

Cumulative Table of Cases
Connecticut Appellate Reports
Volume 224

(Replaces Prior Cumulative Table)

Advani v. Park Mead Condominium Assn. (Memorandum Decision) 901
Amado v. Commissioner of Correction (Memorandum Decision) 903
Ascentium Capital, LLC v. Aero-Precision MFG, LLC (Memorandum Decision) 902
Avon v. Sastre 155
Administrative appeal; alleged violations of Freedom of Information Act (§ 1-200 et seq.); claim that trial court erred in finding that public employee's log of incidents regarding town's chief of police was public record as defined in statute (§ 1-200 (5)); claim that trial court erred in concluding that log was not exempt from disclosure as privileged attorney-client communication pursuant to statute (§ 1-210 (b) (10)).
Bartolotta v. Human Resources Agency of New Britain, Inc. 248
Employment discrimination; summary judgment; whether trial court properly granted defendant employer's motion for summary judgment on plaintiff's claims of violation of Palliative Use of Marijuana Act (§ 21a-408 et seq.), discrimination on basis of disability and failure to accommodate disability in violation of provision (§ 46a-60 (b) (1)) of Connecticut Fair Employment Practices Act (§ 46a-51 et seq.), and violation of drug testing statute (§ 31-51x); claim that trial court improperly determined that no genuine issue of material fact existed as to whether defendant improperly terminated plaintiff's employment due to her status as person qualified to use medical marijuana; claim that trial court employed improper legal standard in evaluating plaintiff's disability discrimination claim; claim that trial court improperly determined that no genuine issue of material fact existed as to whether defendant's stated reason for terminating plaintiff's employment was pretextual; whether plaintiff's claim that defendant improperly denied her request for accommodation was time barred by statute ((Rev. to 2017) § 46a-82 (f)); claim that trial court improperly determined that no genuine issue of material fact existed as to whether plaintiff made request for medical marijuana accommodation and whether defendant violated § 46a-60 (b) (1) by denying such request; claim that trial court improperly determined that no genuine issue of material fact existed as to whether defendant violated § 31-51x by requiring plaintiff to take drug test without reasonable suspicion.
Bernier v. Travelers Property Casualty Ins. Co. (Memorandum Decision) 901
Black Rock Gardens, LLC v. Berry 379
Summary process; motion to dismiss appeal; claim that this court lacked subject matter jurisdiction over defendant's appeal of trial court's dismissal of his special motion to dismiss filed pursuant to anti-SLAPP statute (§ 52-196a); whether defendant's appeal was from final judgment; whether defendant asserted colorable claim to protections afforded by § 52-196a.
Brewer v. Commissioner of Correction (Memorandum Decision) 902
Bouchard v. Wheeler 611
Underinsured motorist coverage; claim that trial court improperly denied motion for summary judgment in which defendant insurer sought to deny plaintiffs underinsured motorist benefits pursuant to statute (§ 38a-336) because defendant tortfeasors' underinsured motorist coverage was not less than liability limits of plaintiffs' insurance policy; whether trial court improperly concluded that tortfeasors' motor vehicle was underinsured motor vehicle pursuant to § 38a-336 (e); claim that legislative amendment (P.A. 14-20, § 1) modified definition of underinsured motor vehicle in § 38a-336 (e) and overruled Supreme Court precedent concerning that definition; correct legal standard governing determination of whether motor vehicle is underinsured pursuant to § 38a-336 (e), discussed; claim that § 38-336 is remedial statute that must be construed liberally to protect people injured by uninsured motorists.
Burr v. Grossman Chevrolet-Nissan, Inc. 668
Breach of contract; fraud; theft; violation of Connecticut Unfair Trade Practices Act (§ 42-110a et seq.); claim that trial court misinterpreted plaintiffs' legal claims;

- claim that trial court erred in relying on testimony of defendant's representative in rendering judgment for defendant; claim that trial court erred in finding certain facts in support of its judgment for defendant.*
- Cardoza v. Waterbury 813
Negligence; municipal defective highway statute (§ 13a-149); motion to dismiss for lack of subject matter jurisdiction; whether trial court erred in granting defendant city's pretrial motion to dismiss, which was predicated on plaintiff's alleged failure to comply with notice requirements of § 13a-149; whether trial court had subject matter jurisdiction over plaintiff's complaint; whether savings clause of § 13a-149 cured any deficiencies in plaintiff's notice.
- Chase Home Finance, LLC v. Scroggin 549
Foreclosure; motion for summary judgment; motion for protective order; claim that trial court erred in granting motion for summary judgment as to liability because it improperly relied on affidavit of loan officer employed by plaintiff in determining that original plaintiff had been holder of note at time action was commenced; claim that trial court erred in granting motion for summary judgment as to liability because it failed to give defendant, as nonmoving party, benefit of all favorable inferences to be drawn from evidence by neglecting to draw adverse inference from plaintiff's refusal to produce witnesses and documents requested by defendant; whether defendant set forth any facts, other than plaintiff's filing of motion for protective order, in support of contention that plaintiff had engaged in extraordinary measures to prevent defendant from deposing its corporate designees; limitation by statute (§ 52-216c) of missing witness rule adopted in Secondino v. New Haven Gas Co. (147 Conn. 672), discussed; claim that trial court abused its discretion when it implicitly granted plaintiff's motion for protective order.
- Clark v. Quantitative Strategies Group, LLC 224
Application for bank execution to satisfy domesticated judgment against defendant; motion for exemption from execution pursuant to statute ((Supp. 2022) § 52-367b); claim that plaintiff judgment creditors executed on bank accounts that did not belong to defendant; whether trial court properly found that bank accounts at issue were joint accounts and were not exempt from execution under § 52-367b; whether trial court correctly concluded that defendant's asserted exemption was not recognized or enumerated exemption that he was entitled to assert under § 52-367b; reviewability of defendant's claim for determination of interests pursuant to statute (§ 52-356c); whether defendant was authorized by § 52-356c to challenge bank's determination that he was co-owner of bank accounts by pursuing claim for determination of interests.
- De Almeida-Kennedy v. Kennedy 19
Dissolution of marriage; motion for modification of unallocated alimony and child support; claim that trial court abused its discretion in determining that change in residence of parties' child did not constitute substantial change in circumstances; claim that trial court improperly denied defendant's motion for modification of unallocated alimony and child support without determining child support component of unallocated support order; procedure applicable on remand to financial aspects of modification of child support in context of unallocated support order, discussed; claim that trial court improperly interpreted alimony component of unallocated support order as set forth in parties' separation agreement to be nonmodifiable; whether trial court applied incorrect standard of law; claim that trial court improperly denied defendant's motion to modify alimony component of unallocated support order because it disallowed testimony of parties' child as to alleged cohabitation of plaintiff.
- Delgado v. Commissioner of Correction 283
Habeas corpus; claim that habeas counsel in petitioner's second habeas action rendered ineffective assistance by failing to raise claims that petitioner's criminal trial counsel and counsel on direct appeal from conviction rendered ineffective assistance; whether criminal trial counsel's decision not to request self-defense instruction constituted deficient performance; claim that petitioner was prejudiced by trial counsel's failure to object to jury instruction on intent element of murder; claim that petitioner's counsel on direct appeal from conviction rendered ineffective assistance by improperly failing to raise issue of incorrect instruction on intent element of murder.
- Donald G. v. Commissioner of Correction 93
Habeas corpus; claim that petitioner was deprived of due process right to fair trial because appellate counsel rendered ineffective assistance by failing to raise claims

on direct appeal from petitioner’s criminal conviction that petitioner’s criminal trial counsel failed to raise claims of prosecutorial impropriety and claim that state violated Brady v. Maryland (373 U.S. 83) by failing to provide petitioner with complete copy of police detective’s notes; claim that petitioner was prejudiced by prosecutor’s comment during closing argument to jury that petitioner had told detective “some BS” and prosecutor’s use of term “victim” during trial; claim that petitioner was prejudiced by prosecutor’s statement that witness who had not testified was in courtroom during prosecutor’s closing argument to jury.

Ferreira v. Ward 571

Foreclosure; action to foreclose judgment lien on certain real property of defendant; claim that current statutory homestead exemption (§ 52-352b (21)) applied retroactively to postjudgment proceeding in which judgment lien had been issued and recorded and action to foreclose on judgment lien had been commenced when repealed statutory exemption ((Rev. to 2017) § 52-352b (t)) was in effect, but judgment of foreclosure was rendered after § 52-352b (21) became effective; whether homestead exemption of § 52-352b (21) is procedural or substantive in nature; whether trial court improperly denied defendant’s request for evidentiary hearing on his claim that homestead exemption of § 52-352b (21) applied to preclude plaintiff from foreclosing on his primary residence.

Flynn v. Kohler (Memorandum Decision) 904

Glory Chapel International Cathedral v. Philadelphia Indemnity Ins. Co. 501

Insurance; motion to strike; offer of compromise; misjoinder; claim that trial court erred in striking certain counts from plaintiff’s original complaint on basis of misjoinder; claim that, even if claims in original complaint were properly stricken, trial court erred by sustaining defendant’s objection to substitute complaint filed pursuant to rule of practice (§ 10-44); whether trial court improperly sustained defendant’s objection to offer of compromise filed after trial court rendered judgment for defendant and while appeal was pending with this court.

Green Tree Servicing, LLC v. Clark 740

Foreclosure; Emergency Mortgage Assistance Program (EMAP) (§ 8-265ee); post-judgment motion to dismiss; subject matter jurisdiction; claim that plaintiff mortgagee failed to comply with notice provision of EMAP, as required by § 8-265ee (a); whether trial court properly denied defendant’s postjudgment motion to dismiss on ground that it constituted impermissible collateral attack on foreclosure judgment; whether defendant waived right to raise claim concerning EMAP compliance.

Greer v. State 1

Petition for new trial; claim that trial court abused its discretion in denying petitioner’s petition for new trial based on newly discovered evidence; whether trial court properly determined that petitioner’s purported new evidence, which consisted wholly of witness affidavit and testimony, would not, if introduced at new trial, likely result in different outcome.

Hartford v. Johnson (Memorandum Decision). 904

Hine Builders, LLC v. Glasscock 185

Arbitration; motion to compel arbitration; motion to terminate automatic appellate stay; whether defendants’ appeal was rendered moot by commencement of arbitration proceedings following trial court’s order to commence arbitration proceedings.

In re Josyah L-T. 345

Termination of parental rights; claim that this court should recognize right of respondent mother to be minor child’s legal guardian on ground that she would be better caregiver to child than petitioner Commissioner of Children and Families.

James P. v. Commissioner of Correction. 636

Habeas corpus; claim that criminal trial counsel rendered ineffective assistance; whether trial counsel performed deficiently by improperly advising petitioner with respect to whether sentencing court could deviate from plea agreement at sentencing in petitioner’s favor; whether petitioner was prejudiced by trial counsel’s allegedly deficient performance.

Jay R. v. Dept. of Children & Families (Memorandum Decision) 904

Jefferson Solar, LLC v. Dept. of Energy & Environmental Protection 688

Declaratory judgment; motion to dismiss; subject matter jurisdiction; whether trial court improperly dismissed plaintiff’s action for lack of subject matter jurisdiction; claim that program requirements for shared clean energy facilities issued pursuant to statute (§ 16-244z) were regulations under Uniform Administrative Procedure Act (§ 4-166 et seq.).

Jefferson Solar, LLC v. FuelCell Energy, Inc.	710
<i>Competitive bidding for award of contract to construct shared clean energy facility; declaratory judgment; injunctive relief; standing; motion to dismiss; challenge to award of contract for shared clean energy facility by unsuccessful bidder; whether trial court improperly dismissed plaintiff's action for lack of standing; whether trial court improperly determined that plaintiff's claims for damages were too indirect and remote from alleged wrongdoing by successful bidder; claim that trial court improperly concluded that shared clean energy facility contract was public contract; whether trial court improperly determined that plaintiff, as disappointed bidder for public contract, lacked standing to challenge award of contract for shared clean energy facility because it failed to demonstrate fraud, corruption or favoritism that undermined integrity of bidding process; disappointed bidder doctrine, discussed.</i>	
Krasko v. Konkos	589
<i>Land use; motion to enforce settlement agreement; claim that trial court erred in granting plaintiffs' motion to enforce settlement agreement in absence of clear and unambiguous agreement.</i>	
Kuselias v. Zingaro & Cretella, LLC	192
<i>Legal malpractice; motion for summary judgment; motion to reargue and reconsider; motion for judgment of nonsuit; accidental failure of suit statute (§ 52-592 (a)); claim that trial court improperly rendered summary judgment for defendants; claim that plaintiff's action was not time barred by applicable statute of limitations (§ 52-577) because action fell within purview of § 52-592; whether judgment of nonsuit rendered in prior action was result of matter of form for purposes of § 52-592; whether trial court abused its discretion in denying plaintiff's motion to reargue and reconsider its ruling on defendants' motion for summary judgment.</i>	
Lyons v. Birmingham Law Office, LLC	758
<i>Personal jurisdiction; claim that trial court improperly concluded that requirements of statute (§ 52-59b (a)) governing long arm jurisdiction had not been satisfied as to Vermont resident defendants involved in sale of Vermont real property by Connecticut resident; claim that trial court improperly concluded that exercising jurisdiction over defendants would violate their constitutional due process rights.</i>	
Marshall v. Marshall	45
<i>Dissolution of marriage; claim that trial court abused its discretion by basing alimony and child support orders on plaintiff's reported income rather than on her more recent partnership distributions; claim that trial court abused its discretion by basing alimony and child support orders on plaintiff's reported income rather than on her earning capacity.</i>	
Mashantucket Pequot Tribal Nation v. Factory Mutual Ins. Co.	429
<i>Insurance; declaratory judgment; breach of contract; motion to strike; action seeking judgment declaring that defendant insurer was required to provide coverage under commercial insurance policy issued to plaintiff for losses plaintiff sustained as result of COVID-19 pandemic; whether trial court improperly granted in part motion to strike; claim that trial court improperly concluded that contamination exclusion in policy applied to defeat plaintiff's claims for coverage under property damage and business loss interruption provisions; whether plaintiff's allegations in its operative complaint were sufficient to establish physical damage or loss; whether plaintiff alleged facts showing manner in which COVID-19 caused physical, tangible alteration to or resulted in deprivation of property that rendered it physically unusable or inaccessible; claim that actual presence of communicable disease such as COVID-19 constituted physical loss or damage under policy's communicable disease response provision; claim that issue of whether COVID-19 physically altered property could not be determined at motion to strike phase of litigation.</i>	
McDonnell v. Roberts	388
<i>Legal malpractice; motion to open and set aside judgment of nonsuit; claim that trial court abused its discretion in denying plaintiff's motion to open and set aside judgment of nonsuit; whether trial court erred in finding that plaintiff failed to show that good cause of action existed at time of judgment of nonsuit and that she was prevented from prosecuting action by mistake, accident or other reasonable cause.</i>	
Northeast Building Supply, LLC v. Morrill	137
<i>Prejudgment remedy; vexatious litigation; subject matter jurisdiction; whether plaintiff had standing to pursue application for prejudgment remedy predicated on vexatious litigation claims that had been assigned to it from different entity.</i>	

111 Clearview Drive, LLC v. Patrick 419
Summary process action; motion in limine; claim that trial court improperly relied on doctrine of collateral estoppel in granting plaintiff's motion in limine to exclude from trial evidence related to prior foreclosure action; claim that defendant retained ownership interest in real property as omitted party from foreclosure action pursuant to statute (§ 49-30).

Patrick v. 111 Clearview Drive, LLC 401
Quiet title; motion to strike; subject matter jurisdiction; whether trial court properly dismissed quiet title action on ground that it lacked subject matter jurisdiction to adjudicate plaintiff's claims because plaintiff was collaterally attacking prior foreclosure judgment, rendering her claims moot and nonjusticiable; claim that, because plaintiff was unsuccessful in intervening in foreclosure action on behalf of her interest in property, she was denied constitutionally protected right to be heard prior to deprivation of property, which would entitle her to challenge validity of foreclosure judgment; claim that foreclosure judgment did not have preclusive effect against collateral attack as to party's interest in property because party in foreclosure action had not been properly served; claim that trial court improperly failed to adjudicate whether plaintiff was omitted party pursuant to statute (§ 49-30).

Priti, LLC v. Shakespeare (Memorandum Decision) 902

Rapp v. Commissioner of Correction 336
Habeas corpus; claim that habeas court failed to apply correct legal standard under statute (§ 52-470 (c) and (e)) in deciding that petitioner had not demonstrated good cause for late filing of habeas petition when prior habeas counsel allegedly failed to advise petitioner of time limits imposed by § 52-470 (c) and (e); import of decision in Rose v. Commissioner of Correction (348 Conn. 333), holding that ineffective assistance of counsel is objective factor external to petitioner that may constitute good cause to excuse late filing of habeas petition under § 52-470 (c) and (e), discussed.

Rios v. Commissioner of Correction 350
Habeas corpus; summary judgment; motion to dismiss; whether habeas court improperly granted petitioner's motion for summary judgment and rendered judgment granting petition for writ of habeas corpus, which alleged that application to petitioner of amendment to administrative directive on risk reduction earned credits issued by respondent Commissioner of Correction violated ex post facto clause of federal constitution; claim that habeas court improperly denied respondent's motion to dismiss that claimed that court lacked subject matter jurisdiction pursuant to applicable rule of practice (§ 23-29 (1)) and that habeas petition failed to state claim on which relief could be granted pursuant to Practice Book § 23-29 (2).

Rodriguez v. Hartford 314
Negligence; motion for summary judgment; governmental immunity; claim that trial court improperly denied plaintiff's requests to amend her complaint; whether trial court erred in addressing sua sponte whether proposed new claims were barred by applicable statutes of limitations (§§ 52-577 and 52-584); claim that trial court erred in concluding that plaintiff's complaint failed to set forth claim of public nuisance; claim that trial court improperly granted defendants' motion for summary judgment on basis of its conclusion that negligence claims against defendant city and defendant city forester were barred by governmental immunity.

Sachem Capital Corp. v. Yoney (Memorandum Decision) 901

Stanley v. Grant (Memorandum Decision) 903

State v. Berrios 827
Burglary first degree; persistent felony offender; postsentencing motions to vacate guilty plea; claim that defendant's conviction in prior trial of assault in third degree and acquittal of criminal mischief in third degree precluded state from retrying him on charge of burglary in first degree because jury in prior trial had been unable to reach unanimous verdict on burglary charge; whether trial court lacked jurisdiction to rule on defendant's motions.

State v. Roberts 471
Carrying pistol without permit; motion to dismiss and/or set aside conviction; claim that defendant's conviction under applicable statute ((Rev. to 2017) § 29-35 (a)) should have been vacated in light of United States Supreme Court's decision in New York Rifle & Pistol Assn., Inc. v. Bruen (597 U.S. 1); claim that § 29-35 (a) violated defendant's right to bear arms under second amendment to United States

	<i>constitution and subjected defendant to disparate treatment as nonresident of state in violation of privileges and immunities clause of United States constitution; whether defendant was considered Connecticut resident or nonresident for pistol permitting purposes under applicable statute ((Rev. to 2017) § 29-28 (b) and (f)).</i>	
Supronowicz v. Eaton	<i>Adverse possession; claim that trial court erred in granting defendants' motion for summary judgment; claim that trial court improperly concluded that plaintiffs could not establish claim of adverse possession as matter of law; claim that trial court erred in determining that plaintiffs failed to demonstrate that privity existed between themselves and their predecessors in title for purposes of tacking periods of possession; claim that trial court improperly determined that no genuine issues of material fact remained regarding whether plaintiffs acknowledged defendants' superior title to disputed area and whether plaintiffs' use of disputed area was exclusive.</i>	66
Torrington v. Council 4, AFSCME, AFL-CIO, Local 442	<i>Arbitration; appeal from trial court's judgment vacating arbitration award and remanding matter for new arbitration hearing; motion to dismiss appeal; claim that this court lacked subject matter jurisdiction over defendants' appeal because appeal was not taken from final judgment; whether statutes (§§ 52-407cc and 52-423) governing arbitration proceedings in context of municipal employee contract grievances provided right of appeal from judgment vacating arbitration award.</i>	237
Travinski v. General Ins. Co. of America	<i>Breach of contract; Connecticut Unauthorized Insurers Act (CUIA) (§ 38a-271 et seq.); summary judgment; claim that trial court improperly granted defendants' motion for summary judgment with respect to plaintiffs' claims of breach of contract and violation of CUIA; claim that trial court improperly permitted certain of defendants to file motion for summary judgment without posting bond pursuant to applicable statute (§ 38a-27).</i>	838
U.S. Bank National Assn. v. Owen (Memorandum Decision)		903
Vega v. Commissioner of Correction	<i>Habeas corpus; claim that habeas court abused its discretion by denying petitioner's petition for certification to appeal; claim that habeas court improperly determined that petitioner was not deprived of his rights to due process and to fair trial in violation of Brady v. Maryland (373 U.S. 83) when state allegedly withheld exculpatory information from unrelated case; claim that habeas court improperly concluded that petitioner failed to establish that his trial counsel rendered ineffective assistance by failing to consult or call expert on eyewitness identification and by failing to impeach eyewitness who falsely testified in unrelated criminal case.</i>	652
Westchester Modular Homes of Fairfield County, Inc. v. Arbellia Protection Ins. Co.	<i>Insurance; breach of contract; motion for summary judgment; claim that trial court improperly rendered summary judgment for defendant insurance company on basis of its conclusion that, pursuant to commercial general liability policy, defendant had no duty to defend plaintiff insured against counterclaim filed by third party in action arising out of contract for construction of home; whether notification to defendant of mere presence of water was sufficient to trigger duty to defend under terms of insurance policy.</i>	526
Y. H. v. J. B.	<i>Dissolution of marriage; motion for contempt; whether trial court abused its discretion in declining to award child support to defendant on ground that it was not requested by either party; whether trial court improperly declined to award child support without considering applicable statutes and child support guidelines; claim that trial court's award of attorney's fees, to extent it was imposed as sanction for defendant's contempt, constituted abuse of its discretion; whether trial court reasonably could have concluded that defendant had not complied with trial court's orders and that noncompliance was wilful; whether award of attorney's fees to plaintiff, to extent it was made pursuant to statute (§ 46b-62) providing for award of attorney's fees in marital dissolution action, must be reconsidered in light of remand for new trial on all financial issues.</i>	793