

**Cumulative Table of Cases**  
**Connecticut Appellate Reports**  
**Volume 191**

*(Replaces Prior Cumulative Table)*

<p><b>Board of Education v. Bridgeport</b> . . . . .</p> <p><i>Declaratory judgment; injunctive relief; motion to dismiss; subject matter jurisdiction; claim that trial court erred by dismissing counts one through four of complaint against state defendants for lack of subject matter jurisdiction for failure to exhaust administrative remedies pursuant to statute (§ 4-176); whether plaintiffs had available administrative process to challenge authorization by defendant Commissioner of Education, pursuant to statute (§ 10-264l [m] [2]), for defendant Bridgeport Board of Education to charge neighboring school districts tuition for each nonresident student who attended defendant city's interdistrict magnet schools; claim that trial court improperly dismissed counts two through four of complaint, which raised various as applied constitutional challenges to § 10-264l (m) (2), for lack of subject matter jurisdiction for failure to exhaust administrative remedies; whether plaintiffs failed to sufficiently show how it would have been demonstrably futile to file petition for declaratory ruling with defendant State Board of Education; whether plaintiffs failed to avail themselves of available administrative process; claim that trial court improperly dismissed count six of complaint, which alleged that Bridgeport defendants committed civil theft in violation of applicable statutes (§§ 52-564 and 53a-119 [1], [2], [3] and [6]); whether civil theft claim was ripe for review; whether fact that plaintiffs sought injunctive relief to prevent defendant city from unlawfully misappropriating tuition moneys under color of state law prevented claim from being barred by ripeness doctrine; whether injunctive relief was remedy available to plaintiffs under § 52-564; whether plaintiffs had suffered injury sufficient to give rise to alleged civil theft.</i></p>	<p>360</p>
<p><b>Bolat v. Bolat</b> . . . . .</p> <p><i>Dissolution of marriage; claim that trial court improperly granted motions for contempt filed by defendant and denied motion for contempt filed by plaintiff; claim that trial court improperly denied motion to modify child support obligation; whether stipulation was sufficiently clear and unambiguous so as to support judgment of contempt; whether trial court reasonably could have found that plaintiff had wilfully violated stipulation; whether plaintiff's claim that trial court improperly denied motion for contempt was adequately briefed; whether trial court reasonably could have found that plaintiff had failed to prove substantial change in circumstances in support of motion to modify child support obligation.</i></p>	<p>293</p>
<p><b>Clasby v. Zimmerman</b> . . . . .</p> <p><i>Arbitration; whether trial court improperly denied application to confirm arbitration award; whether, pursuant to statute (§ 52-417), trial court lacked discretion to deny timely application to confirm arbitration award where award had not been timely vacated, modified or corrected; whether trial court correctly denied request that it vacate subsequent arbitration award that reduced certain costs of cabinetry work and hold plaintiffs responsible for cost of cabinetry work as set forth in original arbitration award.</i></p>	<p>143</p>
<p><b>Deutsche Bank National Trust Co. v. Ponger</b> . . . . .</p> <p><i>Foreclosure; whether trial court properly rendered judgment of strict foreclosure; claim that plaintiff failed to provide defendant, who was joint tenant of mortgaged property and joint obligor on mortgage deed, with proper notice of default and acceleration of note, where plaintiff had sent notice to mortgaged property that was addressed to other joint tenant of mortgaged property and joint obligor on mortgage deed, but not to defendant.</i></p>	<p>76</p>
<p><b>Dinham v. Commissioner of Correction</b> . . . . .</p> <p><i>Habeas corpus; manslaughter in first degree with firearm; whether habeas court improperly dismissed claims that respondent Commissioner of Correction misconstrued and misapplied statute (§ 54-125a) pertaining to parole suitability hearings and application of risk reduction credit toward advancement of parole</i></p>	<p>84</p>

	<i>eligibility date, and statute (§ 18-98e) pertaining to risk reduction credit; claim that respondent misinterpreted and misapplied 2013 amendments to § 54-125a, as set forth in No. 13-3 of 2013 Public Acts (P.A. 13-3) and No. 13-247 of 2013 Public Acts (P.A. 13-247), and 2015 amendments to § 18-98e, as set forth in No. 15-216 of 2015 Public Acts (P.A. 15-216); claim that amendments to statutes as set forth in public acts were substantive rather than procedural in nature and, therefore, should not apply retroactively to petitioner; whether habeas court improperly dismissed claim that when petitioner pleaded guilty in 2012 to manslaughter in first degree with firearm, he relied on governmental representations that he would receive risk reduction credits to advance his parole eligibility date and reduce total length of his sentence; whether habeas court improperly dismissed certain counts of habeas petition for lack of subject matter jurisdiction and for failure to state claim on which habeas relief could be granted; whether petitioner established cognizable liberty interest by alleging that respondent, through his customary practices, had created liberty interest.</i>	
Dufresne v. Dufresne . . . . .		532
	<i>Dissolution of marriage; postjudgment motion to modify visitation; whether trial court improperly granted motion to modify visitation; whether trial court abused its discretion by terminating minor child's counseling with therapist; whether trial court abused its discretion by failing to credit testimony of family relations counselor, which contained hearsay.</i>	
Freeman v. A Better Way Wholesale Autos, Inc. . . . .		110
	<i>Attorney's fees; claim that trial court erred in awarding supplemental attorney's fees; claim that trial court abused its discretion in amount of attorney's fees awarded; adoption of trial court's memorandum of decision as proper statement of relevant facts and applicable law on issues.</i>	
Gudino v. Commissioner of Correction. . . . .		263
	<i>Habeas corpus; claim that habeas court improperly dismissed count one of second petition for writ of habeas corpus as improper successive claim that was barred by doctrine of res judicata; whether petitioner sought to relitigate claims against his trial counsel on same legal grounds of ineffective assistance of counsel and sought same legal relief in second petition; claim that habeas court improperly denied count two of second habeas petition alleging ineffective assistance of prior habeas counsel on ground that petitioner failed to establish that he was prejudiced by trial counsel's allegedly deficient performance; whether habeas court properly determined that there was no reasonable probability that, but for trial counsel's alleged failure to investigate and present to trial court certain mitigating information, trial court would have imposed original recommended sentence of twenty-five years of incarceration.</i>	
Harris v. Commissioner of Correction . . . . .		238
	<i>Habeas corpus; ineffective assistance of counsel; claim that habeas court abused its discretion in denying petition for certification to appeal and improperly concluded that petitioner's prior habeas and trial counsel were not ineffective for failing to obtain psychiatric records of one of state's witnesses; whether petitioner demonstrated that claim of ineffective assistance of habeas and trial counsel was adequate to deserve encouragement to proceed further.</i>	
In re Adrian K. . . . .		397
	<i>Child neglect; motion to dismiss; order of temporary custody; subject matter jurisdiction; claim that trial court improperly denied respondent father's motion to dismiss order of temporary custody for lack of subject matter jurisdiction; claim that rule of practice (§ 33a-6 [c]) limited court's jurisdiction; claim that trial court denied father's motion to dismiss in violation of substantive and procedural due process rights; claim that trial court deprived father of right to family integrity and timely notice by failing to interpret as mandatory timing requirements for filing motion to modify disposition pursuant to § 33a-6 (c).</i>	
In re Leo L. . . . .		134
	<i>Termination of parental rights; motion to transfer guardianship; claim that trial court abused its discretion in denying motion to transfer guardianship of minor children to intervening grandparent and erroneously determined that transfer of guardianship would not be in children's best interests; whether trial court had authority to weigh evidence elicited in intervenor's favor; whether trial court properly determined that transferring guardianship was not in children's best interests; claim that trial court failed to acknowledge certain evidence in making its decision.</i>	

In Re Skylar F. . . . .	200
<i>Child neglect; whether trial court properly denied respondent father's motion to open judgment of neglect concerning father's minor child that was rendered after father was defaulted for failing to attend case status conference; whether father's rights to due process were violated; claim that this court should exercise de novo review of claim that father was denied due process of law as result of trial court's rendering default judgment at case status conference; claim that trial court abused its discretion in denying father's motion to open default judgment.</i>	
IP Media Products, LLC v. Success, Inc. . . . .	413
<i>Foreclosure; claim that plaintiff was holder in due course entitled to enforce mortgage and note irrespective of whether documents were executed with requisite corporate authority; failure of plaintiff to challenge trial court's finding that mortgage and note were unenforceable as conveyed and executed without requisite corporate authority; whether plaintiff properly preserved claim that it was entitled to foreclose mortgage as holder in due course; whether plaintiff introduced any evidence at trial seeking to establish elements required by statute (§ 42a-3-302) that defines holder in due course.</i>	
Lewis v. Newtown. . . . .	213
<i>Summary judgment; whether trial court properly granted motion for summary judgment on ground of governmental immunity pursuant to statute (§ 52-557n [a] [2] [B]); claim that trial court improperly concluded that complaint did not contain allegations of negligence directed at acts and omissions of defendants' faculty and staff during shooting at school; claim that trial court improperly concluded that plaintiffs failed to establish existence of genuine issue of material fact as to whether defendants' implementation of school security guidelines was discretionary; claim that trial court improperly determined that identifiable person-imminent harm exception to governmental immunity did not apply to defendants' claim of immunity; whether trial court improperly concluded that no genuine issue of material fact existed as to whether adoption of school security guidelines was discretionary act within defendants' general duty to manage and supervise employees and schoolchildren, and, therefore, protected by governmental immunity.</i>	
Maria W. v. Eric W. . . . .	27
<i>Dissolution of marriage; motion for contempt; claim that trial court abused its discretion by admitting plaintiff's testimony that defendant previously had been arrested and charged with certain criminal offenses; claim that trial court improperly found defendant in arrears on child support and alimony obligations and ordered him to make certain weekly payments; whether order appealed from was final where trial court resolved some, but not all, claims in motion for contempt and continued matter to later date for determination of whether defendant's failure to pay arrears was wilful or due to inability to pay; whether this court lacked jurisdiction to entertain claim on appeal due to lack of final judgment.</i>	
Marvin v. Board of Education . . . . .	169
<i>Negligence; summary judgment; governmental immunity; claim that trial court improperly rendered summary judgment in favor of defendant on ground of government immunity pursuant to statute (§ 52-557n [a] [2] [B]) that provides immunity for discretionary acts of employees, agents and officers of political subdivisions of state; claim that genuine issue of material fact existed as to whether inspection and maintenance of school locker room floor by defendant's employees constituted ministerial duty; claim that there remained genuine issue of material fact as to whether plaintiff was identifiable person subject to imminent risk of harm and, thus, whether identifiable person, imminent harm exception to defense of governmental immunity applied; whether plaintiff fell within identifiable class of foreseeable victims or was identifiable person for purposes of exception.</i>	
McGinty v. Stamford Police Dept. . . . .	163
<i>Workers' compensation; whether Compensation Review Board properly affirmed decision of Workers' Compensation Commissioner that plaintiff employee's claim for benefits under Heart and Hypertension Act (§ 7-433c) was compensable; whether commissioner's finding that plaintiff suffered from heart disease was supported by record.</i>	
Monroe v. Ostrosky . . . . .	474
<i>Injunction; appeal from judgment of trial court denying motion to open and vacate court's prior judgment that had been rendered in favor of plaintiff town and several of its agencies and employees; action seeking injunctive relief compelling</i>	

	<i>defendant to comply with two cease and desist orders, which alleged violations of zoning and inland wetlands regulations; claim that defendant did not have notice of, and opportunity to be heard at, evidentiary hearing.</i>	
Mosby v. Board of Education . . . . .	<i>Contracts; whether trial court properly granted motion to dismiss for improper service of process; whether plaintiff properly served defendant board of education pursuant to statute (§ 52-57 [b]); reviewability of claim that trial court improperly granted motion for summary judgment for lack of standing; failure to brief claim adequately.</i>	280
Newtown v. Ostrosky . . . . .	<i>Injunction; action seeking injunctive relief compelling defendant to comply with two cease and desist orders, which alleged violations of zoning and inland wetlands regulations; claim that trial court lacked subject matter jurisdiction to determine municipal boundaries and that motion to dismiss, therefore, should have been granted because court's judgment necessarily determined boundary line; claim that trial court erred in denying motion to open because defendant had not received notice of, and did not have opportunity to be heard at, evidentiary hearing on merits of action; claim that, because court has continuing jurisdiction to enforce and to modify its injunctive orders, judgment was not subject to four month rule and could validly be revisited at any time.</i>	450
1916 Post Road Associates, LLC v. Mrs. Green's of Fairfield, Inc. . . . .	<i>Landlord-tenant; guarantee of commercial lease; whether trial court properly granted motion for summary judgment; whether guarantor's letters to plaintiff created genuine issue of material fact as to whether guarantor was liable to plaintiff lessor for debts of lessee.</i>	16
Sack Properties, LLC v. Martel Real Estate, LLC . . . . .	<i>Quiet title; claim that trial court improperly rejected quiet title and trespass claims on ground that plaintiff failed to prove that it exclusively owned pipe through which drainage easement ran; claim that trial court's findings that there was no evidence of exclusive ownership and that plaintiff failed to prove exclusive ownership was clearly erroneous; claim that trial court's finding that plaintiff failed to prove that defendant had overburdened drainage easement by using pipe to drain excess stormwater was clearly erroneous.</i>	383
Scott v. CCMC Faculty Practice Plan, Inc. . . . .	<i>Medical malpractice; claim that trial court improperly permitted defendants to introduce evidence that, after surgery, plaintiff's pain substantially resolved due to syringx that had developed within his spinal cord to establish reduction in damages; claim that syringx evidence had to be categorized as "benefits evidence" under Restatement (Second) of Torts (§ 920) that was outside pleadings and contrary to public policy; whether trial court erred when it failed to give plaintiff's requested jury instructions regarding syringx evidence; claim that trial court's rulings were harmful because syringx evidence permeated case; claim that trial court's rulings were harmful because jury could have considered syringx evidence in its determination of liability.</i>	251
Seward v. Administrator, Unemployment Compensation Act . . . . .	<i>Unemployment compensation benefits; whether Employment Security Board of Review properly affirmed decision of appeals referee finding that plaintiff was not entitled to certain unemployment benefits; claim that trial court exceeded scope of its authority by making factual findings not in record and relying on its own factual findings in determining that board had abused its discretion by denying plaintiff's motion to open.</i>	578
Smith v. Marshview Fitness, LLC . . . . .	<i>Fraudulent transfer; motion for summary judgment; claim that trial court improperly concluded that transfer of certain property to defendant company was not fraudulent under common law or Uniform Fraudulent Transfer Act (§ 52-552a et seq.) on ground that property did not constitute "assets" because it was encumbered by valid lien in excess of its value; claim that trial court improperly rendered summary judgment on claim alleging violation of Connecticut Unfair Trade Practices Act (CUTPA) (§ 42-110a et seq.) because underlying conduct on which plaintiff claimed defendant company violated CUTPA was broader than facts supporting his fraudulent transfer claims; whether trial court abused its discretion in denying motion to reargue motion for summary judgment.</i>	1
State v. Alicea . . . . .	<i>Assault in first degree; whether verdict of guilty of intentional assault in violation of statute (§ 53a-59 [a] [1]) and reckless assault in violation of § 53a-59 (a)</i>	421

(3) was legally inconsistent; claim that defendant's right to due process was violated because he was unaware that he could be convicted of both intentional assault and reckless assault; whether trial court abused its discretion by excluding from evidence defendant's statement to police; claim that defendant's statement to police was admissible under spontaneous utterance exception to rule against hearsay; whether evidence was sufficient to disprove beyond reasonable doubt defendant's claim of self-defense.

State v. Chavez . . . . . 184

*Manslaughter in first degree; claim that trial court improperly deprived defendant of constitutional right to fair trial when it failed to instruct jury, sua sponte, about inherent shortcomings of simultaneous foreign language interpretation of trial testimony; claim that trial court improperly deprived defendant of constitutional right to fair trial when it instructed jury that it could consider as consciousness of guilt evidence that defendant changed shirt shortly after victim was stabbed; whether defendant was presented with meaningful opportunity to review and comment on trial court's jury instructions; whether defendant waived right to challenge constitutionality of jury instruction under State v. Golding (213 Conn. 233); whether jury reasonably could have found from evidence that defendant's act of changing shirt was motivated by desire to avoid detection by law enforcement.*

State v. Clark . . . . . 191

*Assault in second degree; whether trial court properly denied motion to suppress oral statement defendant made to police officer during alleged custodial interrogation in defendant's apartment before defendant was advised of constitutional rights pursuant to Miranda v. Arizona (384 U.S. 436); whether trial court properly determined that defendant was not in custody at time statement was made; whether reasonable person in defendant's position would have believed that her freedom of movement was restrained to degree associated with formal arrest.*

State v. Daniels . . . . . 33

*Intentional manslaughter in first degree; reckless manslaughter in first degree; misconduct with motor vehicle; claim that jury's guilty verdicts were legally inconsistent in that each of alleged crimes required mutually exclusive mental state; claim that trial court erred when it failed to exclude certain testimonial hearsay; whether verdicts required findings that defendant simultaneously acted intentionally and recklessly with respect to different results; whether jury reasonably could have found that defendant specifically intended to cause serious physical injury to victim and that, in doing so, consciously disregarded substantial and unjustifiable risk that actions created grave risk of death to victim; whether defendant's conviction required jury to find that defendant acted intentionally and criminally negligent with respect to different results; whether defendant could have intended to cause serious physical injury to victim while, at same time, failing to perceive substantial and unjustifiable risk that manner in which defendant operated vehicle would cause victim's death; whether mental state element for crimes of reckless manslaughter and misconduct with motor vehicle, or criminally negligent operation of motor vehicle, were mutually exclusive when examined under facts and state's theory that two strikes of victim's vehicle by defendant was one continuous act; whether defendant could have consciously disregarded substantial and unjustifiable risk that actions would cause victim's death while simultaneously failing to perceive substantial and unjustifiable risk that actions would cause victim's death; whether mental states required for reckless manslaughter and criminally negligent operation related to same result; whether admission of out-of-court statement for purposes other than its truth raised confrontation clause issue and was of constitutional magnitude under second prong of State v. Golding (213 Conn. 233); whether statement at issue was hearsay.*

State v. Francis . . . . . 101

*Motion to correct illegal sentence; whether trial court properly denied motion to correct illegal sentence; claim that sentence was imposed in illegal manner because sentencing court substantially relied on materially inaccurate information in presentence investigation report concerning defendant's prior criminal history; whether record demonstrated that sentencing court did not substantially rely on certain inaccuracies in presentence investigation report in imposing sentence; whether disputed fact that victim sustained graze wound prior to sustaining fatal stab wound substantially relied on by sentencing court; claim that sentencing*

	<i>court misconstrued evidence concerning manner in which underlying crime of murder was committed.</i>	
State v. Juan V. . . . .		553
	<i>Risk of injury to child; claim that trial court committed plain error by permitting jury during its deliberations and in jury room to view, without limitation, video recording of victim's forensic interview, which had been admitted into evidence as full exhibit; whether trial court correctly submitted video exhibit to jury as required by applicable rule of practice (§ 42-23) and in manner consistent with our Supreme Court's stated preference for juries to receive all exhibits, when feasible, in jury room; reviewability of claim that trial court improperly instructed jury on inferences; waiver of right to challenge trial court's jury instruction; whether trial court's instruction constituted impermissible two-inference instruction that improperly diluted state's burden of proof; whether inferences instruction constituted obvious and undebatable error so as to establish manifest injustice or fundamental unfairness pursuant to plain error doctrine; claim that trial court erred in failing to disclose victim's school records following in camera review; whether victim's undisclosed school records contained information that was exculpatory or probative of victim's credibility.</i>	
State v. Kerlyn T. . . . .		476
	<i>Aggravated sexual assault in first degree; home invasion; risk of injury to child; assault in second degree with firearm; unlawful restraint in first degree; threatening in first degree; assault in third degree; whether trial court erred when it determined that defendant knowingly, intelligently, and voluntarily waived his right to jury trial; whether trial court abused its discretion when it determined that defendant had not demonstrated substantial reason that warranted either discharge of defense counsel or more searching inquiry into that request; claim that colloquy between court and defendant regarding waiver of right to jury trial was constitutionally inadequate because it failed to elicit information regarding defendant's background, experience, conduct, and mental and emotional state.</i>	
State v. Mercer. . . . .		288
	<i>Sexual assault in first degree; unlawful restraint in first degree; claim that defendant was deprived of constitutional rights to due process and effective assistance of counsel during plea bargaining stage of proceedings because state initially charged defendant with crime predicated on misunderstanding of victim's age; whether record was adequate to conduct meaningful review of defendant's claim.</i>	
State v. Porfil. . . . .		494
	<i>Possession of narcotics with intent to sell by person who is not drug-dependent; sale of narcotics within 1500 feet of school; possession of drug paraphernalia; possession of narcotics; interfering with officer; claim that there was insufficient evidence to support defendant's conviction; whether state failed to produce sufficient evidence to prove beyond reasonable doubt that defendant had constructive possession of narcotics recovered by police in common area of certain house; whether defendant's reliance on State v. Nova (161 Conn. App. 708) for contention that state failed to establish, in addition to his spatial and temporal proximity to subject narcotics, existence of other incriminating statements or circumstances linking him to them was misplaced; whether state relied solely on two hand-to-hand exchanges observed by police officer and defendant's proximity to narcotics to prove constructive possession of narcotics; whether, on basis of evidence presented, jury reasonably could have inferred that defendant had been selling subject narcotics from porch of house during time in question; whether jury reasonably could have concluded that defendant was aware of nature and presence of narcotics and had dominion and control over them; claim that trial court committed evidentiary error and deprived defendant of his constitutional right to present defense by improperly excluding certain photographs of front and back of house; whether exclusion of photograph of front of house rose to level of constitutional violation or substantially affected jury's verdict; whether trial court properly excluded photograph of rear of house on ground that defendant failed to authenticate it; claim that trial court improperly prevented defendant from showing scar on his back to jury, thereby depriving him of his constitutional right to present misidentification defense; whether trial court abused its discretion by excluding demonstration of scar as needlessly cumulative.</i>	
State v. Scott. . . . .		315
	<i>Robbery in first degree; whether trial court denied defendant right to due process under federal and state constitutions when court denied motion to suppress out-of-court and subsequent in-court identifications of defendant by victim; whether</i>	

*trial court properly determined that out-of-court identification of defendant at arraignment proceeding was sufficiently reliable under federal constitution on basis of factors in Neil v. Biggers (409 U.S. 188); whether trial court's findings as to Biggers factors were supported by evidence; claim that victim's failure to identify defendant in police photographic arrays undermined reliability of subsequent identification at arraignment; whether trial court correctly denied motion to suppress victim's in-court identification of defendant; whether trial court improperly failed to suppress victim's identifications of defendant under article first, § 8, of state constitution on basis of Supreme Court's modification in State v. Harris (330 Conn. 91) of reliability standard in Biggers with respect to admissibility of eyewitness identification testimony; whether trial court's application of Biggers factors was harmless; claim that unconscious transference—mistaken identity of face seen in one context as face seen in another context—was fatal to trial court's application of Biggers; whether evidence was sufficient to support defendant's conviction as against deceased victim; claim that jury could not have reasonably inferred that second victim knew that deceased victim had cash and cell phone in car prior to search of vehicle by defendant and accomplice, and that defendant, his accomplice or both had taken deceased victim's cash and cell phone; claim that defendant could have been convicted of robbery in first degree only as accessory; whether evidence was sufficient to prove that defendant acted as principal during robbery; whether trial court abused its discretion in denying motion to disqualify trial judge, who had presided at prior trial of defendant's accomplice, ruled on accomplice's motion to suppress and indicated admiration for victim who testified against accomplice and against defendant.*

Stone v. East Coast Swappers, LLC . . . . . 63  
*Unfair trade practices; alleged violation of Connecticut Unfair Trade Practices Act (CUTPA) (§ 42-110a et seq.); attorney's fees; claim that this court should recognize rebuttable presumption in context of attorney's fees for CUTPA violations, whereby prevailing plaintiff should ordinarily recover attorney's fees unless special circumstances would render such award unjust; whether trial court abused its discretion in declining to award plaintiff attorney's fees pursuant to statute (§ 42-110g [d]); claim that trial court erred by conflating analyses for awarding attorney's fees and punitive damages under CUTPA.*