court improperly failed to consider claim concerning prior pending action doctrine in denying motion for summary judgment; whether nonmoving party had no obligation to submit evidence establishing existence of genuine issue of material fact where party moving for summary judgment failed to establish that no genuine issue of material fact existed; whether court abused discretion in awarding punitive damages pursuant to unfair trade practices act (42-110a et seq.).</i>	
Mason v. Ford		658
	<i>Dissolution of marriage; motion for modification of child support; claim that trial court improperly found arrearage; whether trial court's factual finding that defendant had not paid support obligation, and court's implicit finding of when nonpayment began were clearly erroneous; credibility of witnesses; whether trial court, in determining end date of arrearage period, abused discretion by not complying with limitations of statute (§ 46b-86 [a]) that provides court with discretion to modify support order with retroactive effect to date on which motion to modify was served on opposing party; whether factual question existed concerning whether waiver occurred.</i>	
McClancy v. Bank of America, N.A.		408
	<i>Contracts; summary judgment; reviewability of claim that trial court improperly granted motion for summary judgment when issues of material fact existed with respect to breach of contract claims; failure to brief claim adequately; claim that trial court erred in failing to determine that breach of contract claim fell within purported promissory estoppel exception to statute of frauds; whether promissory estoppel exception to statute of frauds exists; whether plaintiffs provided evidence of promise made to grant loan modification; whether trial court properly rendered summary judgment on claim of negligent misrepresentation; whether plaintiffs presented evidence that representation that bank would evaluate loan for possible modification was false when made; whether trial court erred in granting summary judgment when genuine issues of material fact existed; whether trial court properly rendered summary judgment on claim alleging violation of Connecticut Unfair Trade Practices Act (§ 42-110a et seq.); whether plaintiffs presented evidence raising genuine issue of material fact about whether bank engaged in unfair or deceptive practices or violated any identifiable public policy in association with loan modification application.</i>	
Miller v. Commissioner of Correction		616
	<i>Habeas corpus; ineffective assistance of trial counsel; whether habeas court abused discretion in denying petition for certification to appeal; claim that habeas court improperly concluded that trial counsel was not deficient in advising petitioner of immigration consequences of guilty plea; whether trial counsel's performance was deficient where counsel advised petitioner that conviction would render him deportable and did not advise that deportation was certain; failure of habeas court to make findings regarding whether petitioner was prejudiced by trial counsel's deficient performance.</i>	
Pecher v. Distefano		715
	<i>Negligence; reviewability of claim that trial court committed harmful error by improperly admitting certain evidence; failure of plaintiff to provide complete record of trial proceedings.</i>	

Pentland v. Commissioner of Correction.	779
<i>Habeas corpus; claim that habeas court improperly dismissed petition for writ of habeas corpus for lack of subject matter jurisdiction; whether petitioner was in custody at time petition was filed; whether petitioner alleged sufficient facts to establish subject matter jurisdiction; claim that petitioner was in custody because he was serving one continuous stream of sentences; whether habeas court had obligation to grant hearing prior to dismissing petition.</i>	
Pereira v. Commissioner of Correction.	762
<i>Habeas corpus; claim that petitioner's due process rights were violated as result of kidnapping conviction; whether habeas court abused discretion in denying petition for certification to appeal; reviewability of claim that petitioner was entitled to jury instruction pursuant to State v. Salamon (287 Conn. 509) because restraint was incidental to uncharged assault that occurred inside car in which kidnapping occurred; claim that petitioner was entitled to Salamon instruction because restraint that occurred in car was merely incidental to commission of murder; whether criminal conduct inside car had criminal significance independent of events that occurred after victim escaped from car.</i>	
Presidential Village, LLC v. Perkins	493
<i>Summary process; motion to dismiss; subject matter jurisdiction; claim that trial court improperly dismissed summary process action on ground that federal pretermination notice was defective, depriving court of subject matter jurisdiction over action; whether pretermination notice sufficiently complied with applicable federal regulations and requirements (24 C.F.R. §§ 247.3 and 247.4) governing termination of federally subsidized tenancy based on nonpayment of rent; whether pretermination notice provided adequate notice of termination of tenancy; whether notice set forth ground of termination with enough specificity to enable defendant to prepare defense to summary process action.</i>	
Rockhill v. Danbury Hospital	39
<i>Negligence; claim that trial court erroneously found that defect in crosswalk that caused plaintiff's injuries was reasonably foreseeable hazard; whether court reasonably found that defect in crosswalk was actual cause of plaintiff's fall; whether court's finding that all of plaintiff's medical costs were substantially caused by fall was supported by record and was not clearly erroneous; whether court abused discretion in denying defendant's motion to preclude certain expert testimony by one of plaintiff's treating physicians.</i>	
Sabrina C. v. Fortin	730
<i>Civil protection order; whether trial court abused discretion in denying motion to vacate or modify protection order; claim that trial court erroneously found that motion to vacate was untimely; whether trial court, in articulation, improperly substituted basis for denial of motion to vacate protection order; whether trial court improperly granted request for attorney's fees under bad faith exception to American rule; whether trial court failed to provide required high degree of specificity in factual findings to support determination that motions to vacate and to reargue had been filed in bad faith and were entirely without color; claim that trial court improperly granted motion for one year extension of civil protection order; whether applicable statute (§ 46b-16a) required evidentiary hearing to determine whether need for protection still existed.</i>	
St. Joseph's High School, Inc. v. Planning & Zoning Commission.	570
<i>Zoning; whether trial court improperly sustained appeal in part from decision of defendant planning and zoning commission denying application for special permit to install lighting on school property; whether court applied improper legal standard in reviewing commission's decision on special permit application and determining that general standards contained in town's zoning regulations could not serve as sole basis for denying special permit application; whether planning and zoning commission may deny special permit application on basis of general standards set forth in zoning regulations, even when all technical requirements of regulations have been met; whether substantial evidence existed in record on which commission, in its discretion, could have relied in concluding that school did not meet its burden of demonstrating compliance with general standards in zoning regulations; whether commission reasonably could have concluded that school failed to demonstrate that proposed use would not adversely affect neighboring residential properties due to noise and light emissions, vehicular and pedestrian traffic, and parking issues; whether commission could have concluded that school did not establish that proposed use would not adversely</i>	

	<i>affect neighboring property values, character of adjacent neighborhood or quality of life of residents.</i>	
Simmons v. Weiss		94
	<i>Medical malpractice; motions to dismiss; motion to open judgment of dismissal; jurisdiction; claim that trial court improperly opened judgment of dismissal more than four months after judgment was rendered when no exception to statutory (§ 52-212a) four month limitation period for opening judgments was applicable; whether trial court improperly granted plaintiff's motion to open judgment because court lacked authority to open judgment; whether trial court properly concluded that compelling equitable circumstances required court to rectify injustice by opening judgment.</i>	
State v. Acampora		202
	<i>Assault on disabled person in third degree; disorderly conduct; whether trial court abused discretion when it determined that defendant knowingly, intelligently and voluntarily waived right to counsel and invoked right to self-representation; claim that court violated defendant's constitutional right to counsel when it permitted him to represent himself at arraignment and during plea negotiations without obtaining valid waiver of right to counsel; reviewability of claim raised for first time in reply brief; claim that court's canvass at pretrial hearing was inadequate because court did not engage in comprehensive discussion with defendant concerning elements of each pending charge; whether court reasonably could have concluded that defendant understood nature of charges pending against him; whether court sufficiently apprised defendant of general dangers and disadvantages associated with self-representation; claim that court improperly denied motion to open evidence; whether evidence defendant sought to admit related to collateral matter and would not have been admissible in case-in-chief; whether impeachment of testimony on collateral matter through extrinsic evidence was permitted under rules of evidence.</i>	
State v. Biggs		687
	<i>Larceny in second degree; conspiracy to commit larceny in second degree; larceny in third degree as accessory; conspiracy to commit larceny in third degree; engaging police in pursuit; claim that trial court violated defendant's right to impartial jury by failing to conduct adequate investigation into claim of juror misconduct; claim that, pursuant to Remmer v. United States (347 U.S. 227), court improperly failed to accord defendant presumption that juror's communication was prejudicial in determining if defendant met burden of proving he had been prejudiced by juror's communication with third party during trial; whether court abused discretion when, after hearing testimony from third party in course of preliminary inquiry into claim of juror misconduct, it declined to hold further evidentiary hearing to receive testimony from juror; whether court violated defendant's right against double jeopardy by sentencing him on separate charges of conspiracy to commit larceny in second degree and conspiracy to commit larceny in third degree, both of which stemmed from single, unlawful agreement.</i>	
State v. Boyd		437
	<i>Disorderly conduct; interfering with officer; sufficiency of evidence; whether state presented sufficient evidence from which jury reasonably could have found that defendant specifically intended to cause victim inconvenience, annoyance or alarm to support conviction of disorderly conduct; claim that trial court improperly failed to instruct jury concerning definition of terms when it set forth elements of interfering with officer.</i>	
State v. Danovan T.		637
	<i>Risk of injury to child; prosecutorial improprieties; claim that defendant was deprived of due process right to fair trial; claim that prosecutor made improper golden rule argument when asking jurors to put themselves in defendant's position and to evaluate defendant's statements against claim of innocence; whether minor, isolated misstatements of prosecutor constituted improprieties; claim that prosecutor improperly offered into evidence medical report containing prior misconduct evidence; reviewability of claim that trial court improperly restricted defendant's right to present impeachment evidence against state's witnesses and deprived him of constitutional right to confront witnesses against him; failure to challenge independent basis for trial court's ruling; mootness.</i>	
State v. Elmer G.		343
	<i>Sexual assault in second degree; risk of injury to child; criminal violation of restraining order; whether evidence was sufficient to support conviction of sexual assault in second degree; whether evidence was sufficient to support conviction</i>	

- of three counts of criminal violation of restraining order; claim that state failed to prove restraining orders applied to victim; whether there was sufficient evidence to prove defendant knew terms of restraining orders; claim that prosecutorial improprieties deprived defendant of right to fair trial; whether defendant, in claiming that certain questions by prosecutor constituted improper attempts to bolster victim's credibility, was attempting to transform unpreserved evidentiary claim into constitutional claim of prosecutorial impropriety.*
- State v. Holmes 156
- Felony murder; home invasion; conspiracy to commit home invasion; criminal possession of pistol or revolver; claim that trial court improperly overruled objection, pursuant to Batson v. Kentucky (476 U.S. 79), to state's use of peremptory challenge to strike African-American prospective juror; whether court properly denied Batson challenge and determined that state's use of peremptory challenge to exclude prospective juror from jury was not tainted by purposeful racial discrimination; whether court's factual conclusion that prosecutor did not act with discriminatory intent in exercising peremptory challenge was clearly erroneous; request for Appellate Court to modify prior decision of Supreme Court holding that venireperson's expressed fear of police is race neutral ground for exercising peremptory challenge; reviewability of claim that trial court improperly admitted tape-recorded statement of witness as prior inconsistent statement pursuant to State v. Whelan (200 Conn. 743), where defendant failed to adequately brief how he was prejudiced by erroneous evidentiary ruling; claim, pursuant to Doyle v. Ohio (426 U.S. 610), that state improperly infringed on defendant's constitutional right to remain silent when it cross-examined defendant at trial about defendant's failure to disclose to police at time of arrest certain exculpatory information that he later testified to at trial; whether defendant could prevail on abandoned Doyle claim pursuant to State v. Golding (213 Conn. 233); whether inquiry violated rule set forth in Doyle.*
- State v. Jason B. 236
- Motion to correct illegal sentence; claim that sentencing court improperly ordered defendant's sentences for sexual assault first degree and unlawful restraint first degree to run consecutively on basis of inaccurate information or considerations not contained in record; whether trial court properly dismissed motion to correct when comments made by sentencing court could not reasonably be viewed as information that was inaccurate or outside record; failure of defendant to present colorable claim that sentence had been imposed in illegal manner.*
- State v. Jeffrey H. 666
- Sexual assault in first degree; claim that trial court abused discretion and violated defendant's constitutional right to present defense by precluding certain testimony; whether trial court abused discretion by excluding as irrelevant certain testimony and evidence; consciousness of guilt evidence; claim that trial court abused discretion and deprived defendant of right to due process by admitting into evidence certain out of context interview statements made by defendant following failed polygraph examination; whether statements qualified for exception to rule against hearsay for admission by party opponent pursuant to applicable provision of Code of Evidence (§ 8-3 [1]).*
- State v. Megos 133
- Violation of probation; claim that trial court erroneously found that defendant violated condition of probation that he not violate any criminal law; whether trial court's findings that defendant violated probation by committing criminal impersonation and larceny third degree were clearly erroneous; credibility determinations; claim that state did not establish that defendant wilfully or intentionally violated probation or any laws; whether language of statute governing violation of probation (§ 53a-32) demonstrates that legislature did not intend to make wilfulness element of probation violation; whether trial court abused discretion by admitting evidence of other crimes committed by defendant to show common scheme or plan; whether strict rules of evidence apply to probation violation proceedings; whether trial court properly determined that evidence regarding prior crimes was relevant to inference that defendant intended to keep deposit; whether trial court abused discretion in revoking probation and imposing sentence of sixty months incarceration.*
- State v. Pugh 518
- Murder; burglary in first degree; claim that trial court abused discretion by admitting, pursuant to spontaneous utterance exception to rule against hearsay, testimony regarding statements that witness overheard victim make on day of murder;*

whether subject statements were spontaneous and unreflective, and made in response to startling occurrence; claim that trial court violated defendant's constitutional right to confrontation by admitting alleged inadmissible testimonial hearsay; whether state met burden of proving that any error in admitting testimony was harmless beyond reasonable doubt; claim that trial court committed plain error by failing to dismiss, sua sponte, burglary charge; whether defendant was barred from raising statute of limitations defense on appeal where defendant failed to raise defense at trial.

State v. Reed 537

Harassment in second degree; whether defendant lacked fair warning that she could be prosecuted under statute (§ 53a-183 [a] [3]) proscribing second degree harassment on basis of verbal content of telephone call; whether State v. Moulton (310 Conn. 337), which broadened scope of § 53a-183 (a) (3) to proscribe unprotected harassing speech, applied to present case; whether defendant reasonably could have foreseen expansion of scope of § 53a-183 (a) (3) in Moulton; whether state presented sufficient evidence concerning circumstances of defendant's telephone call from which jury reasonably could have found that defendant intended to harass, annoy or alarm to support conviction of harassment in second degree; whether, pursuant to § 53a-183 (a) (3), conduct in placing single telephone call was sufficient to constitute harassment in second degree when call was made with intent to harass, annoy or alarm; whether trial court improperly failed to give jury with limiting instruction concerning consideration of verbal content of telephone call; whether failure to give requested instruction was harmless beyond reasonable doubt.

State v. Steele 1

Robbery in first degree; conspiracy to commit robbery in first degree; conspiracy to commit larceny in third degree; whether evidence was sufficient to support conviction of robbery in first degree as principal; whether trial court improperly admitted lay testimony from witness concerning historic cell site analysis by not requiring witness to be qualified as expert; whether admission of lay testimony was harmless beyond reasonable doubt; cumulative evidence; whether conviction of and sentences on conspiracy to commit robbery and conspiracy to commit larceny charges, which arose out of single agreement to rob bank, violated defendant's right against double jeopardy.

Thomson v. Dept. of Social Services 122

Disability discrimination; claim that defendant employer failed to provide plaintiff employee with reasonable accommodation; whether trial court improperly rendered summary judgment for defendant employer; claim that plaintiff presented sufficient evidence to support prima facie case of discrimination; claim that plaintiff's request for leave was reasonable accommodation that would have enabled her to perform essential functions of her job; whether defendant was given opportunity to engage in required interactive process with plaintiff regarding reasonable accommodation for her disability.

Wilkins v. Connecticut Childbirth & Women's Center 420

Medical malpractice; claim that defendant was negligent in care and treatment of plaintiff immediately after delivery of child and in postdelivery care; whether trial court abused discretion in submitting threshold jury interrogatory asking jury to determine whether plaintiff had in fact sustained fourth degree laceration and/or severe tear of vaginal tissue, perineal skin and muscle, and anal sphincter muscle during labor and delivery; whether trial court abused discretion in answering jury question; whether trial court's use of first interrogatory and answer to jury question were consistent with language of complaint, evidence elicited at trial and arguments; whether interrogatory was permissible in order to elicit determination of material threshold fact.