

Cumulative Table of Cases
Connecticut Appellate Reports
Volume 192

(Replaces Prior Cumulative Table)

<p>A Better Way Wholesale Autos, Inc. v. Saint Paul</p> <p><i>Arbitration; whether trial court properly dismissed application to vacate arbitration award as untimely; whether trial court properly granted application to confirm arbitration award; claim that appeal was moot because plaintiff failed to file opposition to application to confirm arbitration award or to address application to confirm in its brief to this court; whether parties could agree to have three month limitation period in Federal Arbitration Act (9 U.S.C. § 12) to file application to vacate arbitration award apply to a vacatur proceeding in Connecticut state court so as to supplant or override thirty day limitation period under state law (§ 52-420 (b)); Doctor's Associates, Inc. v. Searl (179 Conn. App. 577) overruled insofar as it stands for proposition that parties can, as matter of law, agree, by way of choice of law provision, to apply three month limitation period in 9 U.S.C. § 12 to vacatur proceeding brought in Connecticut state court; claim that trial court erred when it reviewed substance of application to vacate arbitration award after it ruled that application to vacate should be dismissed; harmless error; whether trial court abused its discretion in awarding supplemental attorney's fees; claim that trial court was required to adopt findings of another trial court regarding reasonableness of hourly rates that were requested by defendants' counsel in motion for award of supplemental attorney's fees.</i></p>	<p>245</p>
<p>Alvarez v. Middletown</p> <p><i>Employment discrimination; alleged discrimination on basis of national origin and race; claim that trial court improperly rendered summary judgment in favor of defendant; whether plaintiff failed to demonstrate existence of genuine issue of material fact as to whether defendant's nondiscriminatory justification for his discharge from his employment was pretext for unlawful discrimination on basis of national origin and race; whether circumstances of case implicated same actor inference; whether certain internal affairs report reflected discriminatory bias that influenced recommendation of defendant city's chief of police to discharge plaintiff.</i></p>	<p>606</p>
<p>Amica Mutual Ins. Co. v. Levine</p> <p><i>Declaratory judgment; whether trial court properly granted motion for summary judgment; claim that requirement in automobile insurance policy issued by plaintiff that required defendant to undergo independent medical examination was void as against public policy; claim that provision in automobile insurance policy that required defendant to undergo independent medical examination was reasonable; claim that defendant's refusal to attend independent medical examination was unreasonable; adoption of trial court's memorandum of decision as proper statement of relevant facts, issues and applicable law.</i></p>	<p>620</p>
<p>Berthiaume v. State</p> <p><i>Petition for new trial; burglary in first degree; summary judgment; jurisdiction; res judicata; motion for new trial; petition for new trial based on newly discovered evidence; whether trial court properly rendered summary judgment on basis of res judicata; whether criminal court lack authority under applicable rule of practice (§ 42-55) to rule on petitioner's claim of newly discovered evidence; whether criminal court rendered valid, final decision on petitioner's motion for new trial; whether res judicata precluded petition for new trial in petitioner's subsequent civil action.</i></p>	<p>322</p>
<p>Blinn v. Sindwani</p> <p><i>Negligence; claim that the trial court improperly sustained defendant's objection to plaintiff's motions in limine, which sought to exclude certain prior misconduct evidence and evidence of motor vehicle citation issued to plaintiff; whether evidence was relevant to plaintiff's claim of damages; whether trial court abused its discretion in determining the probative value of evidence outweighed its prejudicial effect.</i></p>	<p>525</p>

Boreen v. Boreen	303
<i>Dissolution of marriage; claim that trial court erred in granting motion to terminate alimony upon court's finding that plaintiff was living with another person; whether trial court erred in finding that plaintiff was living with another person pursuant to statute (§ 46b-86 [b]); claim that trial court improperly relied on fact that plaintiff was provided with free health insurance coverage in concluding that she was living with another person; whether trial court erred in finding that only remedy available upon finding that plaintiff was living with another person was to terminate defendant's alimony obligation.</i>	
Carolina v. Commissioner of Correction	296
<i>Habeas corpus; whether habeas court abused its discretion in denying petition for certification to appeal; claim that petitioner's right to due process was violated when respondent Commissioner of Correction classified him as sex offender with treatment needs, where petitioner had been convicted of various counts of risk of injury to child; claim that petitioner was not afforded sufficient procedural protections before being classified as sex offender.</i>	
Crosskey Architects, LLC v. POKO Partners, LLC.	378
<i>Contracts; quantum meruit; whether trial court improperly pierced corporate veil and held defendant business owners personally liable under identity rule; claim that trial court improperly found that identity test was satisfied based solely on its finding that defendant business owners controlled defendant business entities; claim that plaintiff presented no evidence to support identity rule; claim that trial court improperly pierced corporate veil and held defendant business owners personally liable under identity rule because it failed to properly consider whether defendant business entities served legitimate business purpose; claim that trial court improperly found that plaintiff was entitled to damages on theory of quantum meruit as to certain project; claim that trial court improperly calculated amount of damages because no factual support existed in record for value of benefit; claim that trial court lacked discretion to award prejudgment interest pursuant to statute (§ 37-3a) on claim for quantum meruit as to certain project.</i>	
Fleischer v. Fleischer	540
<i>Dissolution of marriage; whether trial court erred in dismissing motions to modify alimony and for contempt for failure to prosecute motions with reasonable diligence; whether sanction of dismissal was proportional to violation.</i>	
Gaddy v. Mount Vernon Fire Ins. Co.	337
<i>Summary judgment; whether trial court improperly concluded that plaintiff's claims were barred by applicable statute of limitations; adoption of trial court's memorandum of decision as statement of facts and applicable law on issues.</i>	
Iino v. Spalter	421
<i>Intentional sexual assault; motion to dismiss; personal jurisdiction; motion to set aside verdict; punitive damages; claim that trial court's assertion of personal jurisdiction over defendant violated her right to due process because she personally had no minimum contacts with state; whether trial court properly exercised jurisdiction over defendant under state's long arm statute (§ 52-59b); whether defendant, as executrix of decedent's estate, stepped into decedent's shoes for purposes of this action; claim that trial court improperly admitted certain evidence; whether any purported error in admission of evidence was harmless; whether evidence merely was cumulative of other evidence; whether defendant failed to prove that improper admission of evidence likely affected outcome of trial; whether jury's determination that plaintiff was entitled to common-law punitive damages was final judgment for purposes of appeal; whether trial court improperly permitted jury to find defendant liable for common-law punitive damages without evidence as to plaintiff's litigation expenses; whether trial court improperly reserved for its own consideration specific amount of common-law punitive damages to be awarded to plaintiff; whether trial court abused its discretion in denying motion to set aside verdict; whether there was insufficient evidence that plaintiff suffers from post-traumatic stress disorder and other psychological trauma caused by childhood sexual abuse by decedent.</i>	
Ives v. Commissioner of Motor Vehicles	587
<i>Administrative appeal; suspension of motor vehicle operator's license by defendant Commissioner of Motor Vehicles pursuant to statute (§ 14-227b); claim that trial court erred in concluding that blood test results need not satisfy conditions for admissibility and competence set forth by statute (§ 14-227a [k]) that applies to criminal proceedings to be admissible in administrative license suspension hearing; claim that trial court improperly interpreted 2009 amendment to § 14-</i>	

227b (j) as changing requirements for admissibility of chemical evidence at administrative hearing; claim that because plaintiff did not suffer and was not alleged to have suffered physical injury in accident as required by § 14-227a (k), his blood sample was improperly obtained; whether trial court properly determined that blood test derived from plaintiff's blood sample satisfied conditions for admissibility in underlying administrative hearing before defendant; whether legislative history of 2009 amendment to § 14-227b (j) demonstrated that its purpose was to extend factual circumstances in which blood test results derived from blood samples are admissible in administrative proceedings under § 14-227b (j) to include accident situations where operator of motor vehicle, regardless of physical injury or alleged physical injury, is determined by police officer to require treatment or observation at hospital; reviewability of claim that permitting introduction of blood test results absent satisfaction of admissibility conditions set forth in § 14-227a (k) was unconstitutional; failure to raise claim in administrative hearing; whether unpreserved claim was reviewable under State v. Golding (213 Conn. 233).

Kusy v. Norwich 171
Negligence; summary judgment; governmental immunity; claim that trial court improperly rendered summary judgment in favor of defendants on ground of governmental immunity pursuant to statute (§ 52-557n [a] [2] [B]); claim that snow and ice removal by municipality is ministerial act as matter of law; whether in absence of policy or directive prescribing manner in which municipal official is to remove snow and ice such act is discretionary in nature; whether trial court properly determined that removal of snow and ice at subject school was discretionary in nature; whether issue of whether removal of snow and ice is ministerial in nature is factual question that is reserved for jury and may not be decided by trial court by way of summary judgment; claim that trial court improperly determined that plaintiff failed to raise genuine issue of material fact regarding whether he was identifiable victim for purposes of identifiable person-imminent harm exception to governmental immunity.

Nonhuman Rights Project, Inc. v. R.W. Commerford & Sons, Inc. 36
Habeas corpus; whether habeas court properly declined to issue writ of habeas corpus pursuant to applicable rule of practice (§ 23-24 [a] [1] and [2]); whether habeas court properly concluded that it lacked subject matter jurisdiction; whether habeas court properly concluded that petitioner lacked standing to bring habeas petition on behalf of elephants; whether elephants, not being persons, lacked standing to file habeas petition; whether petitioner failed to establish next friend standing; whether habeas corpus relief was intended to apply to nonhuman animal; whether, pursuant to statute (§ 52-466 [a]), only person is authorized to file application for writ of habeas corpus.

One Elmcroft Stamford, LLC v. Zoning Board of Appeals 275
Zoning; claim that trial court improperly concluded that named applicant had standing on behalf of defendant business to apply to zoning board of appeals for approval of location of used car dealer on certain real property; claim that board failed to conduct requisite suitability analysis as required by applicable statute (§ 14-55); whether § 14-55 has been repealed; whether board should have reviewed application under standard set forth in § 14-55; whether board mistakenly treated application as if it were application for variance and, thus, failed to comply with requirements set forth in § 14-55 in granting that application; whether trial court erred in searching beyond board's stated reason for approval to find basis for board's decision and improperly upheld that decision on alternative grounds.

Pasco Common Condominium Assn., Inc. v. Benson 479
Contracts; Common Interest Ownership Act (§ 47-200 et seq.); action to recover damages for alleged violations of condominium declaration; whether trial court improperly determined that statute of limitations applicable to action was tolled until commencement of this action, rather than to until period of time when declarant control ended under declaration; whether trial court improperly interpreted applicable statutes and declaration to conclude that period of declarant control could continue beyond ten year limit established in declaration so long as one of terminating events in applicable statute (§ 47-245 [d]) and declaration did not occur; whether timeliness of action was contingent on whether three year tort statute of limitations (§ 52-577) or six year contract statute of limitations (§ 52-576) applied; whether claim that declarant had duty to record correct unit square footage in amendments to declaration sounded in tort and contract; whether claims that defendants made secret arrangement with owner of restau-

	<i>rant to exempt restaurant from paying common charges, that defendants improperly assessed common charges related to improper wiring of certain common area lighting, and that defendants improperly expended funds of association to finance repairs and maintenance for units and for paving expenses sounded in tort and contract; whether claims of self-dealing and breach of fiduciary duty relating to management fee and personal vehicle expenses were tort claims only; whether trial court's award of damages to association for common charges that should have been assessed to restaurant was proper; whether court's decision to pierce corporate veil and hold defendant individually liable was clearly erroneous.</i>	
Seminole Realty, LLC v. Sekretaev		405
	<i>Foreclosure; claim that trial court abused its discretion in granting application and execution for ejectment and denying motion for stay of execution for ejectment; whether law day was extended by sixty days pursuant to bankruptcy court's order suspending relief from automatic bankruptcy stay under provision of United States Bankruptcy Code (11 U.S.C. § 362 [a]); whether defendant, who failed to redeem by extended law day, had right or interest in property; claim that trial court improperly found that defendant had agreed to revised law day.</i>	
Sen v. Tsiongas		188
	<i>Negligence; premises liability; action to recover damages for personal injuries sustained by plaintiff tenant when she was bitten by dog owned by another tenant of defendant landlord; whether trial court erred in rendering summary judgment in favor of defendant; whether there was disputed issue of material fact as to whether defendant landlord should have known that tenant's dog had vicious propensities.</i>	
State v. Battle		128
	<i>Violation of probation; whether trial court improperly dismissed motion to correct illegal sentence; whether defendant challenged sentence imposed rather than events leading to conviction; whether trial court had jurisdiction to consider merits of motion to correct illegal sentence; claim that imposition of special parole, following determination that defendant had violated probation, constituted illegal sentence; whether defendant's sentence, including use of special parole, fell within "any lesser sentence" language of applicable statute (§ 53a-32 [d]); claim that defendant was denied due process of law when motion to correct illegal sentence was not acted on by specific judge who had sentenced defendant; whether motion to correct illegal sentence or sentence imposed in illegal manner must be heard and adjudicated by particular judge who imposed sentence; whether defendant's unreserved claim that defendant was deprived of full and fair proceeding with regard to motion to correct illegal sentence failed under third prong of State v. Golding (213 Conn. 233).</i>	
State v. Brown		147
	<i>Assault in second degree; threatening in first degree; claim that trial court improperly denied motion to correct illegal sentence; claim that statutes governing concurrent and consecutive sentences (§ 53a-37) and addressing method of calculation of sentences (§ 53a-38) were ambiguous and contradictory; claim that § 53a-38 is unconstitutional because it violates defendant's constitutional rights to due process, to be free from double jeopardy, and to equal protection; whether court had jurisdiction over claim in motion to correct illegal sentence that did not attack sentencing proceeding itself; claim that prisoners sentenced to consecutive sentences are members of suspect class; whether claim that aggregation of consecutive sentences adversely affected defendant's eligibility for parole and risk reduction credits fell within ambit of double jeopardy.</i>	
State v. Fox		221
	<i>Home invasion; conspiracy to commit home invasion; assault in first degree; conspiracy to commit assault in first degree; claim that trial court violated defendant's right against double jeopardy by sentencing defendant on two counts of conspiracy pursuant to single agreement with multiple criminal objectives; whether appropriate remedy was to reverse judgment of lesser offense of conspiracy and remand case to trial court with direction to vacate conviction; claim that defendant's right to due process under Connecticut constitution was violated by state's failure to produce discernible photographs of crime scene; whether defendant met balancing test set forth in State v. Asherman (193 Conn. 695); whether defendant established materiality of indiscernible photographs; whether likelihood of mistaken interpretation of missing evidence by witnesses or jury was low; whether state's failure to preserve useful photographic evidence of condition of doors at crime scene was result of any bad faith or improper motive on</i>	

- part of state or law enforcement; whether defendant was prejudiced as result of unavailable evidence; whether trial court erred when it denied defendant's request for adverse inference jury instruction related to failure of police to produce discernable photographs; whether factual basis existed for specific charge requested by defendant; whether defendant showed that it was more probable than not that failure to give requested instruction affected result of trial.*
- State v. Marsan 49
*Burglary in third degree; larceny in sixth degree; motion to suppress; whether there was sufficient evidence to support conviction of burglary in third degree; whether defendant was licensed and privileged to be in victim's home when she committed larceny; whether license was explicitly or implicitly revoked; whether state presented evidence from which jury reasonably could have concluded that defendant committed larceny in manner likely to terrorize victim or occupants in victim's home; claim that trial court improperly denied motion to suppress statements that defendant made to police detectives in her home; whether defendant was in custody and entitled to warnings pursuant to *Miranda v. Arizona* (384 U.S. 436) when she was questioned by detectives; whether reasonable person in defendant's position would have felt that she was in custody for purposes of *Miranda*; whether fact that defendant was suspect at time of encounter with detectives transformed encounter into custodial interrogation.*
- State v. Moon 68
Felony murder; robbery in first degree; conspiracy to commit robbery in first degree; jury instructions; claim that trial court erred when it provided jury with supplemental instruction in response to jury question regarding use of force element of robbery in first degree; claim that court introduced new theory of liability when it added phrase "another participant" to instructions on use of physical force element of robbery in first degree; claim that supplemental instruction invaded province of jury or suggested preferred verdict; claim that court erred when it declined to poll jurors on affirmative defense to felony murder charge; claim that trial court abused its discretion by admitting into evidence two spent shell casings that were found in defendant's house two days after shooting; claim that shell casings were impermissible evidence of defendant's criminal propensity; whether defendant waived claim that trial court improperly instructed the jury on conspiracy to commit robbery in first degree when it omitted intent element required for underlying crime of robbery in first degree by failing to instruct jury that it had to find that defendant intended to commit robbery while he or another participant was armed; claim that court's instruction constituted plain error.
- State v. Rodriguez 115
Public indecency; breach of peace; improper use of marker, registration, or license; illegal operation of motor vehicle while driver's license was under suspension; failure to appear in second degree; reviewability of claim that trial court improperly admitted evidence of uncharged misconduct; whether trial court committed plain error by admitting uncharged misconduct evidence; claim that defendant was entitled to plain error reversal because trial court improperly instructed jury on uncharged misconduct evidence; whether trial court abused its discretion in denying motion to sever failure to appear counts from other counts in information.
- State v. Tarasiuk 207
Assault of public safety personnel; criminal trespass; whether trial court abused its discretion by permitting state to introduce evidence of prior felony conviction of defendant for criminal violation of restraining order for purpose of impeaching defendant's credibility; whether defendant failed to demonstrate that admission of evidence of prior felony constituted harmful error entitling him to new trial; whether state was required to prove that defendant intended to physically harm police officer; whether defendant's admissions supported jury finding that defendant intended to prevent police officer from performing duties; whether jury reasonably could have found any ameliorative aspects of defendant's testimony to be not credible; whether admission of prior felony conviction substantially affected verdict.
- State v. Watson 353
Strangulation in second degree; assault in third degree; unlawful restraint in first degree; threatening in second degree; unpreserved claim that it was improper for trial court, rather than jury, to make determination of whether charges of assault and unlawful restraint were upon same incident as charge of strangula-

tion for purposes of applicable statute ([Rev. to 2015] § 53a-64bb [b]); claim that trial court violated § 53a-64bb (b) and defendant's right to be free from double jeopardy when it punished him for assault, unlawful restraint and strangulation because separate charges of assault and unlawful restraint, as charged in information and based on evidence, were not established as wholly separate claims from strangulation; claim that trial court violated defendant's constitutional rights to confrontation and to present defense by restricting his cross-examination of victim; claim that defendant should have been allowed to question victim regarding certain past conduct.

Vodovskaia-Scandura v. Hartford Headache Center, LLC 559

Negligence; intentional infliction of emotional distress; whether trial court properly granted motion for summary judgment as to claims of negligence and intentional infliction of emotional distress; adoption of trial court's memorandum of decision as proper statement of relevant facts, issues and applicable law.

Wells Fargo Bank, N.A. v. Caldrello 1

Foreclosure; standing; claim that trial court erred in concluding that no genuine issue of material fact existed with respect to plaintiff's standing and in rendering summary judgment as to liability in plaintiff's favor; whether plaintiff met its evidentiary burden and raised presumption that it was holder of note and rightful owner of debt; whether plaintiff was successor by merger to original holder of subject note; whether, under federal banking law (12 U.S.C. § 215a [e]), all of rights in note of original holder automatically transferred to plaintiff without need for any endorsement; whether defendant's submissions in opposition to plaintiff's motion for summary judgment failed to satisfy her burden to rebut, with competent evidence, presumption that plaintiff, as holder of note, was also rightful owner of debt and had standing to bring foreclosure action; whether defendant's submissions in opposition to plaintiff's motion for summary judgment as to liability lacked adequate evidentiary foundation; whether defendant presented evidence that some entity other than plaintiff owned note at time action was commenced or at any time thereafter; reviewability of claims; failure to provide adequate record for review of claims or to brief claims adequately.

Wells Fargo Bank, N.A. v. Fratarcangeli 159

Foreclosure; special defenses; motion to strike; attestation of mortgage deed; notary public; claim that mortgage deed was invalid because there was no second attesting witness as required by statute (§ 47-5 [a]); whether trial court improperly concluded that validating statute (§ 47-36aa) rendered mortgage deed valid and enforceable; whether witnessing defect was automatically cured by § 47-36aa; whether trial court properly granted substitute plaintiff's motion to strike special defense of illegal attestation of mortgage deed as legally insufficient; whether § 47-36aa (a) (2) contains fraud exception for instances where it is alleged that lack of valid second attesting witness resulted from fraudulent act; whether trial court properly granted substitute plaintiff's motion to strike special defense of unclean hands as to attestation of mortgage deed; whether defendant alleged that conduct claimed to be unclean was done directly against defendant's interests; whether unclean hands doctrine was available to defendant on basis of allegations made in support of defendant's second special defense.

Wilson v. Di Iulio 101

Dissolution of marriage; claim that trial court improperly failed to award more than nominal alimony; claim that trial court abused its discretion by making property award enforceable by modifiable alimony award.