SUPREME COURT PENDING CASES

The following appeals are fully briefed and eligible for assignment by the Supreme Court in the near future.

LYME LAND CONSERVATION TRUST, INC. *v.*
BEVERLY PLATNER et al., SC 20071
Judicial District of New London

Conservation Easements; Whether § 51-183c Disqualified Judge From Trying Proceedings on Remand From Supreme Court; Whether Trial Court Should Have Opened Judgment to Allow Defendant to Present Evidence That Restoration Plan Ordered in 2015 was no Longer Workable. The plaintiff, as owner of a conservation restriction that burdens the defendant's property, brought this action claiming that the defendant had engaged in prohibited activities in the protected area, which consisted of a meadow and woodlands. The plaintiff complained that the defendant had violated the conservation restriction and General Statutes § 52-560a (b) in, among other things, mowing and installing lawn in the protected area, planting many shrubs and flowers in the area, and relocating her driveway through the area. General Statutes § 52-560a (c) provides that a trial court shall order any person who violates a conservation easement to restore the land to its condition as it existed prior to the violation. The trial court, *Hon. Joseph Q. Koletsky*, judge trial referee, found that the defendant had violated the conservation easement in, among other things, mowing and seeding the meadow, placing tons of topsoil on the meadow, and placing tons of sand along a riverfront to create an artificial beach in the protected area. The trial court ordered the defendant to restore the property to its prior condition in accordance with a plan that had been submitted by the plaintiff. The court also awarded the plaintiff attorney's fees and $350,000 in damages pursuant to § 52-560a (d), which authorizes the court to award damages "of up to five times the cost of restoration" of the property. The defendant appealed, and, with *Lyme Land Conservation Trust, Inc.* v. *Platner*, 325 Conn. 737 (2017), the Supreme Court reversed the judgment insofar as it awarded the plaintiff attorney's fees and § 52-560a (d) damages and remanded the case to the trial court for a recalculation of those awards. The Supreme Court noted that it was affirming the trial court's judgment "in all other respects." On remand, the defendant moved to disqualify Judge Koletsky, citing General Statutes § 51-183c, which provides that "[n]o judge of any court who tried a case without a jury in which a new trial is granted, or in which the judgment is reversed by the Supreme Court, may again try the case."

Judge Koletsky denied the motion to disqualify, ruling that § 51-183c was not applicable because the Supreme Court did not order a new trial and because, while the Supreme Court had ordered a recalculation of the awards of attorney's fees and damages, it had otherwise affirmed his judgment. The defendant then filed a motion to open the judgment, claiming that the restoration plan was no longer workable given the "natural restoration" that had occurred on the property since the trial court ordered the restoration in 2015. The court denied the motion to open and recalculated the awards of attorney's fees and damages, again awarding the plaintiff $350,000 in damages pursuant to § 52-590a (d). The defendant appeals, claiming that the trial court improperly denied her motions to disqualify and to open the judgment. The defendant also claims that the award of § 52-590a (d) damages should not be allowed to stand because the plaintiff did not meet its burden of showing what the § 52-590a (d) "cost of restoration" was.

CASEY LEIGH RUTTER *v.* ADAM JANIS et al.;
NANCY BEALE, ADMINISTRATRIX (ESTATE OF
LINDSEY BEALE) *v.* LUIS MARTINS et al.
JASON FERREIRA *v.* LUIS MARTINS et al.,
SC 20122
Judicial District of Waterbury

Negligence; Motor Vehicles; Dealer Plates; Whether Appellate Court Properly Excluded the Day the Loan Agreement was Executed in Computing General Statutes § 14-60 Thirty Day Dealer Plate Loan Period. On May 9, 2013, at approximately 7:00 p.m., Luis Martins executed a loan agreement in connection with his purchase of an automobile from Danbury Fair Hyundai, LLC (the dealer). Because the parties could not complete the transfer of the motor vehicle registration from Martins' previous vehicle to the new one, the dealer loaned Martins a dealer number plate pursuant to General Statutes § 14-60. The statute permits an automobile dealer to loan a dealer plate to a purchaser of a vehicle "for not more than thirty days in a year" while the registration of a new vehicle is pending and provides that a dealer that has complied with the requirements of § 14-60 is not liable for damages caused by the insured operator of a motor vehicle while it is displaying the loaned dealer plate. On June 8, 2013, at approximately 3:00 p.m., Martins was driving the vehicle displaying the loaned plate when he was involved in an accident that resulted in injuries to his three passengers (the plaintiffs). The plaintiffs each filed an action seeking to hold the dealer liable for the damages resulting from the accident, claiming that the dealer was liable because

the accident occurred beyond the thirty day period set forth in § 14-60. The trial court rendered summary judgments in favor of the dealer, finding that it was protected from liability under § 14-60 because Martins had possession of the vehicle for twenty-nine days and twenty hours at the time of the accident. The plaintiffs appealed, arguing that the trial court erred in its computation of the thirty day period, which they claim began on the date that the loan agreement was signed, and not on the following day. The Appellate Court (180 Conn. App. 1) disagreed and affirmed the judgments for the dealer. The Appellate Court noted that even if the thirty day period began when the loan agreement was executed at approximately 7:00 p.m. on May 9, 2013, the only way for it to have expired before the accident on June 8, 2013, was if the five hours remaining in the day after the execution of the loan agreement were counted as one full day. The Appellate Court observed that the general rule is that, where a period of time is to be calculated from a particular date or event, the day of such date or event is excluded from the computation. The Appellate Court then concluded that the first day of the thirty day period here was May 10, 2013, the day after the loan agreement was executed, and that the dealership was entitled to protection from liability under § 14-60 because the accident happened on June 8, 2013, less than thirty days later. The plaintiffs appeal, and the Supreme Court will determine whether the Appellate Court correctly concluded, under the circumstances of this case, that the thirty day period in § 14-60 did not, as a matter of law, include the day that the loan agreement was executed.

ANGELA BORELLI, ADMINISTRATRIX OF THE ESTATE OF BRANDON GIORDANO *v.* OFFICER ANTHONY RENALDI et al., SC 20232

Judicial District of Ansonia-Milford

Negligence; Governmental Immunity; Whether General Statutes § 14-283 Imposes Ministerial Duty on Emergency Vehicle Operators to "Drive with Due Regard for the Safety of All Persons and Property"; Whether Plaintiff's Decedent an Identifiable Person under Identifiable Person, Imminent Harm Exception to Governmental Immunity. The plaintiff is the mother of the decedent, Brandon Giordano, and the administratrix of his estate. The decedent was a passenger in a vehicle involved in a high speed chase in Seymour with the defendant police officer Anthony Renaldi after Renaldi noticed illegal underglow lights on the vehicle. The vehicle struck an embankment and turned over onto its roof, killing the decedent. The plaintiff

brought this negligence action against Renaldi, against two other police officers involved in the incident, and against the town of Seymour. The defendants moved for summary judgment, claiming that the action was barred by governmental immunity because the conduct at issue was discretionary. The plaintiff argued that the defendants' conduct was ministerial and not discretionary where it constituted the operation of an emergency vehicle under General Statutes § 14-283, which governs the rights and duties of emergency vehicles and provides in relevant part that its provisions "shall not relieve the operator of an emergency vehicle from the duty to drive with due regard for the safety of all persons and property." The plaintiff further argued that, even if the defendants were entitled to governmental immunity, she was entitled to invoke the identifiable person, imminent harm exception to governmental immunity. The trial court acknowledged that there is no appellate authority and a split in trial court authority as to whether a police officer's duty to operate his or her vehicle with due care for the safety of others pursuant to § 14-283 is ministerial or discretionary. The trial court sided with the line of authority determining that the duty is discretionary, however, and noted appellate authority acknowledging the broad scope of governmental immunity traditionally afforded to the actions of municipal police departments. The trial court further ruled that the decedent was not an identifiable person under the identifiable person, imminent harm exception to governmental immunity where there was no evidence that the decedent was required to be in the vehicle or that the defendants were aware that the decedent was in the vehicle. The trial court accordingly granted the defendants' motion for summary judgment. The plaintiff appeals, and the Supreme Court will decide whether the trial court erred in concluding that General Statutes § 14-283 imposes a discretionary, as opposed to ministerial, duty and whether it erred in concluding that there was no evidence as to whether the decedent was an identifiable person under the identifiable person, imminent harm exception to governmental immunity.

The summaries appearing here are not intended to represent a comprehensive statement of the facts of the case, nor an exhaustive inventory of issues raised on appeal. These summaries are prepared by the Staff Attorneys' Office for the convenience of the bar. They in no way indicate the Supreme Court's view of the factual or legal aspects of the appeal.

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