

**Cumulative Table of Cases**  
**Connecticut Appellate Reports**  
**Volume 194**

*(Replaces Prior Cumulative Table)*

|   |     |
|---|-----|
| A.C. Consulting, LLC v. Alexion Pharmaceuticals, Inc. . . . . .   | 316 |
| <i>Contracts; negligent misrepresentation; breach of covenant of good faith and fair dealing; claim that, in considering legal sufficiency of substitute complaint, trial court improperly failed to consider whether applicable contractual period was ambiguous and to construe claimed ambiguity against defendant as drafter of contract; whether trial court improperly concluded that plaintiff's allegation that defendant terminated contract without giving plaintiff sufficient notice under contract was legally insufficient to state claim for breach of contract; whether trial court improperly concluded that allegations that defendant made assurances regarding length of contract were insufficient to plead any of plaintiff's causes of action.</i>   |     |
| Abel v. Johnson . . . . .   | 120 |
| <i>Restrictive covenants; injunctions; whether trial court improperly determined that plaintiffs had standing to enforce 1956 restrictive covenant limiting use of defendant's property for residential purposes; whether trial court erred in awarding injunctive relief regarding storage of defendant's pickup truck as commercial vehicle pursuant to restrictive covenant contained in 1961 declaration; claim that injunctive relief regarding storage of defendant's pickup truck was beyond scope of plaintiffs' operative complaint; claim that relief awarded regarding storage of defendant's pickup truck was proper because plaintiffs' complaint sought broad relief with respect to any type of commercial activity pursuant to 1956 restrictive covenant limiting use of property for residential purposes only; claim that plaintiff's action seeking injunctive relief concerning keeping of chickens on defendant's property was moot; whether trial court had authority to issue injunctive relief against defendant, who had removed chickens from her property prior to commencement of action; whether trial court had jurisdiction to consider claim that defendant violated restrictive covenant regarding keeping chickens on her property; whether trial court erred in awarding injunctive relief that indefinitely prohibited keeping of chickens on defendant's property.</i> |     |
| Andrews v. Commissioner of Correction . . . . .   | 178 |
| <i>Habeas corpus; whether habeas court abused its discretion in denying petition for certification to appeal; whether petitioner failed to demonstrate that his claims of ineffective assistance of counsel were debatable among jurists of reason, that court could have resolved issues in different manner, or that questions raised were adequate to deserve encouragement to proceed further; whether habeas court's findings were clearly erroneous; whether petitioner failed to demonstrate that he was prejudiced by counsel's alleged deficient performance; whether there was reasonable probability that outcome of trial would have been different.</i>  |     |
| Asselin & Vieceli Partnership, LLC v. Washburn . . . . .  | 519 |
| <i>Arbitration; whether trial court properly granted application to confirm arbitration award and denied demand for trial de novo; whether arbitration submission was restricted or unrestricted; failure to properly preserve claims for appellate review; whether defendant failed to demonstrate that arbitrator exceeded or imperfectly executed her powers in issuing award in violation of statute (§ 52-413 [a] [4]); claim that arbitrator exceeded her authority when she did not apply construction industry rules of American Arbitration Association when arbitrating parties' dispute; whether record supported claim that arbitrator exceeded her authority and manifestly disregarded law in failing to consider parties' obligations under construction contract.</i>   |     |
| Bank of New York Mellon v. Murdoch (Memorandum Decision) . . . . .  | 901 |
| Benchmark Municipal Tax Services, Ltd. v. Greenwood Manor, LLC . . . . .  | 432 |
| <i>Foreclosure; tortious interference with business expectancy; whether trial court erred in finding that cross claim plaintiff failed to establish any tortious action by individual cross claim defendant; whether cross claim plaintiff alleged legal error or erroneous factual basis for trial court's decision on appeal; whether cross</i>   |     |

|  |   |     |
|--|---|-----|
|  | <i>claim plaintiff demonstrated that trial court either misapplied law or relied on clearly erroneous factual findings; whether there was evidence to demonstrate that planning and zoning commission acted improperly in deciding not to change zoning designation of property.</i>  |     |
| Carter v. State . . . . .  | <i>Petition for new trial; assault in first degree; attempt to commit assault in first degree; risk of injury to child; criminal possession of firearm; summary judgment; claim that trial court abused its discretion by denying late petition for certification to appeal; whether trial court properly denied request for permission to file late petition for certification.</i>  | 208 |
| Ciccarelli v. Ciccarelli . . . . .   | <i>Partition; motion for summary judgment; whether Appellate Court lacked subject matter jurisdiction over appeal challenging partial summary judgment rendered by trial court; whether defendant appealed from final judgment when one count of two count complaint remained pending and record did not contain withdrawal or unconditional abandonment of remaining count.</i>  | 335 |
| Costello & McCormack, P.C. v. Manero . . . . .                               | <i>Legal malpractice; whether trial court properly concluded that cross claim set forth claim of legal malpractice; whether cross claim was operative complaint; whether complaint contained claim of legal malpractice; whether trial court properly rendered summary judgment in favor of cross claim defendants on legal malpractice claim; whether cross claim plaintiff could make prima facie case of legal malpractice in absence of expert testimony.</i>   | 417 |
| Crawley v. Commissioner of Correction . . . . .                              | <i>Habeas corpus; whether habeas court properly dismissed claims of ineffective assistance of trial counsel pursuant to successive petition doctrine codified in applicable rule of practice (§ 23-29 [3]); claim that habeas court improperly denied claim that prior habeas counsel rendered ineffective assistance by failing to raise claim that petitioner's criminal trial counsel rendered ineffective assistance by failing to file motion to suppress cocaine found in petitioner's bedroom; whether failure of trial counsel to file motion to suppress was objectively reasonable.</i> | 574 |
| Deutsche Bank National Trust Co. v. DeFranco (Memorandum Decision) . . . . . |   | 901 |
| Dubinsky v. Riccio . . . . .   | <i>Legal malpractice; whether trial court properly granted motion for summary judgment; whether genuine issue of material fact existed as to claim that defendant failed to advise plaintiff of rights he was giving up by entering into separation agreement in prior dissolution of marriage action; adoption of trial court's decision as proper statement of facts and applicable law on issues.</i>  | 588 |
| Fitch v. Forsthoefel . . . . .   | <i>Quiet title; declaratory judgment; easements; claim that declaratory judgment rendered by trial court provided plaintiffs with no practical relief; whether controversy was justiciable; claim that because parties agreed easement was limited to ingress and egress, plaintiffs were in same position as they were prior to commencement of action; claim that trial court applied wrong standard in determining that defendants overburdened easement; claim that trial court improperly proscribed, contrary to reasonableness standard, trivial and infrequent conduct.</i>               | 230 |
| Grogan v. Penza . . . . .  | <i>Dissolution of marriage; whether trial court properly denied motion for contempt; whether language of separation agreement that was incorporated into dissolution judgment was clear and unambiguous; whether trial court abused its discretion in declining to award attorney's fees to plaintiff.</i>  | 72  |
| In re Anthony L. . . . .   | <i>Termination of parental rights; reviewability of claim that trial court violated substantive due process rights of respondent mother and her minor children when it failed to determine whether permanency plans for children that were proposed by respondent Commissioner of Children and Families secured more permanent and stable life for them compared to that which she could provide if she were given time to rehabilitate herself.</i>  | 111 |
| In re Kadon M. . . . .   | <i>Child neglect; transfer of guardianship of minor child; claim that trial court abused its discretion by denying oral motion of attorney for minor child to appoint guardian ad litem; whether trial court required input of guardian ad litem in order to determine best interests of minor child; whether trial court's denial of motion to appoint guardian ad litem precluded respondent mother or attorney</i>   | 100 |

|   |   |     |
|---|---|-----|
|   | <i>for minor child from presenting evidence for trial court to weigh and consider in conducting its best interests analysis; whether mother explained how trial court's failure to appoint guardian ad litem would have affected trial.</i>   |     |
| Jamalipour v. Fairway's Edge Assn., Inc. . . . .                      |   | 224 |
|   | <i>Negligence; claim that evidence did not support trial court's award of damages and that award would unjustly enrich plaintiff; whether evidence and rational inferences drawn therefrom provided factual basis for trial court's award of damages; claim that trial court improperly failed to consider relevant bylaws of defendant condominium association and Common Interest Ownership Act (§ 47-200 et seq.) in rendering its judgment.</i>   |     |
| Lambeck v. Silver Hill Hospital, Inc. (Memorandum Decision) . . . . . |   | 903 |
| M. M. v. H. F. . . . .  |   | 472 |
|   | <i>Dissolution of marriage; request for leave to file motion to modify custody and visitation of minor child; whether trial court erred in denying request for leave to file motion to modify on ground that defendant failed to allege facts sufficient to constitute substantial change in circumstances and that motion simply reiterated allegations previously presented to court.</i>   |     |
| Mahoney v. Commissioner of Correction (Memorandum Decision) . . . . . |   | 902 |
| Perez v. Commissioner of Correction. . . . .                          |   | 239 |
|   | <i>Habeas corpus; whether habeas court abused its discretion in denying petition for certification to appeal; credibility of witnesses.</i>   |     |
| Robert S. v. Commissioner of Correction . . . . .                     |   | 382 |
|   | <i>Habeas corpus; whether habeas court abused its discretion in denying petition for certification to appeal; whether petitioner failed to satisfy his burden of overcoming presumption that trial counsel's decision not to raise intoxication defense was reasonable trial strategy; claim that had trial counsel properly investigated and informed petitioner of possible intoxication defense, there was reasonable probability that he would not have pleaded guilty; whether habeas court properly rejected petitioner's claim that he was under influence of drugs at time of murders.</i>  |     |
| Rogers v. Commissioner of Correction . . . . .                        |   | 339 |
|   | <i>Habeas corpus; whether habeas court improperly denied amended petition for writ of habeas corpus; claim that trial counsel provided ineffective assistance; whether habeas court properly concluded that petitioner failed to sustain his burden of proving that he was prejudiced by trial counsel's alleged deficient performance; whether it was reasonably probable that, but for trial counsel's alleged deficient legal advice, petitioner would have accepted state's thirty-five year plea deal; claim that habeas court's finding that petitioner would have rejected plea deal even if he had received accurate advice from trial counsel concerning admissibility of certain testimony was clearly erroneous; whether petitioner's testimony that he would have accepted plea deal was unreliable; whether claim that prior habeas counsel rendered ineffective assistance failed as matter of law.</i> |     |
| Saunders v. Commissioner of Correction . . . . .                      |   | 473 |
|   | <i>Habeas corpus; whether habeas court properly dismissed petition for writ of habeas corpus on grounds that due process claims were procedurally defaulted and petitioner failed to allege legally cognizable cause and prejudice to overcome procedural defaults; claim that petitioner's rights to due process were violated on ground that he was tried while he was incompetent and that competency examination had not been requested for him by trial court or state, in violation of statute (§ 54-56d), during criminal proceedings; assertion that due process claims were not subject to procedural default rule; reviewability of due process claims; assertion that claims of incompetence to stand trial should be treated in same manner as substantial claims of actual innocence, which are not subject to procedural default.</i>   |     |
| Seaport Capital Partners, LLC v. Spear (Memorandum Decision). . . . . |   | 902 |
| Sempay v. Stamford Hospital . . . . .                                 |   | 505 |
|   | <i>Wrongful termination of employment; motion to strike; claim that trial court improperly struck each count of operative complaint; whether factual allegations contained in complaint for wrongful termination in breach of implied contract set forth facts essential to establishment of implied contract or specified public policy that was alleged to have been implicated by plaintiff's discharge from defendant's employ; whether there was anything in record that indicated that plaintiff sought permission of trial court or agreement of defendant to amend complaint by adding new cause of action after case was remanded to trial court by Appellate Court; whether statements made by representatives of defendant before Employment Security Division of Department of Labor when contesting plaintiff's eligibility</i>  |     |

|   |   |     |
|---|---|-----|
|   | <i>for unemployment benefits were absolutely privileged; whether plaintiff's allegations that defendant improperly withheld three personal folders that contained various certificates and personal records were sufficient to establish claim for negligent infliction of emotional distress; whether plaintiff alleged any acts committed by defendant in conduct of any trade or commerce to support claim for violation of Connecticut Unfair Trade Practice Act (§ 42-110a et seq.).</i>   |     |
| Shear v. Shear . . . . .  |   | 351 |
|   | <i>Dissolution of marriage; appeal to Superior Court from order of family support magistrate; motion for modification of child support; subject matter jurisdiction; whether appeal from order of family support magistrate was taken from final judgment; whether family support magistrate's order regarding motion for modification fully dispose of that motion; whether family support magistrate's order terminated separate and distinct proceeding or so concluded rights of parties that further proceedings could not affect them.</i>  |     |
| Stanley v. Commissioner of Correction (Memorandum Decision) . . . . . |   | 903 |
| State v. Alexis . . . . .   |   | 162 |
|   | <i>Robbery in first degree; threatening in second degree; claim that trial court improperly admitted prejudicial photograph into evidence; claim that state violated defendant's due process right to fair trial by eliciting testimony and making remark during closing arguments about defendant's postarrest and post-Miranda silence; whether defendant demonstrated harm resulting from admission of photograph into evidence; whether alleged constitutional violation was harmless beyond reasonable doubt.</i>  |     |
| State v. Brooks . . . . .   |   | 301 |
|   | <i>Illegal receipt of firearm; whether evidence was insufficient to support conviction of illegal receipt of firearm because state did not prove when or how defendant received firearm.</i>  |     |
| State v. Carpenter . . . . .  |   | 364 |
|   | <i>Murder; arson in second degree; claim that trial court improperly declined to give jury instruction on third-party culpability; whether evidence was sufficient to establish direct connection between third party and murder of victim or arson of victim's home.</i>   |     |
| State v. Carter . . . . .   |   | 202 |
|   | <i>Assault in first degree; attempt to commit assault in first degree; risk of injury to child; criminal possession of firearm; mootness; whether trial court erred in dismissing motion to set aside judgment of conviction; claim that trial court improperly found that it lacked subject matter jurisdiction over motion to set aside judgment of conviction; whether there was any practical relief that could be afforded to defendant in light of unchallenged collateral estoppel basis for trial court's dismissal of defendant's motion to set aside judgment of conviction; whether appeal was moot.</i>   |     |
| State v. Cecil . . . . .  |   | 446 |
|   | <i>Murder; criminal possession of firearm; reviewability of claim that trial court improperly admitted into evidence video recorded statements of witnesses; claim that trial court improperly admitted into evidence handgun magazine, which defendant claimed was irrelevant, highly prejudicial and misleading.</i>  |     |
| State v. DeJesus . . . . .  |   | 304 |
|   | <i>Sexual assault in fourth degree; risk of injury to child; unpreserved claim that trial court improperly admitted into evidence expert testimony regarding how child victims of sexual abuse behave and how they disclose their abuse; whether trial court committed plain error in admitting testimony of expert witness; request that this court exercise its supervisory authority over administration of justice to preclude, as matter of law, admission of expert testimony on characteristics of children who report sexual abuse; claim that trial court abused its discretion during pretrial hearing by refusing to permit defendant to ask victim leading questions on direct examination; whether defendant failed to establish that trial court's alleged error caused him harm.</i> |     |
| State v. Patel . . . . .  |   | 245 |
|   | <i>Murder; home invasion; burglary in first degree as accessory; robbery in first degree as accessory; conspiracy to commit burglary in first degree; tampering with physical evidence; whether trial court abused its discretion when it admitted coconspirator's statements pursuant to dual inculpatory statement exception to hearsay rule in applicable provision (§ 8-6 [4]) of Connecticut Code of Evidence; unpreserved claim that trial court improperly found coconspirator unavailable to testify; claim that defendant's sixth amendment right to confrontation was</i>   |     |

*violated when trial court failed to have coconspirator sworn in prior to making its determination that coconspirator was unavailable to testify; claim that trial court committed plain error when it failed to have coconspirator sworn in before making its determination that coconspirator was unavailable to testify; claim that trial court violated defendant's sixth amendment right to confrontation when it admitted tape recording of coconspirator's statements to jailhouse informant; claim that coconspirator's statements to jailhouse informant constituted inadmissible testimonial hearsay under federal constitution; unpreserved claim that coconspirator's statements to jailhouse informant were testimonial under due process and confrontation clauses in article first, § 8, of state constitution; claim that trial court abused its discretion when it admitted coconspirator's statements to jailhouse informant and coconspirator's girlfriend pursuant to § 8-6 (4); whether trial court properly found that coconspirator's statements to jailhouse informant and coconspirator's girlfriend presented sufficient indicia of reliability; whether trial court abused its discretion when it excluded from evidence under § 8-6 (4) certain testimony as not trustworthy; whether trial court abused its discretion when it denied defendant's motion to preclude state from offering testimony about cell phone tower data analysis; claim that trial court failed to conduct hearing pursuant to State v. Porter (241 Conn. 57) to determine reliability of methods and procedures concerning cell phone tower data analysis; whether evidence was sufficient to convict defendant of murder under theory of liability that was predicated on Pinkerton v. United States (328 U.S. 640).*

State v. Pernell . . . . . 394  
*Murder; prosecutorial impropriety; whether defendant was deprived of his due process right to fair trial because of certain prosecutorial improprieties in closing argument; claim that prosecutor improperly opined on how someone should act during police interview because there was no evidence as to how grieving person typically would respond when questioned by police hours after witnessing his friend's death, nor about how defendant's ingestion of phencyclidine could have affected his behavior during police interview; claim that prosecutor improperly interjected his own experience by stating what he would have done if he had found himself in defendant's circumstances; claim that prosecutor improperly appealed to jurors' emotions when prosecutor speculated that defendant shamefully went through victim's purse after her death and found letters regarding child custody issues; claim that prosecutor's statement that defendant's version of events, namely, that gun was in both his and victim's hands at time of discharge, contradicted gunshot residue evidence was improper because it was not properly derived from evidence presented; claim that prosecutor's use of words "kill shot" improperly appealed to jurors' sympathies and emotions because those words implied more than mere murder; whether prosecutor's use of word "executed" improperly appealed to jurors' sympathies and emotions; whether prosecutor's statement of "[i]t's shameful" that defendant went through victim's purse after her death was improper expression of personal opinion; whether prosecutorial improprieties deprived defendant of his due process right to fair trial.*

State v. Ramos . . . . . 594  
*Motion to correct illegal sentence; subject matter jurisdiction; whether motion to correct illegal sentence was proper procedural vehicle to raise claim challenging legality of defendant's conviction; whether trial court lacked jurisdiction over motion to correct illegal sentence that did not challenge legality of sentence imposed; improper form of judgment.*

State v. Ricks . . . . . 216  
*Motion to correct illegal sentence; claim that due process required state to prove that defendant breached initial plea agreement before state could enter into second plea agreement with him; adoption of trial court's memorandum of decision as proper statement of facts and applicable law on issues.*

State v. Riddick . . . . . 243  
*Motion to correct judgment mittimus; subject matter jurisdiction; claim that trial court improperly denied motion to correct judgment mittimus; improper form of judgment.*

Sullivan v. Associated Ins. Agency, LLC (Memorandum Decision) . . . . . 902

Tatoian v. Tyler . . . . . 1  
*Vexatious litigation; trusts; whether trial court properly denied motion to dismiss plaintiff trustee's action for vexatious litigation; claim that trial court lacked subject matter jurisdiction because trustee lacked standing at time he commenced action; claim that trial court improperly failed to consider whether settlor of*

|  |  |     |
|--|--|-----|
|  | <i>trust was subjected to undue influence in connection with creation of trust; claim that trial court misinterpreted relevant law in its analysis of whether defendant beneficiaries had probable cause in prior action against trustee to claim that trustee failed to diversify trust's assets in violation of statute (§ 45a-541c); claim that trial court misinterpreted relevant law in its analysis of whether trustee could prevail merely by demonstrating that beneficiaries lacked probable cause to bring one of several claims beneficiaries brought against trustee in prior action; claim that trial court improperly analyzed whether beneficiaries had probable cause to bring claims against trustee in prior action where court essentially disallowed reliance by trustee on trust's exculpatory clause to demonstrate that beneficiaries lacked probable cause.</i>   |     |
| Telman v. Hoyt . . . . .   |  | 377 |
|  | <i>Fraud; hearing in damages; claim that trial court abused its discretion when it denied motion for additur as to attorney's fees; whether rules of practice provide for motion for additur in connection with hearing in damages to court.</i>   |     |
| T & M Building Co. v. Hastings . . . . .                                     |  | 532 |
|  | <i>Contracts; specific performance; statute of frauds; promissory estoppel; unjust enrichment; claim that trial court erred in determining that handwritten document executed by parties violated statute of frauds; claim that trial court should have considered extrinsic evidence and past performance; claim that trial court erred in rendering judgment for defendant on unjust enrichment claim; claim that court erred in rendering judgment for defendant on promissory estoppel claim.</i>  |     |
| U.S. Bank National Assn. v. Stephenson (Memorandum Decision) . . . . .       |  | 901 |
| Villar v. A Better Way Wholesale Autos, Inc. (Memorandum Decision) . . . . . |  | 903 |
| Watts v. Commissioner of Correction. . . . .                                 |  | 558 |
|  | <i>Habeas corpus; whether habeas court properly rejected claim that trial counsel rendered ineffective assistance by failing to properly advise petitioner about plea offer; whether petitioner proved that he was prejudiced by counsel's alleged deficient performance; claim that ninety-five year sentence violated right to remain free from cruel and unusual punishment; claim that petitioner was entitled to new sentencing proceeding in which court must consider mitigating factors of youth and impose proportionate sentence; claim that Appellate Court lacked subject matter jurisdiction because petitioner was not aggrieved by habeas court's dismissal without prejudice of cruel and unusual punishment claims; whether petitioner was entitled to resentencing in light of legislation (P.A. 15-84) passed subsequent to petitioner's conviction that provided parole eligibility for juvenile offenders serving sentence of greater than ten years of incarceration, where Supreme Court determined in State v. Williams-Bey (333 Conn. 468), which had been pending during petitioner's habeas trial, that parole eligibility adequately remedied any violation of requirement that mitigating factors of youth be considered before sentence of life without possibility of parole, or functional equivalent thereof, could be imposed.</i> |     |
| Wells Fargo Bank, N.A. v. Ferraro . . . . .                                  |  | 467 |
|  | <i>Foreclosure; summary judgment; whether trial court improperly permitted and considered live testimony from witnesses during evidentiary hearing on motion for summary judgment as to liability and objection thereto; whether, by weighing credibility of witnesses who testified and assessing strength of evidence submitted at evidentiary hearing in deciding motion, trial court improperly decided genuine issue of material fact, which rendered granting of motion for summary judgment improper.</i>   |     |