

SUPREME COURT PENDING CASES

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

STATE *v.* DARIUS ARMADORE, SC 20248
Judicial District of New London

Criminal; Murder; Search and Seizure; Whether Appellate Court Erred in Denying Defendant’s Motion for Supplemental Briefing re Admissibility of Cell Site Location Information Under *Carpenter v. United States*; Whether Defendant Sufficiently Preserved Evidentiary Claim for Appellate Review. The defendant and Gerjuan Tyus were charged with murder in connection with the shooting death of Todd Thomas outside of Ernie’s Caf in New London. The defendants’ cases were joined for trial. At trial, the state introduced the testimony of a special agent with the Federal Bureau of Investigation, who testified that cell site location information (CSLI) obtained from Tyus’ and the defendant’s wireless carriers placed the defendant and Tyus in the vicinity of Ernie’s Caf minutes before a 911 call was received reporting the shooting. The defendant and Tyus were convicted of murder, and the defendant appealed. Following oral argument before the Appellate Court (186 Conn. App. 140), the defendant filed a motion seeking permission to file supplemental briefing addressing the United States Supreme Court’s recent decision in *Carpenter v. United States*, 138 S. Ct. 2206 (2018), which held that the state generally must obtain a search warrant supported by probable cause before acquiring a person’s CSLI from a wireless carrier. The Appellate Court denied the motion for supplemental briefing and affirmed the defendant’s murder conviction. In doing so, that court declined to review the defendant’s claim that the trial court erred in admitting into evidence hearsay statements made by state’s witness Eduardo Guilbert, finding that the defendant’s “bald objection” to that testimony—absent any articulation of the basis for his objection—was insufficient to preserve the claim for appellate review. The Supreme Court granted the defendant’s petition for certification to appeal, and it will consider whether the Appellate Court properly denied the defendant’s motion for permission to file supplemental briefing and whether that court properly declined to review the defendant’s evidentiary claim on the basis that it was not properly preserved. The Supreme Court also directed the parties to brief, in addition to the certified questions, the relevance of *Carpenter* and the court’s decision in *State v. Brown*, 331 Conn. 258 (2018), to the defendant’s claim that the CSLI evidence was admitted into evidence in violation of the defendant’s fourth amendment rights.

STATE *v.* MANUEL T., SC 20250
Judicial District of Hartford

Criminal; Hearsay; Whether Appellate Court Applied Proper Standard in Determining that Forensic Interview Evidence in Child Sexual Abuse Case was Admissible Under Medical Diagnosis or Treatment Hearsay Exception; Whether Appellate Court Properly Affirmed Exclusion of Text Message Evidence. The defendant was convicted of sexual assault and risk of injury to a child in connection with the sexual abuse of the minor victim, his stepdaughter. He appealed, and the Appellate Court (186 Conn. App. 51) affirmed the judgment of conviction. The Appellate Court rejected the defendant’s claim that the trial court improperly admitted video evidence of statements made by the victim during a forensic interview conducted by a clinical services coordinator at Saint Francis Hospital and Medical Center under the medical diagnosis or treatment exception to the hearsay rule. The exception is codified in § 8-3 (5) of the Connecticut Code of Evidence and provides in relevant part that a statement is not excluded by the hearsay rule when it is “made for purposes of obtaining a medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof, insofar as reasonably pertinent to the medical diagnosis or treatment.” The defendant argued that the exception did not apply because the primary, if not singular, purpose of the interview was criminal investigation and prosecution, not medical diagnosis or treatment. The Appellate Court disagreed, noting that it had established in previous cases involving the exception that “the statements of a declarant may be admissible under the . . . exception if made in circumstances from which it may be inferred that the declarant understands that the interview has *a* medical purpose.” It accordingly concluded that the trial court did not abuse its discretion in admitting the forensic interview evidence under the exception because it could be reasonably inferred from the circumstances apparent to the victim that she understood the interview to have a medical purpose. The Appellate Court also rejected the defendant’s claim that the trial court improperly excluded from evidence screenshots of text messages between the victim and her stepcousin on the ground that they were not properly authenticated. The defendant argued that he had made a prima facie showing that the victim was the author of the messages, and the Appellate Court disagreed, noting that the screenshots lacked context and identifying information and that the stepcousin’s trial testimony regarding the messages lacked certain details and was “categorically contradicted” by the victim’s trial testimony. The defendant was granted certification

to appeal, and the Supreme Court will decide whether the Appellate Court applied the proper standard in determining the admissibility of the forensic interview evidence under the medical diagnosis or treatment hearsay exception. The Supreme Court will also decide whether the Appellate Court properly concluded that the trial court did not abuse its discretion in excluding the text message evidence.

The Practice Book Section 70-9 (a) presumption in favor of coverage by cameras and electronic media does not apply to the case above.

STATE *v.* ALANNA R. CAREY, SC 20273
Judicial District of New Britain

Criminal; Whether Appellate Court Correctly Concluded that, Assuming that Hearsay Testimony was Improperly Admitted, Error was Nonetheless Harmless in Light of Overwhelming Evidence of Consciousness of Guilt. The defendant was convicted of murder in connection with the shooting death of Edward Landry, her ex-boyfriend with whom she had a tumultuous relationship. She appealed, claiming, among other things, that the trial court improperly admitted the testimony of Mark Manganello, a friend of the victim, about conversations that Manganello had with the victim. The state sought to admit the testimony in order to explain the victim's fear of the defendant and to rebut the defendant's claim of self-defense. The defendant argued that Manganello's testimony constituted inadmissible double hearsay. The Appellate Court (187 Conn. App. 438) affirmed the defendants' conviction, concluding that, even assuming that the trial court improperly admitted Manganello's testimony under the state of mind or residual exceptions to the hearsay rule, any error was harmless in light of the overwhelming evidence of the defendant's consciousness of guilt. The Appellate Court noted that the defendant did not call 911 after the shooting, that she left the motel room where the shooting occurred, and that she refused to call 911 even when urged to do so by family members. The Appellate Court also observed that the defendant returned to the motel room and staged the scene and that, when she called 911 approximately three hours after the shooting, she misled the 911 operator by suggesting that the shooting had just occurred, stating "I don't think [he's moving]" and "I didn't even know if I hit him." In light of this evidence, the Appellate Court concluded that any error in the admission of Manganello's testimony was harmless because it did not substantially affect the verdict. The defendant has been granted certification to appeal, and the Supreme Court will decide whether the Appellate Court correctly concluded that

the allegedly improper admission of Manganello's hearsay testimony constituted harmless error.

STATE *v.* JOSE RUIZ, SC 20275
Judicial District of New Haven

Criminal; Eyewitness Identification; Whether Appellate Court Properly Concluded that One-on-One Showup Identification Procedure was not Unnecessarily Suggestive. The victim reported that a Hispanic male with a tattoo under his eye and wearing dark clothing had attempted to rob him while he was at a store. When police officers arrived at the store, they detained the defendant, who matched the victim's description, and they placed him in handcuffs in a police cruiser in the parking lot. The officers then took the victim's statement and brought the victim back to the store to identify the defendant. Less than an hour after he initially reported the incident, the victim returned to the parking lot and immediately identified the defendant, who was positioned next to a police cruiser with a spotlight aimed at him, as the robber. The defendant was arrested and charged with, among other things, attempted robbery and threatening. The defendant was serving a term of probation at the time of his arrest and, following the arrest, the defendant was charged with being in violation of his probation. Prior to the violation of probation hearing, the defendant moved to suppress the victim's identification, claiming that the one-on-one showup identification was unnecessarily suggestive and unreliable. The trial court denied the motion after a hearing. Thereafter, the court found that the defendant violated his probation and sentenced him to serve the remaining portion of his sentence. The defendant appealed, claiming that the identification procedure employed by the police was unnecessarily suggestive because he was forced to stand next to a police cruiser, in handcuffs, surrounded by police officers, with a spotlight shone on him. The Appellate Court (188 Conn. App. 413) affirmed the judgment revoking the defendant's probation, concluding that, while the one-on-one showup identification procedure was suggestive, an exigency existed to justify the use of the suggestive procedure such that it was not *unnecessarily* suggestive. The court reasoned that, given the short amount of time between when the incident occurred and when the identification occurred, it was necessary to provide the victim with an opportunity to identify the defendant while his memory of the incident was still fresh and to assist the police in determining whether they had detained the correct person. The defendant was granted certification to appeal, and the Supreme Court will decide whether the Appellate Court correctly con-

cluded that the one-on-one showup identification was not unnecessarily suggestive. The state claims that the Appellate Court properly concluded that the identification procedure was not unnecessarily suggestive and it argues that the Appellate Court's judgment can be affirmed on the alternative ground that the due process standard for the admission of identification evidence at a criminal jury trial does not apply to probation revocation proceedings.

SANDRA HARVEY, ADMINISTRATRIX (ESTATE
OF ISAIAH BOUCHER) *v.* DEPARTMENT
OF CORRECTION *et al.*, SC 20325
Judicial District of Hartford

Sovereign Immunity; Statute of Limitations; Whether Appellate Court Correctly Concluded that Wrongful Death Action Against the State was Properly Dismissed as Untimely Under § 4-160 (d) Despite Fact that Action was Timely Filed Under § 52-555. Isaiah Boucher was diagnosed with cancer while he was incarcerated and in the care and custody of the Department of Correction, and he underwent surgery. On July 16, 2015, the claims commissioner gave Boucher authorization to bring a medical malpractice action against the state. General Statutes § 4-160 (d) provides that when a person has been granted authorization to sue the state, the action must be brought within one year from the date of the claims commissioner's authorization. Boucher died as the result of the progression of his cancer on September 26, 2015, without having filed an action. On March 23, 2016, the plaintiff was appointed the administratrix of Boucher's estate, and she brought this wrongful death action against the state on September 29, 2016. The state moved to dismiss the action, claiming that it was untimely under § 4-160 (d) and barred by sovereign immunity because it was not filed within one year after authorization was granted. The plaintiff objected, contending that the applicable statute of limitations for wrongful death actions is General Statutes § 52-555, which allows an administrator to bring a wrongful death action within two years from the date of the decedent's death, such that the action was timely notwithstanding the one-year limitation period in § 4-160 (d). The trial court granted the motion to dismiss, and the plaintiff appealed, claiming that the two-year limitation period in § 52-555 supersedes the one-year limitation period in § 4-160 (d). The Appellate Court (189 Conn. App. 93) disagreed and affirmed the judgment of dismissal. The court held that, in order to timely bring an action against the state, a person must comply with both § 4-160 (d) and the applicable statute of limitations. In this certified appeal,

the Supreme Court will decide whether the Appellate Court correctly concluded that the plaintiff's wrongful death action was time barred under § 4-160 (d), notwithstanding the time limitations in § 52-555.

PENNY OUDHEUSDEN *v.* PETER OUDHEUSDEN, SC 20330
Judicial District of Stamford-Norwalk at Stamford

Dissolution of Marriage; Whether Trial Court “Double Dipped” By Awarding Plaintiff Both Income Generated by Defendant’s Businesses and Percentages of Those Businesses; Whether Trial Court Abused Its Discretion in Dividing Marital Estate and in Awarding Nonmodifiable Lifetime Alimony. The plaintiff brought this action in 2016, seeking dissolution of the parties’ thirty-year marriage. At the time of trial, the plaintiff was fifty-five years old and had not been employed since 1988, when she left her job as a teacher to raise the parties’ children. The defendant was fifty-eight years old and owned and managed two businesses, from which he derived all of his income. The trial court rendered a judgment of dissolution, finding that the defendant was at fault for the breakdown of the marriage, that he had been the sole financial support for the family since 1988, and that the plaintiff had made significant nonfinancial contributions to the family. The trial court also found that the defendant’s gross annual income was \$550,000 and that the fair market value of his businesses was \$904,000. The trial court ordered the defendant to pay the plaintiff nonmodifiable lifetime alimony in the amount of \$18,000 per month. With respect to the defendant’s businesses, the trial court ordered that, while the defendant would retain 100 percent ownership interests, he would pay \$452,000, or 50 percent of the businesses’ fair market value, to the plaintiff. The defendant appealed, and the Appellate Court (190 Conn. App. 169) reversed the trial court’s judgment. The Appellate Court agreed with the defendant that the trial court improperly double counted the defendant’s businesses for purposes of the alimony and property division awards. It concluded that the defendant’s businesses provided the stream of income by which he was to pay his alimony obligation and that, by awarding 50 percent of their value to the plaintiff, the trial court had left the defendant without resources that would allow him to comply with its financial orders. The Appellate Court also agreed with the defendant that the trial court abused its discretion in dividing the marital estate, reiterating its conclusion regarding the trial court’s improper double counting of the defendant’s businesses for alimony and property division purposes. It also determined that the trial court’s award of nonmodifiable lifetime alimony was unsupported by the facts,

noting that the award did not account for the defendant's ability to generate income as he grew older or the lack of testimony by the plaintiff that her age or physical condition limited her employment prospects. The plaintiff was granted certification to appeal, and the Supreme Court will decide whether the Appellate Court correctly concluded that the trial court erroneously engaged in "double dipping" by awarding the plaintiff alimony from income generated by the defendant's businesses and a percentage of the value of those businesses in its property division. The Supreme Court will also decide whether the Appellate Court correctly concluded that the trial court abused its discretion in dividing the marital estate.

STATE *v.* RAMON A. G., SC 20358

Judicial District of New Britain

Criminal; Jury Instructions; Use of Reasonable Force in Defense of Property; Whether Defendant's Written Request to Charge Preserved Claim of Instructional Error; Whether Defendant Implicitly Waived Claim of Instructional Error Under *State v. Kitchens*. The victim and the defendant had been in a romantic relationship and, after their relationship ended, there was a protective order in place that prohibited the defendant from having any contact with the victim. Despite the protective order, the defendant contacted the victim via text message indicating that he wanted to meet. After spending some time at the defendant's apartment, the victim left, taking the keys to the defendant's mother's car with her. She discarded the keys in a bush while she was walking home. The defendant intercepted the victim as she walked home, angrily demanding that she return the car keys. The defendant grabbed the victim's backpack and began to swing her around by it, causing her to fall to the ground. The defendant kicked the victim in the head, back and stomach, and he took the backpack. The defendant was charged with robbery, assault and criminal violation of a protective order in connection with the incident. At trial, the defendant admitted that he had confronted the victim while she was walking back home, but he claimed that all he had wanted was that she return the car keys. He submitted a written request to charge, seeking that the jury be instructed, pursuant to General Statutes § 53a-21, that the defendant was justified in using reasonable physical force upon the victim to the extent that he reasonably believed such force was necessary in order to regain property he reasonably believed to have been stolen. After a preliminary charge conference, the court stated it was granting the defendant's request to charge on use of force in defense of property, and the court circulated draft jury instructions

that indicating that the defense of property instruction applied only to the robbery charge, and not to the assault or criminal violation of a protective order charges. The next day, the defendant's counsel confirmed that he had reviewed the draft instructions and sought only one change unrelated to the defense of property instruction, and the defendant did not object after the trial court instructed the jury that the defense of property "defense" applied only to the robbery charge. The defendant was convicted of assault and criminal violation of a protective order, and he appealed, claiming that the trial court improperly declined to instruct the jury that the defense applied to the assault charge. The Appellate Court (190 Conn. App. 483) rejected that claim and affirmed the defendant's conviction, finding that the defendant failed to preserve the claim for appellate review because neither his written request to charge nor anything else in the record demonstrated that he alerted the trial court to the claimed instructional error. Moreover, the court also held that the defendant had impliedly waived his claim of instructional error under *State v. Kitchens*, 299 Conn. 447 (2011). In *Kitchens*, the Supreme Court held that a defendant waives a claim of instructional error when he has sufficient notice of, and acquiesces in, a jury instruction given by the trial court. The defendant was granted certification to appeal, and the Supreme Court will consider whether the Appellate Court properly concluded that the defendant failed to preserve his claim of instructional error, and, if not, whether it correctly concluded that he had implicitly waived that claim under *Kitchens*.

VICTOR DEMARIA *v.* CITY OF BRIDGEPORT, SC 20359
Judicial District of Fairfield

Personal Injury; Evidence; Whether Appellate Court Properly Determined that Physician Assistant's Medical Records Were not Admissible Pursuant to § 52-174 (b) Because Defendant was Precluded from Cross-examining Physician Assistant. The plaintiff brought this action against the city of Bridgeport pursuant to the municipal defective highway statute, General Statutes § 13a-149, seeking damages for injuries he sustained when he fell on a city sidewalk. The plaintiff sought medical treatment at a veterans affairs hospital after the fall, where he consulted with his primary care provider, physician assistant Miriam Vitale, and other medical professionals. Vitale wrote a report for the plaintiff's medical file, in which she concluded that the plaintiff's injuries were caused with a reasonable degree of medical certainty by his fall on the sidewalk. Prior to trial, the city filed a motion in limine, seeking to preclude the admission of

Vitale's records, reports, findings and conclusions at trial. The city claimed that Vitale's treatment records and report should not be admitted under General Statutes § 52-174 (b), which provides that a physician assistant's signed reports may be admitted in evidence in personal injury actions as business records. The city argued that Vitale's report was not admissible under the statute because the city would have no opportunity to cross-examine Vitale, as she was prevented from testifying by a federal regulation that forbids Department of Veterans Affairs personnel from providing opinion or expert testimony in any legal proceedings involving veterans affairs. The trial court denied the city's motion in limine, and, following trial, the trial court rendered judgment on the jury's \$93,000 verdict for the plaintiff. The city appealed, and the Appellate Court (190 Conn. App. 449) reversed the judgment and remanded the case for a new trial, finding that the trial court improperly admitted into evidence Vitale's treatment records and report under § 52-174 (b). The Appellate Court ruled that because, by virtue of the federal regulation, the city did not have an opportunity to cross-examine Vitale either at a deposition or at trial, the medical records she authored should not have been admitted into evidence. The plaintiff was granted certification to appeal, and the Supreme Court will consider whether the Appellate Court properly reversed and ordered a new trial on concluding that Vitale's records were improperly admitted into evidence pursuant to General Statutes § 52-174 (b).

FARMINGTON-GIRARD, LLC *v.* PLANNING
AND ZONING COMMISSION OF THE
CITY OF HARTFORD, SC 20374
Judicial District of Hartford

Zoning; Administrative Appeals; Whether Plaintiff Failed to Exhaust Administrative Remedies in Failing to Appeal Zoning Administrator's Decision Declaring Special Permit Application Void. The plaintiff owns property in the city of Hartford, and it sought to construct a restaurant with a drive-through service window. On December 10, 2012, the plaintiff submitted a special permit application for its proposed restaurant to the defendant zoning commission. The plaintiff's property is located in a B-3 zone that once permitted drive-throughs, but, on December 11, 2012, the defendant changed its zoning map such that the property is now zoned B-4, which prohibits drive-throughs. On December 19, 2012, the city sent the plaintiff a letter stating that the application it submitted was incomplete because it did not contain all the materials required by the zoning regulations. The plaintiff appealed the December 11, 2012 zoning change to the

Superior Court, which found that the change was invalid due to insufficient notice. The defendant again amended its zoning regulations on September 23, 2014, to prohibit drive-throughs. On October 20, 2014, the plaintiff sent a letter to Khara L. Dodds, the city's zoning administrator, with the remaining materials required for its application. On October 28, 2014, Dodds responded that the plaintiff's special permit application was void because it did not contain all the required materials. Dodds' letter stated that, as a result, the plaintiff was required to submit a new application that complied with any new zoning regulations. The plaintiff filed separate zoning appeals in the Superior Court to challenge the defendant's several changes to the zoning regulations and maps, which all had the effect of prohibiting a drive-through at the plaintiff's restaurant. The appeals were consolidated, and the trial court dismissed the appeals, finding that the plaintiff had failed to exhaust its administrative remedies. The trial court found that, while the plaintiff had a statutory right to appeal Dodds' decision declaring its special permit application void to the city's zoning board of appeals, it had failed to do so. The plaintiff appealed, and the Appellate Court (190 Conn. App. 743) affirmed the trial court's judgment. The Appellate Court ruled that the trial court properly concluded that Dodds, as zoning administrator, had the authority under the zoning regulations to declare the plaintiff's application void and that the plaintiff had failed to exhaust its administrative remedies by appealing to the zoning board of appeals. Finally, the Appellate Court rejected the plaintiff's claim that an appeal to the zoning board of appeals would have been futile. The Supreme Court granted the plaintiff's petition for certification to appeal, and it will consider whether the Appellate Court properly held that the plaintiff failed to exhaust its administrative remedies.

STATE *v.* BRUCE JOHN BEMER, SC 20429
Judicial District of Danbury at Danbury

Criminal; Prostitution; Trafficking in Persons; Whether Evidence Sufficient to Show that Defendant Knew that Prostitutes Were Victims of Trafficking; Whether Trial Court Properly Instructed Jury on Coercion. Following a trial to a jury, the defendant was convicted of four counts of patronizing a trafficked person in violation of General Statutes (Rev. to 2016) § 53a-83 (c) and a single count of trafficking in persons in violation of General Statutes § 53a-192a as an accessory. Section 53a-83 (c) provided that patronizing a prostitute was a class C felony if the defendant “knew or reasonably should have known at the time of the offense that [the person he engaged in sexual conduct with] . . . was the victim of conduct of

another person that constitutes . . . trafficking in persons in violation of section 53a-192a.” The defendant appeals, claiming that the evidence presented at trial was insufficient to prove beyond a reasonable doubt that he knew or should have known that the prostitutes he was patronizing were the victims of conduct of another person that constituted trafficking in persons as contemplated by § 53a-192a. The defendant claims there was no evidence presented at trial that, if the prostitutes were trafficked, the defendant knew or should have known anything about it. The defendant also claims that the state’s case was premised on the theory that the prostitutes were trafficked in that they were compelled or induced by “coercion” to engage in prostitution, and he argues that the trial court did not properly instruct the jury concerning “coercion” as defined by General Statutes § 53a-192.

LESLEY FAJARDO et al. v. BOSTON SCIENTIFIC
CORPORATION et al., SC 20455
Judicial District of Waterbury

Informed Consent; Product Liability; Whether Trial Court Erred in Concluding that Referring Physician did not Assume Duty to Obtain Patient’s Informed Consent; Whether the Trial Court Erred in Refusing to Charge Jury on Reasonable Alternative Design Test. The plaintiff’s gynecologist, Lee Jacobs, diagnosed her with conditions associated with pelvic organ prolapse and proposed gynecological repair surgery. Jacobs referred the plaintiff to a urologist, Edward Paraiso, who diagnosed her with stress urinary incontinence and recommended surgery to implant Obtryx, a transvaginal mesh sling. The plaintiff consented to both surgeries, and Jacobs and Paraiso performed the separate surgeries on the same day. The plaintiff subsequently brought this action against Jacobs and against Boston Scientific Corporation, the manufacturer of Obtryx (the manufacturer), seeking to recover for injuries she sustained as a result of the implant surgery. She asserted various causes of action, including lack of informed consent and negligent and intentional misrepresentation against Jacobs, and she asserted a product liability claim against the manufacturer. The plaintiff alleged that Jacobs failed to properly advise her of the risks associated with Obtryx and that he misrepresented the risks associated with use of the product in order to induce her to undergo the procedure. She also alleged that Obtryx was defectively designed and that the manufacturer’s warning regarding the product was deficient. Jacobs moved for summary judgment, arguing that he had no duty to obtain the plaintiff’s informed consent for the surgery that had been performed by Paraiso and that he had made no

misrepresentations regarding Obtryx or the procedure. The trial court granted the motion and rendered judgment in Jacobs' favor, rejecting the plaintiff's claim that Jacobs assumed the duty to obtain her informed consent for Paraiso's surgery because Jacobs noted in the plaintiff's medical file that he had discussed the risks, benefits and alternatives of the implant surgery with her. The plaintiff's product liability claim was subsequently tried to a jury. The jury returned a verdict for the manufacturer, finding that Obtryx was not defectively designed and that, although the manufacturer's warning was defective, the warning was not a proximate cause of the plaintiff's injuries. The plaintiff moved to set aside the verdict and for a new trial, claiming that the trial court improperly denied her request to charge the jury on the reasonable alternative design test. Applying that test, a product is in a defective condition if a reasonable alternative design was available that would have avoided or reduced the risk of harm and the absence of that alternative design renders the product unreasonably dangerous. The trial court denied the motion on the grounds that the plaintiff failed to disclose an expert witness to testify as to reasonable alternative designs and that the plaintiff failed to produce evidence at trial to support the charge. The plaintiff appeals, and the Supreme Court will decide (1) whether the trial court properly determined that only Paraiso had a duty to obtain the plaintiff's informed consent for the implant surgery, and (2) whether the trial court properly refused to charge the jury on the reasonable alternative design test.

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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