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CONNECTICUT REPORTS

Vol. 339

CASES ARGUED AND DETERMINED

IN THE

SUPREME COURT

OF THE

STATE OF CONNECTICUT

STATE OF CONNECTICUT *v.* AUSTIN GRANT HAUGHWOUT
(SC 20547)

Robinson, C. J., and McDonald, D'Auria, Mullins, Kahn, Ecker and Keller, Js.

Syllabus

The defendant was convicted of one count of interfering with an officer, one count of disobeying the direction of an officer while increasing the speed of a motor vehicle in an attempt to escape or elude, and two counts of assault of a peace officer in connection with two separate incidents between him and certain police officers. During the first incident, an officer, S, turned his cruiser into a parking lot adjacent to a library at about 9 p.m. S observed the defendant walking quickly from a picnic table near the library to a parked vehicle in the lot. Once in the vehicle, the defendant took a few moments to set up a dashboard

camera in order to record the incident. Shortly thereafter, the defendant drove his vehicle toward the exit, S turned his cruiser's light bar on briefly, and S motioned with his hand for the defendant to pull alongside the cruiser, which he did. After a brief dialogue, S told the defendant to put his vehicle in park. The defendant ignored S's command and abrubtly began to drive toward the exit. S turned on his lightbar again and pulled his cruiser behind the defendant's vehicle. The defendant stopped, shouted to S, "hey asshole," and then proceeded to exit the parking lot and to drive north on a local road. Another officer, who had just arrived at the scene, and S pursued the defendant, and the defendant stopped a short distance up the road. After the defendant continued to argue with the officers and declined a request to provide his operator's license and registration, the officers let him leave the scene and applied for an arrest warrant. The second incident occurred when the defendant, in response to being informed by the police that they had obtained a warrant for his arrest, arrived at the police station. The defendant brought a video camera with him and began recording. The defendant was told by an officer, V, that he was in custody and under arrest. V also told the defendant that he had to secure the camera and that it would be returned. The defendant declined to surrender the camera and attempted to leave. A struggle between the defendant and V ensued, shortly after which another officer, D, came to V's assistance. Once the defendant was subdued, he was carried to the booking area. Before trial, the defendant moved to suppress evidence derived from the encounter relating to the first incident, claiming that S lacked a reasonable and articulable suspicion that the defendant had been engaged in criminal activity and that his detention was therefore illegal. The trial court denied that motion. On appeal from the judgments of conviction, the defendant claimed, inter alia, that the trial court improperly denied his motion to suppress and that the evidence was insufficient to support his conviction of both counts of assault of a peace officer. *Held*:

1. The trial court improperly denied the defendant's motion to suppress evidence relating to the first incident, as the defendant's detention by S in connection with that incident was unlawful, and, accordingly, the judgment of conviction of interfering with an officer and disobeying the direction of an officer was reversed; the defendant's conduct could not, in and of itself, give rise to a reasonable and articulable suspicion of criminal activity, as the totality of circumstances did not objectively indicate that the defendant was attempting to elude detection, there were no signs limiting access to the parking lot, members of the public frequently used the area after the library was closed in order to use the book drop and to access the library's free Wi-Fi, the fact that crimes previously occurred nearby did not alter this conclusion, and S's observation that the defendant walked quickly toward his vehicle fell short of the type of flight that has been found to indicate criminal behavior.

2. There was no merit to the defendant's claim that there was insufficient evidence to support his conviction of both counts of assault of a peace officer in connection with the second incident on the ground that the jury could not have reasonably found that the defendant had intended to interfere with the performance of either V's or D's duties or to cause D's injuries, and on the ground that the evidence did not support a finding that V's use of force was reasonable: the context afforded by the argument preceding the struggle at the police station, the defendant's attempt to leave the lobby, the fact that he kicked V multiple times, and the length of the struggle were facts from which the jury reasonably could have inferred that the defendant's resistance was undertaken with an intent to delay his arrest, and not the result of mere reflex; moreover, the evidence was sufficient to support the conclusion that V's use of force was reasonable, as V testified that he grabbed the defendant, who had been informed that he was under arrest, in order to prevent him from leaving the lobby and brought him to the ground only after the defendant began to struggle, V was outsized and alone at the moment the struggle began, and V never struck the defendant or resorted to the use of any type of weapon; furthermore, the jury could have reasonably concluded that the defendant injured D during the struggle, as D testified that he experienced neck and back pain as a result of the defendant's resistance and that he took time off from work to recover from those injuries.

3. The defendant was entitled to a new trial with respect to the count charging him with the assault of V, as the trial court improperly declined to instruct the jury that, to find the defendant guilty of that assault, it must first determine that V's use of force was reasonable, and, accordingly, the defendant was entitled to a new trial with respect to that count; nevertheless, the defendant could not prevail on his claim that the trial court committed reversible error by failing to instruct the jury, with respect to the charge relating to the assault of D, that the defendant's conduct must have been the proximate cause of D's injuries, as the trial court's instruction on causation was both legally correct and adequate when viewed in the context of the evidence presented at trial.

Argued February 24—officially released July 23, 2021*

Procedural History

Substitute information, in the first case, charging the defendant with the crimes of disobeying the direction of an officer while increasing the speed of a motor vehicle in an attempt to escape or elude an officer and interfering with an officer, and substitute information,

* July 23, 2021, the date that this decision was released as a slip opinion, is the operative date for all substantive and procedural purposes.

in the second case, charging the defendant with two counts of the crime of assault of public safety personnel and one count of the crime of interfering with an officer, brought to the Superior Court in the judicial district of Middlesex, where the cases were consolidated and tried to the jury before *Suarez*, *J.*; thereafter, the court, *Suarez*, *J.*, denied the defendant's motion to suppress certain evidence; subsequently, verdicts of guilty; thereafter, the court, *Suarez*, *J.*, vacated the conviction of interfering with an officer in the second case and rendered judgments of conviction on the remaining counts in both cases, from which the defendant appealed. *Affirmed in part*; *reversed in part*; *judgment directed in part*; *further proceedings*.

Jennifer Bourn, supervisory assistant public defender, for the appellant (defendant).

Timothy J. Sugrue, assistant state's attorney, with whom, on the brief, were *Michael A. Gailor*, state's attorney, and *Russell C. Zentner*, senior assistant state's attorney, for the appellee (state).

Opinion

KAHN, J. The defendant, Austin Grant Haughwout, appeals from judgments of conviction on charges arising from, respectively, two separate incidents between him and various officers of the Clinton Police Department in July, 2015. The defendant claims that evidence of certain events during the first incident, which occurred in the parking lot of a local library on the night of July 19, 2015, should have been suppressed because those events were the result of an unconstitutional investigatory detention. The state responds to this claim by arguing that, in light of the totality of the circumstances presented, the police had a reasonable and articulable suspicion that the defendant had been engaged in criminal activity and that an investigatory detention was, therefore, constitutional under *Terry* v.

Ohio, 392 U.S. 1, 21–22, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968).[1] We disagree with the state and, accordingly, reverse the trial court's judgment of conviction as to the offenses relating to the incident that occurred on July 19, 2015. The defendant also claims that his conviction of two counts of assault of public safety personnel, specifically a peace officer, related to the second incident, which occurred inside of the Clinton Police Department on July 22, 2015, is infirm because (1) the state's evidence was insufficient to support his conviction, and (2) the trial court erred when instructing the jury. The state concedes that a new trial is required with respect to one of the assault charges due to instructional error but contends that the defendant's remaining claims lack merit. We agree with the state and, therefore, affirm in part and reverse in part the trial court's judgment of conviction related to the incident that occurred on July 22, 2015.

The following facts and procedural history are relevant to our consideration of the present appeal. Shortly after 9 p.m. on the evening of July 19, 2015, Officer Alexieff Adrian Santiago drove past the Henry Carter Hull Library in the town of Clinton and observed a vehicle parked in an unlit corner of an adjacent parking lot.[2] Although the library had closed earlier that day, Santiago testified that the public frequented the parking lot after hours to use the book drop and to access the

[1] Each of the charges related to this event stem from the defendant's refusal to comply with various orders by the police after his detention. In addition to his argument related to the motion to suppress, the defendant also argues that, if the initial detention was unconstitutional, he cannot legally be punished for ignoring the orders that followed.

[2] Santiago was conducting a routine patrol of the area in a marked police cruiser. Although Santiago testified that the library had been broken into once several years before and that a series of more recent larcenies had occurred at a nearby mall, the record contains no indication that the police had received any reports of crimes or other suspicious activity in the area on that particular evening.

library's free Wi-Fi.[3] Santiago turned his police cruiser around, drove into the parking lot, and observed a person walking "quickly" in the direction of the parked vehicle.[4] A few moments later, that vehicle began to drive toward the exit of the parking lot.[5] Santiago turned his cruiser's light bar on briefly and then motioned with his hand for the approaching vehicle to pull alongside of his cruiser. Santiago immediately recognized the defendant and asked him what he had been doing there. The defendant responded that he had been using the library's Wi-Fi at a picnic table adjacent to the parking lot but had left because he was being bothered by bugs.[6]

Santiago then decided to look behind the library and ordered the defendant to put his vehicle in park. The defendant then began to ask, repeatedly and continuously, whether Santiago suspected him of a crime. Santiago responded by telling the defendant, at least two more times, to put the vehicle in park. The defendant ignored those commands and abruptly began to drive toward the exit of the parking lot. While Santiago was turning his cruiser around to pursue the defendant, he noticed that a fence gate leading to a patio behind the library was open.[7] Santiago then turned on his light bar,

[3] Numerous photographs of the parking lot admitted into evidence at trial depict no posted rules restricting access to the parking lot or any signage prohibiting trespassing.

[4] Santiago gave the following specific testimony on this point: "By the time I got back, I saw the person was quickly going to their car and pulling out of the parking space as I pulled in . . . ."

[5] At this point, the defendant began recording a video on a dashboard camera. That video recording, which ran for the duration of the relevant events that evening, was admitted into evidence at trial.

[6] Santiago testified that he was skeptical of this explanation because individuals who access the library's Wi-Fi from the parking lot typically park closer to the entrance of the library in order to get a stronger signal. Santiago also testified, however, that there were no picnic tables near the entrance and that, although the signal might not be strong enough for tasks like "web surfing or streaming," a connection from that location was still possible.

[7] The record contains conflicting evidence about precisely when Santiago first observed the open gate. At some points, Santiago testified that he

pulled his cruiser up behind the defendant at the exit of the parking lot, and radioed for backup. The defendant stopped his vehicle, called out to Santiago by exclaiming, "hey asshole," and then continued to shout out of the window. As another officer arrived, the defendant pulled out of the parking lot and began to drive north on Killingworth Turnpike. The officers engaged their sirens and followed. Although the defendant came to a halt a short distance away, he thereafter continuously argued with the officers, refused to put the transmission of his vehicle into park, and repeatedly declined to provide his license and registration when requested. The police officers ultimately decided to let the defendant leave the scene and to apply for an arrest warrant based on his conduct.

On July 22, 2015, the police called the defendant and informed him that they had obtained a warrant for his arrest in connection with the preceding events. The defendant arrived at the police station at approximately 8 p.m. that evening. Prior to entering the police station, the defendant, using a small video camera, began a recording of the event by noting the date, time, location, and purpose of his visit and reviewing an inventory of items he was taking with him into the station. After entering the station, he was explicitly told by Officer Christopher Varone that he was in police custody and under arrest. At that time, Varone noticed that the defendant was carrying a small video camera and stated that, for safety reasons, it would not be allowed into the booking area. At least twice, Varone patiently stated that he would secure the device and return it after the defendant was released on a promise to appear. Varone

noticed the gate when he first entered the parking lot that evening. At other points, he testified that he had noticed the gate only after his initial conversation with the defendant. Although the trial court made no factual finding on this particular point, on appeal, the parties agree that Santiago's latter testimony reflects the actual sequence of events that evening.

repeatedly indicated that, if the defendant did not comply, he would soon be forced to do so. During the course of this discussion, the defendant declined to give up the camera several times. At first, the defendant asserted that he needed to keep the camera for his own safety but then later stated that he was just going to leave the camera in the lobby. The defendant then walked a short distance away and placed his camera down on top of a display case. Varone told the defendant that the police department would not be responsible for the camera if the defendant chose to leave it in the lobby. Shortly thereafter, the defendant picked his camera back up and turned to leave the station, stating that he was going to secure the camera himself.

Varone grabbed the defendant in order to prevent him from leaving the station, the defendant resisted, and a struggle ensued. Varone forced the defendant to the floor while the defendant began kicking Varone repeatedly. Moments later, Officer James DePietro, Jr., ran into the lobby and joined the struggle in order to assist Varone. DePietro audibly ordered the defendant, who was still "flailing about," "kicking," and "struggling" at the time, to put his hands behind his back. The defendant refused to comply and was eventually restrained. The defendant then repeatedly ignored commands to get up off of the floor and walk on his own into the booking area. As a result, he was carried to the booking area with the assistance of additional officers.

The jury's understanding of the events in the lobby that day was informed by no less than three separate recordings: (1) a video from the camera in the defendant's hand, which had audio; (2) a video from a security camera in the lobby, which did not; and (3) an audio recording from a cell phone hidden inside of the defendant's pants. The defendant's camera was turned off shortly after DePietro joined the struggle in the lobby. The cell phone hidden in the defendant's pants recorded

audio for the duration of the relevant events that day. The security camera recorded most of the events in the lobby, but was positioned at an angle that did not capture the portion of the incident that occurred after the defendant was on the floor. In addition, the evidence also included recordings from a camera in the booking area's cell block, which contain both video and audio, that show the defendant after he was carried out of the lobby.

Testimony offered at trial indicated that the defendant was about six feet tall and weighed approximately 160 pounds. Varone and DePietro were both physically smaller than the defendant. DePietro generally described the confrontation to the jury as follows: "It . . . just wasn't, you know, going to the ground and putting handcuffs on [the defendant]. It was a fight, a full on fight. And he's a little bigger than I am. But, even with . . . Varone and I, it was a full on fight." The defendant was eventually transported to a hospital by ambulance and then he was released back into the custody of the police. He was then taken back to the police station and processed without further incident.

Both Varone and DePietro sustained minor injuries that day. Specifically, Varone testified that the defendant had kicked him in the chest, face, and arm. Varone indicated that he experienced pain as a result of the kick to his arm, and a photograph was admitted into evidence showing light red bruising on the inside of his left bicep. Varone also testified that he injured one of his fingers while struggling with the defendant and that it went numb for a period of time. DePietro testified that his neck and back were "very sore from the fight" and that he ended up taking time off from work as a result.

The defendant was subsequently charged with various offenses for his conduct on both July 19 and July

22, 2015. Specifically, with respect to the incident that started in the library parking lot, the defendant was charged with interfering with an officer in violation of General Statutes § 53a-167a (a) and disobeying the direction of an officer while increasing the speed of a motor vehicle in an attempt to escape or elude in violation of General Statutes § 14-223 (b). With respect to the altercation at the police department, the defendant was charged with two counts of assault of a peace officer in violation of General Statutes § 53a-167c (a), relating to Varone and DePietro, respectively, and an additional count of interfering with an officer in violation of § 53a-167a (a), which related only to DePietro.

The two informations were consolidated for trial, and the jury returned verdicts finding the defendant guilty on all counts. The trial court vacated the defendant's conviction as to the interfering charge in the second case on double jeopardy grounds. The trial court imposed separate sentences of one year of incarceration, execution suspended, and one year of probation in connection with both of the charges in the first case. As to each count alleging assault of a peace officer in the second case, the trial court imposed a sentence of seven years of incarceration, execution suspended after one year, and five years of probation. The trial court specified that all four of the sentences were to run concurrently for a total effective sentence of seven years of incarceration, execution suspended after one year, and five years of probation. This appeal followed.[8] Additional facts and procedural history will be set forth as necessary.

In the present appeal, the defendant claims that (1) evidence of his conduct on the evening of July 19, 2015,

[8] The defendant appealed to the Appellate Court from the judgments of the trial court, and we transferred the appeal to this court pursuant to General Statutes § 51-199 (c) and Practice Book § 65-1.

should have been suppressed by the trial court because it was obtained as a result of an unconstitutional investigatory detention by the police, and (2) the judgment of conviction arising out of the events that occurred at the police station on July 22, 2015, should be reversed because of insufficient evidence and instructional error. We address these claims in turn.

I

We begin with the defendant's claim that the trial court improperly denied his motion to suppress evidence relating to the events of July 19, 2015. In support of this claim, the defendant argues that Santiago lacked a reasonable and articulable suspicion that he had been engaged in criminal activity. The state expressly conceded at oral argument before this court that a reasonable person in the defendant's position would have believed that he was not free to leave the parking lot once Santiago motioned for the defendant's vehicle to pull alongside of his cruiser and that, as a result, a seizure had occurred within the meaning of our state constitution. See, e.g., *State* v. *Oquendo*, 223 Conn. 635, 653, 613 A.2d 1300 (1992). The state further conceded at oral argument that, if this court were to conclude that the trial court erroneously denied the motion to suppress, that conclusion would be dispositive with respect to the conviction relating to the events of July 19, 2015. However, the state claims that the investigatory detention of the defendant was reasonable in light of the totality of the circumstances known to Santiago at the time. For the reasons that follow, we disagree with the state.

The following additional facts and procedural history are relevant to our consideration of this issue. Before trial, the defendant moved to suppress "any and all evidence, including electronic audio and video recordings, and any statements obtained from the defendant,

that [derived from the] unlawful and unconstitutional seizure on July 19, 2015." In support of that motion, defense counsel argued that Santiago lacked a reasonable and articulable suspicion that the defendant had been engaged in criminal activity that evening. In response, the prosecutor argued that the defendant's presence in the parking lot, his movements after Santiago arrived, the explanation he subsequently gave for his presence, and the history of criminal activity in the area were sufficient to permit an investigative detention.

The trial court ultimately denied the defendant's motion to suppress, concluding, inter alia, that Santiago's initial orders were supported by a reasonable and articulable suspicion. In reaching this conclusion, the trial court reasoned: "Santiago saw a vehicle, it was in a dark area of the public library, and after hours, saw an individual getting into the car. Based on his beliefs of prior criminal activity in that area, based on his knowledge as a police officer that criminal activity occurred at the . . . [mall] next door, he had a suspicion, a reasonable and [articulable] suspicion to approach the car and [ask the defendant] some questions."

"Our standard of review of a trial court's findings and conclusions in connection with a motion to suppress is well defined. A finding of fact will not be disturbed unless it is clearly erroneous in view of the evidence and pleadings in the whole record . . . . [W]here the legal conclusions of the court are challenged, we must determine whether they are legally and logically correct and whether they find support in the facts set out in the memorandum of decision . . . ." (Internal quotation marks omitted.) *State* v. *Davis*, 331 Conn. 239, 246, 203 A.3d 1233 (2019). The question of whether a particular set of facts gives rise to a reasonable and articulable suspicion is a question of law over which we exercise plenary review. Id., 246–47.

"Under the fourth amendment to the United States [c]onstitution and article first, §§ 7 and 9, of our state constitution, a police officer is permitted in appropriate circumstances and in an appropriate manner to detain an individual for investigative purposes if the officer believes, based on a reasonable and articulable suspicion that the individual is engaged in criminal activity, even if there is no probable cause to make an arrest. . . . Reasonable and articulable suspicion is an objective standard that focuses not on the actual state of mind of the police officer, but on whether a reasonable person, having the information available to and known by the police, would have had that level of suspicion. . . .

"[I]n justifying [a] particular intrusion the police officer must be able to point to specific and articulable facts which, taken together with the rational inferences from those facts, reasonably warrant that intrusion. . . . In determining whether a detention is justified in a given case, a court must consider if, relying on the whole picture, the detaining officers had a particularized and objective basis for suspecting the particular person stopped of criminal activity. When reviewing the legality of a stop, a court must examine the specific information available to the police officer at the time of the initial intrusion and any rational inferences to be derived therefrom." (Citations omitted; internal quotation marks omitted.) *State* v. *Clark*, 297 Conn. 1, 9–10, 997 A.2d 461 (2010).

Our analysis in the present case is guided in particular by this court's decision in *State* v. *Santos*, 267 Conn. 495, 838 A.2d 981 (2004). In that case, police officers reported seeing four men pacing nervously back and forth in a dark parking lot at night and stated that one of them smelled of alcohol. Id., 505–506. Several municipal athletic fields adjacent to that parking lot remained open to the public after sunset, but the area

was routinely patrolled at night because of previous criminal activity involving both drugs and prostitution. Id., 498. When questioned, the group of men told the police that they were " 'just driving around' " and that they had been wrestling with each other on the ground before the police arrived. Id., 499–500.

Although we acknowledged that the time of day and the history of criminal activity in an area can be relevant factors to consider in the course of such an analysis, we concluded that those factors alone were insufficient to create a reasonable suspicion that the defendant had been committing a crime. Id., 508–509, citing *Brown* v. *Texas*, 443 U.S. 47, 52, 99 S. Ct. 2637, 61 L. Ed. 2d 357 (1979) ("[t]he fact that [the defendant] was in a neighborhood frequented by drug users, standing alone, is not a basis for concluding that [the defendant] himself was engaged in criminal conduct"); see also *State* v. *Scully*, 195 Conn. 668, 679 n.15, 490 A.2d 984 (1985) ("[t]he lesson from *Brown* . . . is simply that physical presence in a geographical area where the police may have reason to anticipate possible violations of the law does not in and of itself justify arbitrary investigatory stops").

Our decision in *State* v. *Donahue*, 251 Conn. 636, 742 A.2d 775 (1999), cert. denied, 531 U.S. 924, 121 S. Ct. 299, 148 L. Ed. 2d 240 (2000), reached the same conclusion. In that case, the state argued that the police had reasonable suspicion to detain a defendant after his vehicle made an abrupt, but legal, turn into an unlit parking lot at 1:50 a.m. Id., 639–41, 647. As in *Santos*, the state relied on testimony demonstrating that the social club next to that parking lot had already closed for the evening and that the surrounding area had recently experienced a rise in criminal activity. Id., 639, 641. The trial court in *Donahue* declined to suppress the evidence that was discovered as a result of that detention, concluding that "there's a reasonable and

articulable suspicion that criminal activity was afoot when given the vicinity, the time of night the defendant pulls into the dirt parking lot of a club that is closed. And there's no other businesses in the area that could have been opened at that time. So I find that there was [a] reasonable suspicion to justify the stop at that time." (Internal quotation marks omitted.) Id., 641. This court reversed the judgment of the Appellate Court, which affirmed the trial court's judgment, concluding that the defendant's detention "was based on nothing more than the location of the defendant's vehicle at an early hour of the morning." Id., 637, 645. In reaching that conclusion, we noted that the defendant had committed no traffic violations, had not engaged in furtive conduct of any kind, and that the vehicle was unconnected to any ongoing police investigations. Id., 647.

The reasoning of both *Santos* and *Donahue* compels the conclusion that the defendant's mere use of the library's parking lot and picnic table at 9 p.m. on a Sunday evening cannot, in and of itself, give rise to a reasonable and articulable suspicion of criminal activity. See, e.g., *State* v. *Edmonds*, 323 Conn. 34, 68, 145 A.3d 861 (2016) ("[i]t is well established that the fact that a citizen chooses to stand outside at the dinner hour, in a neighborhood plagued by crime, does not warrant any reasonable and articulable suspicion that he himself is engaged in criminal activity"). As previously stated in this opinion, there were no signs limiting access to the parking lot, and members of the public frequently used the area after the library was closed. The fact that crimes had previously occurred nearby; see footnote 2 of this opinion; does not alter this conclusion. See, e.g., *State* v. *Oquendo*, 223 Conn. 635, 655 n.11, 613 A.2d 1300 (1992) ("[a] history of past criminal activity in a locality does not justify suspension of the constitutional rights of everyone, or anyone, who

may subsequently be in that locality" (internal quotation marks omitted)).

The additional facts relied on by the state to demonstrate the existence of a reasonable and articulable suspicion are insufficient to warrant a different result. First, Santiago's observation that the defendant was walking quickly toward his vehicle is of limited value. Even if that movement was occasioned by Santiago's arrival, a point that is neither specifically resolved by the trial court's factual findings nor entirely clear from the record, it would still fall short of the type of headlong flight that has been found to be indicative of criminal behavior in other contexts. See, e.g., *State* v. *Edmonds*, supra, 323 Conn. 72–73 ("[t]he mere fact that a citizen turns and walks away from an approaching police officer does not . . . support a reasonable and articulable suspicion of criminality" (emphasis omitted)); cf. *Illinois* v. *Wardlow*, 528 U.S. 119, 124, 120 S. Ct. 673, 145 L. Ed. 2d 570 (2000). The totality of the circumstances presented in this case also do not objectively indicate that the defendant was attempting to elude detection. Cf. *State* v. *Wilkins*, 240 Conn. 489, 493, 692 A.2d 1233 (1997) (ducking down in car to avoid being seen by police); *State* v. *Januszewski*, 182 Conn. 142, 144–45, 438 A.2d 679 (1980) (avoiding police by crawling out of passenger door of vehicle and under adjacent motorcycle) (overruled in part on other grounds by *State* v. *Hart*, 221 Conn. 595, 609, 605 A.2d 1366 (1992)), cert. denied, 453 U.S. 922, 101 S. Ct. 3159, 69 L. Ed. 2d 1005 (1981); *State* v. *Watson*, 165 Conn. 577, 581, 585–86, 345 A.2d 532 (1973) (four individuals exiting vehicle behind closed restaurant and, minutes later, hurrying out from behind adjacent establishment to reenter same vehicle), cert. denied, 416 U.S. 960, 94 S. Ct. 1977, 40 L. Ed. 2d 311 (1974). Indeed, after returning to his vehicle, the defendant sat, stationary, for several moments in order to set up his dashboard camera and then promptly

brought his vehicle to a stop when signaled to do so by Santiago.

Santiago's initial reaction to the defendant's explanation that he had been using the library's Wi-Fi also does little to support the state's position given that Santiago himself recognized that members of the public frequently used the parking lot after hours for that exact purpose. Further, Santiago acknowledged that the Wi-Fi signal could well have been strong enough at the picnic tables for at least some purposes.[9] In light of these facts, we see no reason to conclude that the defendant's explanation for his presence was any more suspicious than the ones given to the police in *Santos*.[10]

In sum, Santiago's suspicion appears to have been based principally on the fact that the defendant happened to be present in the library parking lot at night and began to leave when Santiago arrived. Our precedent firmly establishes that such factors are, without more, insufficient to support a reasonable and articulable suspicion that criminal activity was afoot. Consequently, we conclude that the defendant's detention was unlawful and that, as a result, the trial court improperly denied his motion to suppress. The state has conceded, for the purpose of the present appeal, that this conclusion forecloses the imposition of criminal liability for the conduct that followed during the investigatory stop on July 19, 2015. The judgment of conviction as to the

[9] Although the defendant may not have parked in the same spot typically used by other Wi-Fi users, it is undisputed that he was still located on the side of the parking lot closest to the library and that the picnic tables were only approximately thirty feet away from the building. There is also no indication in the record that the defendant would have known that a stronger signal might have been available at another location.

[10] Because the parties agree that Santiago was unaware of the open fence gate when he seized the defendant; but see footnote 7 of this opinion; we need not consider that fact in our analysis. See *State* v. *Clark*, supra, 297 Conn. 9–10.

charges of interfering with and disobeying an officer related to that conduct, therefore, cannot stand.

II

The defendant's remaining claims of error relate to the two counts of the information in the second case alleging assault of a peace officer, which concerned the confrontation between the defendant, Varone, and DePietro that occurred at the Clinton Police Department on July 22, 2015.[11] The defendant argues that there was insufficient evidence to support either of those charges and that the trial court improperly declined to instruct the jury as to both counts. For the reasons that follow, with the exception of the claim of instructional error as to the assault count relating to Varone, we reject these claims.

A

Sufficiency Claims

The defendant raises three distinct claims relating to the sufficiency of the state's evidence. First, the defendant argues that he is entitled to a judgment of acquittal on both of the assault charges in the second case because the jury, based on the evidence presented at trial, could not have reasonably found that the defendant intended to interfere with the performance of either Varone's or DePietro's duties. Second, the defendant claims that his conviction for assaulting Varone must, likewise, be reversed because there was insufficient evidence to show that Varone's use of force was reasonable.[12] Finally, the defendant claims that his con-

[11] As noted previously in this opinion, the trial court vacated the defendant's conviction of interfering with DePietro in violation of § 53a-167a (a) on double jeopardy grounds prior to sentencing.

[12] Although the state has conceded that the defendant's conviction with respect to the assault on Varone must be reversed because of instructional error, we must still address the defendant's first two sufficiency claims because they would, if successful, entitle him to a judgment of acquittal on that charge. See, e.g., *State* v. *Padua*, 273 Conn. 138, 178, 869 A.2d 192 (2005) ("sound appellate policy and fundamental fairness require a reviewing court

viction for assaulting DePietro must be reversed because the jury could not have reasonably concluded that he had caused DePietro's injuries. The state disagrees with each of these claims, arguing that the various video recordings of the event and the testimony offered by the two officers at trial were sufficient to support the defendant's conviction. We agree with the state and conclude that the defendant's sufficiency claims lack merit.

The relevant standard of review is well established. "When reviewing a sufficiency of the evidence claim, we do not attempt to weigh the credibility of the evidence offered at trial, nor do we purport to substitute our judgment for that of the jury. . . . [W]e construe the evidence in the light most favorable to sustaining the verdict . . . . We then determine whether the jury reasonably could have concluded that the evidence established the defendant's guilt beyond a reasonable doubt. . . . [W]e do not ask whether there is a reasonable view of the evidence that would support a reasonable hypothesis of innocence. We ask, instead, whether there is a reasonable view of the evidence that supports the [finder of fact's] verdict of guilty." (Citations omitted; internal quotation marks omitted.) *State* v. *Lamantia*, 336 Conn. 747, 755, 250 A.3d 648 (2020); see also *State* v. *Ford*, 230 Conn. 686, 693, 646 A.2d 147 (1994) ("[w]e do not sit as the 'seventh juror' when we review the sufficiency of the evidence"). "A party challenging the validity of the jury's verdict on grounds that there was insufficient evidence to support such a result carries a difficult burden." (Internal quotation marks omitted.) *State* v. *Rhodes*, 335 Conn. 226, 233, 249 A.3d 683 (2020).

In order to prove a violation of § 53a-167c (a) (1), the state must establish that the defendant "(1) inten[ded]

to address a defendant's insufficiency of the evidence claim prior to remanding a matter for retrial because of trial error").

to prevent (2) a reasonably identifiable officer (3) from performing his duty (4) by causing physical injury to such officer . . . .'' *State* v. *Flynn*, 14 Conn. App. 10, 21, 539 A.2d 1005, cert. denied, 488 U.S. 891, 109 S. Ct. 226, 102 L. Ed. 2d 217 (1988); see also *State* v. *Casanova*, 255 Conn. 581, 592, 767 A.2d 1189 (2001), overruled in part on other grounds by *State* v. *Brocuglio*, 264 Conn. 778, 826 A.2d 145 (2003). ''If [a] police officer does not reasonably believe that his use of physical force is necessary, then his use of force is not within the performance of his duties and a citizen may properly resist that use of force.'' *State* v. *Davis*, 261 Conn. 553, 570–71, 804 A.2d 781 (2002).

The defendant first claims that no jury could reasonably conclude that he possessed an intent to prevent Varone and DePietro from performing their duties. Specifically, the defendant contends that the evidence presented at trial could reasonably support a finding only that he had panicked and lost control.[13] We disagree. The context afforded by the argument preceding the fight, the defendant's attempt to leave the lobby, the number of times he kicked Varone, and the overall length of the struggle that followed are all facts from which the jury could have reasonably inferred that the defendant's resistance was undertaken with an intent to delay his own arrest and not mere reflex. See, e.g., *State* v. *Porter*, 76 Conn. App. 477, 490–91, 819 A.2d 909 (sufficient evidence of intent to interfere with duties of officer in case in which defendant responded to attempted arrest by struggling with officer and striking him in face and shoulder) (overruled in part on other grounds by *State* v. *Polanco*, 308 Conn. 242, 61 A.3d 1084 (2013)), cert. denied, 264 Conn. 910, 826 A.2d 181 (2003).

[13] We observe that defense counsel also made this particular argument during the course of closing arguments and that, in returning verdicts finding the defendant guilty, the jury implicitly rejected it.

The defendant's next claim is that the evidence admitted at trial was insufficient to support a conclusion that Varone's use of force was reasonable. Again, we disagree. Varone testified that he initially grabbed the defendant in order to prevent him from leaving the lobby and that he brought the defendant to the ground only after the defendant began to struggle in response.[14] The police had obtained an arrest warrant for the defendant, and, as stated previously in this opinion, Varone had already told the defendant multiple times that he was under arrest and in the custody of the police. Varone repeatedly offered to secure the camera for the defendant and to return it to him after he was processed and released on a promise to appear. At the moment the struggle began, Varone was outsized and alone. The testimony and exhibits offered at trial indicate that Varone never struck the defendant or resorted to the use of any type of weapon. These facts, although perhaps not conclusive, would have been sufficient to allow a properly instructed jury to conclude that Varone's decision to physically prevent the defendant from leaving the lobby and his decision to bring the defendant to the ground during the course of the struggle that followed were both reasonable when considered in context.

The defendant's final sufficiency claim is that the jury could not have reasonably concluded that he caused injuries to DePietro. This argument is adequately disposed of by DePietro's testimony that he experienced neck and back pain as a direct result of the defendant's resistance and that he took time off from work to

[14] The defendant's briefing appears to assume that Varone's decision to prevent the defendant's egress and his decision to bring the defendant to the ground were made simultaneously. Although the various recordings admitted into evidence undoubtedly show a rapid progression of events, the jury reasonably could have credited Varone's specific testimony to the contrary.

recover from that injury.[15] See General Statutes § 53a-3 (3) (" '[p]hysical injury' means impairment of physical condition or pain"); *State* v. *Cruz*, 71 Conn. App. 190, 214–15, 800 A.2d 1243 (concluding that definition of physical injury under § 53a-3 (3) applies to charge of assault of peace officer under General Statutes (Rev. to 1997) § 53a-167c), cert. denied, 261 Conn. 934, 806 A.2d 1067 (2002); see also Commission to Revise the Criminal Statutes, Penal Code Comments, Conn. Gen. Stat. Ann. § 53a-3 (West 2007), commission comment (noting that statutory definition of physical injury is "intentionally broad"). Neither the absence of an observable physical condition nor the delayed onset of pain requires the conclusion that the state's evidence was insufficient to support the defendant's conviction.[16]

[15] The full colloquy between DePietro and the prosecutor reads as follows:

"Q. Now, as a result of this you were assisting . . . Varone did you, yourself, sustain any kind of an injury or any kind of pain, anything of that nature?

"A. Well, the next day, when I came into work, I had some neck pain and some back pain, I was very sore from the fight. It . . . just wasn't, you know, going to the ground and putting handcuffs on [the defendant]. [I]t was a fight, a full on fight. And he's a little bigger than I am. But even with . . . Varone and I, it was a full on fight. And the next day, you know, I was sore. My neck hurt and my back hurt.

"Q. Okay. And how long . . . did your back hurt you?

"A. Oh, I reported to Sergeant Dunn the next day that I was having the pain. Then I went into my days off, and I ended up taking one extra day off, which was a Sunday before I returned to work.

"Q. Because of the pain?

"A. Oh, yes, because of the pain."

[16] The defendant's initial briefing of this sufficiency claim focused on the issue of whether the state had proven a type of injury punishable under § 53a-167c, arguing that an interpretation of physical injury that encompasses an officer who merely feels "sore" would "lead to absurd and unworkable results . . . ." The state's brief responded in kind. In his reply brief, the defendant contended that his sufficiency claim with respect to DePietro had also focused on the issue of whether the defendant's *own volitional acts* had caused DePietro's injuries. Even if this latter claim had been raised distinctly in the context of the defendant's initial sufficiency argument, which it was not, we would reject it. DePietro testified that he was injured during the course of the fight itself; see footnote 15 of this opinion; and, as discussed previously, the jury could have reasonably concluded that the

See, e.g., *State* v. *Downey*, 69 Conn. App. 213, 217, 796 A.2d 570 (2002) (pain caused by kick to officer's leg was sufficient to support conviction); *State* v. *Mims*, 61 Conn. App. 406, 408–409 and n.2, 764 A.2d 222 (pain caused by kick to officer's left testicle was sufficient to support conviction notwithstanding fact that injured officer sought no medical attention and took no time off from work), cert. denied, 255 Conn. 944, 769 A.2d 60 (2001); *State* v. *Henderson*, 37 Conn. App. 733, 743–44, 658 A.2d 585 (testimony that victim experienced pain after being struck by defendant in her chest was sufficient evidence of physical injury to support conviction of third degree assault), cert. denied, 234 Conn. 912, 660 A.2d 355 (1995).

B

Instructional Error Claims

The defendant raises two separate claims of instructional error. First, with respect to the charge relating to the assault on Varone, the defendant claims that the trial court erred in failing to instruct the jury that, in order to find him guilty of that offense, it must first determine that Varone's use of force was reasonable. Second, with respect to the charge relating to the assault on DePietro, the defendant claims that the trial court improperly declined to instruct the jury that the defendant's conduct must have been the proximate cause of DePietro's injuries. We set forth the relevant standard of review and then address the defendant's two claims in turn.

"The standard of review for claims of instructional impropriety is well established. [I]ndividual jury instructions should not be judged in artificial isolation . . . but must be viewed in the context of the overall charge.

defendant had engaged in that struggle with the conscious purpose of delaying his own arrest.

. . . The pertinent test is whether the charge, read in its entirety, fairly presents the case to the jury in such a way that injustice is not done to either party under the established rules of law. . . . Thus, [t]he whole charge must be considered from the standpoint of its effect on the [jurors] in guiding them to the proper verdict . . . and not critically dissected in a microscopic search for possible error. . . . Accordingly, [i]n reviewing a constitutional challenge to the trial court's instruction, we must consider the jury charge as a whole to determine whether it is reasonably possible that the instruction misled the jury. . . . In other words, we must consider whether the instructions [in totality] are sufficiently correct in law, adapted to the issues and ample for the guidance of the jury. . . . A challenge to the validity of jury instructions presents a question of law over which [we have] plenary review." (Internal quotation marks omitted.) *State* v. *Campbell*, 328 Conn. 444, 528–29, 180 A.3d 882 (2018).

We begin with the first claim of instructional error, relating to the count of assault on Varone. On February 23, 2021, this court issued an order granting the defendant permission to file a supplemental brief addressing this additional claim of instructional error. In his supplemental brief filed pursuant to that order, the defendant claimed that the trial court improperly declined his request to instruct the jury as to whether it found that Varone's use of force was reasonable. See, e.g., *State* v. *Davis*, 261 Conn. 553, 570–71, 804 A.2d 781 (2002) ("If [a] police officer does not reasonably believe that his use of physical force is necessary, then his use of force is not within the performance of his duties and a citizen may properly resist that use of force. . . . [A] detailed instruction that the state must establish that the police officer had been acting in the performance of his duty and that a person is not required to submit to the unlawful use of physical force during the course

of an arrest, whether the arrest itself is legal or illegal, stands in lieu of a self-defense instruction in such cases. . . . [T]he failure to provide such instructions when the defendant has presented evidence, no matter how weak or incredible, that the police officer was not acting in the performance of his duty, effectively operates to deprive a defendant of his due process right to present a defense."). The state, in response, concedes that the trial court committed reversible error by omitting the requested instruction. Having reviewed the record, we agree with the parties and conclude that, as a result, the defendant is entitled to a new trial with respect to the assault on Varone charged in the first count of the information in the second case.

The defendant's second claim of instructional error relates to the charge arising out of the assault on DePietro. In particular, the defendant claims that the trial court committed reversible error by failing to specifically instruct the jury that, in order to find the defendant guilty of assault of a peace officer, as alleged in the second count of the information in the second case, the defendant's conduct must have been the proximate cause of DePietro's injuries. The state responds by arguing that the instruction given by the trial court on the topic of causation was both legally correct and adequate when viewed in the context of the evidence presented at trial. For the reasons that follow, we agree with the state.

The following additional procedural history is relevant to our consideration of this issue. The defendant submitted a request to charge on the counts of the information in the second case alleging assault of a peace officer. That proposed instruction indicated that the state bore the burden of demonstrating not only that the defendant's conduct caused the injuries to DePietro's neck and back, but also that the defendant's

conduct "was the proximate cause" of those injuries.[17] The trial court declined that request.

The trial court ultimately provided the following general instruction with respect to the first two counts of the information in the second case: "[A] person is guilty of assault of a peace officer when, with intent to prevent a reasonably identifiable peace officer from performing his duties and while such said peace officer was acting in the performance of his duties, such person caused physical injury to the peace officer." In a series of more specific instructions that followed, the trial court expressly informed the jury that the state bore the burden of proving that (1) "the defendant . . . caused physical injury to [DePietro]," and (2) the conduct specifically intended to prevent the performance of DePietro's duties must have been accomplished "by means of causing physical injury to [DePietro]."[18] We note that this language mirrors the relevant model criminal instruction. See Connecticut Criminal Jury Instructions 4.3-3, available at https://www.jud.ct.gov/JI/Criminal/Criminal.pdf (last visited July 22, 2021).

Although the briefing on the question is not entirely clear, the defendant appears to contend that the jury could have possibly been misled in at least two distinct ways. First, the defendant argues that the trial court's instructions "virtually eliminated" the element of causation and that, as a result, the jury was given a false

[17] The defendant's proposed instruction on causation provided: "It is necessary . . . that the defendant's conduct is the cause without which the injury would not have occurred and the predominating cause or the substantial factor from which the injury follows as a natural direct and immediate consequence. In other words, the state must prove that [the defendant's deliberate conduct] . . . was the proximate cause of the [injury claimed]."

[18] The trial court's initial recitation of this instruction related to the first count of the second information, which alleged that the defendant had assaulted Varone. The trial court's instructions on the second count of that same information, which related to the assault on DePietro, simply referred the jury back to the instructions previously provided.

impression that DePietro's injuries need not have actually been connected to the defendant's conduct in any way. (Internal quotation marks omitted.) In support of this argument, the defendant has hypothesized that DePietro's injuries could have been caused by "shoveling snow" or "sleeping wrong." (Internal quotation marks omitted.) This argument is completely without merit. The court's charge, set forth previously in this opinion, clearly required the state to prove beyond a reasonable doubt that "the defendant . . . caused physical injury to [DePietro]."

Reduced to its essence, the defendant's principal argument on the point appears instead to be that, in the absence of the requested instruction on proximate causation, the jury was effectively relieved of the need to consider whether DePietro's injuries were a sufficiently direct result of an action undertaken with the requisite specific intent. We reject this argument as well. The trial court expressly instructed the jury that the specific intent required by the statute—namely, an intent to prevent DePietro from performing his duties—must have been effectuated "by means of causing physical injury to [DePietro]." In light of this instruction, we perceive no reasonable possibility that the jury could have been misled to believe that an injury caused without the required intent would suffice.[19] For the foregoing reasons, we conclude that the trial court's instructions, viewed as a whole, fairly presented the issues raised

[19] Even if some ambiguity remained on the point, the defendant still would not have been entitled to a more detailed instruction on causation because the evidence actually adduced at trial did not sufficiently develop an alternative theory of causation. Although testimony offered during the state's case-in-chief established that DePietro, together with the assistance of multiple other officers, had helped to move the defendant after the struggle in the lobby, the defendant made no attempt—through cross-examination or otherwise—to suggest that this activity had actually been the source of DePietro's injuries. Defense counsel's questioning of DePietro focused, instead, on the question of whether those injuries existed at all.

at trial and that, therefore, there is no reasonable possibility that the jury was misled. As a result, the defendant's claim of instructional error with respect to this charge must fail.[20]

In summary, we conclude that the trial court incorrectly concluded that Santiago possessed a reasonable and articulable suspicion to detain the defendant in the library parking lot on the evening of July 19, 2015. As a result of the state's concession that this conclusion is dispositive, the defendant is entitled to a judgment of acquittal on the two counts charged in the information in the first case. Because the state has also conceded the existence of a reversible instructional error with respect to the charge related to the defendant's assault on Varone, the defendant is entitled to a new trial on the first count of the information in the second

[20] In the closing pages of his principal brief, the defendant identifies a series of thirteen allegedly improper statements made by the prosecutor during the course of closing arguments. Of those, only four relate to the events that occurred in the lobby of the police department. In three of those four statements, the prosecutor simply prefaces an argument that the actions taken by the police that day were reasonable with the phrase, "I respectfully submit" or other language to the same effect. The state bore the burden of proving the point; see, e.g., *State* v. *Davis*, supra, 261 Conn. 570–71; and each of these three particular statements appears to reference only evidence contained within the record. Viewed in context, we do not believe that these remarks can be fairly characterized as a form of unsworn testimony. See, e.g., *State* v. *Luster*, 279 Conn. 414, 436, 902 A.2d 636 (2006). The singular comment that remains is a statement in which the prosecutor argued to the jury that the defendant would have been aware of the policy prohibiting the retention of personal effects in the booking area because he had previously reviewed the Clinton Police Department's manual pursuant to a freedom of information request. The defendant's briefing, however, contains no analysis as to how this particular comment, as distinct from his broader allegations that the prosecutor was "vouching" for the reasonableness of the conduct of the police, deprived him of his due process right to a fair trial. As a result, we conclude that the claim of prosecutorial impropriety with respect to that statement was inadequately briefed. See, e.g., *State* v. *Buhl*, 321 Conn. 688, 724, 138 A.3d 868 (2016) ("[a]nalysis, rather than mere abstract assertion, is required in order to avoid abandoning an issue by failure to brief the issue properly" (internal quotation marks omitted)).

case. Having concluded that the defendant's various claims with respect to the assault on DePietro lack merit, the conviction on the second count of assault in the second case must stand.

The judgment of conviction in the case relating to the events of July 19, 2015, is reversed and that case is remanded with direction to render a judgment of acquittal on all counts charged in that information; the judgment of conviction in the case relating to the events of July 22, 2015, is reversed only with respect to the count pertaining to the assault on Varone, and the case is remanded for a new trial with respect to that count; the judgment of conviction in the case relating to the events of July 22, 2015, is affirmed with respect to the count pertaining to the assault on DePietro.

In this opinion the other justices concurred.

STEPHANIE O'SHEA *v.* JACK SCHERBAN ET AL. (SC 20542)

Robinson, C. J., and McDonald, D'Auria, Mullins, Kahn, Ecker and Keller, Js.

Syllabus

The plaintiff, who had run in the November, 2020 election to fill a vacant position on the Board of Education of the City of Stamford, appealed to the trial court, seeking to compel the defendants, including various city election officials, to seat her as a member of the board after she received the most votes for the position and the city determined that the vacant position had been included on the election ballot in error and declined to credit the election result. Pursuant to the applicable provisions (§ C1-80-2 (b) and (c)) of the Stamford charter, the city's Board of Representatives appointed the defendant H in February, 2020, to fill the vacancy until the next biennial election in November, 2021. In October, 2020, after ballots for the November, 2020 election were printed and sent to absentee voters, and the plaintiff and other individuals had registered as write-in candidates, the city discovered that the vacant board position had been placed on the ballot in error. City officials then met with the plaintiff and the other candidates to discuss the city's determination that, under § C1-80-2, biennial elections are held in odd

numbered years rather than in even numbered years and that H had been appointed to fill the vacant position until the next biennial election. The city further determined that it would be confusing to voters to print and distribute corrected ballots, given the short period of time before the election, and, thus, the election for the vacant position proceeded. The trial court rendered judgment for the defendants, concluding that the city charter unambiguously provided that H's appointment by the Board of Representatives placed her in the vacant position until the next biennial election in 2021. On appeal, the plaintiff claimed that the city was required to hold an election in November, 2020, to fill the vacancy on the board for the balance of the vacated term. She asserted, inter alia, that the term "biennial election" in § C1-80-2 should be construed to mean "the next town election" and that to construe "biennial election" to mean elections held in odd numbered years would violate various provisions of the federal and state constitutions. *Held*:

1. The plaintiff's claim that the term "biennial election" in § C1-80-2 should be construed to mean "the next town election" was unavailing, as that term refers to elections for vacant positions occurring every other year, which, in Stamford, are the odd numbered years: although the city charter did not define "biennial" and § C1-80-2 (c) did not specify whether the term "next biennial election" means even numbered years or odd numbered years, it was clear from looking at a related provision (§ C1-70-1) of the charter, which required elections to occur biennially beginning in 1953, that biennial elections were to occur in odd numbered years, and that conclusion was supported by the statutory (§ 9-164 (a)) requirement that municipal elections are to be held biennially; moreover, the requirement of the city charter's savings provision (§ C1-40-2) that the charter be construed in harmony with state statutory law did not compel the conclusion that the vacant board position was required to be filled at the next city election, as the relevant statute (§ 9-220) requiring vacancies to be filled at the next town election or at a special election allowed for other arrangements "as otherwise provided by law," and § C1-80-2 clearly provided otherwise; furthermore, contrary to the plaintiff's claim, a city charter provision that required a different schedule for vacancy elections than for regular elections would not yield absurd or unworkable results, and the doctrine of constitutional avoidance was inapplicable, as the charter was not genuinely susceptible to two constructions, and its plain meaning did not raise serious constitutional questions.

2. The plaintiff could not prevail on her claims that the first amendment to the United States constitution required the city to hold an election for the vacant board position at the next regularly scheduled city election, that is, in November, 2020, and that the city's failure to count and validate the votes for the position in the 2020 election unconstitutionally disenfranchised her: the plaintiff failed to clearly articulate a specific constitutional claim, and, insofar as she claimed that the city charter's

vacancy election provision, which required skipping the city's next regularly scheduled election at which a full-term board position would be on the ballot, was unconstitutional, it was well established that municipalities have vast leeway in the management of their internal affairs, including the flexibility to decide whether members of boards of education are elected or appointed; moreover, the federal constitution permits some delay in the holding of vacancy elections, and the plaintiff presented no authority to support her assertion that delaying the holding of a vacancy election until the next biennial election was unconstitutional; furthermore, the plaintiff's claim that she would be unconstitutionally disenfranchised unless the votes were counted and the result honored was unavailing, as the plain language of the charter made clear that no valid election could have been held, and this court was aware of no authority that constitutional principles required this court to validate a void election.

3. The plaintiff did not demonstrate that the state constitution required vacant board positions to be filled by an election, as opposed to appointment, as soon as possible, as the plaintiff advanced no authority and engaged in no analysis suggesting that the constitutional text or Connecticut or federal precedent supported her claim, and the state constitution contains no provision pertaining to the vacancy at issue.

4. There was no merit to the plaintiff's claim that the doctrine of municipal estoppel required the defendants to count the votes that were cast for the vacant board position: the plaintiff could not show that she would be subjected to a substantial loss if the votes were not counted because, under the city charter, there was no election in which she could run and, thus, no seat to lose; moreover, the plaintiff could not show that she lacked or had no convenient means of acquiring knowledge of the true state of things, as she could have avoided any harm that resulted from her misapprehension of the city charter by reading it or asking the city for clarification before registering as a write-in candidate, and the plaintiff had actual knowledge of the true state of affairs in October, 2020, when city officials met with her and other candidates after discovering that the vacant board position had been placed on the ballot in error.

Argued January 21—officially released July 26, 2021*

Procedural History

Action seeking a writ of mandamus compelling the defendants to seat the plaintiff as a member of the Board of Education of the City of Stamford, and for other relief, brought to the Superior Court in the judicial

* July 26, 2021, the date that this decision was released as a slip opinion, is the operative date for all substantive and procedural purposes.

district of Stamford-Norwalk, where the court, *Genuario*, *J.*, granted the motion filed by Joshua A. Esses to intervene; thereafter, the case was tried to the court; judgment for the defendants, from which the plaintiff appealed. *Affirmed*.

Brenden P. Leydon, for the appellant (plaintiff).

Aaron S. Bayer, with whom was *Jenny R. Chou*, for the appellees (named defendant et al.).

Proloy K. Das, with whom was *Kevin W. Munn*, for the appellee (defendant Rebecca Hamman).

Maura Murphy Osborne, assistant attorney general, for the appellee (defendant Denise Merrill).

Joshua A. Esses, self-represented, the appellee (intervenor).

Opinion

D'AURIA, J. In this appeal, we must construe a Stamford Charter (charter) provision that controls the filling of vacancies on the Board of Education of the City of Stamford (board) and consider claims that, as applied to the circumstances of this case, both the provision generally and the actions of election officials specifically violate the federal and state constitutions. The plaintiff, Stephanie O'Shea, wanted to run in the November, 2020 election to fill a vacancy on the board and claims that she in fact ran in that election, won it and should be serving on the board presently. She brought suit when the city's election officials refused to credit the election results on the ground that the charter provides that the election to fill the vacancy could not be held until the "next biennial election" in 2021. Stamford Charter § C1-80-2 (b). She appeals from the judgment of the trial court rendered in favor of the defendants,

who are various city election officials and the secretary of the state.[1]

The charter contains two provisions that control the filling of vacancies in elective office. In the first instance, § C1-80-2 (b) of the charter provides that, when a vacancy occurs "in any elective office and no specific provision for filling such vacancy is made in this [c]harter, the Board of Representatives shall, within sixty (60) days following the vacancy, elect a successor to fill such vacancy until December first following the next biennial election." Stamford Charter § C1-80-2 (b). Section C1-80-2 (c) provides in relevant part: "When the Board of Representatives has elected a successor to fill a vacancy in the office of Mayor, on the Board of Representatives, on the Board of Finance or on the Board of Education as set forth above in [§] C1-80-2 (b), then and in that event, a vacancy election shall be held at the next biennial election. . . ." Stamford Charter § C1-80-2 (c). On appeal, the plaintiff contends that we should construe the phrase, "next biennial election," to mean "next city election." She also claims that, if next "biennial election" is held to mean elections held in odd numbered years, then § C1-80-2 (c) violates the first amendment to the United States constitution and article first, §§ 1, 2, 4, 5, 8, 14 and 20, as well as article sixth, § 4, of the Connecticut constitution. In addition, the plaintiff argues that the defendants' actions in refusing to count the votes cast for the vacant position in November, 2020, were unconstitutional under the first amendment

[1] The defendants are Lucy F. Corelli, in her official capacity as Republican registrar of voters; Ronald Malloy, in his official capacity as Democratic registrar of voters; Lyda Ruijter, in her official capacity as city and town clerk; Jack Scherban, in his official capacity as head moderator; and Denise Merrill, secretary of the state. The defendant Rebecca Hamman, in her official capacity as a member of the board, filed a separate brief. Intervenor Joshua A. Esses, who registered as a write-in candidate, also filed a separate brief. We refer in this opinion to Corelli, Malloy, Ruijter, Scherban and Merrill as the defendants, and to Hamman individually by name.

to the United States constitution. Finally, she claims that the doctrine of municipal estoppel should apply to prevent the defendants from refusing to count the votes.[2] We disagree with the plaintiff and, accordingly, affirm the judgment of the trial court.

The following facts and procedural history, as stipulated by the parties, contained in the record, and found by the trial court, are relevant to this appeal. The charter provides for nine board members, with three positions up for election each year for three year terms. Stamford Charter § C1-80-5. In November, 2018, voters elected Frank Cerasoli and two other candidates to three year positions on the board. The term for Cerasoli's position ran from December 1, 2018, through November 30, 2021. Cerasoli vacated his position in January, 2020. Pursuant to § C1-80-2 (b) of the charter, in February, 2020, the city's Board of Representatives appointed the defendant Rebecca Hamman to fill the seat Cerasoli vacated, and she has served in that position since then.

By early October, 2020, ballots were printed for the November 3, 2020 election. The ballots included offices for president of the United States, United States representative, state senator, state representative, registrar of voters, three full-term Board of Education positions, and "Board of Education To Fill Vacancy for One Year." The board vacancy position did not have any party endorsed candidates. The ballots were sent to absentee voters.

The plaintiff registered as a write-in candidate for the board vacancy position on October 5, 2020. Hamman and the intervenor, Joshua A. Esses, also registered as

[2] The plaintiff also claims that the defendant Rebecca Hamman, a member of the board, and the intervenor, Joshua A. Esses, both write-in candidates for the vacant position that was placed on the ballot, are barred from seeking to void an election in which they participated. Because other claims by the plaintiff are dispositive, we do not reach this issue.

write-in candidates. On October 8, 2020, Stamford voter Eric Rota submitted an absentee ballot that included a vote for the plaintiff for the board vacancy position.

After questions were raised in the media regarding whether the ballot should have included the board vacancy position, the town clerk asked the city's corporation counsel, Attorney Kathryn Emmett, for an opinion on whether an election should take place for the position. On October 16, 2020, the mayor, David R. Martin, and Attorney Emmett met with the plaintiff, the party endorsed candidates for the three full-term board positions, and others. During that meeting, Mayor Martin discussed Attorney Emmett's conclusion that, under the charter, there could be no election for the position in 2020 and that the position had been included on the ballot in error. Mayor Martin also discussed the city's view that, because overseas and military ballots had already been printed and mailed, it would be problematic and confusing to voters to print and distribute corrected ballots given the short period of time before the election.

The same day, Attorney Emmett issued a legal opinion concluding that, under § C1-80-2 of the charter, "after the Board of Representatives has elected a successor to fill the vacancy . . . a vacancy election shall be held at the next biennial election" and that "biennial elections are held in odd-numbered years." The opinion concluded by stating that "there is currently no one (1) year term vacancy to fill on the Board of Education because Rebecca Hamman has been elected by the Board of Representatives to fill the partial term seat until the 2021 biennial election."

On October 20, 2020, Attorney Emmett participated in a conference call with Director of Elections Theodore Bromley and Staff Attorney Aida Carini, both from the Office of the Secretary of the State (secretary). Bromley

and Attorney Carini informed Attorney Emmett that the secretary would not require the city to reprint the ballots and that the secretary would not take a position on whether there was a valid election for the board vacancy position because that was a question of municipal law. Bromley and Attorney Carini also indicated that, given Attorney Emmett's conclusion that there was no valid election for the position, the secretary expected that the city would report no election results for that position.

On October 21, 2020, Mayor Martin and Attorney Emmett met again with the plaintiff, party endorsed candidates for the three year positions on the board, and others. At this meeting, Mayor Martin informed the participants that the ballots would not be reprinted and related that the secretary expected that the city would report no election results for the board vacancy position.

On November 5, 2020, the following numbers of votes for the board vacancy position were reported in the secretary's election management system: Esses, 2; Hamman, 21; and O'Shea, 578.[3] Nonetheless, on November 9, 2020, the city's head moderator, defendant Jack Scherban, submitted a final report and certification of votes to the secretary that did not include any votes for the position.

The plaintiff brought this action pursuant to General Statutes § 9-328, claiming that the charter, either by its terms or by a construction consistent with various federal and state constitutional provisions, required the city to hold an election in November, 2020, to fill the vacancy for the balance of the vacated term. The defendants contended to the contrary that the charter unambiguously provides that Hamman's appointment by the Board of Representatives filled the vacated position

[3] The four candidates for the three full-term board seats on the ballot received between 22,190 and 35,252 votes each.

until November 30, 2021. The trial court held that the charter provisions clearly and unambiguously provided that Hamman's appointment by the Board of Representatives placed her in the vacancy position until November 30, 2021.

The trial court rendered judgment in favor of the defendants, and the plaintiff appealed to the Appellate Court. We then transferred the appeal to this court pursuant to General Statutes § 51-199 (c) and Practice Book § 65-1. Following oral argument, we issued a ruling from the bench on January 21, 2021, affirming the trial court's judgment. We indicated at that time that a full opinion would follow. This is that opinion.

I

The plaintiff first claims that we should construe the term "biennial election" in § C1-80-2 of the charter to mean "the next town election." We disagree. The term "biennial election" unambiguously refers to elections occurring every other year, which, in Stamford, are the odd numbered years.

The plaintiff does not argue that the term "biennial election" is ambiguous. Rather, she contends that, at the time the charter was written, the phrases "biennial election" and "the next town election" were interchangeable because the city held no elections in the intervening years. This fact, she argues, demonstrates original legislative intent, and we, therefore, should construe the charter consistent with this intent. The plaintiff further argues that interpreting "biennial election" to mean "the next town election" is necessary to harmonize the charter with General Statutes § 9-220.[4] Finally,

[4] General Statutes § 9-220 provides: "If any town office in any town is vacant from any cause, such town, if such office is elective, shall, except as otherwise provided by law, fill the vacancy at the next town election or at a special election called for such purpose in accordance with the provisions of section 9-164, but, until such vacancy is so filled, it shall be filled by the selectmen. The selectmen shall fill all vacancies in offices to which they have the power of appointment."

the plaintiff argues that such a construction is necessary to avoid first amendment and fourteenth amendment due process concerns. We address each of these claims in turn, applying General Statutes § 1-2z and our familiar principles of statutory construction to the charter provisions. See *Russo* v. *Waterbury*, 304 Conn. 710, 720, 41 A.3d 1033 (2012). We also apply the same plenary standard of review to the trial court's interpretation of the charter as we would to a court's construction of a statute. See *Cook-Littman* v. *Board of Selectmen*, 328 Conn. 758, 767–68, 184 A.3d 253 (2018).

We first consider the text of the statute itself and its relationship to other statutes. See id. The Board of Representatives' appointment of Hamman in February, 2020, to fill the seat vacated by Cerasoli implicated § C1-80-2 (c) of the charter, which provides in relevant part: "When the Board of Representatives has elected a successor to fill a vacancy . . . on the Board of Education as set forth . . . in [§] C1-80-2 (b), then and in that event, *a vacancy election shall be held at the next biennial election*. . . ." (Emphasis added.) The charter does not define the word "biennial." General Statutes § 1-1 (a) directs us to construe words that are not statutorily defined according to their commonly approved usage. *State* v. *Menditto*, 315 Conn. 861, 866, 110 A.3d 410 (2015). Dictionaries in print at the time of a provision's enactment are most instructive. Id. Webster's defines "biennial" as "[h]appening, or taking place, once in two years." Webster's New International Dictionary (2d Ed. 1953) p. 265; see also Black's Law Dictionary (4th Ed. 1968) p. 206 (defining "biennially" as "once in every two years").

Because § C1-80-2 (c) does not specify whether the charter's use of the phrase "next biennial election" means even numbered or odd numbered years, we look to related charter provisions for guidance. See *Studer* v. *Studer*, 320 Conn. 483, 489, 131 A.3d 240 (2016) (related

statutory provisions often provide guidance in determining meaning of particular word). Section C1-70-1 of the charter provides in relevant part that, "[e]xcept as hereinafter provided, on the Tuesday after the first Monday in November, *1953 and biennially thereafter*, there shall be held in Stamford an election to elect officers. . . ."[5] (Emphasis added.) Because the first biennial election in Stamford was held in 1953, an odd numbered year, it is clear that successive biennial elections would also occur in odd numbered years.

Although the text of the charter itself is sufficient to establish that biennial elections in the city are held every other year in odd numbered years, this conclusion is further supported by General Statutes § 9-164 (a), which provides in relevant part: "Notwithstanding any contrary provision of law, there shall be held in each municipality, biennially, a municipal election . . . [in] the odd-numbered years . . . ." See *Fay* v. *Merrill*, 336 Conn. 432, 446, 246 A.3d 970 (2020) (§ 1-2z instructs us to consider text of statute and its relationship to other statutes). Although § 9-164 does not require municipalities to hold municipal elections biennially in odd numbered years, that is the legislature's default arrangement, and the charter contains no contrary provision but instead contains a provision that is consistent with § 9-164. Therefore, in the present case, the vacancy election for the board position would properly be held in November, 2021—not in November, 2020, as the plaintiff argues and the city originally planned.

The plaintiff is correct that, at the time of the adoption of § C1-70-1, city elections were held only biennially, in odd numbered years. In 1969, the city moved to annual elections for board positions, with three of the nine board members elected each year to staggered

[5] Section C1-80-1 of the Stamford Charter provides that members of the board are elective officers.

three year terms. See 34 Spec. Acts 74, No. 96 (1969). Therefore, the city now also holds elections in the intervening even numbered years for full-term board positions. The plaintiff argues that this fact demonstrates an intent that, as used in the charter, "biennial" means "the next town election." As our analysis makes clear, however, § C1-80-2, read together with § C1-70-1, unambiguously provides that elections for vacant positions on the board are held at the next biennial election, which is held only in odd numbered years. Because the charter is clear on this point, we do not consider circumstances surrounding the provision's enactment. See, e.g., *State* v. *Rupar*, 293 Conn. 489, 510–11, 978 A.2d 502 (2009).

Nevertheless, the plaintiff argues that the charter's savings provision, § C1-40-2,[6] when read together with § 9-220,[7] compels the opposite conclusion. Specifically, she contends that, because § 9-220 provides that the city "shall, except as otherwise provided by law, fill the vacancy [in elective office] at the next town election or at a special election called for such purpose," and because the savings provision requires the city to construe state statutes in harmony with the charter provisions, the city must fill the vacant board position at the next town election, not at the next biennial election. This argument ignores the phrase, "except as otherwise provided by law," in § 9-220. Section C1-80-2 clearly provides otherwise; that is, vacancy positions for the board are to be held at the next biennial election. There is no conflict between the charter and § 9-220.

[6] Section C1-40-2 of the Stamford Charter provides in relevant part: "Nothing contained in this Act shall be construed to repeal or terminate any statute of the State or ordinance of the City or any rule or regulation of any City Board, Commission, Department, Agency, or Authority. They shall remain in full force and effect, within the territorial limits of the City when not inconsistent with the provisions of this Charter, to be construed and operated in harmony with its provisions, until amended or repealed as herein provided. . . ."

[7] See footnote 4 of this opinion.

The plaintiff argues, however, that, even if § C1-80-2 is plain and unambiguous, its plain meaning leads to an absurd result. She makes much of the fact that board members are the only officers elected to staggered three year terms[8] and that, in the absence of a vacancy, board elections are held annually with three board positions up for election each year.[9] Because the city already holds elections for the board each year, the plaintiff argues, it is "absurd and unworkable" to limit vacancy elections to the board to biennial election years. We disagree. Vacancy elections differ from regular elections, in part because, on average, vacancies occur less frequently, and it is not always possible to predict when a vacancy will occur. A charter provision that responds to these considerations by requiring a different schedule for vacancy elections than for regular elections does not yield absurd or unworkable results.

Finally, the plaintiff argues that the city's interpretation of the charter raises first and fourteenth amendment due process issues and that the doctrine of constitutional avoidance therefore requires us to interpret "biennial election" as meaning "the next town election." Under the doctrine of constitutional avoidance, "[a] statute must be construed, if fairly possible, so as

[8] Section C1-70-3 of the Stamford Charter provides: "The terms of office of elective officers hereunder shall commence on the first day of December succeeding the election. The term of office of the Town and City Clerk shall be four (4) years; the City Constables shall be two (2) years and, commencing with the biennial election of 2013, the term of office for City Constables shall be four (4) years; the terms of office of the members of the Board of Representatives and the Mayor shall be four (4) years commencing, in accordance with Section C1-40-3 hereof, with the biennial election of 1997. The term of office of each member of the Board of Finance and of the Registrars of Voters shall be four (4) years. The term of office of each member of the Board of Education shall be three (3) years."

[9] Section C1-80-5 (a) of the Stamford Charter provides in relevant part: "Except as otherwise provided in [Section] C1-80-2 as to the filling of a vacancy, at each annual election, any political party may nominate not more than three candidates for membership on the Board of Education, to hold office for a three-year term, commencing on December first following the election. . . ."

to avoid not only the conclusion that it is unconstitutional, but also grave doubts upon that score." *United States* v. *Jin Fuey Moy*, 241 U.S. 394, 401, 36 S. Ct. 658, 60 L. Ed. 1061 (1916). The United States Supreme Court has held, however, that, to apply this doctrine, "the statute must be *genuinely* susceptible to two constructions after, and not before, its complexities are unraveled." (Emphasis added.) *Almendarez-Torres* v. *United States*, 523 U.S. 224, 238, 118 S. Ct. 1219, 140 L. Ed. 2d 350 (1998). This court has similarly held that it will apply the doctrine of constitutional avoidance "[i]f literal construction of a statute raises *serious* constitutional questions . . . ." (Emphasis added.) *Sassone* v. *Lepore*, 226 Conn. 773, 785, 629 A.2d 357 (1993). As we discuss in parts II and III of this opinion, the plaintiff has not clearly articulated why the charter's plain meaning raises a risk of serious constitutional infirmity. Therefore, because we do not find the charter genuinely susceptible to two constructions, or that its plain meaning raises serious constitutional questions, we find the doctrine of constitutional avoidance inapplicable.

II

The plaintiff next claims that a charter provision limiting vacancy elections to odd numbered years violates the first amendment to the United States constitution, as applied to the states through the due process clause of the fourteenth amendment.[10] The plaintiff also claims that the city's failure to validate the votes cast in November, 2020, disenfranchises her. We address these claims in turn.

The constitutionality of a charter provision, as with statutes, presents a question of law over which our

[10] To the extent the plaintiff raises fourteenth amendment due process or equal protection claims, they are inadequately briefed and we therefore do not consider them. See *State* v. *Buhl*, 321 Conn. 688, 728–29, 138 A.3d 868 (2016).

review is plenary. A validly enacted statute or charter provision carries with it a strong presumption of constitutionality, and we will indulge every presumption in favor of its constitutionality and sustain it unless its invalidity is clear. The plaintiff thus must sustain the heavy burden of proving the statute's unconstitutionality beyond a reasonable doubt. See, e.g., *Doe* v. *Hartford Roman Catholic Diocesan Corp.*, 317 Conn. 357, 405, 119 A.3d 462 (2015).

A

To the extent the plaintiff challenges the constitutionality of the charter provision on its face, she has not clearly articulated a specific constitutional claim or provided sufficient analysis or relevant authority to support her claim.[11] Insofar as the plaintiff argues that it is unconstitutional for the charter's vacancy election provision to require skipping the city's next regularly scheduled election at which a full-term board position would be on the ballot, it is well established that a municipal government has "vast leeway in the management of its internal affairs." *Sailors* v. *Board of Education*, 387 U.S. 105, 109, 87 S. Ct. 1549, 18 L. Ed. 2d 650 (1967). This leeway generally includes the ability to decide whether local officers are appointed or elected.[12] Id.,

[11] When pressed at oral argument before this court, the plaintiff's appellate counsel stated that the specific constitutional violation was "depriving citizens of a right to representation." We do not find this to be a clearly articulated constitutional claim.

[12] In *Sailors*, the court held that the board of education was a nonlegislative body and that there was no constitutional reason why board members could not be appointed rather than elected. *Sailors* v. *Board of Education*, supra, 387 U.S. 108. Although the court did not expressly consider whether the rule would also apply to legislative bodies; id., 109–10; the plaintiff does not argue that Connecticut boards of education are legislative bodies, and our case law strongly suggests that they are not. See *Stratford* v. *State Board of Mediation & Arbitration*, 239 Conn. 32, 49, 681 A.2d 281 (1996) (local board of education was not "legislative body of the municipal employer" because, "[a]lthough a local board of education has an important role in setting educational policy, its responsibilities do not customarily encompass the enactment of ordinances" (internal quotation marks omitted)).

111. Therefore, it is not surprising to find that Connecticut law provides municipalities the flexibility to decide whether members of local boards of education are elected or appointed.[13] See General Statutes § 9-185 ("*Unless otherwise provided by special act or charter* . . . members of boards of education . . . shall be elected" (emphasis added)); see also *Cheshire* v. *McKenney*, 182 Conn. 253, 259, 438 A.2d 88 (1980) (local boards of education "are either elected by local constituencies; General Statutes § 9-203; or, pursuant to the town charter, are appointed by an elected officer or body of the municipality"). New Haven is an example of a municipality that has taken advantage of this flexibility. See New Haven Charter, tit. I, art. VII, § 3 (A) (2) ("the Board of Education shall consist of seven (7) members as follows: the Mayor, four (4) members appointed by the Mayor, subject to approval by the Board of Alders; and two (2) elected by district"). Therefore, the plaintiff's argument founders at its premise: there is no right to the direct election of members of a local board of education in Connecticut at all, let alone a right to have a vacancy election conducted at the earliest possible election.

It is also well settled that, when vacant offices are in fact filled by election, the federal constitution permits some delay in the holding of vacancy elections. In *Rodriguez* v. *Popular Democratic Party*, 457 U.S. 1, 102 S. Ct. 2194, 72 L. Ed. 2d 628 (1982), the United States Supreme Court upheld a statute allowing the governor of Puerto Rico to appoint an interim replace-

[13] Local boards of education are creatures of the state, authorized by statute. See General Statutes § 10-218 et seq.; see also General Statutes §§ 9-203 through 9-206a. However, "the powers of local boards of education are not defined only by state statute, and . . . a local charter may limit the powers of the local board of education [when] its provisions are 'not inconsistent with or inimical to the efficient and proper operation of the educational system otherwise entrusted by state law to the local boards.' " *Cheshire* v. *McKenney*, 182 Conn. 253, 259, 438 A.2d 88 (1980).

ment to fill a vacant seat in the Puerto Rico House of Representatives until the next general election. See id., 3, 14. In *Rodriguez*, a member of the Puerto Rico legislature died in January, 1981, less than three months after his election. Id., 3. The plaintiffs in *Rodriguez* claimed that they had a federal constitutional right to a special vacancy election held before the next general election and that the interim appointment process set forth in the commonwealth's statutes violated their right of association under the first amendment. Id., 7. The court held against the plaintiffs. See id., 14.

In arriving at its decision, the court in *Rodriguez* relied on the reasoning of another vacancy election case, *Valenti* v. *Rockefeller*, 292 F. Supp. 851 (S.D.N.Y. 1968), aff'd, 393 U.S. 405, 89 S. Ct. 689, 21 L. Ed. 2d 635 (1969), and aff'd sub nom. *Phillips* v. *Rockefeller*, 393 U.S. 406, 89 S. Ct. 693, 21 L. Ed. 2d 636 (1969), and aff'd sub nom. *Backer* v. *Rockefeller*, 393 U.S. 404, 89 S. Ct. 693, 21 L. Ed. 2d 635 (1969). See *Rodriguez* v. *Popular Democratic Party*, supra, 457 U.S. 10–12. *Valenti* involved a seventeenth amendment challenge to a New York state law requiring a vacant United States Senate position to be filled not at the next election but at the next election *in an even numbered year*. *Valenti* v. *Rockefeller*, supra, 853. In *Valenti*, the court held that New York was not required to hold an election in either 1968 or 1969 for a vacancy that occurred in 1968, and that the state law requiring the vacancy election to wait until 1970 was constitutional. Id., 853–54.

In relying on the reasoning in *Valenti*, the court in *Rodriguez* explained: "[T]he fact that the [s]eventeenth [a]mendment permits a [s]tate, if it chooses, to forgo a special election in favor of a temporary appointment to the United States Senate suggests that a state is not constitutionally prohibited from exercising similar latitude with regard to vacancies in its own legislature. We discern nothing in the [f]ederal [c]onstitution that

imposes greater constraints on the [c]ommonwealth of Puerto Rico.

"The [c]ommonwealth's choice to fill legislative vacancies by appointment rather than by a full-scale special election may have some effect on the right of its citizens to elect the members of the Puerto Rico [l]egislature; however, the effect is minimal, and like that in *Valenti*, it does not fall disproportionately on any discrete group of voters, candidates, or political parties. . . . Moreover, the interim appointment system plainly serves the legitimate purpose of ensuring that vacancies are filled promptly, without the necessity of the expense and inconvenience of a special election. The [c]onstitution does not preclude this practical and widely accepted means of addressing an infrequent problem." (Citation omitted.) *Rodriguez* v. *Popular Democratic Party*, supra, 457 U.S. 11–12.

Here, the plaintiff appears to argue that the first amendment requires the city to hold an election for a vacant board position at the next regularly scheduled city election, in this case the November, 2020 election during which three full-term board positions were also on the ballot. It is true that the charter provision in this case differs from the statute at issue in *Rodriguez* because, in *Rodriguez*, no regularly scheduled election passed before the vacancy was filled. See generally id. Rather, the court in *Rodriguez* held that no *special* election was constitutionally required. Id., 12. In *Valenti*, however, the statute that was upheld required voters to wait through *two* more regularly scheduled elections before casting a vote to fill the vacancy. *Valenti* v. *Rockefeller*, supra, 292 F. Supp. 855. Although it is true that *Valenti* involved the seventeenth amendment, which is not at issue in this case, considered together, *Rodriguez* and *Valenti* (neither of which the plaintiff has considered in her brief) strongly suggest that it does not violate the federal constitution to delay the

holding of a vacancy election until the "next biennial election." The plaintiff has presented us with no authority, and this court is aware of none, holding such a provision to be unconstitutional in the thirty-nine years since *Rodriguez*.[14]

B

To the extent the plaintiff claims that the federal constitution entitles her to have the votes counted and the void election validated, we disagree. The plaintiff claims that, even if the charter itself is not constitutionally infirm, the constitution requires that the votes in the election that the city declared void must be counted and the outcome honored because (1) the city having placed the position on the ballot, votes were actually cast for that position, and (2) there was an established past practice of holding vacancy elections in even numbered years.

As discussed in part I of this opinion, the plain language of the charter means that no valid vacancy election for the board position at issue could have been held in November, 2020. "[T]he right or power to hold an election must be based on authority conferred by law, and an election held without affirmative constitu-

[14] Because we conclude that the plaintiff has not advanced a serious challenge to the constitutionality of the charter provision by providing authority in support of her claim that the constitution demands that the city fill the vacancy at the next election, we also decline to analyze the provision under either the strict scrutiny standard of review or the *Anderson-Burdick* balancing test, which demands an analysis of competing interests that the plaintiff fails to provide. See *Burdick* v. *Takushi*, 504 U.S. 428, 434, 112 S. Ct. 2059, 119 L. Ed. 2d 245 (1992); *Anderson* v. *Celebrezze*, 460 U.S. 780, 789, 103 S. Ct. 1564, 75 L. Ed. 2d 547 (1983); see *Burdick* v. *Takushi*, supra, 434 ("[a] court considering a challenge to a state election law must weigh 'the character and magnitude of the asserted injury to the rights protected by the [f]irst and [f]ourteenth [a]mendments that the plaintiff seeks to vindicate' against 'the precise interests put forward by the [s]tate as justifications for the burden imposed by its rule,' taking into consideration 'the extent to which those interests make it necessary to burden the plaintiff's rights' ").

tional or statutory authority, or contrary to a material provision of the law, is a nullity, even though it is fairly and honestly conducted." 29 C.J.S. 135–36, Elections § 127 (2005). "A court lacks jurisdiction to authorize or compel the holding of a void election." Id., p. 136.

It is unfortunate that votes were cast for the position that appeared on the ballot in error, but this fact does not mean that an election for the board vacancy position appropriately took place. Similarly, the fact that the votes cast were initially reported in the secretary's election management system does not mean that an election for the position took place.[15] The plaintiff has not presented us with any authority, and we are aware of none, suggesting that constitutional principles require us to validate a void election.

The plaintiff argues that, to avoid unconstitutionally disenfranchising her, the votes cast should be counted and the outcome of the "election" honored. She cites several cases in support of this position: *Roe* v. *Alabama*, 68 F.3d 404 (11th Cir. 1995), *Griffin* v. *Burns*, 570 F.2d 1065 (1st Cir. 1978), *Briscoe* v. *Kusper*, 435 F.2d 1046 (7th Cir. 1970), *Hoblock* v. *Albany County Board of Elections*, 487 F. Supp. 2d 90 (N.D.N.Y. 2006), and *Williams* v. *Sclafani*, 444 F. Supp. 906 (S.D.N.Y.), aff'd sub nom. *Williams* v. *Velez*, 580 F.2d 1046 (2d Cir. 1978). Each of those cases indeed involved rulings by

[15] Although we ultimately agree with the defendants in the present case that an election should not have been held and that the race should not have appeared on any ballots, until the trial court and, ultimately, this court ruled on the matter, this outcome was not clear. When the validity of an election is unclear, the wisest course would be for the head moderator to include the disputed votes for the vacant position in his final report to the secretary of the state. Although reporting votes cast in a void election might not be required by statute, at the time the votes were reported, there was no legally conclusive decision that the election was void. That determination is made today, when this opinion is officially released. As a result, the votes should be recorded for historical purposes and to assist courts in the event of a challenge to the validity of the election or any ruling of an election official.

election officials that resulted in the rejection of ballots cast. The difference, however, is that each of those cases involved a valid election or primary election.[16] Here, by contrast, the election itself was void. We agree with the trial court that, when "the charter specifies the method for filling vacancies, that method cannot be changed by a mistake of an election official. If the charter does not authorize an election, then an election cannot be held."

In fact, it would disenfranchise the city's voters, who adopted the charter, to *count* the ballots cast in the void election and disregard the provisions of the charter directing that vacancies must be filled at a biennial election held in odd numbered years. "[T]he electors have not been deprived of their opportunity to participate in the democratic process with respect to the procedure for filling a vacancy because, [a]s the source of a municipality's powers, charters are generally adopted and amended at a referendum by the municipality's electors." (Internal quotation marks omitted.) *Cook-Littman* v. *Board of Selectmen*, supra, 328 Conn. 779. Validating a void election would also disenfranchise the many voters who opted not to cast any vote in the election in reliance on the city's announcement of its

[16] For example, in *Hoblock*, the issue was the rejection of absentee ballots that were cast but subsequently rejected in a valid election. *Hoblock* v. *Albany County Board of Elections*, supra, 487 F. Supp. 2d 97–98. The absentee ballots issued to voters were invalid; id., 95; but the underlying election was valid. Id., 98. In *Griffin*, the issue was the rejection of all absentee ballots cast in a valid primary election. *Griffin* v. *Burns*, supra, 570 F.2d 1074. *Roe* v. *Alabama*, supra, 68 F.3d 405, also involved contested absentee ballots in an otherwise valid election. In *Briscoe*, the issue was the invalidation of nominating petitions, signed in a previously acceptable way, after election officials had adopted new regulations without prior publication or an opportunity for candidates to respond when an election official invalidated any signature. *Briscoe* v. *Kusper*, supra, 435 F.2d 1054–55. Similarly, *Williams* v. *Sclafani*, supra, 444 F. Supp. 909, involved the validation of designating petitions required for placement on a primary ballot.

correct conclusion that the position had been placed on the ballot in error.[17]

This analysis is consistent with our recent decision in *Cook-Littman*, in which the trial court, construing the charter of the town of Fairfield, ordered the town to conduct a special election to fill a vacant seat on the Board of Selectmen that already had been filled by appointment. Id., 762, 764–65. This court reversed the trial court's judgment, holding that the special election was invalid and that the trial court could not substitute its own ideas for a clear expression of legislative will. See id., 779. By the time the case had come before this court, the special election the trial court had ordered already had been held, and the winner of that election had replaced the person appointed to fill the vacancy. Id., 765–66. Because the election was never valid, however, this court held that the appointee was entitled to reinstatement. Id., 779. Although no constitutional claims were raised in *Cook-Littman*, that case makes clear that following the express terms of a charter adopted by the voters does not result in disenfranchisement.

The parties' stipulation that a board vacancy election was held in Stamford in 2016 does not change our analysis. The plaintiff contends that this creates an "established past practice" and appears to argue that, if a city violated its charter in the past, it must continue to do so going forward. But a void election is a void election, regardless of whether it is the result of a onetime mistake by an election official or a similar past mistake. The confusion the city's error caused is regrettable. But neither the fact that the city held another vacancy election in 2016 nor the fact that some voters cast absen-

[17] The candidates for the full-term board positions properly on the ballot received more than 22,000 votes each. The plaintiff, who received the highest number of votes for the vacant position that appeared on the ballot, received 578 votes.

tee ballots in the 2020 election changes the fact that there was no valid election for the board vacancy position, and, thus, no voters were disenfranchised by the city's failure to count and certify the votes cast.

III

The plaintiff next claims that, even if the charter provision does not violate the federal constitution, it conflicts with the greater protections afforded by the Connecticut constitution. The defendants contend that the charter provision has a legitimate governmental purpose—to have a single process for filling vacancies, regardless of the office—and that there is no state constitutional principle that provides that vacancies must be filled by election as soon as possible. We conclude that the plaintiff has not demonstrated that the Connecticut constitution affords greater protections under the facts of this case.

As in part II of this opinion, our review of whether a charter provision violates the state constitution is plenary. See, e.g., *Doe* v. *Hartford Roman Catholic Diocesan Corp.*, supra, 317 Conn. 405. In *State* v. *Geisler*, 222 Conn. 672, 684–85, 610 A.2d 1225 (1992), "we identified six nonexclusive tools of analysis to be considered, to the extent applicable, whenever we are called on as a matter of first impression to define the scope and parameters of the state constitution: (1) persuasive relevant federal precedents; (2) historical insights into the intent of our constitutional forebears; (3) the operative constitutional text; (4) related Connecticut precedents; (5) persuasive precedents of other states; and (6) . . . relevant public policies." (Internal quotation marks omitted.) *State* v. *McCleese*, 333 Conn. 378, 387, 215 A.3d 1154 (2019). "It is not critical to a proper *Geisler* analysis that we discuss the various factors in any particular order or even that we address each factor." Id., 388.

As for the *Geisler* factors concerning constitutional text, federal and Connecticut precedents and public policy, the plaintiff has primarily recited unhelpful truisms—that the state constitution in some contexts provides Connecticut citizens greater protection than the federal constitution. The plaintiff does not engage in any real analysis suggesting that the constitutional text, Connecticut precedent, or federal precedent supports an enhanced state constitutional right. As discussed in part II of this opinion, we conclude that federal precedent does not support the plaintiff's claim. The plaintiff does not address our state constitutional history at all, except to say that "the intent of our constitutional forebears to protect these fundamental, foundational rights is made clear by the sheer number of overlapping applicable rights set forth in the Connecticut constitution."

With respect to authority from other jurisdictions, the plaintiff cites numerous out-of-state cases in support of her argument that the state constitution requires vacancy positions to be filled by election—as opposed to by appointment—as soon as possible. We do not find any of these cases to be persuasive. Most come from states with constitutional provisions that expressly address vacancy elections and require that vacancies be filled in a particular way or within a particular time frame. See *Bolin* v. *Superior Court*, 85 Ariz. 131, 137–38, 333 P.2d 295 (1958); *State* v. *Highfield*, 34 Del. 272, 283–84, 152 A. 45 (1930); *Roher* v. *Dinkins*, 32 N.Y.2d 180, 184–86, 298 N.E.2d 37, 344 N.Y.S.2d 841 (1973); *Rodwell* v. *Rowland*, 137 N.C. 617, 618, 50 S.E. 319 (1905); *State ex rel. Whitney* v. *Johns*, 3 Or. 533, 534–35 (1869); *Commonwealth* v. *Maxwell*, 27 Pa. 444, 449 (1856).[18] Our constitution contains no such provision

[18] In *State ex rel. Toledo* v. *Lucas County Board of Elections*, 95 Ohio St. 3d 73, 76–78, 765 N.E.2d 854 (2002), the court followed the applicable provisions of the city charter of Toledo, Ohio, holding that those provisions were not in conflict with the Ohio constitution.

pertaining to the vacancy at issue in this case. And in *State ex rel. Harsha* v. *Troxel*, 125 Ohio St. 235, 237–38, 181 N.E. 16 (1932), another case on which the plaintiff relies, the applicable statute contained *no* mechanism for filling a vacancy by appointment, which meant that the position would remain completely unfilled in the absence of a vacancy election.

The plaintiff advances no authority, and we are aware of none, indicating that any of the *Geisler* factors support her claim that the state constitution provides greater protection than the federal constitution under the facts of this case.

IV

Finally, the plaintiff claims that the doctrine of municipal estoppel requires the defendants to count the votes cast because the vacant position appeared on the ballot for the November, 2020 election. Specifically, she argues that she detrimentally relied on the position's appearance on the ballot by filing the proper forms to register as a write-in candidate and undertaking the effort to run a race for the vacant position. We disagree that municipal estoppel can be used to validate a void election.

"[F]or a court to invoke municipal estoppel, the aggrieved party must establish that: (1) an authorized agent of the municipality had done or said something calculated or intended to induce the party to believe that certain facts existed and to act on that belief; (2) the party had exercised due diligence to ascertain the truth and not only lacked knowledge of the true state of things, but also had no convenient means of acquiring that knowledge; (3) the party had changed its position in reliance on those facts; and (4) the party would be subjected to a substantial loss if the municipality were permitted to negate the acts of its agents." (Internal quotation marks omitted.) *Levine* v. *Sterling*, 300 Conn.

521, 535, 16 A.3d 664 (2011). The party claiming estoppel has the burden of proof. Id. "Whether that burden has been met is a question of fact that will not be overturned unless it is clearly erroneous." (Internal quotation marks omitted.) Id.

The trial court did not address the plaintiff's municipal estoppel claim in its memorandum of decision, although both parties briefed the issue before the trial court. Because the issue of whether the plaintiff has met her burden is a question of fact and the trial court did not make such a finding, under ordinary circumstances, we might consider whether a remand to or an articulation by the trial court would be required. See Practice Book § 61-10 (b); *Russo* v. *Waterbury*, supra, 304 Conn. 737. However, "[t]here are times . . . when the undisputed facts or uncontroverted evidence and testimony in the record make a factual conclusion inevitable so that a remand to the trial court for a determination would be unnecessary." (Internal quotation marks omitted.) *Russo* v. *Waterbury*, supra, 737. In the present case, a remand would be pointless because the trial court could reach only one conclusion—that the estoppel claim fails. First, as previously discussed, under the present circumstances, there was no valid election. The plaintiff cannot show that she would be subjected to a substantial loss in this case because, under the charter, there was no election in which she could run. Therefore, there was no seat to lose. In addition, the plaintiff cannot show that she "lacked knowledge of the true state of things" or had "no convenient means of acquiring that knowledge . . . ." (Internal quotation marks omitted.) *Levine* v. *Sterling*, supra, 300 Conn. 535. Although it is true that eleven days passed between the time when the plaintiff registered as a write-in candidate and when she met with city officials to discuss the error, had the plaintiff exercised due diligence by reading the charter or asking the city for clarification before

registering as a write-in candidate, she could have avoided any harm resulting from her misapprehension of the charter. The intervenor in this case, who appears to have been the first to discover and report on the ballot error in an October 9, 2020 blog post, did exactly that. Finally, the plaintiff also had actual knowledge of the true state of affairs no later than October 16, 2020, when Mayor Martin and Attorney Emmett met with the plaintiff after discovering that the position had been placed on the ballot in error. Because the plaintiff has failed to sustain her burden of establishing a necessary element of municipal estoppel, we reject this claim.

The judgment is affirmed.

In this opinion the other justices concurred.

JAMES G. GALLAGHER *v.* TOWN OF FAIRFIELD ET AL.
(SC 20533)

Robinson, C. J., and McDonald, D'Auria, Mullins, Kahn, Ecker and Keller, Js.

Syllabus

The plaintiff sought damages from the defendant town for, inter alia, breach of contract. The plaintiff worked as a police officer for the town and retired on disability in 1986 after sustaining an injury in the course of his employment. In 1985, the town had entered into a collective bargaining agreement with a union in which the plaintiff was member. At that time, federal law did not permit municipal employees to enroll in Medicare, but the law was amended thereafter to permit or require municipal employees to participate in Medicare. The 1985 collective bargaining agreement provided that union members who retired due to disability would be entitled to town paid private health insurance. In 2016, the year after the plaintiff reached the age of sixty-five, the town informed him that he would be required to enroll in Medicare and to pay the cost of his Medicare Part B premiums. The plaintiff claimed that the town was bound to provide him with town paid private health insurance under the collective bargaining agreement or, alternatively, that it was obligated to subsidize the costs of his Medicare Part B premiums. Following a trial, the court concluded that the collective bargaining agreement

did not bar the town from requiring that the plaintiff transition to Medicare, so long as the Medicare plan did not substantially reduce the benefits provided. The court also concluded, however, that the town was bound to subsidize the costs of his Medicare Part B premiums. Thereafter, the town appealed and the plaintiff cross appealed from the trial court's judgment. *Held*:

1. The trial court correctly concluded that the collective bargaining agreement did not preclude the town from terminating the private health insurance in which the plaintiff was enrolled and requiring him to transition to Medicare coverage: the collective bargaining agreement did not specifically require that the plaintiff be placed, and that he remain, on the same health insurance plan as the town's "active employees," as that term did not appear in the agreement, and the agreement did not address what rights retirees would have following the expiration of that agreement in 1987; moreover, the agreement did not specify whether Medicare qualifies as an insurance carrier or whether retirees who become eligible for Medicare can be treated differently from active employees, and, although a 2010 collective bargaining agreement between the town and the union required eligible union retirees to participate in Medicare, that did not necessarily mean that the silence in the 1985 collective bargaining agreement with respect to that issue was purposeful, as federal Medicare law changed after the 1985 collective bargaining agreement went into effect, and testimony at trial suggested that, when the town agreed, in 1985, to subsidize retirees' health insurance costs for life, it was with the expectation that the retirees would not be eligible to enroll in Medicare and that private insurance would be their only available coverage option; furthermore, the town's course of performance in allowing the plaintiff to remain enrolled in private health insurance since his retirement in 1986 did not demonstrate that the plaintiff was entitled to continue on that path, as he was not eligible to enroll in Medicare until he turned sixty-five, the only reason why the town did not immediately terminate the plaintiff's private insurance coverage when he did turn sixty-five was that there was confusion over whether that transition needed to be delayed pending the resolution of a workers' compensation claim, and other union members who retired along with the plaintiff under the 1985 collective bargaining agreement also had been transitioned to Medicare.

2. This court declined to address the plaintiff's claim that the town illegally transferred him from private health insurance to Medicare without his consent, as the record was inadequate for review of that claim and the claim was inadequately briefed.

3. The trial court incorrectly concluded that the town was required to reimburse the plaintiff for the cost of his Medicare premiums; the plaintiff conceded that the town was required to provide him only with benefits that are afforded to active employees, rather than benefits comparable to those that he received under the 1985 collective bargaining agreement,

the 2010 collective bargaining agreement required that active employees share the costs of their private health insurance, active employees were required to contribute toward the town's premium equivalent costs, and the evidence adduced by the plaintiff suggested that he was paying no more for his health insurance than the town's active employees.

Argued January 14—officially released July 28, 2021*

Procedural History

Action to recover damages for, inter alia, breach of contract, and for other relief, brought to the Superior Court in the judicial district of Fairfield and tried to the court, *Radcliffe, J.*; judgment in part for the plaintiff, from which the defendants appealed and the plaintiff cross appealed. *Reversed in part*; *judgment directed.*

Catherine L. Creager, with whom was *James T. Baldwin*, for the appellants-cross appellees (defendants).

William J. Ward, for the appellee-cross appellant (plaintiff).

Opinion

KAHN, J. This case requires that we construe a collective bargaining agreement between the named defendant, the town of Fairfield, and its police union. The agreement took effect in 1985, at a time when federal law did not permit municipal employees to participate in the Medicare system. The agreement provides that union members who retired early due to disability, such as the plaintiff, James G. Gallagher, as well as their eligible dependents, would be entitled to town paid private health insurance. The question presented is whether, following an intervening change in federal law that permits the plaintiff and other similarly situated retirees to enroll in Medicare upon reaching the age of sixty-five, the town may terminate their private health insurance, provide them with comparable town paid Medicare sup-

* July 28, 2021, the date that this decision was released as a slip opinion, is the operative date for all substantive and procedural purposes.

plemental insurance, and require that they bear the costs of their Medicare premiums. The defendants have appealed, and the plaintiff has cross appealed, from the judgment of the trial court, which concluded that the town may require the plaintiff and his wife to enroll in Medicare but, in addition to paying for their Medicare supplemental insurance and any uncovered medical expenses, must also reimburse the costs of their Medicare Part B premiums. We agree with the former conclusion but hold that the town is not required to reimburse the Gallaghers for their Medicare premium costs. Accordingly, we affirm in part and reverse in part the judgment of the trial court.

I

The following facts, which were either found by the trial court or are undisputed, and procedural history are relevant to our disposition of the parties' claims. The plaintiff began working as a police officer for the town in 1974. In October, 1986, after twelve years of service, and after the plaintiff had sustained a serious injury in the course of his employment, he successfully petitioned the defendant Police and Fire Retirement Board of the Town of Fairfield to retire on disability. The plaintiff was thirty-five years old at that time.

At all relevant times, the plaintiff was a member of the Fairfield Police Union International Brotherhood of Police Officers, Local 530 (union), which is not a party to the present action. The union and the town entered into a three year collective bargaining agreement in 1985 (1985 CBA) that was in effect at the time of the plaintiff's retirement. Pursuant to that agreement, the relevant terms of which are set forth in part II of this opinion, the town was required to provide and subsidize the cost of private health insurance coverage for disability retirees, such as the plaintiff, and their eligible dependents.

On March 24, 2016, upon reaching the age of sixty-five, the plaintiff became eligible to receive Medicare benefits. Around that time, the town's risk manager, Eileen Kennelly, informed the plaintiff that the town would continue to subsidize his private health insurance costs and those of his since deceased wife, Joy Gallagher, and that they would not be required to enroll in Medicare. The following year, however, Emmet P. Hibson, Jr., the town's human resources director and an employee of the defendant Town of Fairfield Personnel Department, notified the plaintiff that, effective July 1, 2017, he and his wife would be required to enroll in Medicare and to each pay the $134 monthly cost[1] of their Medicare Part B premiums. Hibson indicated that the town would transfer the Gallaghers to a private Medicare supplemental insurance plan and cover the costs of that plan. The town agrees that it is required to reimburse any medical costs not covered by Medicare, beyond a $100 annual deductible. Under the town's view of the agreement, then, the plaintiff was responsible for paying his own Medicare premiums, and it was responsible for paying the costs of his Medicare supplemental insurance, as well as any uncovered medical costs.

The plaintiff filed the present action in 2017. He alleged that the town was bound to continue to provide the Gallaghers with town paid private health insurance, both by the terms of the 1985 CBA and by the defendants' prior representations to him and through their course of performance, and, in the alternative, that the town was obligated to subsidize the costs of their Medicare Part B premiums.

[1] The trial court's statement that the Gallaghers' combined Medicare Part B premium costs totaled $536 per month appears to be a scrivener's error derived from adding the plaintiff's $134 *monthly* fee with his wife's $402 *quarterly* fee, which is also $134 per month. There is no evidence in the record that would support the $536 figure, and the plaintiff acknowledges that the $134 per person figure is correct.

Following a bench trial, the trial court concluded that the 1985 CBA does not bar the town from requiring that the Gallaghers transition from private health insurance to Medicare. The court also concluded that the doctrine of municipal estoppel did not apply because it determined that the Gallaghers did not rely to their detriment on the defendants' earlier representations that they would be permitted to remain enrolled in private insurance. The trial court also concluded, however, that the town was contractually bound to subsidize the costs of the Gallaghers' Medicare Part B premiums. The court rendered judgment accordingly, awarding $10,184 to reimburse the Gallaghers for the costs of their Medicare premiums paid through March 1, 2019, and ordering the town to reimburse them for the costs of premiums incurred after that date.

The defendants appealed and the plaintiff cross appealed from the judgment of the trial court to the Appellate Court, and we transferred the appeal and cross appeal to this court pursuant to General Statutes § 51-199 (c) and Practice Book § 65-1. Additional facts will be set forth as relevant.

II

The plaintiff's primary argument on appeal is that the town was contractually obligated to continue to provide the Gallaghers with town paid private health insurance throughout their lifetime and, therefore, that the trial court incorrectly concluded that the town was permitted to terminate the Gallaghers' private health insurance and require that they, instead, enroll in Medicare.[2] The plaintiff also contends that the defendants illegally

[2] We note that the town could not, of course, legally require that the Gallaghers enroll in Medicare. We use such language in this opinion simply as a shorthand for the concept that, by terminating the Gallaghers' private health insurance but agreeing to provide supplemental Medicare coverage, the town effectively required that they enroll in Medicare in order to continue to receive subsidized insurance.

transferred the Gallaghers from private health insurance to Medicare without their signatures or consent.[3] We consider each claim in turn.

A

"Principles of contract law guide our interpretation of collective bargaining agreements. . . . When, as in the present case, the trial court based its interpretation solely on the language of the contract, our standard of review is plenary." (Citation omitted; internal quotation marks omitted.) *Russo* v. *Waterbury*, 304 Conn. 710, 720, 41 A.3d 1033 (2012).

The following additional facts are relevant to the plaintiff's central claim that the town was contractually bound to maintain the Gallaghers' private health insurance. The relevant portions of the 1985 CBA[4] provide:

"ARTICLE IX—INSURANCE

"Section 1. The town shall provide and pay for the following insurance for each employee and his enrolled dependents:

"a. The Connecticut Hospital Service (Blue Cross) semi-private room credit rider and out-patient benefits credit rider plan.

"b. The town will provide and pay the cost of a major medical policy which shall contain a one hundred dollar ($100.00) deductible ($200.00 family maximum) and 80/

[3] Because we conclude that the town did not act illegally in transferring the Gallaghers to Medicare and was not obligated to reimburse the costs of the Gallaghers' Medicare premiums, and in light of the defendants' representations that the town will reimburse the plaintiff for any costs that are not covered by Medicare or supplemental insurance, we need not address the plaintiff's additional claim on appeal that the trial court should have awarded him other out-of-pocket costs associated with the transition to Medicare.

[4] For ease of review, throughout this opinion, we have modified the capitalization of the relevant contractual language in conformance with the style of this court, without noting those changes in brackets.

20 [percent] co-insurance to $2,000.00 of covered charges per member per calendar year and 100 [percent] thereafter to the policy maximum of one million dollars ($1,000,000.00).

"c. In the event the town changes insurance carriers, i.e., Blue Cross/Blue Shield, the town agrees the present coverages and benefits shall remain in effect without any additional qualifications. For example, no employee, covered under the collective bargaining agreement, shall suffer any loss or reduction in coverages and benefits because of such change. Sixty (60) days prior to the implementation of any change in carrier, the town shall submit to the union the new coverage so that the union can ascertain that in fact the coverage is as set forth above.

* * *

"Section 7.—Insurance for Retirees. Effective 7-1-84, employees with at least twenty-five years of service who retire under the normal retirement provisions of the police and firemen's retirement plan and their enrolled dependents shall be entitled to town paid health insurance coverage. Employees who retire under the disability provisions of the retirement plan and their enrolled dependents shall also be entitled to town paid health insurance coverage. The benefits to be provided are listed in article IX Insurance, [§] 1 a, b, c . . . . Employees who retire with at least twenty-five (25) years of service but who are less than fifty-one (51) at the time of retirement, other than retirees under the disability provisions of the retirement plan, shall, upon attaining the age of fifty-one (51) be entitled to the benefits listed in article IX, [§] 1a., b., c. . . . in effect at the time of their retirement. . . ."

The plaintiff also entered into evidence a copy of the collective bargaining agreement between the town and the successor to the union that was in effect between 2010 and 2013 (2010 CBA). Article IX, § 9.03, of the 2010

CBA provides in relevant part: "Except as otherwise provided for below, employees entitled to the retiree medical insurance benefits under this section shall continue to receive in retirement the same medical insurance benefits they received as an active employee, with the understanding that if the active employees switch to a new plan which is substantially equivalent to or better than the plan the employee retired under, the retiree will be switched to the new plan. . . . Such coverage shall change to the Medicare carve out plan at age 65, in accordance with current practice. . . .

"Employees eligible for Social Security Medicare benefits shall be required to participate in the Medicare Part A and B plans upon attaining eligibility. [The coverages afforded to employees retiring in accordance with the disability provisions of the police and fire retirement plan and their eligible enrolled dependents] shall be reduced to a Medicare carve-out for those covered upon reaching the age of 65. The cost of Medicare, if any, shall be borne by the retiree. . . ."

The trial court concluded that the 1985 CBA permits the town to transfer disability retirees from a private health insurance plan to a supplemental Medicare plan, effectively forcing them to enroll in Medicare in order to maintain coverage, so long as the Medicare plan does not substantially reduce the benefits provided. The court further concluded that the benefits provided by Medicare, in tandem with the town's Medicare supplemental insurance plan, were at least as favorable as those afforded by the private insurance plan under which the plaintiff retired, especially in light of the fact that the town has agreed to reimburse any medical expenses not covered by Medicare.[5]

[5] For the same reasons, the trial court concluded that the town was in compliance with General Statutes § 7-459c, which, among other things, prohibits any municipality that provides retiree group health insurance benefits from diminishing or eliminating such benefits in violation of any collective bargaining agreement.

The plaintiff contends that the trial court misconstrued the 1985 CBA because, he alleges, that agreement "specifically requires the [town] to provide the same health insurance to the plaintiff and his wife as it provides to its active employees," and the town continues to provide its active union employees with private medical insurance. We are not persuaded.

As an initial matter, we note that the plaintiff is simply incorrect when he contends that the 1985 CBA *specifically* requires that he be placed, and that he remain, on the same health insurance plan as the town's active employees. The term "active employees" does not appear anywhere in the 1985 CBA, and that agreement does not, by its terms, address what rights, if any, retirees such as the plaintiff will have following the expiration of the agreement in 1987. Although it is reasonable to assume that the parties intended that employees who retired during the three years when the 1985 CBA was in effect would continue to receive the retirement benefits enumerated in article IX after the agreement expired in 1987, whether those benefits were to remain static, be pegged to those due to future active employees under future collective bargaining agreements, or be defined in some other manner is never *expressly* set forth in the agreement. Moreover, the 1985 CBA leaves it to the union to approve whether any change in town provided health insurance is acceptable. Nothing in the agreement, then, specifically bars the town from transferring the Gallaghers from private insurance to Medicare.

The plaintiff offers three additional arguments as to why the 1985 CBA bars the town from transferring him to Medicare. First, the plaintiff notes that article IX, § 7, of the 1985 CBA provides that employees on disability retirement are entitled to the benefits "listed in article IX Insurance, [§] 1 a, b, c, [§] 2, [§] 3, [§] 5 and [§] 6." He further notes that article IX, § 1 (a), commits the town to providing and paying for a Blue Cross insurance

plan for each employee, and that article IX, § 1 (c), indicates that, "[i]n the event the town changes insurance carriers, i.e., Blue Cross/Blue Shield, the town agrees the present coverages and benefits shall remain in effect without any additional qualifications." The plaintiff reads this language to mean that, at least as long as active employees are entitled to private health insurance, he must be as well.

We disagree that the plain language of the 1985 CBA unequivocally bars the town from transferring eligible disability retirees to Medicare. Article IX, § 1 (a), provides for one specific insurance plan that was available at the time, the "Connecticut Hospital Service (Blue Cross) semi-private room credit rider and out-patient benefits credit rider plan." The parties agree that the town is not bound to continue to provide that plan, which no longer exists but, instead, may offer other plans affording comparable benefits. Article IX, § 1 (c), sets forth the rules that apply in the event that the town changes private insurance carriers, such as moving from Blue Cross to a different carrier. The contract is simply silent as to whether (1) Medicare qualifies as an insurance carrier for purposes of article IX, § 1 (c), and (2) retirees who become eligible for Medicare can be treated differently from active employees, none of whom, presumably, is Medicare eligible. Cf. *Agor* v. *Board of Education*, 115 App. Div. 3d 1047, 1048–49, 981 N.Y.S.2d 485 (2014) (collective bargaining agreement that provided retirees no cost health insurance without express reference to Medicare was deemed ambiguous with respect to Medicare reimbursement requirement). Accordingly, we are not persuaded by the plaintiff's argument that the plain language of the 1985 CBA bars the town from transitioning eligible retirees to Medicare.

Second, the plaintiff relies on the principle that, when parties include a provision in one writing and omit

that provision from another comparable writing, that omission may be deemed to be purposeful. See, e.g., *Gibbs International, Inc.* v. *ACE American Ins. Co.*, Docket No. 7:15-cv-4568 (BHH), 2018 WL 1566730, *11 (D.S.C. March 30, 2018). He emphasizes the fact that the 2010 CBA expressly requires union employees who retired pursuant to the terms of that agreement to participate in Medicare upon attaining eligibility, in lieu of the town's private health insurance plans. The plaintiff contends that the fact that the town and the union agreed to include a Medicare requirement in the 2010 CBA but not in the 1985 CBA must have been a purposeful and deliberate indication that there was no intention that retirees under the earlier CBA could be made to enroll in Medicare. This argument, ultimately, is unpersuasive.

The fact that parties do not speak to an issue in one contract but proceed to address it in a subsequent contract does not necessarily mean that their initial silence was purposeful. When subsequent agreements between the parties address and resolve a previously unaddressed issue, the alteration may mean nothing more than that the parties have addressed a gap in the initial contract, reaching agreement on an issue that they had not previously considered or anticipated. See, e.g., *Agor* v. *Board of Education*, supra, 115 App. Div. 3d 1048–49 (when initial collective bargaining agreement was silent as to Medicare and subsequent agreements expressly provided that retirees would be entitled to Medicare Part B reimbursements, court deemed it "equally plausible" that such language was included in subsequent agreements to clarify intent, rather than to change meaning, of initial agreement).

In this case, the plaintiff's argument fails to account for the fact that federal Medicare law changed after the 1985 CBA went into effect. Prior to April, 1986, state and municipal employees generally were not eligible to

participate in the Medicare program. See Senate Finance Committee, Report, Financing Comprehensive Health Care Reform: Proposed Health System Savings and Revenue Options (May 20, 2009), reprinted in [2009-2 Transfer Binder: Current Developments] Medicare & Medicaid Guide (CCH) ¶ 52,862, pp. 112,582–83. They did not pay Medicare taxes (nor did their employers pay such taxes on their behalf), and they were not eligible to collect Medicare benefits upon retirement. Congress amended the Medicare laws in 1986, while the 1985 CBA was in effect. See Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. No. 99-272, 100 Stat. 82 (1986). The Medicare and Medicaid Budget Reconciliation Amendments of 1985, contained in the omnibus act, provided that state and municipal employees hired after March 31, 1986, were required to participate in the Medicare system. See id., § 13205, 100 Stat. 313–14, codified as amended at 26 U.S.C. § 3121 (u) (2018). As with other employees, they (and their employers on their behalf) were required to contribute 1.45 percent of their income in Medicare taxes, and they became eligible to enroll in Medicare at the age of sixty-five, assuming that they had paid into the system for a sufficient number of quarters. See 26 U.S.C. § 3101 (b) (2018); 26 U.S.C. § 3111 (b) (2018); see also State of Connecticut, Payroll Manual (Rev. 1995) § 3 (Social Security/Medicare Exemptions), available at https://www.osc.ct.gov/manuals/payroll/section3.htm (last visited July 27, 2021). Accordingly, it seems very likely that the town and the union omitted any mention of Medicare in the 1985 CBA not out of a conscious agreement that union members could not be *forced* to enroll in Medicare upon reaching the age of sixty-five but, rather, in light of the fact that the town's employees were not yet *permitted* to do so under federal law. There was testimony at trial suggesting that, when the town agreed to subsidize retirees' health insurance costs for life, it was with the expectation

that private insurance would be their only available coverage option.[6] Federal law was amended soon thereafter to permit or require municipal employees to participate in Medicare, and subsequent labor agreements between the town and the police union reflect that fact.

This intervening change in federal law illuminates the flaw in the plaintiff's interpretation of the parties' omission of any reference to Medicare in the 1985 CBA. It seems clear that the omission reflected the fact that the parties could not then have anticipated that Congress would amend federal law to allow members of the police union to enroll in Medicare. There was undisputed testimony at trial that the language requiring eligible retirees to enroll in Medicare was first included in a collective bargaining agreement between the town and the union in 1989 or 1990, following the enactment of the new federal Medicare provisions. Viewing the matter in this light, we are persuaded that the Medicare provisions in subsequent agreements indicate how the union and the town would have addressed the question of Medicare eligibility in 1985, had they been aware of the impending change in federal law at that time. It certainly stands to reason that, once union members (and the town on their behalf) began paying into the Medicare system, the town could expect that those employees would begin to collect their (largely) federally funded benefits as they became eligible, rather than continue to have the town subsidize the costs of private insurance.

[6] Although the record is silent on the question, we can assume that the plaintiff (and the town, on his behalf) began paying Medicare taxes after the Medicare and Medicaid Budget Reconciliation Amendments of 1985 went into effect. Under that law, states were given the option as to whether to provide Medicare coverage for state and municipal employees, such as the plaintiff, who were hired prior to April 1, 1986. See 42 U.S.C. § 418 (2018); Senate Finance Committee, supra, Medicare & Medicaid Guide (CCH), ¶ 52,862, pp. 112,582–83. If the plaintiff had not paid into the system for at least forty quarters, he would not now be eligible to receive Medicare benefits. See 42 U.S.C. 414 (2018).

The plaintiff's third and final argument is that the defendants have, by their course of performance, demonstrated that he is entitled to remain enrolled in private health insurance. He notes that he has been allowed to remain enrolled in the same plan as the town's active employees since his retirement, both before and after he reached the age of sixty-five.

We begin by noting that the fact that the town allowed the plaintiff to remain enrolled in private insurance *before* he turned sixty-five does not bear on the question presented, because he was not Medicare eligible prior to that time. It is only the parties' conduct since the plaintiff and other, similarly situated retirees turned sixty-five and became Medicare eligible that is relevant to the question of whether the town is allowed to transition them from private insurance to Medicare.

The record reveals that the delay in the transition of the plaintiff from private insurance to Medicare was not the result of the town's believing that he was entitled to remain enrolled in private insurance. There was testimony, on which the trial court reasonably could have relied, that the only reason why the town did not immediately terminate the plaintiff's private insurance coverage when he turned sixty-five was some legal confusion over whether that transition needed to be delayed pending the resolution of a workers' compensation claim. It is undisputed that all of the town's unionized Medicare eligible retirees are enrolled in Medicare. Most important, there was undisputed testimony at trial that the other union members who retired along with the plaintiff under the 1985 CBA also have been transitioned to Medicare.

Accordingly, to the extent that the record evidences a course of performance, it seems clear that the town consistently has required that all Medicare eligible employees enroll in Medicare. Furthermore, there is no

indication that the union, which is tasked with ascertaining that any change in a member's health plan comports with the requirements of article IX, § 1, of the 1985 CBA, ever exercised its right to challenge the transition to Medicare as providing benefits inferior to those afforded under the Blue Cross plan. For these reasons, we conclude that the trial court correctly determined that the 1985 CBA does not preclude the town from terminating the Gallaghers' private health insurance, so long as the town provides them with substantially similar benefits in the form of supplemental Medicare coverage.

B

The plaintiff also contends that the defendants illegally transferred him and his wife from private health insurance to Medicare without their consent. The plaintiff's concern appears to be that the town's benefits manager, Cheryl Lynch, signed her own name on the signature line in the written request to Anthem Blue Cross/Blue Shield (Anthem), the town's benefits management company, to enroll the Gallaghers in a Medicare supplemental insurance plan, rather than obtaining their signatures. In other words, there is no allegation that Lynch either forged any signatures or forced the Gallaghers to enroll in the Medicare program. Rather, she appears to have, through Anthem, enrolled the Gallaghers in a Medicare supplemental insurance plan so that they would be fully covered once their previous insurance policy was terminated.

Although the plaintiff contends that Lynch's action was illegal, he fails to cite any statute, regulation, or common-law rule that she is alleged to have violated. There is also no evidence in the record to rebut Lynch's testimony that Anthem permits the employer's agent to sign these forms when she enrolls members in new health insurance plans. Moreover, there is no indication

in the record that the trial court ever addressed this issue or made any related findings of fact, and the plaintiff has not requested an articulation. Because the record is inadequate and the claim is inadequately briefed, we decline to consider this claim. See, e.g., *Estate of Rock* v. *University of Connecticut*, 323 Conn. 26, 33, 144 A.3d 420 (2016).

III

We next turn our attention to the defendants' cross appeal. The defendants contend that the trial court, having correctly concluded that the 1985 CBA did not bar them from requiring that the Gallaghers enroll in Medicare in lieu of private health insurance, should not have required the town to reimburse the costs of the Gallaghers' Medicare premiums. We agree.

In reaching the conclusion that the town was contractually required to subsidize all of the Gallaghers' health insurance costs, including their Medicare premiums, the trial court was persuaded by two arguments. First, the trial court was persuaded by the fact that, whereas the 1985 CBA did not expressly reference Medicare, subsequent collective bargaining agreements between the town and the union have expressly required employees to participate in Medicare when they become eligible and also have specified that the costs of Medicare premiums are the responsibility of the retiree. The court reasoned that "[t]he fact that Medicare . . . [is] specifically referenced in [the 2010 CBA] and that the employee is now obligated to pay for that coverage seems both purposeful and deliberate. [The 2010 CBA] unambiguously places a new burden on the plaintiff which he did not have at the time of his retirement." In part II of this opinion, we explained why this reasoning, although possibly valid in other contexts, fails in the present case to account for the intervening change in federal Medicare law, which the parties to the 1985

CBA did not address or anticipate when they negotiated that agreement.[7]

Second, the trial court observed that the 1985 CBA obligates the town to defray the costs of "town paid health insurance coverage" and provides that present coverages and benefits will be maintained "without any additional qualifications." The court reasoned that requiring retirees to shoulder the costs of Medicare premiums in order to obtain insurance would establish, in essence, an additional qualification. The defendants argue, to the contrary, that the trial court, as a matter of law, failed to consider the fact that retirees such as the plaintiff are required to contribute to their health insurance costs under both plans. It is true that retirees now must pay $134 each month in Medicare premium costs, whereas the town paid private insurance plan under which the plaintiff retired required no fixed monthly contribution. However, the defendants note that those private plans had their own cost sharing components. Under the Blue Cross plan described in the 1985 CBA, for example, members had to pay deductibles and 20 percent coinsurance, to a maximum of $2000 per year. In addition, that plan had a maximum lifetime payout of one million dollars, whereas there is no lifetime maximum benefit under Medicare.[8]

We need not determine whether the defendants are correct that the plaintiff's benefits under Medicare are

[7] We also note that there was undisputed testimony at trial suggesting that the only retired union employees for whom the town pays Medicare Part B premiums are two sergeants who retired under a prior collective bargaining agreement that expressly provided that the town would subsidize the costs of their Medicare Part B premiums. It seems clear, then, that, when the parties intended that the town would reimburse employees' premium costs, they stated their intention expressly.

[8] Notably, before the trial court, the plaintiff testified that, as a result of an incident in 2016, he accrued medical bills approaching one million dollars. This fact suggests that, had he remained enrolled in the original Blue Cross plan, he might have been left to face this treatment uninsured.

comparable to those provided through the private plan under which he retired. Both in his briefs and at oral argument before this court, the plaintiff acknowledged that the town is required to provide him only with those health insurance benefits that are afforded to current active employees, rather than benefits comparable to those that he received under the 1985 CBA at the time of his retirement.[9] The plaintiff's counsel specifically conceded at oral argument before this court that, if active employees were to begin paying a share of their insurance premiums, then the plaintiff could be made to do so as well. In fact, sometime after 1986, the town ceased its practice of subsidizing the full costs of employee private health insurance. As noted, although the current collective bargaining agreement between the police union and the town was not admitted into evidence, the plaintiff did submit the 2010 CBA into evidence, and he has acknowledged that the 2010 CBA is typical of other subsequent collective bargaining agreements.

The 2010 CBA requires that active employees share the costs of their private health insurance. Beginning on July 1, 2009, for example, active employees were required to contribute $31 per week, or $134 per month, toward the cost of their private health coverage. Notably, $134 per month is the precise amount that the plaintiff alleges that he and his wife have been required to contribute toward their Medicare premiums. This is consistent with Lynch's testimony that the town's Medicare supplemental insurance health plan has been designed to mirror the plan available to current active employees and to retirees under the age of sixty-five.

[9] Because the plaintiff adopts this interpretation, we need not determine whether he accurately interprets article IX, § 7, of the 1985 CBA to mean that employees who retired under the disability retirement provisions of the town's retirement plan would continue to receive the same benefits as the town's active employees, as those benefits changed over time.

In addition, beginning in March, 2013, active employees were required to contribute between 11 and 13 percent of the blended per employee rate for the town's premium equivalent costs—its total health care costs. At oral argument before this court, the town's counsel represented that these cost sharing provisions remain in effect, and the plaintiff has not contended otherwise.

Because the plaintiff concedes that he may be required to contribute the same amount as active union employees, and because the evidence submitted by the plaintiff suggests that he is paying no more for his health insurance than the town's active employees, we agree with the defendants that the trial court should not have required the town to reimburse the Gallaghers' Medicare premium costs.

The judgment of the trial court is reversed with respect to the requirement that the town reimburse the Gallaghers' Medicare premium costs and is affirmed in all other respects, and the case is remanded with direction to render judgment consistent with this opinion.

In this opinion the other justices concurred.

STATE OF CONNECTICUT *v.* ROY D. L.*
(SC 20152)

Robinson, C. J., and McDonald, Mullins, Kahn, Ecker and Keller, Js.

Syllabus

Convicted, after a trial to the court, of sexual assault in the first degree, sexual assault in the fourth degree, and risk of injury to a child in connection with the sexual abuse of his daughter, R, when she was

* In accordance with our policy of protecting the privacy interests of the victims of sexual abuse and the crime of risk of injury to a child, we decline to identify the victim or others through whom the victim's identity may be ascertained. See General Statutes § 54-86e.

ten years old, the defendant appealed to this court. During a forensic interview conducted in response to R's statement to a camp counselor that the defendant had been touching her inappropriately, R stated that the defendant had on multiple occasions touched her vagina and vaginal area. R also reported that the defendant's conduct caused her to experience pain and made her feel uncomfortable. At trial, the court admitted, over defense counsel's objection, a video recording of the forensic interview, and the defendant, through his own testimony, denied inappropriately touching R. In addition, the defendant presented the testimony of his sister and former girlfriend, S, both of whom testified that R experienced dry skin around her vaginal area. S testified that the defendant supervised R as she cleaned herself but did not touch her directly. The court found R's account to be credible and rejected the contrary testimony offered by the defendant. *Held*:

1. The trial court did not abuse its discretion in admitting the video recording of R's forensic interview into evidence under the medical treatment exception to the hearsay rule: the interview took place in a hospital, during which a forensic interviewer asked R about her physical and mental well-being, and the interviewer testified at the defendant's trial that, as a result of the substance of R's statements during the interview, she encouraged a medical examination of and therapy for R; accordingly, on the basis of R's statements and the circumstances in which they were made, including the location of the interview and the nature of the interviewer's questions, an objective observer reasonably could infer that R's statements were made for the purpose of receiving medical treatment and were pertinent to that end.
2. The defendant could not prevail on his claim that he was deprived of a fair trial on the ground that the prosecutor improperly referred to facts not in evidence and commented on the credibility of a witness insofar as he mischaracterized the testimony of J, the defendant's former girlfriend, by stating that J had previously admitted that she saw the defendant inappropriately touch R: even if the prosecutor's statements were improper, this court was provided with the requisite assurance that the defendant was not deprived of a fair trial, as the trial court, which was the trier of fact, expressly rejected the allegedly improper statements, it having acknowledged, following defense counsel's objection to the prosecutor's remarks concerning J, the concerns that motivated the objection and having stated that it would not consider the prosecutor's statements in determining the defendant's guilt; moreover, the court noted that, if the prosecutor's comments regarding J had been made during a jury trial, it would have instructed the jury that it was its recollection of the evidence that controlled, and there was no evidence that the court failed to follow its own instructions.
3. The defendant could not prevail on his claims that the evidence was insufficient to prove that he engaged in the criminal conduct described by R during her forensic interview and at trial because he presented

witnesses who contradicted R's testimony, and that the evidence was insufficient to prove that he acted with the intent to degrade or humiliate R, or that he gained sexual gratification from engaging in the conduct in question, for purposes of his conviction of sexual assault in the fourth degree: the trial court credited R's testimony and discredited the contradictory testimony offered by the defense, and R's testimony was sufficient to support the court's conclusion that the defendant engaged in the criminal conduct on which his conviction was based; moreover, there was sufficient evidence to establish that the defendant acted with the necessary intent to be convicted of sexual assault in the fourth degree, as the evidence adduced by the state, including R's testimony, was sufficient to support the trial court's conclusions that the defendant's contact with R's intimate parts, despite her repeated pleas to him that he stop, was made for the purpose of degrading or humiliating her, and that the defendant acted for the purpose of his sexual gratification.

4. Contrary to the defendant's claim, the statutes criminalizing sexual assault in the first degree and risk of injury to a child were not unconstitutionally vague as applied to the defendant's conduct; the language of those statutes and the relevant judicial decisions interpreting them provide a person of ordinary intelligence with fair notice that the digital penetration of a child's vagina and the touching of a child's vagina with a rag in a sexual and indecent manner are criminally prohibited.

Argued January 14—officially released July 28, 2021**

Procedural History

Substitute information charging the defendant with two counts each of the crimes of sexual assault in the third degree, sexual assault in the fourth degree, and risk of injury to a child, and one count of the crime of sexual assault in the first degree, brought to the Superior Court in the judicial district of Hartford and tried to the court, *Gold*, *J.*; thereafter, the court, *Gold*, *J.*, granted the defendant's motion for a judgment of acquittal as to both counts of sexual assault in the third degree; subsequently, finding of guilt with respect to two counts of risk of injury to a child and one count each of sexual assault in the first degree and sexual assault in the fourth degree; thereafter, the court, *Gold*, *J.*, vacated the defendant's conviction as to one count of risk of

** July 28, 2021, the date that this decision was released as a slip opinion, is the operative date for all substantive and procedural purposes.

injury to a child and rendered judgment of conviction, from which the defendant appealed to this court. *Affirmed.*

Trent A. LaLima, with whom, on the brief, was *Hubert J. Santos*, for the appellant (defendant).

Ronald G. Weller, senior assistant state's attorney, with whom, on the brief, were *Sharmese L. Walcott*, state's attorney, *Gail P. Hardy*, former state's attorney, and *David L. Zagaja*, senior assistant state's attorney, for the appellee (state).

Opinion

KAHN, J. Following a trial to the court, *Gold*, *J.*, the defendant, Roy D. L., was convicted of sexual assault in the first degree in violation of General Statutes § 53a-70 (a) (2), sexual assault in the fourth degree in violation of General Statutes § 53a-73a (a) (1) (A), and risk of injury to a child in violation of General Statutes § 53-21 (a) for the sexual abuse of his daughter, R. On appeal,[1] the defendant claims that (1) the trial court abused its discretion in admitting into evidence a video recording of R's forensic interview under the medical treatment exception to the hearsay rule, (2) the prosecutor improperly introduced facts not in evidence and commented on the credibility of a witness during closing argument, thereby depriving him of a fair trial, (3) the evidence presented at trial was insufficient to support his convictions, and (4) the statutes criminalizing sexual assault in the first degree and risk of injury to a child are unconstitutionally vague as applied to his conduct. We disagree with each of the defendant's claims and, accordingly, affirm the judgment of the trial court.

The following facts, which are either undisputed or reasonably could have been found by the trial court, and procedural history are relevant to this appeal. The

[1] The defendant appealed directly to this court pursuant to General Statutes § 51-199 (b) (3).

defendant's conviction stems from his sexual contact with R in 2015, when she was ten years old. The defendant's inappropriate touching of R first came to light in 2008, when R, who was just three years old at the time, reported to an employee of her school that the defendant had "hurt her pooky," referring to her vagina. The school reported R's statement to the Department of Children and Families (department), which immediately opened an investigation. That day, a representative of the department spoke with the defendant, who stated that R had a medical condition that required him to regularly clean her vaginal area with a cloth and Vaseline. The defendant claimed that he "was the only one [who] knew how to clean [R's] genitals."

During the course of the department's investigation, R was examined by Audrey Courtney, an advanced practice registered nurse at the Saint Francis Hospital Children's Advocacy Center (Children's Advocacy Center). At trial, Courtney testified that, prior to her examination of R, the defendant described to her "some hygiene practices where he was separating [R's] labia after he would wash her." Courtney testified that, during the examination, she did not observe any condition on R's skin that would have necessitated the defendant's conduct. In the hopes of steering the defendant toward more appropriate and less intrusive hygiene practices, Courtney recommended to the defendant that he stop physically cleaning R's vaginal area and use a sitz bath instead.

As a part of its investigation, the department filed a neglect petition against the defendant. In the subsequent proceedings, the defendant signed a written agreement in which he committed to stop physically cleaning R's vaginal area and acknowledged that the cleaning practices recommended by the Children's Advocacy Center and R's pediatrician were more appro-

priate.[2] According to R's mother, the defendant stopped bathing R after the signing of the agreement, and she assisted R with her daily hygiene until she was eight years old. In 2013, the defendant and R's mother separated, and R began splitting time between her mother's residence and the defendant's residence.

In July, 2015, when R was ten years old, she reported to a camp counselor that the defendant had been "touching" her. The counselor reported R's statement to the department, and a second investigation was opened into the defendant's conduct. On August 19, 2015, R was once again taken to the Children's Advocacy Center where she participated in a forensic interview conducted by Lindsay Craft, a trained forensic interviewer. During that interview, R told Craft that, while she was staying at his home, the defendant had, on multiple occasions over the prior year, touched her vagina and vaginal area after she had showered. R described how the defendant, using a rag, would spread Vaseline over her entire naked body and penetrate her vagina using his fingers. R told Craft that the defendant's conduct caused her physical pain and made her feel uncomfortable.

The defendant was subsequently arrested and charged with one count of sexual assault in the first degree, two counts of sexual assault in the third degree, two counts of sexual assault in the fourth degree, and two counts

[2] The court, *Simón, J.*, ultimately granted the defendant's motion for a directed verdict during the trial of the neglect petition filed against the defendant, but that court also advised the defendant "to very carefully consider the recommendations of the doctors and what they believe to be the appropriate way to address the concerns that you believe exist with your daughter and proceed in the proper medically advised manner."

During trial in the present case, the state introduced the defendant's written agreement to show that he had acknowledged that his cleaning methods were unnecessary and that he had agreed to stop touching R's vagina.

of risk of injury to a child.[3] The defendant affirmatively elected a bench trial. At trial, the court admitted, over defense counsel's objection, a video recording of R's forensic interview in its entirety pursuant to the medical treatment exception to the hearsay rule. See Conn. Code Evid. § 8-3 (5).

At the trial's conclusion, the court found the defendant guilty of one count of sexual assault in the first degree, one count of sexual assault in the fourth degree, and two counts of risk of injury to a child.[4] In its oral decision, the trial court expressly credited R's testimony and rejected the defendant's contention that R's "account [was] a wholesale fabrication" and that he was "being set up by R's mother and [the department] . . . ." The trial court sentenced the defendant to a total effective sentence of fifteen years of imprisonment, execution suspended after nine years, followed by twenty years of probation and one year of special parole. The defendant was also ordered to register as a sex offender. The defendant subsequently appealed to this court. Additional facts and procedural history will be set forth as necessary.

In the present appeal, the defendant raises four separate claims of error. First, the defendant argues that the trial court abused its discretion by admitting the

[3] The information did not identify the specific acts that corresponded to each count, and the defendant did not request a bill of particulars. At the close of the state's case-in-chief, however, defense counsel moved for a judgment of acquittal on counts one through five, and, during argument on that motion, the prosecutor specified that one count of sexual assault in the fourth degree, count four, related to the defendant's contact with R's vagina, and the second count of sexual assault in the fourth degree, count five, related to the defendant's contact with her breasts.

[4] The trial court found the defendant not guilty on the second count of sexual assault in the fourth degree and granted defense counsel's motion for a judgment of acquittal as to both counts of sexual assault in the third degree. At sentencing, the trial court also vacated the defendant's conviction of one count of risk of injury to a child based on double jeopardy grounds.

video recording of the forensic interview of R into evidence under the medical treatment exception to the hearsay rule because the interview "had virtually no medical purpose . . . ."[5] Second, the defendant contends that the prosecutor engaged in prosecutorial impropriety during his closing argument by mischaracterizing the testimony of Jessica Jackson, the defendant's former girlfriend, thereby depriving him of a fair trial. Third, the defendant argues that the state's evidence was insufficient to support his conviction on all counts. Finally, the defendant contends that the statutes criminalizing sexual assault in the first degree, § 53a-70 (a) (2), and risk of injury to a child, § 53-21 (a) (2), are unconstitutionally vague as applied to his conduct. We address these claims in turn.

I

The defendant argues that, because the forensic interview of R had "virtually no medical purpose" and was conducted to "create admissible, inculpatory evidence," the video recording was inadmissible under our case law interpreting the scope of the medical treatment exception contained in § 8-3 (5) of the Connecticut Code of Evidence. According to the defendant, he was prejudiced by the admission of the video recording because it corroborated R's in-court testimony and caused the trial court to credit R's testimony over the contradictory testimony presented by the defendant's witnesses. The state, in response, argues that the video recording of the interview is admissible under the exception because medical treatment or diagnosis was *a* purpose of the interview, and, given the circumstances surrounding the interview, R "necessarily would have

[5] This court ordered the parties to file supplemental briefs "addressing the effect on [this] appeal, if any, of [our] recently released decision in *State* v. *Manuel T.*, 337 Conn. 429, 254 A.3d 278 (2020), with respect to the issue regarding the admission of forensic interview evidence under the medical treatment exception to the hearsay rule."

understood the interview to have a medical purpose." We agree with the state.

The following additional facts and procedural history are relevant to our consideration of this claim. We begin by describing the contents of the video recording of R's forensic interview at the Children's Advocacy Center. At the outset of the interview, Craft introduced herself to R and explained that her job was to talk to children "about things that have happened to them . . . that just made them feel uncomfortable." Craft told R that people she worked with were observing the interview through a one-way mirror and that their observation of the interview would prevent her from having to "talk about the same thing over and over and over again." Craft then stated that the observers "want to make sure that [children's] bodies are okay, that [the children are] okay." Craft also noted that she worked for the hospital, not the department.

During the interview, R described the defendant's practice of touching her vaginal area with a rag after she showered at the defendant's home. In response to Craft's questions about the precise nature of the defendant's conduct, R stated that, after she exits the shower, the defendant frequently directs her to lie naked on his bed, and then applies Vaseline to her entire body, including her vagina, using a rag. R told Craft that it was physically painful, stating that the defendant "uses a rough rag and . . . goes in hard and sometimes when he's done doing it, it aches hard." R also told Craft that the defendant "digs through it and its hurts" and that "he [takes] the rag and he goes through it in like the dark spots . . . ." Toward the end of the interview, Craft asked R if she "worries about [her] body because of [what happened]?" R responded, "yes," and then wondered aloud, "am I going to have to survive this when I'm older?"

During trial, the prosecutor moved to admit the entirety of the video recording under the medical treatment exception to the hearsay rule. In support of this motion, the prosecutor presented testimony from Craft.[6] Craft testified that she is a trained social worker who, at the time of her employment at the Children's Advocacy Center, was responsible for conducting forensic interviews of children. Craft noted that the "purpose of a forensic interview is for medical treatment and diagnosis of the child" and that, during her interview of R, she specifically inquired about R's physical and mental well-being. Craft further remarked that, following her interview with R, she "strongly encouraged . . . a medical examination, as well as . . . therapy for the child." Craft explained that she made this recommendation because R "reported significant pain on multiple incidents . . . she also had concerns about her body . . . [and she] worried . . . [it] was going to happen again . . . ."

Defense counsel objected to the admission of the video recording and argued that the interview was "a fig leaf to cover [a] law enforcement practice" and that, "while medical treatment does not need to even be the primary purpose," the state failed to even satisfy "a de minimis test."[7] In response, the prosecutor argued that

[6] Prior to calling Craft, the prosecutor moved to admit the video recording based on the testimony of Lisa Murphy-Cipolla, an employee of the Children's Advocacy Center who was not present during Craft's interview of R. The trial court denied the state's motion on the ground that Murphy-Cipolla had not conducted the interview. Several days later, the state arranged for Craft, who was living out of state at the time of trial, to travel to court to testify.

[7] As was the case in *State* v. *Manuel T.*, 337 Conn. 429, 254 A.3d 278 (2020), the trial court in the present case assessed the admissibility of the video recording of the forensic interview in its entirety and did not assess the admissibility of individual statements made during the interview. We recognize that the trial court's approach was likely a reflection of the position taken by defense counsel who, in opposing the prosecutor's motion to admit the video recording, argued that the recording should be excluded in its entirety. In response to defense counsel's "all or nothing" approach, the trial court remarked, "[s]o, it's either in or it's out, and if it's in, it can be played in its entirety." Given the formulation of defense counsel's opposition

the video recording was admissible because Craft established that the purpose of the interview, "at least in part," was "medical treatment . . . ." The trial court, citing *State* v. *Griswold*, 160 Conn. App. 528, 127 A.3d 189, cert. denied, 320 Conn. 907, 128 A.3d 952 (2015), and *State* v. *Eddie N. C.*, 178 Conn. App. 147, 174 A.3d 803 (2017), cert. denied, 327 Conn. 1000, 176 A.3d 558 (2018), as well as other Appellate Court decisions, concluded that the video recording satisfied the standard for admissibility and overruled defense counsel's objection.

Our standard of review for evidentiary claims is well settled. "We review the trial court's decision to admit [or exclude] evidence, if premised on a correct view of the law . . . for an abuse of discretion. . . . We will make every reasonable presumption in favor of upholding the trial court's ruling, and only upset it for a manifest abuse of discretion. . . . The trial court has wide discretion to determine the relevancy [and admissibility] of evidence . . . . In order to establish reversible error on an evidentiary impropriety . . . the defendant must prove both an abuse of discretion and a harm that resulted from such abuse." (Citations omitted; internal quotation marks omitted.) *State* v. *Cecil J.*, 291 Conn. 813, 818–19, 970 A.2d 710 (2009).

"It is well settled that . . . [a]n out-of-court statement offered to prove the truth of the matter asserted is hearsay and is generally inadmissible unless an exception to the general rule applies." (Internal quotation

to the admission of the video recording, as well as the fact that the present case was tried before the court, we believe that the trial court's response was reasonable. We do, however, take this opportunity to emphasize that the purpose underlying the medical treatment exception to the hearsay rule does not preclude a party from objecting to portions of statements made during forensic interviews that are either inadmissible for the purpose they are offered or are otherwise unduly prejudicial. Under such circumstances, the court, particularly during a jury trial, may exercise its discretion to redact portions of a forensic interview.

marks omitted.) *State* v. *Carrion*, 313 Conn. 823, 837, 100 A.3d 361 (2014); see also Conn. Code Evid. § 8-3 (5). Section 8-3 (5) of the Connecticut Code of Evidence excludes from the hearsay rule "[a] statement 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 rationale for admitting such statements "is that the patient's desire to recover his health . . . will restrain him from giving inaccurate statements to [those who] advise or treat him." (Internal quotation marks omitted.) *State* v. *Cruz*, 260 Conn. 1, 7, 792 A.2d 823 (2002).

As we recently noted in *State* v. *Manuel T.*, 337 Conn. 429, 254 A.3d 278 (2020), § 8-3 (5) "sets forth . . . a two-pronged test. The first [prong] addresses the declarant's purpose or motivation in the making of the statement, and the second addresses the pertinence of the statement to that end." Id., 439. The application of the medical treatment exception, therefore, turns in the first instance on the declarant's state of mind and the purpose for which each individual statement was made. See id., 447 (noting that "the medical treatment exception focuses on the declarant's [understanding of the] purpose in making individual statements"). The purpose prong is satisfied so long as the declarant's statement was motivated, at least in part, by a desire to obtain medical treatment or a diagnosis. See id., 440–41 n.12; see also *State* v. *Griswold*, supra, 160 Conn. App. 552–53 (noting that medical treatment or diagnosis does not have to be principal motivation of statement for it to be admissible under medical treatment exception).

In cases involving juveniles, the Appellate Court has consistently recognized that the motivation behind a juvenile's statement can be inferred from both the con-

tent of the statement and the surrounding circumstances. See, e.g., *State* v. *Griswold*, supra, 160 Conn. App. 556 ("[a]lthough [t]he medical treatment exception to the hearsay rule requires that the statements be both pertinent to treatment and motivated by a desire for treatment . . . in cases involving juveniles, [we] have permitted this requirement to be satisfied inferentially" (internal quotation marks omitted)); see also *State* v. *Ezequiel R. R.*, 184 Conn. App. 55, 69, 194 A.3d 873 (concluding that "circumstances leading up to the victim's interview . . . could lead an objective observer to reasonably infer that the victim's statements were given in order to obtain medical treatment and diagnosis"), cert. granted, 330 Conn. 945, 196 A.3d 804 (2018) (appeal dismissed February 15, 2019); *State* v. *Telford*, 108 Conn. App. 435, 443, 948 A.2d 350 (testimony of twelve year old declarant and circumstances surrounding interview permitted inference that statements were made for purpose of medical treatment), cert. denied, 289 Conn. 905, 957 A.2d 875 (2008); *State* v. *Donald M.*, 113 Conn. App. 63, 71, 966 A.2d 266 (statements by interviewer supported inference that child understood interview had medical purpose), cert. denied, 291 Conn. 910, 969 A.2d 174 (2009). Although some jurisdictions have refrained from adopting such an approach; see, e.g., *State* v. *Coates*, 405 Md. 131, 143–45, 950 A.2d 114 (2008); the overwhelming majority of jurisdictions have recognized that the purpose of a juvenile declarant's statement can be inferred under such circumstances. See, e.g., *United States* v. *Kootswatewa*, 893 F.3d 1127, 1132–34 (9th Cir. 2018) (evidence that juvenile's statements were made "in response to questions posed by a medical professional during a medical examination conducted at a medical facility" supported inference that juvenile understood she was providing information for diagnosis or treatment); see also *United States* v. *Norman T.*, 129 F.3d 1099, 1101,

1105–1106 (10th Cir. 1997) (evidence that five year old declarant complained of pain to doctor in hospital supported inference that declarant was seeking medical treatment), cert. denied, 523 U.S. 1031, 118 S. Ct. 1322, 140 L. Ed. 2d 485 (1998); *State* v. *Letendre*, 161 N.H. 370, 372, 374–75, 13 A.3d 249 (2011) (circumstances surrounding statements supported inference that ten year old victim's statements were made for purpose of obtaining medical diagnosis or treatment); *State* v. *McLeod*, 937 S.W.2d 867, 871–72 (Tenn. 1996) (evidence that eleven year old declarant discussed her medical history and circumstances of alleged assault with doctor supported inference that statements were made for purpose of medical treatment).

We conclude that the reasoning adopted by the majority of jurisdictions is persuasive and consistent with our case law concerning the medical treatment exception to the hearsay rule. In *Manuel T.*, we noted that "the proper application of the existing medical treatment hearsay exception . . . [can] ensure the reliability of . . . statements made at a forensic interview." *State* v. *Manuel T.*, supra, 337 Conn. 448. In cases in which the substance of a juvenile declarant's statement and the circumstances surrounding the statement support an inference that the statement was made in furtherance of obtaining medical treatment, a trial court can reasonably conclude that the purpose prong of the medical treatment exception is satisfied. See *United States* v. *Kootswatewa*, supra, 893 F.3d 1133; see also *State* v. *Telford*, supra, 108 Conn. App. 441 (statements admissible under medical treatment exception if "objective circumstances of the interview would support an inference that a juvenile declarant knew of its medical purpose").

As we have previously noted, the rationale behind the medical treatment exception is that a person's "desire to recover his [or her] health" incentivizes them to tell

the truth to individuals involved in their medical care. (Internal quotation marks omitted.) *State* v. *Cruz*, supra, 260 Conn. 7. We agree with the Appellate Court that the presumption that such statements are reliable applies to statements made during a forensic interview when the surrounding circumstances "could lead an objective observer to reasonably infer that the victim's statements were given in order to obtain medical treatment and diagnosis."[8] *State* v. *Ezequiel R. R.*, supra, 184 Conn. App. 69; see also *State* v. *Abraham*, 181 Conn. App. 703, 713, 187 A.3d 445 ("the statements of a declarant may be admissible under the medical treatment exception if made in circumstances from which it reasonably may be inferred that the declarant understands that the interview has *a* medical purpose" (emphasis in original)), cert. denied, 329 Conn. 908, 186 A.3d 12 (2018).

With this principle in mind, we consider whether the trial court abused its discretion in admitting the video recording of the forensic interview of R under the medical treatment exception.[9] Craft's interview with R took

[8] In *Manuel T.*, we expressly declined to address whether such an inference can be made in cases involving children "too young to have the conscious purpose of obtaining medical treatment to advance [their] own health." *State* v. *Manuel T.*, supra, 337 Conn. 441 n.12, citing *State* v. *Dollinger*, 20 Conn. App. 530, 536, 568 A.2d 1058, cert. denied, 215 Conn. 805, 574 A.2d 220 (1990); see *State* v. *Dollinger*, supra, 536–37 (inferring that statements of two and one-half year old child were made for purpose of obtaining medical treatment). We need not address the issue because, as was the case in *Manuel T.*, the declarant in the present case was old enough to have the conscious purpose of obtaining medical treatment.

[9] In support of his claim that the trial court abused its discretion in admitting the video recording of the interview of R, the defendant mistakenly focuses the entirety of his argument on the purpose of the interview and fails to address whether R's statements were motivated by a desire to receive medical treatment and were pertinent to that end. Although the purpose of the interview and the declarant's understanding of that purpose are relevant to determining the motivation of the declarant; see *State* v. *Donald M.*, supra, 113 Conn. App. 71 (considering purpose of interview when determining purpose of declarant's statements); the admissibility of specific statements, as we made clear in *Manuel T.*, turns on the "purpose for which the

place in a hospital. At the very beginning of the interview, Craft told R that she "work[ed] for the hospital" and that people who "[she] work[s] with" were observing the interview because they "want to make sure that [children's] bodies are okay and that [the children are] okay . . . ." During the course of the interview, Craft asked R about her physical and mental well-being. In response to these questions, R stated that her vagina "ache[d] hard" as a result of the defendant "dig[ging] through" the "deep dark" part. R also stated that she was "scared a lot" due to the defendant's conduct and that she worried about the impact the abuse would have on her body. R also expressed concern that she would "have to survive this when I'm older . . . ."

At trial, Craft testified that as a result of R's statements during the interview, she "strongly encouraged . . . a medical examination, as well as . . . therapy for the child." Craft further testified that, although she does not always make a medical referral after each interview, she did so in this case because R "reported significant pain on multiple incidents . . . she also had concerns about her body . . . [and she] worried . . . [it] was going to happen again . . . ." Based on the substance of R's statements and the circumstances in which they were made, including the location of the interview and the nature of Craft's questions, an objective observer could reasonably infer that R's statements were both made for the purpose of receiving medical treatment and pertinent to that end. We, therefore, conclude that

statement was made," not the overall purpose of the interview. (Internal quotation marks omitted.) *State* v. *Manuel T.*, supra, 337 Conn. 443, quoting *State* v. *Mendez*, 148 N.M. 761, 772, 242 P.3d 328 (2010); see also *State* v. *Dollinger*, 20 Conn. App. 530, 536, 568 A.2d 1058 (noting that "[t]he test focuses on the declarant's motives"), cert. denied, 215 Conn. 805, 574 A.2d 220 (1990). In *Manuel T.*, we noted that "the tender years exception considers the purpose of the interview, whereas the medical treatment exception focuses on the declarant's purpose in making individual statements." *State* v. *Manuel T.*, supra, 447.

the trial court did not abuse its discretion in admitting the video recording of the forensic interview under the medical treatment exception to the hearsay rule.

II

The defendant next claims that the prosecutor deprived him of his right to a fair trial by improperly referring to facts not in evidence and by expressing his opinion regarding the credibility of a witness during the course of closing arguments. Specifically, the defendant contends that the prosecutor mischaracterized the testimony of Jackson, the defendant's former girlfriend, when he stated that she had previously admitted to having seen the defendant inappropriately touch R. In response, the state argues that the prosecutor's statement was proper because it was based on a reasonable inference drawn from Jackson's testimony and, "at worst, [was] an honest recollection of the evidence based on the evasiveness of Jackson's testimony . . . ." In the alternative, the state contends that, even if the statement was improper, it did not deprive the defendant of a fair trial. Having reviewed the record, we agree with the state and conclude that the allegedly improper remark did not deprive the defendant of a fair trial.

The following additional facts and procedural history are relevant to our consideration of the defendant's claim. During trial, the prosecutor called Jackson as a witness. At the beginning of his direct examination, the prosecutor asked Jackson if she had ever witnessed the defendant wash R or wipe R's vaginal area. Jackson responded in the negative, and the following colloquy ensued between Jackson and the prosecutor:

"Q. Now . . . did you have a conversation when you were reached out to by Detective [Jason] Pontz?

"A. Yes.

"Q. And did you acknowledge that—did you tell him that you did witness that?

"A. No. I can clarify that. Basically, [the defendant] was just telling [R] what to do to make sure that [she] was clean.

"Q. Oh, so you're familiar with what I'm talking about?

"A. Yes, I am.

"Q. Can you describe what you saw?

"A. So, [R] was just [lying] on the bed, and [the defendant] was letting her know what to do to make sure she was clean.

"Q. How was [the defendant] doing it?

"A. [The defendant] didn't do it.

"Q. Well, what was being done?

"A. [R] was just wiping with the rag.

"Q. [R] was wiping with a rag. [The defendant] did not have it in his hand?

"A. No."

After asking Jackson for more details about how R used the rag, the prosecutor asked, "[a]nd do you recall having a conversation with my office saying that you saw [the defendant] wiping R's vaginal area with the rag?" Jackson responded "no," and again stated that she was "just clarifying that [R] did it. [The defendant] may have had the rag at one point, but [R] did it." Toward the end of his direct examination, the prosecutor again questioned Jackson about a discrepancy between her prior statement to the police and her trial testimony. The following colloquy then ensued between Jackson and the prosecutor:

"Q. Did you tell [the defendant] what you had told . . . Pontz or a member of my office?

"A. Yes.

"Q. And how come it's different today than what you had told them?

"A. Well, when you called me, I was actually . . . on my lunch break. I was driving. I was on the phone, so it was a bad time.

"Q. Would you agree that what you told me was essentially what you told . . . Pontz previously?

"A. Yes.

"Q. That you were somewhat put on the spot when you told me that information?

"A. Right.

"Q. Even though you said the same thing to . . . Pontz a week prior?

"A. Yes.

"Q. But today you have the ability to clarify all of that [information]?

"A. Yes, and that's because I took the time to recall certain events.

"Q. And none of that—none of your clarification was influenced by you speaking with [the defendant]?

"A. Not at all."

During his closing argument, the prosecutor stated that "Jackson came in and acknowledged that she witnessed the defendant engaged in this conduct [of cleaning R's vagina]. And she told . . . Pontz . . . and she told me that information." Defense counsel immediately objected and moved for a mistrial, arguing that the prosecutor's statement was not supported by facts in

evidence and represented his personal opinion about the veracity of Jackson's testimony and her credibility as a witness. The trial court denied the motion and stated the following in support of its decision: "I know what . . . Jackson testified to and what she didn't testify to. And I'm going to make my decision based on what she testified to. . . . I understand the difference. This is an argument to the court. The court is not going to, you know, fall victim to the concerns that you've expressed in your motion for a mistrial. . . . And I have the luxury in this case to be able to rehear the testimony of the witness to the extent I have any uncertainty about precisely what . . . Jackson said or didn't say. . . . So I understand what . . . Jackson testified to, and I understand that [the prosecutor] may have attempted to bring into question the veracity of what she was saying on the stand. I understand also, however, that, even with that effort to impeach, the opposite doesn't become true by virtue of the impeachment. I understand that. . . . The motion for a mistrial is denied. The court did not, incidentally, take the words of [the prosecutor] in the way that [defense counsel] has described them. But, for the reasons I've stated, I will render my decision based on the testimony that the witnesses have given and not any part of the closing argument that may have strayed intentionally or inadvertently, if at all, from the rules that govern the arguments of counsel."

We begin our analysis of the defendant's claim by setting out the legal principles that govern our consideration of claims of prosecutorial impropriety. "[T]he touchstone of due process analysis in cases of alleged prosecutorial [impropriety] is the fairness of the trial, and not the culpability of the prosecutor. . . . The issue is whether the prosecutor's conduct so infected the trial with unfairness as to make the resulting conviction a denial of due process. . . . In determining

whether the defendant was denied a fair trial . . . we must view the prosecutor's comments in the context of the entire trial." (Internal quotation marks omitted.) *State* v. *Santiago*, 269 Conn. 726, 733–34, 850 A.2d 199 (2004).

As we previously have recognized, "[p]rosecutorial [impropriety] of [a] constitutional magnitude can occur in the course of closing arguments. . . . In determining whether such [impropriety] has occurred, the reviewing court must give due deference to the fact that [c]ounsel must be allowed a generous latitude in argument, as the limits of legitimate argument and fair comment cannot be determined precisely by rule and line, and something must be allowed for the zeal of counsel in the heat of argument. . . . While the privilege of counsel in addressing the jury should not be too closely narrowed or unduly hampered, it must never be used as a license to state, or to comment upon, or to suggest an inference from, facts not in evidence, or to present matters which the jury ha[s] no right to consider." (Internal quotation marks omitted.) *State* v. *Otto*, 305 Conn. 51, 76–77, 43 A.3d 629 (2012); see also *State* v. *Williams*, 204 Conn. 523, 544, 529 A.2d 653 (1987) ("[s]tatements as to facts which have not been proven amount to unsworn testimony that is not the subject of proper closing argument").

Furthermore, "a prosecutor may not express his own opinion, directly or indirectly, as to the credibility of the witnesses. . . . Such expressions of personal opinion are a form of unsworn and unchecked testimony, and are particularly difficult for the jury to ignore because of the prosecutor's special position. . . . [B]ecause the jury is aware that the prosecutor has prepared and presented the case and consequently, may have access to matters not in evidence . . . it is likely to infer that such matters precipitated the personal

opinions." (Internal quotation marks omitted.) *State* v. *Bermudez*, 274 Conn. 581, 590, 876 A.2d 1162 (2005).

Our determination of whether alleged prosecutorial impropriety deprived a defendant of a fair trial is governed by a "two step analytical process." *State* v. *Fauci*, 282 Conn. 23, 32, 917 A.2d 978 (2007). "The two steps are separate and distinct. . . . We first examine whether prosecutorial impropriety occurred. . . . Second, if an impropriety exists, we then examine whether it deprived the defendant of his due process right to a fair trial. . . . In other words, an impropriety is an impropriety, regardless of its ultimate effect on the fairness of the trial. Whether that impropriety was harmful and thus caused or contributed to a due process violation involves a separate and distinct inquiry." (Citations omitted.) Id.

"The latter part of this two-pronged test is guided by the factors set forth in *State* v. *Williams*, [supra, 204 Conn. 540]." *State* v. *Gonzalez*, 338 Conn. 108, 125, 257 A.3d 283 (2021). These factors include "whether (1) the impropriety was invited by the defense, (2) the impropriety was severe, (3) the impropriety was frequent, (4) the impropriety was central to a critical issue in the case, (5) the impropriety was cured or ameliorated by a specific jury charge, and (6) the state's case against the defendant was weak due to a lack of . . . evidence." *State* v. *Fauci*, supra, 282 Conn. 51. The burden is on the defendant to establish that the complained of conduct was both improper and so egregious that it resulted in a denial of due process. See, e.g., *State* v. *Payne*, 303 Conn. 538, 562–63, 34 A.3d 370 (2012).

In this case, we need not decide whether the prosecutor's statements were improper because, even if they were, they did not deprive the defendant of a fair trial. See, e.g., *State* v. *Gibson*, 302 Conn. 653, 663 n.4, 31 A.3d 346 (2011) (noting that "this court occasionally

has skipped the first step of [the two step prosecutorial impropriety] analysis when . . . it was clear that there was no due process violation"). Although some of the *Williams* factors weigh in the defendant's favor, the fact that this case was tried to the court, not before a jury, is largely dispositive of the defendant's claim.[10] Here, the trier of fact expressly rejected the allegedly improper statements, and, as a result, we are provided with the requisite assurance that the defendant was not deprived of his right to a fair trial.

On appeal from a bench trial, there is a presumption that the court, acting as the trier of fact, considered only properly admitted evidence when it rendered its decision. See *State* v. *Ouellette*, 190 Conn. 84, 92, 459 A.2d 1005 (1983) (noting that "[i]n trials to the court, where admissible evidence encompasses an improper as well as a proper purpose, it is presumed that the court used [the evidence] only for an admissible purpose"); see also *State* v. *George A.*, 308 Conn. 274, 290, 63 A.3d 918 (2013). This principle is widely recognized by both federal and state courts. See, e.g., *Harris* v. *Rivera*, 454 U.S. 339, 346, 102 S. Ct. 460, 70 L. Ed. 2d 530 (1981) ("[i]n bench trials, judges routinely hear inadmissible evidence that they are presumed to ignore when making decisions"); see also *United States* v. *DNRB, Inc.*, 895 F.3d 1063, 1068 (8th Cir. 2018) ("we presume that a judge conducting a bench trial will use

[10] Although this factor is dispositive in the present case, it will not always be so. Prosecutorial impropriety of a particularly egregious nature could, under certain circumstances, significantly impact a trial court's consideration of the issues presented and, as a result, deprive a defendant of a fair trial. Indeed, in discussing the potential harm that improperly admitted evidence can have on the fairness of a civil bench trial, this court has previously noted that "[t]here may be instances where it is so unclear what effect the disputed evidence might have had, or where its prejudicial effect is so overwhelming, that the fair administration of justice requires a new trial." *Ghiroli* v. *Ghiroli*, 184 Conn. 406, 409, 439 A.2d 1024 (1981). The same is true in cases involving alleged prosecutorial impropriety, and, as such, each case must be decided on its specific facts.

evidence properly, mitigating any prejudice"); *United States* v. *Foley*, 871 F.2d 235, 240 (1st Cir. 1989) ("in criminal bench trials, absent an affirmative showing of prejudice, a trial court is presumed to have considered only admissible evidence in making its findings"); *United States* v. *Martinez*, 333 F.2d 80, 82 (2d Cir.) (noting that "when a case is tried without a jury, the error of admitting incompetent evidence will be regarded harmless, if it is rejected and excluded by the judge before the decision is made" (internal quotation marks omitted)), cert. denied, 379 U.S. 907, 85 S. Ct. 199, 13 L. Ed. 2d 178 (1964); *People* v. *Mascarenas*, 181 Colo. 268, 272, 509 P.2d 303 (1973) ("[i]t is presumed that a trial judge disregards incompetent evidence"); *Commonwealth* v. *Davis*, 491 Pa. 363, 372 n.6, 421 A.2d 179 (1980) ("[a] judge, as [fact finder], is presumed to disregard inadmissible evidence and consider only competent evidence").

Both federal and state courts have also applied the principles underlying this presumption in cases involving claims of prosecutorial impropriety during bench trials. In the absence of a showing of substantial prejudice, the trial court is presumed to have disregarded improper arguments or comments made by the prosecutor when rendering its decision. See, e.g., *United States* v. *Weldon*, 384 F.2d 772, 774 (2d Cir. 1967) ("appellate courts may presume that improper evidence *and* comments have been rejected when the trial is to the [c]ourt alone, at least absent a showing of substantial prejudice" (emphasis added)); see also *United States* v. *Preston*, 706 F.3d 1106, 1120 (9th Cir. 2013) ("[t]he risk of improperly influencing a judge by placing the prestige of the government in favor of or against a witness or swaying the judge with improper evidence is far less than in a jury trial"), rev'd in part on other grounds, 751 F.3d 1008 (9th Cir. 2014); *Liggett* v. *People*, 135 P.3d 725, 733–34 (Colo. 2006) (presuming that trial court did not "accord weight to the [prosecutor's] improper

statements in its decision" during bench trial); *State* v. *Smith*, 61 Ohio St. 3d. 284, 292, 574 N.E.2d 510 (1991) (holding that claim of prosecutorial impropriety lacked merit when trial was to court and presiding judge "affirmatively rejected the prosecutor's comments"), cert. denied, 502 U.S. 1110, 112 S. Ct. 1211, 117 L. Ed. 2d 449 (1992); *Commonwealth* v. *Harvey*, 514 Pa. 531, 537, 526 A.2d 330 (1987) ("we will not *assume* that a verdict rendered by a jurist was influenced by [the prosecutor's] extraneous prejudicial remarks and comments" (emphasis in original)).[11]

We conclude that this reasoning is persuasive and consistent with the law of our state. The well established presumption is based on our recognition that "an experienced trial judge . . . [is] not likely to be swayed" by improperly admitted evidence. *State* v. *George A.*, supra, 308 Conn. 290; see also *Doe* v. *Carreiro*, 94 Conn. App. 626, 640, 894 A.2d 993 (noting that, "in court trials, judges are expected, more so than jurors, to be capable of disregarding incompetent evidence"), cert. denied, 278 Conn. 914, 899 A.2d 620 (2006). We similarly recognize that trial judges, who, unlike jurors, are well versed in the rules that govern the arguments of counsel during a trial, are also less likely to be influenced by improper comments or arguments made by counsel during a bench trial.[12]

[11] Courts have recognized that this presumption can be overcome if the defendant can establish that the trial court was both influenced and prejudiced by the impropriety. See, e.g., *United States* v. *Stinefast*, 724 F.3d 925, 931 (7th Cir. 2013) ("[t]o overcome this presumption of conscientiousness on the part of [federal] district [court] judges, a party must present some evidence that the statement influenced the court's [decision making]"); see also *United States* v. *Weldon*, supra, 384 F.2d 774 ("appellate courts may presume that improper evidence and comments have been rejected when the trial is to the [c]ourt alone, at least absent a showing of substantial prejudice"). We have similarly recognized this principle in the purely evidentiary context. See *Ghiroli* v. *Ghiroli*, 184 Conn. 406, 408–409, 439 A.2d 1024 (1981).

[12] The Appellate Court has applied a similar concept, the broader presumption that the trial court did not act in error, to conclude that alleged prosecu-

In the present case, following defense counsel's objection to the prosecutor's remarks, the trial court acknowledged the concerns that motivated the objection and expressly stated that it would not consider the prosecutor's statements when rendering its decision. The trial court also noted that, had the prosecutor's comments been made during a jury trial, the court would have instructed the jurors that it was their recollection of the evidence that controlled and that they should disregard "anything that the lawyers say [that] is at odds with their recollection . . . ." When, as here, a trial court implicitly sustains an objection to a prosecutor's comment and expressly states that it will not consider the challenged comment when arriving at its decision, a defendant is unlikely to meet his burden of establishing that he was deprived of his right to a fair trial.[13] Given that the record in the present case is devoid of any evidence that the trial court failed to follow its own instructions, we conclude that the defendant has failed to meet this burden.

torial impropriety during a bench trial did not deprive a defendant of a fair trial. See, e.g., *State* v. *John M.*, 87 Conn. App. 301, 321 n.15, 865 A.2d 450 (2005) (citing *Carothers* v. *Capozziello*, 215 Conn. 82, 105, 574 A.2d 1268 (1990)), aff'd, 285 Conn. 822, 942 A.2d 323 (2008).

[13] The defendant argues that the trial court's express commitment to ignore the prosecutor's statement concerning Jackson's testimony was "inadequate to protect against" the prejudicial impact of the comment. According to the defendant, the prosecutor has "far more inherent credibility with the court than an average person," and, as a result, "[t]he trial court would be especially inclined to believe [the prosecutor's] assertions or recollection of . . . Jackson's statements than to believe . . . Jackson herself." We firmly reject the defendant's suggestion that the trained and experienced trial judge was incapable of acting as a fair and impartial finder of fact in the present case. In jury trials, we presume that the jury follows the curative instructions of the trial court regarding references by counsel to facts not in evidence. See, e.g., *State* v. *McCoy*, 331 Conn. 561, 573–74, 206 A.3d 725 (2019). "It would be anomalous . . . to hold that an experienced trial . . . judge cannot similarly disregard evidence that has not properly been admitted." *Ghiroli* v. *Ghiroli*, 184 Conn. 406, 408–409, 439 A.2d 1024 (1981); see also *Harris* v. *Rivera*, supra, 454 U.S. 346 ("surely we must presume that [trial judges] follow their own instructions when they are acting as [fact finders]").

Although the trial court's statements provide us with the requisite assurance that the defendant was not deprived of his right to a fair trial, we recognize that some of the *Williams* factors weigh in the defendant's favor. The state concedes in its brief that the prosecutor's comment was uninvited by the defendant and that our prior decisions have characterized cases that turn entirely on the credibility of the sexual assault complainant as "not particularly strong . . . ." See, e.g., *State* v. *Jones*, 320 Conn. 22, 45, 128 A.3d 431 (2015). We further acknowledge that the statement at issue relates directly to the credibility of R's testimony and is, as a result, central to a critical issue in the case. See *State* v. *Maguire*, 310 Conn. 535, 561–62, 78 A.3d 828 (2013). Finally, to the extent that the allegedly improper statement was not based on a reasonable inference from Jackson's testimony, it could be considered severe. See *State* v. *Singh*, 259 Conn. 693, 717–18, 793 A.2d 226 (2002).

Nevertheless, these factors are insufficient to establish that the prosecutor's single comment deprived the defendant of a fair trial under the circumstances. See *State* v. *Wilson*, 308 Conn. 412, 450, 64 A.3d 91 (2013) (noting that one *Williams* factor was "ultimately dispositive of the issue of harmfulness"); see also *State* v. *Pereira*, 72 Conn. App. 545, 563, 805 A.2d 787 (2002) (recognizing that *Williams* factors "are nonexhaustive, and do not serve as an arithmetic test for the level of prejudice flowing from misconduct"), cert. denied, 262 Conn. 931, 815 A.2d 135 (2003). As we discussed previously in this opinion, the trial court's statements in response to the prosecutor's remark, as well as the absence of any evidence that the trial court considered the remark when arriving at its decision, demonstrate that the finder of fact was uninfluenced by the alleged prosecutorial impropriety. The defendant's claim that he was deprived of a fair trial, therefore, fails.

III

We next address the defendant's two claims concerning the sufficiency of the evidence presented at trial. First, the defendant claims that he is entitled to a judgment of acquittal on all counts because the state's evidence was insufficient to prove that he engaged in the underlying criminal conduct described by R during her forensic interview and trial testimony. According to the defendant, no reasonable trier of fact could have found that he inappropriately touched R in 2015, because he presented three witnesses who contradicted R's testimony and "no witnesses confirmed [R's] allegations . . . ." Second, the defendant claims that the evidence was insufficient to establish that he acted with the specific intent necessary to be convicted of sexual assault in the fourth degree in violation of § 53a-73a (a) (1) (A). Specifically, the defendant argues that the evidence was insufficient to prove beyond reasonable doubt that he acted with the intent to degrade or humiliate R, or that he gained sexual gratification from engaging in the conduct in question. The state disagrees, arguing that the evidence presented at trial was sufficient to support the defendant's convictions. We agree with the state.

The following additional facts and procedural history are relevant to our consideration of the defendant's claims. At trial, the defendant testified on his own behalf and presented the testimony of his former girlfriend, Chantell Sinclair, and his sister, Claudia Smith. Both Sinclair and Smith testified that R experienced dry and irritated skin around her vaginal area. Sinclair specifically testified that on one occasion, R told her and the defendant that the skin around her vaginal area was "burning." According to Sinclair, the defendant supervised R as she cleaned herself, but he did not touch her directly. The defendant, in his testimony, denied inappropriately touching R in 2015, and accused both R and her mother of fabricating the allegations.

At the close of the state's case-in-chief, defense counsel moved for a judgment of acquittal on counts one through five, claiming that the state's evidence was insufficient to support a conviction of sexual assault in the first, third, or fourth degree.[14] The court granted the defendant's motion as to both counts of sexual assault in the third degree, counts two and three, and denied his motion as to the single count of sexual assault in the first degree, count one, and the two counts of sexual assault in the fourth degree, counts four and five.[15] At the close of evidence, defense counsel renewed the motion for a judgment of acquittal as to counts one, four, and five. The trial court again denied the motion.

In its oral decision, the trial court articulated its factual findings and identified the evidentiary basis for its verdict. The trial court began by noting that "the state has proven beyond a reasonable doubt that the defendant . . . did engage . . . in the behavior described by R in her testimony and in her forensic interview." In reaching this conclusion, the trial court stated that it "found R's account to be credible and . . . rejected the contrary testimony offered by the defendant . . . ." Relying on R's account of the defendant's conduct, the trial court concluded that the state's evidence was sufficient to establish the defendant's guilt beyond a reasonable doubt of sexual assault in the first degree, contained in count one, sexual assault in the fourth degree, contained in count four, and two counts of risk of injury to a child, contained in counts six and seven.

[14] Prior to closing arguments, defense counsel also moved for a judgment of acquittal on counts six and seven, arguing that the risk of injury statute was unconstitutionally vague as applied to the defendant's conduct. The court reserved ruling on the vagueness claim until after closing arguments. The defendant's constitutional vagueness claims are addressed subsequently in this opinion.

[15] Count four related to the defendant's contact with R's vagina and count five related to his contact with her breasts.

"In reviewing the sufficiency of the evidence to support a criminal conviction we apply a [two part] test. First, we construe the evidence in the light most favorable to sustaining the verdict. Second, we determine whether upon the facts so construed and the inferences reasonably drawn therefrom the [finder of fact] reasonably could have concluded that the cumulative force of the evidence established guilt beyond a reasonable doubt. . . .

"On appeal, we do not ask whether there is a reasonable view of the evidence that would support a reasonable hypothesis of innocence. We ask, instead, whether there is a reasonable view of the evidence that supports the [finder of fact's] verdict of guilty." (Citations omitted; internal quotation marks omitted.) *State* v. *Morgan*, 274 Conn. 790, 799–800, 877 A.2d 739 (2005); see also *State* v. *Rhodes*, 335 Conn. 226, 233, 249 A.3d 683 (2020) (noting that defendant asserting insufficiency claim "carries a difficult burden" (internal quotation marks omitted)).

Moreover, it is well established that "[w]e may not substitute our judgment for that of the [finder of fact] when it comes to evaluating the credibility of a witness. . . . It is the exclusive province of the [finder] of fact to weigh conflicting testimony and make determinations of credibility, crediting some, all or none of any given witness' testimony. . . . Questions of whether to believe or to disbelieve a competent witness are beyond our review." (Internal quotation marks omitted.) *State* v. *Andrews*, 313 Conn. 266, 323, 96 A.3d 1199 (2014).

We first consider the defendant's broad claim that the evidence was legally insufficient to sustain his conviction on all counts. In support of this claim, the defendant relies entirely on the fact that R's testimony was uncorroborated and was contradicted by three "third party witnesses . . . ." According to the defendant, the

sheer numerical superiority of contradictory testimony rendered the state's evidence insufficient as a matter of law. The defendant's claim is wholly without merit.

We have repeatedly recognized that "[t]he issue [of guilt] is not to be determined solely by counting the witnesses on one side or the other." (Internal quotation marks omitted.) *State* v. *Hodge*, 153 Conn. 564, 573, 219 A.2d 367 (1966); see also *State* v. *Nerkowski*, 184 Conn. 520, 525 n.5, 440 A.2d 195 (1981). The testimony of "a single witness is sufficient to support a finding of guilt beyond a reasonable doubt." *State* v. *Whitaker*, 215 Conn. 739, 757 n.18, 578 A.2d 1031 (1990). In sexual assault cases specifically, we have recognized that a victim's uncorroborated testimony, in and of itself, can be sufficient to establish a defendant's guilt. See, e.g., *State* v. *Stephen J. R.*, 309 Conn. 586, 595, 72 A.3d 379 (2013) ("it is well established that a victim's testimony need not be corroborated to be sufficient evidence to support a conviction"); see also *State* v. *Monk*, 198 Conn. 430, 433, 503 A.2d 591 (1986).

In the present case, the trial court credited R's testimony and discredited the contradictory testimony provided by the defendant, two of his former girlfriends, and his sister. The trial court made its credibility determination clear in its oral ruling, stating that it "found R's account to be credible and . . . rejected the contrary testimony offered by the defendant in his own testimony, by witnesses called by him, and in his cross-examination of other witnesses."[16] In crediting R's testimony and discrediting the testimony of other witnesses, the trial court acted within its authority as the trier of

[16] The trial court also "conclude[d] that the defendant has testified falsely in asserting that he did not engage in the conduct described by R that forms the factual basis of the allegations in this criminal proceeding. And having reached this conclusion that the defendant has testified falsely, it is proper for this court to carefully consider whether it should rely upon any of the defendant's testimony."

fact. See, e.g., *State* v. *DeMarco*, 311 Conn. 510, 519–20, 88 A.3d 491 (2014) ("[i]t is the exclusive province of the trier of fact to weigh conflicting testimony and make determinations of credibility" (internal quotation marks omitted)); see also *State* v. *Hodge*, supra, 153 Conn. 572–73. Because R's testimony was sufficient to support the trial court's conclusion that the defendant engaged in the underlying criminal conduct, the defendant's broad sufficiency claim fails. See, e.g., *State* v. *White*, 155 Conn. 122, 123, 230 A.2d 18 (1967) ("[t]he credibility to be accorded the testimony of the victim was for the [trier of fact] to determine and, if credible, her testimony was sufficient to establish the commission of the crime").

We next consider the defendant's claim that there was insufficient evidence to prove beyond a reasonable doubt that he acted with the intent necessary to be convicted of sexual assault in the fourth degree in violation of § 53a-73a (a) (1) (A). Under § 53a-73a (a), "[a] person is guilty of sexual assault in the fourth degree when . . . (1) [s]uch person subjects another person to sexual contact who is (A) under thirteen years of age and the actor is more than two years older than such other person . . . ." General Statutes § 53a-65 (3) defines "[s]exual contact" as "any contact with the intimate parts of a person for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person or any contact of the intimate parts of the actor with a person for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person." Section 53a-65 (8), in turn, defines "[i]ntimate parts" to include, inter alia, "the genital area . . . ." In the present case, the burden was, therefore, on the state to prove beyond a reasonable doubt that the defendant had contact with R's genital area for the purpose of sexual gratification or for the

purpose of degrading or humiliating her. See, e.g., *State* v. *Michael H.*, 291 Conn. 754, 760, 970 A.2d 113 (2009).

The defendant claims that the evidence presented at trial was insufficient to establish that he acted with the intent to degrade or humiliate R, or that he acted for the purpose of sexual gratification. Specifically, the defendant argues that the evidence presented demonstrates only that, if the conduct did occur, it was as a result of his concern for R's health. Based on our review of the record, we conclude that the evidence presented at trial was sufficient to support the trial court's conclusion that the defendant acted with the intent to degrade or humiliate R or acted for the purpose of sexual gratification.

It is well established that "[i]ntent may be, and usually is, inferred from the defendant's verbal or physical conduct. . . . Intent may also be inferred from the surrounding circumstances. . . . The use of inferences based on circumstantial evidence is necessary because direct evidence of the accused's state of mind is rarely available. . . . Intent may be gleaned from circumstantial evidence such as . . . the events leading up to and immediately following the incident. . . . Furthermore, it is a permissible, albeit not a necessary or mandatory, inference that a defendant intended the natural consequences of his voluntary conduct." (Internal quotation marks omitted.) *State* v. *Saez*, 115 Conn. App. 295, 302–303, 972 A.2d 277, cert. denied, 293 Conn. 909, 978 A.2d 1113 (2009); see also *State* v. *Lamantia*, 336 Conn. 747, 756–57, 250 A.3d 648 (2020).

In the present case, R's testimony alone was sufficient to support the trial court's conclusion that the defendant made contact with R's intimate parts for the purpose of degrading or humiliating her. See, e.g., *State* v. *Michael H.*, supra, 291 Conn. 760–61 (testimony of sexual assault victim provided "sufficient evidence that the

defendant had contact with the intimate parts of [the victim] for the purposes of sexual gratification"). As the trial court aptly noted in its decision, "[t]he evidence in this case proves that the defendant forced [R] to lie completely unclothed on his bed, sometimes with [the defendant's] girlfriends present, so that he, the defendant, could place his hands and a wash cloth in, and on, R's genital area, at times pulling apart R's external genitalia to look inside, knowing full well from [R's] words and actions that this conduct embarrassed her and that she wished for him to stop doing it." Viewing the evidence in a light most favorable to sustaining the verdict, we agree with the trial court and conclude that the defendant's physical conduct and his continued abuse of R, despite her repeated requests that he stop, supports a "reasonable and logical inference . . . that the defendant's touching of R was undertaken for the purpose of humiliating and degrading her." See, e.g., *State* v. *Michael H.*, supra, 760–61; see also *State* v. *McGee*, 124 Conn. App. 261, 263, 273, 4 A.3d 837 (evidence that defendant touched and twisted victim's breast during robbery was sufficient to support finding that defendant intended to degrade or humiliate victim), cert. denied, 299 Conn. 911, 10 A.3d 529 (2010), cert. denied, 563 U.S. 945, 131 S. Ct. 2114, 179 L. Ed. 2d 908 (2011); *In re Mark R.*, 59 Conn. App. 538, 542, 757 A.2d 636 (2000) (evidence that defendant attempted to pull down victim's pants and "smacked the victim's buttocks more than once . . . in a school hallway in front of several people . . . support[ed] a reasonable inference" that defendant intended to degrade or humiliate victim).

Moreover, we also conclude that the state's evidence was sufficient to support the trial court's finding that the defendant acted for the purpose of sexual gratification. In its decision, the trial court stated that the defendant's contact with R's vaginal area and his penetration

of R's vagina supported an inference that the defendant's conduct was "done for the defendant's sexual gratification . . . ." The court also noted that "the repeated and almost ritualistic nature of the defendant's conduct in this case makes an inference of sexual gratification a particularly reasonable one." Having reviewed the record, we agree with the trial court and conclude that R's trial testimony and forensic interview support a reasonable inference that the defendant engaged in the conduct in question for the purpose of sexual gratification. See *State* v. *Michael H.*, supra, 291 Conn. 760–61 (defendant's intent to commit sexually gratifying act was inferred in case in which defendant rubbed his hands over minor victim's genital area); *State* v. *Montoya*, 110 Conn. App. 97, 103, 954 A.2d 193 (defendant's touching of minor victim's vagina constituted evidence of intent to commit sexually gratifying act), cert. denied, 289 Conn. 941, 959 A.2d 1008 (2008); see also *State* v. *John O.*, 137 Conn. App. 152, 159, 47 A.3d 905, cert. denied, 307 Conn. 913, 53 A.3d 997 (2012).

For the foregoing reasons, we conclude that the evidence was sufficient to support the defendant's convictions.

IV

Finally, the defendant claims that the statutes criminalizing sexual assault in the first degree, § 53a-70 (a) (2), and risk of injury to a child, § 53-21 (a) (2), are unconstitutionally vague as applied to his conduct, in violation of his right to due process.[17] Specifically, the

[17] It is unclear if the defendant intended to raise his vagueness claim under both the state and federal constitutions. In one sentence in his brief, the defendant states that the relevant statutes are vague as applied to him "[e]ven under a strictly federal analysis . . . ." The defendant's brief is devoid of any reference to the state constitution, and defense counsel did not refer to a state constitutional claim during oral argument before this court. Given the defendant's failure to sufficiently allege a state constitutional claim under *State* v. *Geisler*, 222 Conn. 672, 685, 610 A.2d 1225 (1992), we only consider his federal constitutional vagueness claim. See, e.g., *State* v. *Wilchinski*, 242 Conn. 211, 217 n.7, 700 A.2d 1 (1997). We note, however,

defendant claims that neither statute provided him with adequate notice that the conduct underlying his convictions was criminal.[18] In support of his argument, the defendant contends that his conduct was the product of a good faith concern about R's hygiene and that no reasonable person could have been aware that the conduct was criminally prohibited. In response, the state argues that neither statute is unconstitutionally vague as applied to the defendant because the plain language of those statutes, coupled with relevant judicial decisions, provide fair and adequate notice that the defendant's conduct was criminal. The state also argues that the facts of this case demonstrate that the defendant had actual notice that his conduct was prohibited by statute. We agree with the state and conclude that neither statute is unconstitutionally vague as applied to the defendant's conduct because he had fair and

that "we have applied the same analysis to vagueness claims brought pursuant to both the state and the federal constitutions." *State* v. *Ward*, 306 Conn. 718, 742 n.15, 51 A.3d 970 (2012).

[18] "To demonstrate that [a statute] is unconstitutionally vague as applied to him, the [defendant must] . . . demonstrate beyond a reasonable doubt that [he] had inadequate notice of what was prohibited or that [he was] the victim of arbitrary and discriminatory enforcement." (Internal quotation marks omitted.) *State* v. *Winot*, 294 Conn. 753, 759, 988 A.2d 188 (2010). On a single page in his brief, the defendant appears to raise a claim under the second prong of the as applied vagueness test, that is, the guarantee against arbitrary and discriminatory law enforcement. In support of this claim, the defendant argues that the statutes at issue could criminalize otherwise innocent conduct, such as the medical examination of a child or the changing of an infant's diaper. To the extent that the defendant claims that he is a victim of arbitrary enforcement under the statutes, his claim fails. As we explain in greater detail subsequently in this opinion, the hypothetical applicability of these statutes to conduct unrelated to the defendant's own actions is irrelevant to our consideration of whether the statutes were unconstitutionally vague as applied to the defendant's conduct. See *State* v. *Josephs*, 328 Conn. 21, 31–32, 176 A.3d 542 (2018). Because the defendant fails to argue that *he* was the victim of arbitrary or discriminatory enforcement, we only consider his claim that the statutes were unconstitutionally vague as applied to his conduct because they failed to provide him with adequate notice that his conduct was criminally prohibited.

adequate notice that his conduct was criminally proscribed.

The following additional facts and procedural history are relevant to our consideration of the defendant's claim. Prior to closing arguments, defense counsel moved for a judgment of acquittal on the risk of injury charges in counts six and seven, arguing that § 53-21 (a) (1) and (2) were unconstitutionally vague as applied to the defendant's conduct. The trial court reserved ruling on the defendant's vagueness claim, and, following closing arguments, defense counsel extended the defendant's vagueness challenge to the first degree sexual assault charge under § 53a-70 (a) (2).

After rendering its verdict, the trial court denied the defendant's motions, reasoning that "the language of each of these statutes, either alone or in conjunction with judicial gloss already placed on certain portions of language in these statutes by the Connecticut courts, [put] the defendant . . . on notice that the particular behavior alleged in this case was prohibited, and, as to this particular behavior, the defendant was not at risk of being subject to standardless law enforcement." The trial court further noted that "[t]he defendant himself admitted in his testimony that he knew any touching of his daughter of the nature she described was inappropriate. In light of that admission and the facts presented in the case and found credible by the court, the court concludes that the defendant has failed to meet his heavy burden of demonstrating beyond a reasonable doubt that he had inadequate notice of what was prohibited or that he was the victim of arbitrary enforcement."[19]

[19] The trial court vacated the defendant's conviction on the seventh count of the information, which charged him with risk of injury to a child in violation of § 53-21 (a) (1), on double jeopardy grounds. The defendant's vagueness claim is, therefore, limited to his conviction on count one, under § 53a-70 (a) (2), and on count six, under § 53-21 (a) (2).

Before addressing the merits of the defendant's claim, we note the legal principles that guide our decision. "A party attacking the constitutionality of a validly enacted statute bears the heavy burden of proving its unconstitutionality beyond a reasonable doubt . . . [and we] indulge in every presumption in favor of the statute's constitutionality . . . ." (Citations omitted.) *State* v. *Floyd*, 217 Conn. 73, 79, 584 A.2d 1157 (1991). "The determination of whether a statutory provision is unconstitutionally vague is a question of law over which we exercise de novo review." *State* v. *Winot*, 294 Conn. 753, 758–59, 988 A.2d 188 (2010).

"The vagueness doctrine derives from two interrelated constitutional concerns. . . . First, statutes must provide fair warning by ensuring that [a] person of ordinary intelligence [has] a reasonable opportunity to know what is prohibited, so that he may act accordingly. . . . Second, in order to avoid arbitrary and discriminatory enforcement, statutes must establish minimum guidelines governing their application." (Citations omitted; internal quotation marks omitted.) *Board of Selectmen* v. *Freedom of Information Commission*, 294 Conn. 438, 458, 984 A.2d 748 (2010); see also *State ex rel. Gregan* v. *Koczur*, 287 Conn. 145, 156, 947 A.2d 282 (2008) ("[t]he void for vagueness doctrine embodies two central precepts: the right to fair warning of the effect of a governing statute . . . and the guarantee against standardless law enforcement" (internal quotation marks omitted)).

"For statutes that do not implicate the especially sensitive concerns embodied in the first amendment, we determine the constitutionality of a statute under attack for vagueness by considering its applicability to the particular facts at issue." (Internal quotation marks omitted.) *State* v. *Jones*, 215 Conn. 173, 180, 575 A.2d 216 (1990). To prevail on such a claim, the defendant must "demonstrate beyond a reasonable doubt that [he]

had inadequate notice of what was prohibited or that [he was] the victim of arbitrary and discriminatory enforcement. . . . If the meaning of a statute can be fairly ascertained a statute will not be void for vagueness since [m]any statutes will have some inherent vagueness, for [i]n most English words and phrases there lurk uncertainties. . . . References to judicial opinions involving the statute, the common law, legal dictionaries, or treatises may be necessary to ascertain a statute's meaning to determine if it gives fair warning." (Internal quotation marks omitted.) *State* v. *Winot*, supra, 294 Conn. 759.

"The proper test for determining [whether] a statute is vague as applied is whether a reasonable person would have anticipated that the statute would apply to his or her particular conduct. . . . The test is objectively applied to the actor's conduct and judged by a reasonable person's reading of the statute . . . . [O]ur fundamental inquiry is whether a person of ordinary intelligence would comprehend that the defendant's acts were prohibited . . . ." (Citation omitted; internal quotation marks omitted.) *State* v. *Bloom*, 86 Conn. App. 463, 469, 861 A.2d 568 (2004), cert. denied, 273 Conn. 911, 870 A.2d 1081 (2005); see also *State* v. *Pickering*, 180 Conn. 54, 61, 428 A.2d 322 (1980) (noting that "a penal statute may survive a vagueness attack solely upon a consideration of whether it provides fair warning").

In the present appeal, the defendant claims that both §§ 53a-70 (a) (2) and 53-21 (a) (1) are unconstitutionally vague as applied to his conduct because neither statute provided him with adequate notice that his conduct, as described by R, was criminally prohibited. We disagree and conclude that the language of both statutes and the relevant judicial decisions interpreting them provide a person of ordinary intelligence with fair notice that the digital penetration of a minor's vagina and the touch-

ing of a minor's vagina with a rag in a sexual and indecent manner are criminally prohibited.

As to the defendant's claim concerning his conviction of sexual assault in the first degree, § 53a-70 (a) (2) criminally prohibits a person from engaging "in sexual intercourse with another person . . . [who] is under thirteen years of age [when] the actor is more than two years older than such person . . . ." Section 53a-65 (2) defines "[s]exual intercourse" as, inter alia, "vaginal intercourse," and specifies that "[p]enetration, however slight, is sufficient to complete vaginal intercourse . . . ." In our prior decisions interpreting § 53a-70, we have recognized that "digital penetration . . . of the genital opening . . . is sufficient to constitute vaginal intercourse." (Emphasis omitted.) *State* v. *Albert*, 252 Conn. 795, 806–807, 750 A.2d 1037 (2000). The trial court in this case specifically concluded that "R's testimony . . . established that the defendant penetrated [her]." Furthermore, during her forensic interview, R stated that her vagina "ache[d] hard" as a result of the defendant's "dig[ging] through" the "deep dark" part. Given the plain language of § 53a-70 (a) (2), and the relevant judicial gloss that has been placed on that statute, we conclude that a person of ordinary intelligence would know that the defendant's digital penetration of R's vagina was criminally prohibited.

As to the risk of injury statute, § 53-21 (a) (2) prohibits "contact with the intimate parts . . . of a child under the age of sixteen years . . . in a sexual and indecent manner likely to impair the health or morals of such child . . . ." The definition of "[i]ntimate parts" contained in § 53a-65 (8) includes the "genital area . . . ." Our prior "opinions pursuant to § 53-21 make it clear that the deliberate touching of the private parts of a child under the age of sixteen in a sexual and indecent manner is violative of [the] statute." *State* v. *Pickering*, supra, 180 Conn. 64. In the present case, the trial court

expressly found that the defendant's conduct involved deliberate touching of this nature. In reaching this conclusion, the trial court reasoned: "[T]he touching by the defendant of R was sexual in nature . . . [and] indecent; that is, in doing what the defendant did to his ten year old daughter, the defendant engaged in conduct that is offensive to good taste and public morals. The court concludes that the defendant's touching of R was not innocent, was not accidental, and was not inadvertent."[20] As was the case in *Pickering*, "[t]his is not a situation where the state is holding an individual criminally responsible for conduct he could not reasonably understand to be proscribed." (Internal quotation marks omitted.) *State* v. *Pickering*, supra, 64–65. The defendant's conduct, as described by the trial court, falls well within the scope of § 53-21, and, as a result, the statute may be constitutionally applied to him.

For the foregoing reasons, we conclude that the defendant has failed to demonstrate that §§ 53a-70 (a) (2) and 53-21 (a) (1) do not provide fair warning that the digital penetration of a minor's vagina in a sexual and indecent manner is criminally prohibited. The defendant's constitutional vagueness claims, therefore, fail.

The judgment is affirmed.

In this opinion the other justices concurred.

[20] In support of his claim that he lacked adequate notice, the defendant contends that his conduct was based on "mistaken hygiene concerns," and, because he believed that his conduct was appropriate, he had no reason to suspect that he was engaging in a criminal act. The trial court, however, expressly rejected the defendant's argument that his conduct was motivated by an innocent desire to help R. In reaching this conclusion, the trial court found: "[T]he defendant was not acting under a mistaken belief or other excuse because he knew from doctors and [employees of the department] that what he was doing to R was inappropriate and not medically or hygienically justified when she was [three] years old and because he himself admitted in his testimony that he knew it would be wrong to do it when she was ten."

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Attorney discipline; challenge to reprimand of plaintiff by defendant Statewide Grievance Committee; whether rule 3.3 (a) (1) of Rules of Professional Conduct did not apply to plaintiff while acting as court-appointed trustee of estate; whether defendant's reviewing committee incorrectly concluded that amended final accounting submitted by plaintiff to Probate Court constituted false statement in violation of rule 3.3 (a) (1); whether evidence supporting conclusion that plaintiff violated rule 3.3 (a) (1) was sufficient to support conclusion that her conduct was dishonest in violation of rule 8.4 (3) of Rules of Professional Conduct.

Conklin *v.* Teachers Ins. Co. (Order) 907
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Personal injury; action pursuant to municipal defective highway statute (§ 13a-149) to recover for injuries plaintiff sustained in fall on sidewalk owned by city defendant; certification from Appellate Court; whether Appellate Court incorrectly concluded that trial court had improperly admitted into evidence, pursuant to statute (§ 52-174 (b)) setting forth medical treatment records exception to hearsay rule, treatment records and final report containing medical opinion on causation and extent of plaintiff's injuries when city was unable to cross-examine author of records and report; claim that medical report was not admissible because it was made in contemplation of litigation; Rhode *v.* Milla *(287 Conn. 731), and* Milliun *v.* New Milford *(310 Conn. 711), to extent they suggested that opportunity to cross-examine author of medical record prepared for purposes of diagnosis, treatment or care of patient is prerequisite for admission of such record, disavowed.*
Devine *v.* Fusaro (Order) 904
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Zoning; administrative appeals; subject matter jurisdiction; exhaustion of administrative remedies; certification from Appellate Court; claim that trial court improperly dismissed administrative appeals for lack of subject matter jurisdiction; whether Appellate Court incorrectly determined that city's zoning administrator had authority to determine that plaintiff property owner's application for special permit was void; whether plaintiff's consolidated appeals were moot; whether Appellate Court incorrectly determined that plaintiff was required to appeal from decision of city's zoning administrator purporting to void plaintiff's application for special permit.
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operation of law (§ 4-181a (a) (1)) through inaction by defendant, discussed; defendant's consideration of petition for reconsideration pursuant to § 4-181a (a) (2), discussed; whether plaintiff's appeal was timely filed pursuant to statute (§ 4-183 (c) (3)).

Noroton Heights Shopping Center, Inc. *v.* Phil's Grill, LLC (Order) 920

Nussbaum *v.* Dept. of Energy & Environmental Protection (Order) 915

O'Shea *v.* Scherban 775

Municipal elections; whether defendants, including various city election officials, were required to seat plaintiff as member of Board of Education of City of Stamford after city determined that vacant position on board had been included on November, 2020 election ballot in error and declined to credit election result; whether city was required to hold election in November, 2020, to fill vacancy on board for balance of vacated term; claim that term "biennial election" in provision (§ C1-80-2) of Stamford charter should be construed to mean "next town election"; claim that requirement of charter's savings provision (§ C1-40-2) that charter must be construed in harmony with state statutory law compelled conclusion that vacant board position was required to be filled at next city election; claim that various provisions in federal and state constitutions required city to hold election for vacant board position at next regularly scheduled city election; claim that city's failure to count and validate votes unconstitutionally disenfranchised plaintiff; claim that doctrine of municipal estoppel required defendants to count votes that were cast in election for vacant board position.

Reserve Realty, LLC *v.* BLT Reserve, LLC (Order) 902

Reserve Realty, LLC *v.* Windemere Reserve, LLC (Orders) 901, 903

Rockstone Capital, LLC *v.* Caldwell (Order) 914

State *v.* Alicea 385

Assault first degree; claim that jury's verdict of guilty of intentional assault and reckless assault was legally inconsistent; claim that state could not maintain on appeal that defendant's convictions were consistent on ground that state's theory of case at trial contemplated charges of intentional and reckless assault as alternatives.

State *v.* Arnold (Order) 904

State *v.* Bemer 528

Patronizing prostitute who was victim of human trafficking; conspiracy to commit trafficking in persons; appeal from trial court's order pursuant to statute (§ 54-102a (a) and (b)), in response to motions by state and certain of defendant's victims, requiring defendant to submit to examination for sexually transmitted diseases (STDs) and testing for presence of human immunodeficiency virus (HIV); whether trial court's order was appealable final judgment; whether defendant's conviction of charged crimes during pendency of appeal had bearing, jurisdictional or otherwise, on defendant's appeal; whether trial court abused discretion conferred on it by § 54-102a (b) in ordering defendant to submit to HIV testing; claim that trial court was obligated to adhere to requirement set forth in statute (§ 19a-582 (d) (8)) that it find, before ordering HIV testing, clear and imminent danger to public health or health of person and that person seeking testing of defendant has demonstrated compelling need for test result that cannot be accommodated by other means; whether issuance of order for HIV testing pursuant to § 54-102a (b) based solely on finding that conditions of that statute have been met violates defendant's right to be free from unreasonable searches and seizures under article first, § 7, of Connecticut constitution; claim that trial court must find, before issuing order for examination for STDs or HIV testing pursuant to § 54-102a, that there is probable cause to believe that defendant has STD or HIV.

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First degree sexual assault; risk of injury to child; prosecutorial impropriety; whether trial court improperly admitted evidence of victim's out-of-court demeanor; whether prosecutor engaged in improprieties during closing and rebuttal arguments; claim that prosecutor's comment that defendant displayed "lack of outrage" at sexual abuse allegations violated his right to confrontation and improperly appealed to jurors' emotions and passions; whether prosecutor's comment that defendant displayed "lack of outrage" referred to defendant's testimonial demeanor or his courtroom demeanor unrelated to his demeanor while testifying; claim that prosecutor improperly diluted presumption of innocence and infringed on defendant's right to testify by referring to his interest in outcome of case;

claim that prosecutor improperly expressed her personal opinion with respect to defendant's credibility by questioning inconsistencies in his testimony; claim that prosecutor's comments regarding victim's lack of motive to lie and testimonial demeanor were improper expressions of personal opinion; claim that prosecutor provided improper statement of law when she described reasonable doubt standard; whether prosecutor improperly mischaracterized evidence and risked diluting state's burden of proof by informing jury that victim's testimony was unchallenged and uncontroverted; whether prosecutorial improprieties deprived defendant of due process right to fair trial.

State *v.* Felimon C. (Order) 911

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State *v.* Griffin 631

Murder; attempt to commit robbery first degree; conspiracy to commit robbery first degree; criminal possession of firearm; claim that trial court improperly denied motion to suppress rifle found at defendant's residence on ground that it was illegally obtained during warrantless search, in violation of federal and state constitutions; whether trial court properly denied defendant's motion to suppress rifle based on independent source doctrine; claim that search warrant for defendant's residence was not supported by probable cause; claim that trial court improperly denied defendant's motion to suppress statements made during interrogation because they were not voluntary; whether certain coercive interrogation tactics, including questioning defendant while he was sleep-deprived, false evidence ploys, maximizing consequences of not confessing, threatening defendant's family with arrest, and suggesting that defendant's confession would be met with leniency had combined effect of overbearing defendant's will; whether this court should adopt prophylactic rule under state constitution that would require Connecticut trial courts to strongly consider whether coercive interrogation tactics raise questions about voluntariness of confession.

State *v.* Haughwout 747

Interfering with officer; disobeying direction of officer while increasing speed of motor vehicle in attempt to escape or elude; assault of peace officer; motion to suppress; claim that trial court improperly denied motion to suppress evidence; claim that court should have suppressed certain evidence relating to incident between defendant and police because that incident involved unconstitutional investigatory detention by police; claim that evidence was insufficient to support conviction with respect to counts charging defendant with assaulting peace officers; claims of instructional error.

State *v.* Mark T. 225

Risk of injury to child conviction in connection with incident in which defendant dragged his daughter down school hallway; defense of parental justification; whether Appellate Court correctly determined that trial court had not abused its discretion in precluding defendant, who represented himself at trial, from asking daughter's teacher, during cross-examination, whether she had ever seen daughter become physical with another person at school; whether trial court abused its discretion by limiting defendant's direct examination of himself, during which he sought to elicit his own testimony about information crucial to his parental justification defense; whether trial court's error was harmful.

State *v.* Marshall (Order) 912

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State *v.* Richards. 628

Murder; certification from Appellate Court; claim that evidence was insufficient to support defendant's conviction; whether Appellate Court properly upheld defendant's conviction; adoption of portion of Appellate Court's opinion addressing defendant's evidentiary insufficiency claim as proper statement of applicable law concerning that issue.

State *v.* Roy D. L. 820

Sexual assault first degree; sexual assault fourth degree; risk of injury to child; claim that trial court abused its discretion in admitting video recording of victim's forensic interview into evidence under medical treatment exception to hearsay rule; claim that defendant was deprived of fair trial insofar as prosecutor allegedly referred to facts not in evidence and commented on credibility of witness; whether evidence was sufficient to support defendant's conviction; claim that statutes criminalizing sexual assault in first degree and risk of injury to child were unconstitutionally vague as applied to defendant's conduct.

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Murder with special circumstances; unpreserved claim that trial court incorrectly instructed jury that, if it found that there was temporal nexus between murders, it could find that state had proven "in the course of a single transaction" element of murder with special circumstances; whether defendant implicitly waived unpreserved claim of instructional error under State *v.* Kitchens *(299 Conn. 447); whether defendant's claim of instructional error failed under third prong of* State *v.* Golding *(213 Conn. 233); whether trial court committed plain error by failing to provide jury, sua sponte, with special credibility instruction as to testimony of witness who defendant claimed was perpetrator of victims' murders; unpreserved claim that trial court violated defendant's constitutional rights to counsel and to present defense by precluding defense counsel from arguing during closing argument that absence of testimony from certain witness created reasonable doubt; whether trial court reasonably determined that defense counsel was making improper missing witness argument.*

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Strangulation second degree; assault third degree; unlawful restraint first degree; threatening second degree; certification from Appellate Court; whether Appellate Court correctly concluded that defendant's constitutional right to jury trial was not violated when trial court, rather than jury, determined that assault and unlawful restraint charges were not "upon the same incident" as strangulation charge for purposes of second degree strangulation statute (§ 53a-64bb (b)); claim that language in § 53a-64bb (b) prohibiting person from being found guilty of strangulation second degree "upon the same incident" as unlawful restraint or assault is element of second degree strangulation under Apprendi *v.* New Jersey *(530 U.S. 466) and its progeny that must be found by jury beyond reasonable doubt.*

State *v.* Williams (Order) 910

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Murder; criminal possession of pistol or revolver; carrying pistol without permit; affirmative defense of mental disease or defect; whether Appellate Court correctly concluded that trial court had reasonably rejected defendant's defense of mental disease or defect and opinions of defendant's experts relating to that defense.

Thornton *v.* Jacobs 495

Motion to quash; whether plaintiffs' withdrawal of subpoena to depose defendant rendered moot defendant's appeal to this court from judgment of Appellate Court dismissing as frivolous her appeal from trial court's denial of her motion to quash subpoena; whether vacatur of Appellate Court's judgment was appropriate when defendant, through no fault of her own, was unable to obtain judicial review of Appellate Court's judgment.

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Foreclosure; strict foreclosure; motion to open judgment; dismissal of appeal as moot; certification from Appellate Court; claim that trial court incorrectly concluded that it was precluded by statute (§ 49-15) from opening judgment of strict foreclosure after law day had passed and title had become absolute in plaintiff bank; whether trial court had jurisdiction to open judgment of strict foreclosure when defendant raised equitable grounds involving alleged misrepresentations by plaintiff's loan servicer; whether Appellate Court properly dismissed defendant's appeal as moot in light of equitable nature of defendant's claims; whether trial court abused its discretion in denying defendant's motion to open judgment.

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Tax appeals; imposition of tax penalties pursuant to statute (§ 12-63c (d)) for plaintiffs' failure to timely submit certain annual income and expense reports required by assessor of defendant town; certification from Appellate Court; whether Appellate Court correctly determined that assessor improperly imposed late filing penalties on plaintiffs pursuant to § 12-63c (d) after taking and subscribing to oath upon grand list; whether penalties imposed under § 12-63c (d) are required by law; whether term "assessment" in statute (§ 12-55 (b)) directing assessor to make any assessment omitted by mistake or required by law prior

to signing grand list must be read to include penalties imposed under § 12-63c (d); whether assessor lacked authority to impose penalties under statute (§ 12-60) applicable to correction of clerical errors or mistakes.
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CONNECTICUT APPELLATE REPORTS

Vol. 208

CASES ARGUED AND DETERMINED

IN THE

APPELLATE COURT

OF THE

STATE OF CONNECTICUT

IN RE YASSELL B.*
(AC 44478)

Prescott, Alexander and DiPentima, Js.

Syllabus

The petitioner, the Commissioner of Children and Families, filed a neglect petition and a motion for an order of temporary custody, alleging that the respondent mother had abused her minor child. The respondent father, B, who was divorced from the mother, was named as the father on the child's birth certificate, and the child was identified in the dissolution judgment rendered in New York as a child of the respondents' marriage. C claimed to be the child's father, and the commissioner filed a motion

* In accordance with the spirit and intent of General Statutes § 46b-142 (b) and Practice Book § 79a-12, the names of the parties involved in this appeal are not disclosed. The records and papers of this case shall be open for inspection only to persons having a proper interest therein and upon order of the Appellate Court.

to adjudicate the paternity of the child. Although a previous paternity test had indicated a 99.99 percent probability that C was the child's father, the New York family court, which was not presented with the results of that test, dismissed an action C brought to establish his paternity of the child, thereby leaving in place the dissolution court's adjudication that the child was a child of the respondents' marriage. The court here issued a ruling on the commissioner's motion to adjudicate paternity, concluding that the paternity determinations by the state of New York should be afforded full faith and credit and declining to disturb the New York findings that B was the child's father. The court also determined that C was not the child's legal father and dismissed C as a party to the neglect proceeding, after which the court adjudicated the child as abused and ordered a period of protective supervision. C thereafter appealed to this court. During the pendency of C's appeal, the underlying neglect proceeding was resolved, the child was returned to the mother and the period of protective supervision expired. *Held* that C's appeal was dismissed as moot, as there was no actual controversy from which the adjudication of the child's paternity would afford C any practical relief: the trial court addressed the issue of paternity only to determine which parties had cognizable interests at stake in the neglect proceeding, and, in light of the termination of that proceeding, no orders would be issued that could affect C's alleged interest in or relationship to the child; moreover, vacatur of the paternity judgment was appropriate, as C did not cause the appeal to become moot through any voluntary action, he was not permitted to participate in the neglect proceeding after the court ruled on the motion to adjudicate the child's paternity, and it would be unfair to bind him to a judgment that he challenged but, through no fault of his own, could not contest; furthermore, vacatur was appropriate to prevent legal consequences from spawning as a result of the court's determination to afford the New York paternity adjudications full faith and credit as well as the court's conclusion that C is not the legal father of the child.

Argued September 9—officially released November 22, 2021**

Procedural History

Petition by the Commissioner of Children and Families to adjudicate the respondents' minor child abused, brought to the Superior Court in the judicial district of New Britain, Juvenile Matters, where the court, *Huddleston*, *J.*, denied the motion of Carlos G. to intervene; thereafter, the court issued a ruling on the petitioner's

** November 22, 2021, the date that this decision was released as a slip opinion, is the operative date for all substantive and procedural purposes.

motion to adjudicate the paternity of the minor child; subsequently, the respondent mother was presented to the court on a plea of nolo contendere to the charge of abuse; thereafter, the court adjudicated the minor child as abused and issued an order of protective supervision, and Carlos G. appealed to this court. *Appeal dismissed*; *judgment vacated.*

James P. Sexton, assigned counsel, with whom was *John R. Weikart*, assigned counsel, for the appellant (Carlos G.).

Joshua D. Michtom, assistant public defender, for the appellee (respondent father Daniel B.).

John E. Tucker, assistant attorney general, with whom, on the brief, were *William Tong*, attorney general, *Clare E. Kindall*, solicitor general, and *Evan M. O'Roark*, assistant attorney general, for the appellee (petitioner).

Opinion

PER CURIAM. In this neglect proceeding, Carlos G. appeals from the judgment of the trial court on the motion to adjudicate the paternity of Yassell B. filed by the petitioner, the Commissioner of Children and Families (commissioner), in which the court determined that he was not the legal father of Yassell and dismissed him as a party to the neglect proceeding.[1]

[1] At the outset, we note that the court's paternity determination constitutes an appealable final judgment. "The right of appeal is purely statutory. It is accorded only if the conditions fixed by statute and the rules of court for taking and prosecuting the appeal are met. . . . Because our jurisdiction over appeals, both criminal and civil, is prescribed by statute, we must always determine the threshold question of whether the appeal is taken from a final judgment before considering the merits of the claim." (Citation omitted; internal quotation marks omitted.) *In re Marcquan C.*, 202 Conn. App. 520, 528, 246 A.3d 41, cert. denied, 336 Conn. 924, 246 A.3d 492 (2021). In *State* v. *Curcio*, 191 Conn. 27, 463 A.2d 566 (1983), our Supreme Court articulated the standard for determining when an otherwise interlocutory order is immediately appealable. It permits appeals from such orders "in two circumstances: (1) where the order or action terminates a separate and distinct proceeding, or (2) where the order or action so concludes the rights of the parties that further proceedings cannot affect them." Id., 31.

On appeal, Carlos G. claims that the trial court improperly (1) afforded full faith and credit to the prior judgments regarding paternity rendered in New York (New York judgments), (2) applied the doctrines of res judicata and collateral estoppel to give the New York judgments preclusive effect, and (3) concluded that it was in the best interest of Yassell that the respondent Daniel B. remain the legal father of Yassell. Before this court, Daniel B. argued that the appeal has become moot due to the resolution of the underlying child protection action, which included a motion for an order of temporary custody and a neglect petition alleging that Yassell had been abused by the respondent Matilde F. We ordered the parties to submit supplemental briefs specifically addressing whether (1) Carlos G.'s claim was moot due to the resolution of the underlying child protection action and (2) vacatur of the paternity determination would be an appropriate remedy. After considering the parties' supplemental briefs and the record in this case, we conclude that Carlos G.'s claim is moot and vacatur is appropriate.

The following facts, as found by the trial court, and procedural history are relevant. The respondents, Matilde F. and Daniel B., "were married for a number of years and resided in New York. They have a daughter, Shairi, who was born in 2005. Yassell was born in 2011,

Applying the second *Curcio* prong in *Madigan* v. *Madigan*, 224 Conn. 749, 620 A.2d 1276 (1993), our Supreme Court held that "a temporary order of custody is a final judgment for the purpose of an immediate appeal because a parent's custodial rights during the course of dissolution proceedings cannot otherwise be vindicated at any time, in any forum." Id., 754–55. In the present case, upon the court's paternity determination, Carlos G. was dismissed from the neglect proceeding. Following the court's order, he was unable to assert rights that would have been afforded him had he remained a party to that action and those rights were concluded so that further proceedings could not affect them. Thus, an immediate appeal was the only reasonable method of ensuring that the important rights surrounding his parent-child relationship were adequately protected. See id., 757.

while [Matilde F.] and [Daniel B.] were married. [Daniel B.] is named as father on Yassell's birth certificate. . . . On October 12, 2012, [Matilde F.] and [Daniel B.] were divorced. The judgment of divorce issued by the New York Supreme Court . . . identified Shairi and Yassell as the 'children of the marriage' and awarded sole custody to [Matilde F.]. [Daniel B.] was awarded reasonable rights of visitation and ordered to pay child support for the two children . . . .

"In June, 2015, a DNA [paternity] test was conducted by [Laboratory Corporation of America] in Hempstead, N.Y. . . . The report states that [Carlos G.] and Yassell were tested on June 2, 2015, and the results rendered on June 10, 2015, indicate a 99.99 percent probability that [Carlos G.] is Yassell's father.

"On April 4, 2016, [Carlos G.] commenced a paternity action in New York Family Court, seeking to establish his paternity of Yassell. According to the 'Decision and Order after Fact Finding' rendered in that proceeding . . . a hearing was conducted on [Carlos G.'s] petition . . . ." In that proceeding, DNA evidence of paternity was not presented to the court for its consideration. "At the conclusion of the hearing, based on the application of New York statutes and the court's findings as to the credibility of witnesses, the court found that [Carlos G.] had failed to meet his burden of proof because he failed to present clear and convincing evidence to rebut the presumption of legitimacy. The court dismissed [Carlos G.'s] paternity petition, leaving in effect the adjudication of the New York Supreme Court that Yassell was a 'child of the marriage' of [the respondents]."

In 2017, Matilde F., Shairi and Yassell moved to Connecticut where they lived with Carlos G. On September 18, 2020, the commissioner instituted the underlying

neglect action by filing a motion for an order of temporary custody and a petition alleging that Matilde F. had abused Yassell. The court, *C. Taylor*, *J.*, granted the commissioner's motion and vested temporary custody of Yassell in the commissioner. On September 25, 2020, the trial court, *Huddleston*, *J.*, held a preliminary hearing on the order of temporary custody, at which both Carlos G. and Daniel B. appeared and claimed to be the father of Yassell. On September 29, 2020, the commissioner filed a motion to adjudicate paternity of Yassell. The commissioner argued that paternity should be determined prior to addressing the merits of the contested order of temporary custody to determine who should participate in that proceeding. During the pendency of the neglect proceeding, both the respondents, Matilde F. and Daniel B., and Carlos G. had weekly supervised visits with Yassell.

The court held a hearing on the commissioner's motion to adjudicate paternity on September 30 and November 9 and 23, 2020. On November 25, 2020, the court issued its ruling on the motion to adjudicate paternity. The court concluded that the "paternity determinations by the state of New York should be afforded full faith and credit[2] and that the New York findings that [Daniel B.] is Yassell's father should not be disturbed." (Footnote added.) The court also concluded, in the alternative, that, even if it did not give the New York paternity adjudication full faith and credit, "the court finds that it is in Yassell's best interest to preserve the parent-child relationship with [Daniel B.] that has existed since his birth. . . . [Carlos G.] is hereby dismissed as a party to the proceeding." This appeal followed.

[2] The full faith and credit clause of the constitution of the United States, article four, § 1, requires that the judicial proceedings of a state be given full faith and credit in every other state. "The judgment rendered in one state is entitled to full faith and credit only if it is a final judgment . . . ." (Internal quotation marks omitted.) *Krueger* v. *Krueger*, 179 Conn. 488, 490, 427 A.2d 400 (1980).

Additionally, on November 25, 2020, the trial court accepted the plea of nolo contendere entered by Matilde F. to the allegations of abuse and adjudicated Yassell as abused and ordered a period of protective supervision, which terminated on March 25, 2021. Hence, during the pendency of this appeal, the underlying neglect proceeding was resolved and Yassell was returned to the custody of Matilde F. Having considered the entirety of the record, including the supplemental briefs of the parties, we conclude that Carlos G.'s claim is moot.

"Mootness is a question of justiciability that must be determined as a threshold matter because it implicates [a] court's subject matter jurisdiction. . . . [A]n actual controversy must exist not only at the time the appeal is taken, but also throughout the pendency of the appeal. . . . When, during the pendency of an appeal, events have occurred that preclude an appellate court from granting any practical relief through its disposition of the merits, a case has become moot." (Internal quotation marks omitted.) *In re Naomi W.*, 206 Conn. App. 138, 143, 258 A.3d 1263, cert. denied, 338 Conn. 906, 258 A.3d 676 (2021). "It is a [well settled] general rule that the existence of an actual controversy is an essential requisite to appellate jurisdiction; it is not the province of appellate courts to decide moot questions, disconnected from the granting of actual relief or from the determination of which no practical relief can follow." (Internal quotation marks omitted.) *In re Forrest B.*, 109 Conn. App. 772, 775, 953 A.2d 887 (2008).

We conclude that the appeal before us is moot because there is no actual controversy from which this court can grant any practical relief to Carlos G. Carlos G.'s appeal of the trial court's determination of paternity arose out of a neglect proceeding. The court addressed the issue of paternity only in order to determine which parties had cognizable interests at stake in that proceeding. During the pendency of this appeal, however, the

underlying neglect proceeding was resolved. Yassell has been returned to the custody of his mother, Matilde F., and the period of protective supervision has expired. As a result, adjudicating the paternity of Yassell *in the context of this case* will afford Carlos G. no practical relief because, in light of the termination of this neglect proceeding, no orders will be issued that could affect Carlos G.'s alleged interest in or relationship to Yassell. Thus, there is no actual controversy from which this court can grant practical relief. See *In re Alba P.-V.*, 135 Conn. App. 744, 746–47, 42 A.3d 393 (dismissing appeal as moot when, during pendency of appeal from trial court's judgment adjudicating children neglected and ordering period of protective supervision, period of protective supervision expired), cert. denied, 305 Conn. 917, 46 A.3d 170 (2012).

Having concluded that this appeal is moot, we next must determine whether vacatur of the underlying Connecticut paternity judgment is appropriate. "Vacatur is commonly utilized . . . to prevent a judgment, unreviewable because of mootness, from spawning any legal consequences. . . . In determining whether to vacate a judgment that is unreviewable because of mootness, the principal issue is whether the party seeking relief from [that] judgment . . . caused the mootness by voluntary action. . . . A party who seeks review of the merits of an adverse ruling, but is frustrated by the vagaries of circumstance, ought not in fairness be forced to acquiesce in the judgment. . . . The same is true when mootness results from unilateral action of the party who prevailed below. . . . Nevertheless, our law of vacatur, though scanty . . . recognizes that [j]udicial precedents are presumptively correct and valuable to the legal community as a whole. They are not merely the property of private litigants and should stand unless a court concludes that the public interest would

be served by a vacatur. . . . Thus, [i]t is the [appellant's] burden, as the party seeking relief from the status quo of the [trial court] judgment, to demonstrate . . . equitable entitlement to the extraordinary remedy of vacatur." (Internal quotation marks omitted.) *Thornton* v. *Jacobs*, 339 Conn. 495, 502, A.3d (2021); see also *In re Emma F.*, 315 Conn. 414, 430–31, 107 A.3d 947 (2015).

It is clear that Carlos G. did not cause this appeal to become moot through any voluntary action. After the court issued its ruling on the commissioner's motion to adjudicate the paternity of Yassell, Carlos G. was not permitted to participate in the underlying neglect action and took no further part in those proceedings. Vacatur is appropriate to prevent legal consequences from spawning as a result of the trial court's determination that the New York judgment should be afforded full faith and credit and its ultimate conclusion that Carlos G. is not the legal father of Yassell.[3] In this appeal,

[3] We recognize that there are instances in which both our Supreme Court and this court have declined to use the remedy of vacatur to vacate the judgment of a trial court, stating that a trial court's decision is not binding precedent. See *In re Emma F.*, supra, 315 Conn. 433; *In re Angela V.*, 204 Conn. App. 746, 760–62, 254 A.3d 1042, cert. denied, 337 Conn. 907, 252 A.3d 365 (2021). However, on the basis of these facts and circumstances, vacatur of the trial court's judgment will ensure Carlos G. is not precluded from relitigating the issues raised in this appeal should he want to do so in the future. See *State* v. *Charlotte Hungerford Hospital*, 308 Conn. 140, 146 and n.8, 60 A.3d 946 (2013) (vacating decisions of appellate and trial courts and stating that "[v]acatur of the trial court judgment will further aid in the antipreclusionary aspect of the vacatur remedy"); *Private Healthcare Systems, Inc.* v. *Torres*, 278 Conn. 291, 304, 898 A.2d 768 (2006) ("Once we pass from the issue of mootness to the issue of remedy, we still may encounter some lingering though remote possibility of residual collateral harm . . . . Recourse to the equitable tradition of vacatur may be warranted, then, partly because it eliminates that possibility altogether. . . . [Thus] [i]t may . . . be speculative whether leaving the [judgment] standing could cause some residual harm, but vacating the [judgment] puts the speculation to rest." (Internal quotation marks omitted.)), quoting *American Family Life Assurance Co. of Columbus* v. *Federal Communications Commission*, 129 F.3d 625, 631 (D.C. Cir. 1997).

Carlos G. has argued that the court's conclusions regarding these issues were improper. Therefore, because we substantively will not address a moot issue, we conclude that it would be unfair to Carlos G. to bind him to a judgment that he has challenged but, through no fault of his own, cannot contest. See *Private Healthcare Systems, Inc.* v. *Torres*, 278 Conn. 291, 304, 898 A.2d 768 (2006). Accordingly, we conclude that vacatur of the court's paternity decision is appropriate in this circumstance.

The appeal is dismissed and the judgment of the trial court regarding the paternity of Yassell B. is vacated.

STATE OF CONNECTICUT *v.* ANDRES C.*
(AC 43081)

Moll, Alexander and DiPentima, Js.**

Syllabus

Convicted of the crimes of sexual assault in the third degree and risk of injury to a child, the defendant appealed to this court. The defendant's conviction stemmed from his sexual abuse of the minor victim, his niece. Before trial, the court granted the state's motion to allow the introduction of uncharged misconduct evidence, specifically, evidence regarding the defendant's sexual abuse of the victim's cousin, D. At trial, the victim testified, inter alia, that she maintained certain journals, which related to her abuse, and the court declined to allow the defendant access to the journals. The prosecutors assigned the task of reviewing the journals for exculpatory material, which were handwritten in Spanish, to a bilingual investigator in their office. The court indicated that it would conduct

* In accordance with our policy of protecting the privacy interests of victims of sexual assault, we decline to use the defendant's full name or to identify the victim or others through whom the victim's identity may be ascertained. See General Statutes § 54-86e.

** This case originally was argued before a panel of this court consisting of Judges Moll, Alexander, and Devlin. Thereafter, Judge Devlin retired from this court and did not participate in the consideration of this decision. Judge DiPentima was added to the panel, and she has read the briefs and appendices and has listened to a recording of the oral argument prior to participating in this decision.

an in camera review of any materials that might be exculpatory, and defense counsel did not challenge this procedure. *Held*:

1. The defendant could not prevail on his claim that the trial court improperly admitted uncharged misconduct evidence.

a. This court declined to review the defendant's claim that the trial court erred in permitting the state to present uncharged misconduct evidence regarding the sexual abuse of D to show his propensity for such acts, because the court ultimately admitted this evidence for a limited purpose, namely, as an explanation for the victim's delayed disclosure of the abuse, and not to establish the defendant's propensity to commit such acts.

b. The trial court properly denied the defendant's motion to strike the testimony regarding the uncharged misconduct evidence after the prosecutors declined to call D as a witness: the evidence was admitted only for the purpose of explaining the victim's delay in disclosing her own sexual abuse by the defendant, the evidence did not have only minimal probative value as the victim testified that she delayed disclosing her abuse after she learned of the defendant's abuse of D and observed the subsequent shunning of D and D's mother by her family, and her testimony was not cumulative of expert testimony presented on delayed disclosure; moreover, contrary to the defendant's claim, the trial judge, as the finder of fact, was not prejudiced after hearing of the defendant's sexual abuse of D and was not unable to limit consideration of this evidence to the sole purpose for which it had been admitted, the defendant having failed to point to anything in the record to overcome the presumption that the court, as the trier of fact, considered only properly admitted evidence when it rendered its decision.

2. The defendant's claim that his right to a fair trial was violated by prosecutorial impropriety was unavailing: although the prosecutor erred in her consideration of what was necessary for uncharged misconduct to be admitted into evidence, the defendant neither demonstrated the lack of a good faith basis by the prosecutor nor showed that his right to a fair trial was violated, the defendant failed to establish a lack of a good faith basis with respect to the prosecutor's attempt to admit the defendant's guilty plea relating to the case involving D.C. pursuant to *North Carolina* v. *Alford* (400 U.S. 25), and the prosecutor's efforts to admit constancy testimony did not raise to the level of impropriety.

3. The trial court properly denied the defendant access to the victim's journals.

a. The defendant's claim that he was entitled to review the victim's journals because she had reviewed them prior to her testimony was unavailing: the court considered the private nature of the journals, that the victim reviewed only a few pages of the journals before testifying, and that the state had been reviewing the journals for exculpatory material, and, thus, its decision was neither so arbitrary as to vitiate logic nor based on improper or irrelevant factors.

b. The defendant waived the claim that he was entitled to the contents of the victim's journals because they constituted a statement pursuant to the rules of practice (§§ 40-13A and 40-15 (1)): defense counsel agreed to the procedure to be used in the review of, and the potential disclosure of, the contents of the journals, specifically, the prosecutors' review of the journals for exculpatory material and to the court's in camera review of any exculpatory material, and, having agreed to this procedure before the trial court, the defense cannot now challenge that procedure.

4. The defendant could not prevail on his unpreserved claim that his rights under *Brady* v. *Maryland* (373 U.S. 83) were violated, which was based on his claim that the prosecutors were required to personally review the victim's journals for exculpatory information and that this task could not have been delegated to a nonlawyer member of their office: although, ultimately, the obligation for complying with *Brady* rests with the prosecutor, it does not follow that the personal review of items such as the victim's journals by a prosecutor is constitutionally required.

Argued March 1—officially released November 30, 2021

Procedural History

Substitute information charging the defendant with the crimes of sexual assault in the third degree, sexual assault in the fourth degree, and risk of injury to a child, brought to the Superior Court in the judicial district of New Haven and tried to the court, *Alander*, *J.*; judgment of guilty of sexual assault in the third degree and risk of injury to a child, from which the defendant appealed to this court. *Affirmed*.

Richard Emanuel, for the appellant (defendant).

Matthew A. Weiner, assistant state's attorney, with whom, on the brief, were *Patrick J. Griffin*, state's attorney, and *Mary A. SanAngelo* and *Brian K. Sibley, Sr.*, senior assistant state's attorneys, for the appellee (state).

Opinion

ALEXANDER, J. The defendant, Andres C., appeals from the judgment of conviction, rendered after a court trial, of sexual assault in the third degree in violation of General Statutes § 53a-72a (a) (1) and risk of injury to a child in violation of General Statutes § 53-21 (a)

(2). On appeal, the defendant claims that (1) the court improperly admitted uncharged misconduct evidence, (2) his right to a fair trial was violated by prosecutorial impropriety, (3) the court improperly denied him access to the victim's journals, and (4) his rights under *Brady* v. *Maryland*, 373 U.S. 83, 87, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1983), were violated.[1] We disagree and, accordingly, affirm the judgment of the trial court.

The following facts, as the court reasonably could have found, and procedural history are relevant to the resolution of this appeal. When she was ten years old, the victim, along with her mother and siblings, moved into her grandmother's home. Shortly thereafter, the defendant, the victim's uncle, moved in. At some point, during the time that the victim and the defendant were living at the grandmother's house, the defendant came out of the shower dressed only in a towel and took the victim into his bedroom. The defendant removed his towel, lay upright on the bed, and had the victim apply lotion to his penis and masturbate him. After the defendant ejaculated, he directed the victim to wash her hands. This type of abuse occurred more than ten times over the next two years while the victim lived at her grandmother's house and continued after she had moved to another house.

[1] The defendant also claims that his waiver of a jury trial was not made knowingly, intelligently, and voluntarily, and, therefore, that he was denied his federal and state constitutional rights to a jury trial. Specifically, he contends that the trial court failed to inform him that, at a jury trial, he would have the opportunity to participate in the jury selection process. The defendant concedes, however, that our Supreme Court previously has rejected such a claim. See *State* v. *Ouellette*, 271 Conn. 740, 747–58, 859 A.2d 907 (2004); *State* v. *Cobb*, 251 Conn. 285, 374, 743 A.2d 1 (1999), cert. denied, 531 U.S. 841, 121 S. Ct. 106, 148 L. Ed. 2d 64 (2000). He further recognizes that, as an intermediate appellate court, we are bound by those decisions. See, e.g., *State* v. *Corver*, 182 Conn. App. 622, 638 n.9, 190 A.3d 941, cert. denied, 330 Conn. 916, 193 A.3d 1211 (2018). The defendant, therefore, has briefed this claim only to preserve it for further review before our Supreme Court or the United States Supreme Court. We, therefore, need not address it.

The victim described other instances of inappropriate behavior by the defendant. On one occasion, the defendant, while dressed only in boxer shorts, went into the victim's bedroom, got under the covers with her, and rubbed the victim's stomach and legs under her shirt and pajama bottoms. After the victim had moved to another house, she would, on occasion, sleep over at her grandmother's home. During several of these occasions, the defendant got into bed with the victim and rubbed himself against her so that she felt his penis against her back.

A few years later, the then sixteen year old victim began speaking with a therapist, and she disclosed the sexual abuse during her first session. At a therapy session attended by her mother and brother, the victim disclosed the sexual abuse by the defendant. Thereafter, on October 28, 2015, the victim reported the defendant's conduct to the police. The defendant was arrested in March, 2016.

In an information filed on February 7, 2019, the state charged the defendant with sexual assault in the third degree, sexual assault in the fourth degree, and risk of injury to a child. After trial, the court, *Alander*, *J.*, found the defendant guilty of sexual assault in the third degree and risk of injury to a child and not guilty of sexual assault in the fourth degree. The court imposed a total effective sentence of twenty years of incarceration, execution suspended after twelve years, and fifteen years of probation. This appeal followed.

I

The defendant first claims that the court improperly admitted uncharged misconduct evidence that he also had sexually abused the victim's cousin, D. The defendant has presented two distinct arguments with respect to this claim. First, he argues that the court erred in its preliminary decision to permit the state to present

evidence regarding D to show the defendant's propensity for such acts. Second, he contends that the court improperly denied his motion to strike all of the testimony regarding this uncharged misconduct after the prosecutors did not call D as a witness. We are not persuaded.

The following additional facts are necessary for our discussion. Approximately one week before the trial was to begin, the state filed a motion to allow the introduction of uncharged misconduct evidence pursuant to § 4-5 (b) of the Connecticut Code of Evidence.[2] In this motion, the state indicated that this uncharged misconduct evidence consisted of the victim's testimony that, in 2009, she learned that the defendant had sexually abused D over a period of time. The state represented that the victim would testify as to the reactions of her family with respect to D's disclosure and how that impacted her decision to report her own abuse. The state also indicated that D would testify as to the details of the sexual abuse. According to the state's motion, "[s]aid evidence will be offered to prove intent, identity, absence of mistake or accident, a system of criminal activity or to corroborate crucial prosecution testimony." On the first day of the trial, the defendant filed an objection to the state's motion to present uncharged misconduct evidence.

Prior to the start of evidence, the court heard argument regarding the uncharged misconduct evidence.

[2] Section 4-5 (b) of the Connecticut Code of Evidence provides: "Evidence of other sexual misconduct is admissible in a criminal case to establish that the defendant had a tendency or a propensity to engage in aberrant and compulsive sexual misconduct if: (1) the case involves aberrant and compulsive sexual misconduct; (2) the trial court finds that the evidence is relevant to a charged offense in that the other sexual misconduct is not too remote in time, was allegedly committed upon a person similar to the alleged victim, and was otherwise similar in nature and circumstances to the aberrant and compulsive sexual misconduct at issue in the case; and (3) the trial court finds that the probative value of the evidence outweighs its prejudicial effect."

The prosecutor represented that the victim was between the ages of eleven and fourteen years old during the alleged sexual abuse, and that D had been between the ages of ten and thirteen years old when the defendant had sexually abused her. The prosecutor indicated that the victim and D are related to each other and to the defendant, and that the sexual abuse occurred in a similar time frame, and, in part, at the same residence. The prosecutor acknowledged that, contrary to the facts of the present case, the sexual abuse of D involved digital and penile penetration. After hearing from defense counsel, the court granted the state's motion to present the uncharged misconduct evidence regarding the defendant's sexual abuse of D.

The victim testified that, at some point, she had learned that the defendant had sexually abused D. The court indicated that, during a conversation in chambers, the prosecutor had indicated that this aspect of the victim's testimony was not being offered for the truth of the matter asserted, namely, that the defendant had sexually abused D, but, rather, "just to show the effect on [the victim] about her receiving information concerning those incidents to then show why she acted as she did." After hearing from defense counsel, the court stated: "So, I will allow [the victim] to discuss what she heard about those incidents and relate what effect it had on her. It is my understanding it is the state's position that that led to her reluctance to disclose and that is why it is relevant."

The victim testified that she learned that D had made an allegation of abuse against the defendant to the police. The victim's mother, the victim's grandmother, and the rest of the family "sided" with the defendant and ostracized D and her mother, N. When asked how the family's reaction made her feel while her own abuse by the defendant was ongoing, the victim responded: "It made me feel like I was surrounded by adults who

did not want to believe [D], who didn't believe a kid, who did not want—who would prefer to cover up and side with [the defendant], and I saw them bash her and criticize, and it felt in that moment safer for me to stay quiet and it felt safer to be with everyone else on his side and pretend like nothing happened and cover up my abuse, cover up her abuse." The victim subsequently stated that she did not disclose her own sexual abuse because no one in her family believed her cousin.

The next day, the victim's mother testified. The prosecutor asked her if, in 2011, she had learned that the defendant had sexually abused D. After an objection based on hearsay, the prosecutor indicated that this evidence was not being offered for its truth. The court ruled that the evidence was admissible for its effect on the victim's mother and her subsequent reaction. The victim's mother stated that, following the allegations of sexual abuse made by D against the defendant, the rest of the family "shunned" D and N.

The state subsequently sought to have a certified copy of the defendant's conviction for sexually abusing D admitted into evidence. The state noted that this document was not offered to establish the facts regarding the sexual abuse of D, or any admission by the defendant, but rather to "help show the time frame of the arrest and conviction on [D's] matter because it corroborates crucial state's testimony as far as what was happening with the family and why [the victim] in [this] case delayed in disclosing her sexual abuse by this defendant." Defense counsel objected and noted that, because the defendant had pleaded guilty pursuant to the *Alford* doctrine,[3] this evidence was inadmissible. The court cited to § 4-8A of the Connecticut Code of

[3] See *North Carolina* v. *Alford*, 400 U.S. 25, 37, 91 S. Ct. 160, 27 L. Ed. 2d 162 (1970).

Evidence[4] and sustained defense counsel's objection. At this point, the state rested.

Defense counsel immediately moved to strike all references to the uncharged misconduct evidence on the basis that D did not testify during the state's presentation of evidence. Defense counsel argued that the defendant's fundamental right to challenge and cross-examine D had been violated and that the appropriate remedy was to strike all references to the defendant's sexual abuse of D. After hearing from the prosecutor, the court noted that its initial ruling permitting the state to present evidence regarding the defendant's sexual abuse of D to show propensity was based on the expectation that D would testify.

After hearing further argument, including the state's request to open the evidence, the court ruled that the evidence regarding the defendant's abuse of D was not admissible to show that those acts had occurred, or that the defendant had a propensity to engage in such behavior, but was admissible "to show that [the victim] was aware of those claims and that impacted her decision to not disclose her own sexual—alleged sexual abuse because of the reaction within the family." The court declined to strike the testimony regarding the defendant's abuse of D but limited its purpose to show why the victim had delayed disclosing her own sexual abuse. The court further noted that the probative value of this evidence outweighed any prejudicial effect.

A

The defendant first argues that the court erred in its preliminary decision permitting the state to present

[4] Section 4-8A (a) of the Connecticut Code of Evidence provides in relevant part: "Evidence of the following shall not be admissible in a civil or criminal case against a person who has entered a plea of guilty or nolo contendere in a criminal case . . . (2) a plea of nolo contendere or a guilty plea entered under the *Alford* doctrine . . . ."

evidence pertaining to the sexual abuse of D to show his propensity for such actions. The defendant contends that the court abused its discretion in admitting this evidence because the state failed to establish that this uncharged misconduct was similar to the offense charged or otherwise similar in nature to the circumstances of the aberrant and compulsive sexual misconduct at issue in the present case. See, e.g., Conn. Code Evid. § 4-5 (b); *State* v. *DeJesus*, 288 Conn. 418, 476–77, 935 A.2d 45 (2008). The state counters, inter alia, that we should not address this argument because the court superseded its ruling admitting the uncharged misconduct evidence for the purpose of propensity, and, therefore, the defendant cannot demonstrate prejudice. We agree with the state.

As we noted, following the state's offer of proof, the court initially admitted the uncharged misconduct evidence at issue for the purpose of demonstrating the defendant's propensity to engage in such conduct. The state failed, however, to introduce into evidence sufficient proof of the defendant's prior misconduct as to D. See, e.g., *State* v. *Holly*, 106 Conn. App. 227, 235–36, 941 A.2d 372, cert. denied, 287 Conn. 903, 947 A.2d 334 (2008). As a result, the court admitted this uncharged misconduct evidence for a limited purpose, namely, as an explanation for the victim's delayed disclosure, and not for the purpose of establishing that D actually had been sexually abused by the defendant or to establish his propensity to commit such acts of sexual abuse.

In support of its argument that we should not review this claim, the state directs us to *State* v. *Sanders*, 86 Conn. App. 757, 862 A.2d 857 (2005). In that case, the state filed motions in limine to restrict the cross-examination of a witness. Id., 763. "[T]he court granted the motions, precluding any reference to prior convictions or pending criminal charges and prohibiting any reference to [the witness'] involvement in drug trafficking

and gang related activity." Id. The trial court subsequently granted the defendant's motion for reconsideration and permitted questions regarding past felony convictions and pending charges against the witness. Id. On appeal, the defendant claimed that the court improperly had restricted his cross-examination of this witness. Id., 762. We declined to review this claim because the defendant was not prevented from questioning the witness about his past and pending charges and, therefore, was not aggrieved by the court's ruling. Id., 764. Likewise, in the present case, we need not review the defendant's claim that the court abused its discretion in its initial ruling permitting the state to present propensity evidence because the court ultimately ruled that it was inadmissible for that purpose.

B

The defendant additionally argues that the court improperly denied his motion to strike all of the testimony regarding this uncharged misconduct after the state did not call D as a witness. Specifically, he contends that the prejudicial effect of this evidence outweighed its "minimal" probative value and that this inadmissible evidence affected the court's factual findings. The state counters, inter alia, that the court properly (1) admitted the evidence pertaining to D's abuse for a limited purpose and (2) denied the defendant's motion to strike. We agree with the state.

We begin with the relevant legal principles. "[T]he trial court has broad discretion in ruling on the admissibility . . . of evidence. . . . The trial court's ruling on evidentiary matters will be overturned only upon a showing of a clear abuse of the court's discretion. . . . We will make every reasonable presumption in favor of upholding the trial court's ruling, and only upset it for a manifest abuse of discretion." (Internal quotation marks omitted.) *State* v. *Sampson*, 174 Conn. App. 624,

636, 166 A.3d 1, cert. denied, 327 Conn. 920, 171 A.3d 57 (2017); see also *State* v. *Courtney G.*, 339 Conn. 328, 337, A.3d (2021) (trial court given broad discretion in determining relevancy of evidence and balancing probative value against prejudicial effect).

The evidence regarding the defendant's sexual abuse of D was properly admitted for the sole purpose of explaining the victim's delay in disclosing her own sexual abuse by the defendant. The defendant does not dispute that the evidence was relevant for this purpose. Thus, we must determine whether the prejudicial impact of this otherwise admissible evidence outweighed its probative value. See Conn. Code Evid. § 4-3. "Although relevant, evidence may be excluded by the trial court if the court determines that the prejudicial effect of the evidence outweighs its probative value. . . . Of course, [a]ll adverse evidence is damaging to one's case, but it is inadmissible only if it creates undue prejudice so that it threatens an injustice were it to be admitted. . . . The test for determining whether evidence is unduly prejudicial is not whether it is damaging to the defendant but whether it will improperly arouse the emotions of the [fact finder]. . . . The trial court . . . must determine whether the adverse impact of the challenged evidence outweighs its probative value. . . . Finally, [t]he trial court's discretionary determination that the probative value of evidence is not outweighed by its prejudicial effect will not be disturbed on appeal unless a clear abuse of discretion is shown. . . . [B]ecause of the difficulties inherent in this balancing process . . . every reasonable presumption should be given in favor of the trial court's ruling. . . . Reversal is required only [when] an abuse of discretion is manifest or [when] injustice appears to have been done." (Internal quotation marks omitted.) *State* v. *Holmgren*, 197 Conn. App. 203, 211–12, 231 A.3d 379 (2020); *State*

v. *Rosa*, 104 Conn. App. 374, 378, 933 A.2d 731 (2007), cert. denied, 286 Conn. 906, 944 A.2d 980 (2008).

"Our Supreme Court has identified four factors relevant to determining whether the admission of otherwise probative evidence is unduly prejudicial. These are: (1) where the facts offered may unduly arouse the [fact finder's] emotions, hostility or sympathy, (2) where the proof and answering evidence it provokes may create a side issue that will unduly distract the [fact finder] from the main issues, (3) where the evidence offered and the counterproof will consume an undue amount of time, and (4) where the defendant, having no reasonable ground to anticipate the evidence, is unfairly surprised and unprepared to meet it." (Internal quotation marks omitted.) *State* v. *Joseph V.*, 196 Conn. App. 712, 761, 230 A.3d 644, cert. granted, 335 Conn. 945, 238 A.3d 17 (2020).

The defendant first contends that the uncharged misconduct evidence pertaining to D had only minimal probative value, given that the state had presented testimony from an expert[5] on the topic of delayed disclosure. The expert, however, had no knowledge of the facts of this case. It was the victim herself who testified that she had delayed disclosing her abuse after she learned of the defendant's abuse of D and observed the subsequent "shunning" of D and N by the rest of her family. The evidence of D's abuse by the defendant was not cumulative of the expert testimony, and, therefore, we disagree that it had only "minimal" probative value.

The defendant's second contention is that the trial judge, as the finder of fact, was prejudiced after hearing of the defendant's sexual abuse of D. The defendant

[5] Janet Murphy, a pediatric nurse practitioner, testified as an expert in the field of behavioral characteristics of child sexual abuse victims. Murphy testified that, in general, a delayed disclosure is very common for child victims of sexual abuse.

postulates that the court was unable to limit its consideration of this evidence to the sole purpose for which it had been admitted. Absent from the defendant's brief, however, is any reference to evidence from the proceedings to support this assertion.

Our Supreme Court recently has stated that, "[o]n appeal from a bench trial, there is a presumption that the court, acting as the trier of fact, considered only properly admitted evidence when it rendered its decision." (Internal quotation marks omitted.) *State* v. *Roy D. L.*, Conn. , , A.3d (2021); see also *State* v. *Ouellette*, 190 Conn. 84, 92, 459 A.2d 1005 (1983) ("[i]n trials to the court, where admissible evidence encompasses an improper as well as a proper purpose, it is presumed that the court used it only for an admissible purpose"). The defendant has failed to point us to anything in the record that would overcome this presumption.[6] We conclude, therefore, that this argument must fail.

II

The defendant next claims that his right to a fair trial was violated by prosecutorial impropriety. The defendant argues that the prosecutors[7] committed impropriety by their efforts (1) to introduce evidence of the sexual abuse of D to show his propensity to engage in such behavior and then failing to call D as a witness, (2) to introduce evidence of his *Alford* plea from the sexual abuse case involving D, and (3) to introduce constancy of accusation evidence that did not meet

[6] We also note that the court, albeit in a different context, stated: "I feel comfortable reviewing it because, as a judge, I am trained to only concentrate on admissible evidence and not inadmissible evidence . . . ." The court further noted: "Having done this for a long period of time I have a fair amount of confidence in my ability to separate what is admissible and what is inadmissible evidence . . . ."

[7] Two assistant state's attorneys conducted the prosecution of the defendant.

the standard for admission and to comment on this evidence during closing argument. The state counters that there was no prosecutorial impropriety and that the defendant failed to establish a due process violation, if any prosecutorial impropriety did exist. We conclude that the defendant has not demonstrated any impropriety in this case.

We begin with the relevant legal principles. "In analyzing claims of prosecutorial impropriety, we engage in a two step process. . . . First, we must determine whether any impropriety in fact occurred; second, we must examine whether that impropriety, or the cumulative effect of multiple improprieties, deprived the defendant of his due process right to a fair trial. . . . To determine whether the defendant was deprived of his due process right to a fair trial, we must determine whether the sum total of [the prosecutor's] improprieties rendered the defendant's [trial] fundamentally unfair . . . . The question of whether the defendant has been prejudiced by prosecutorial [impropriety], therefore, depends on whether there is a reasonable likelihood that the . . . verdict would have been different absent the sum total of the improprieties. . . . Accordingly, it is not the prosecutorial improprieties themselves but, rather, the nature and extent of the prejudice resulting therefrom that determines whether a defendant is entitled to a new trial. . . .

"To determine whether any improper conduct by the [prosecutor] violated the defendant's fair trial rights is predicated on the factors set forth in *State* v. *Williams* [204 Conn. 523, 540, 529 A.2d 653 (1987)] . . . ." (Internal quotation marks omitted.) *State* v. *Franklin*, 175 Conn. App. 22, 46–47, 166 A.3d 24, cert. denied, 327 Conn. 961, 172 A.3d 801 (2017); see also *State* v. *Albert D.*, 196 Conn. App. 155, 162–63, 229 A.3d 1176, cert. denied, 335 Conn. 913, 229 A.3d 118 (2020).

The defendant's claims of prosecutorial impropriety originate with the prosecutors' efforts to have certain testimony or documents admitted into evidence. First, the prosecutors sought to have testimony regarding uncharged misconduct, namely, the defendant's sexual abuse of D, admitted as propensity evidence, but did not call D as a witness. The defendant argues that, whether intentional or not, the prosecutors essentially made a misleading representation to the court.

Second, the prosecutors attempted to admit a copy of the defendant's *Alford* plea from the case involving D to corroborate portions of the testimony regarding the defendant's sexual abuse of D, the family's reaction, and the time frame of those events. The defendant argues that the prosecutors knew, or reasonably should have known, that § 4-8A (a) (2) of the Connecticut Code of Evidence prohibits the admission of such evidence and that "[t]he only conceivable purpose for offering such irrelevant evidence—at a court trial where the judge sees and hears the inadmissible evidence before 'excluding' it—was to try to prejudice the fact finder . . . ."

Third, the prosecutors presented numerous instances of constancy of accusation testimony from the victim's friends, brother, and mother, and commented on this evidence during the prosecutors' rebuttal argument. The defendant argues that there was no "reciprocity" between the victim's testimony and that of the constancy witnesses. (Internal quotation marks omitted.) Therefore, the defendant argues that the constancy testimony from the friends, brother, and mother of the victim did not meet the standard for admissibility of constancy testimony, and, thus, should not have been admitted into evidence or commented on during closing argument by the prosecutors.

Impropriety may result from a prosecutor's efforts to introduce certain evidence. For example, in *State* v.

Angel T., 292 Conn. 262, 264, 973 A.2d 1207 (2009), our Supreme Court considered whether the prosecutor had committed an impropriety by introducing evidence of, and commenting on, the fact that the defendant, while represented by counsel, had failed to meet with the police during their investigation. "We agree with those jurisdictions that have concluded that a prosecutor violates the due process clause of the fourteenth amendment when he or she elicits, and argues about, evidence tending to suggest a criminal defendant's contact with an attorney prior to his arrest. In our view, this prohibition necessarily is founded in the fourteenth amendment due process assurances of a fair trial under which proscriptions on prosecutorial impropriety are rooted generally." Id., 281–82; see also *State* v. *Salamon*, 287 Conn. 509, 559–60, 949 A.2d 1092 (2007) (rejecting claim of prosecutorial impropriety due to excessive leading questions because majority of such questions fell within exceptions to general rule prohibiting them on direct or redirect examination and defendant failed to provide any reason why remainder of questions were themselves so prejudicial or harmful as to render trial unfair).

Our decision in *State* v. *Marrero*, 198 Conn. App. 90, 234 A.3d 1, cert. granted, 335 Conn. 961, 239 A.3d 1214 (2020), is particularly instructive. In that case, the defendant claimed, inter alia, that the prosecutor committed an impropriety by asking an excessive amount of leading questions during his direct examination of the victim. Id., 97–98. In addressing this issue, we looked to our Supreme Court's decision in *State* v. *Salamon*, supra, 287 Conn. 509. *State* v. *Marrero*, supra, 99–100. "The upshot of *Salamon* is that to establish the impropriety prong of a claim of prosecutorial impropriety based on a prosecutor's allegedly excessive use of leading questions on direct examination of the state's witnesses, the defendant must prove not only that such questioning was improper in the evidentiary sense but

that it was improper in the constitutional sense as well because it threatened his due process right to a fair trial." Id., 101.

In considering whether the use of excessive leading questions threatened to violate the defendant's constitutional right to a fair trial, we set forth the following guidance: "Our case law, however, and that of our sister jurisdictions, furnish several useful examples of such circumstances, including, but not limited to, repeatedly asking improper leading questions after defense objections to those questions have been sustained, *asking questions stating facts that the prosecutor has no good faith basis to believe are true*, *asking questions referencing prejudicial material that the prosecutor has no good faith basis to believe is relevant and otherwise admissible at trial . . . .*" (Emphasis added; footnotes omitted.) Id., 101–102.

In the present case, the defendant does not contend that the prosecutors asked an excessive amount of leading questions but, rather, maintains that their efforts regarding the introduction of uncharged misconduct evidence and the defendant's *Alford* plea amounted to prosecutorial impropriety. He further asserts that the prosecutors misrepresented information to the court with respect to the former and lacked any basis to offer the latter and that, therefore, the prosecutors lacked a good faith basis with respect to these evidentiary matters. We disagree.

With respect to the uncharged misconduct evidence, in response to the defendant's motion to strike such evidence after the state rested without calling D as a witness, the prosecutor argued that the evidence of the defendant's sexual abuse of D was admissible for the purpose of demonstrating the defendant's propensity for such unlawful conduct and was established through the testimony of the victim, her brother, and her mother.

The prosecutor further indicated that, with the permission of the court, she could have D testify without delay, despite having rested. Although the prosecutor erred in her consideration of what was necessary for uncharged misconduct to be admitted into evidence, the defendant has neither demonstrated the lack of a good faith basis by the prosecutor, nor shown that his right to a fair trial was threatened.

With respect to the prosecutor's attempt to have the defendant's *Alford* plea admitted into evidence, we again note that the prosecutor presented a good faith basis for admitting the plea offer. The prosecutor argued that, despite § 4-8A of the Connecticut Code of Evidence, the defendant's *Alford* plea was admissible to corroborate the testimony of the state's witnesses. The court sustained the objection of defense counsel and did not admit this evidence, and the defendant on appeal has failed to establish a lack of a good faith basis on the part of the prosecutor or to show that his right to a fair trial was threatened.

Finally, regarding the claimed lack of reciprocity between the victim's testimony and that of the constancy witnesses, we conclude that this argument is without merit. The defendant failed to object to nearly all of the constancy testimony and, furthermore, he has not persuaded us that the prosecutor's efforts to have this testimony admitted into evidence rose to the level of impropriety. Moreover, as the state properly points out in its brief, once this constancy evidence was admitted into evidence, the prosecutors could comment on it during closing argument. "Our Supreme Court has held that "[a]rguing on the basis of evidence explicitly admitted . . . cannot constitute prosecutorial [impropriety]." (Internal quotation marks omitted.) *State* v. *Devito*, 159 Conn. App. 560, 575, 124 A.3d 14, cert. denied, 319 Conn. 947, 125 A.3d 1012 (2015). Accord-

ingly, we conclude that the defendant has failed to establish prosecutorial impropriety.

III

The defendant next claims that the court improperly denied him access to the journals of the victim. Specifically, he argues that he was entitled to the contents of these journals because the victim had reviewed them prior to her testimony and they constituted a statement pursuant to Practice Book §§ 40-13A[8] and 40-15 (1).[9] The state counters that (1) the court did not abuse its discretion in determining that the journals did not need to be produced for inspection following the victim's review prior to testifying pursuant to § 6-9 of the Connecticut Code of Evidence and (2) the defendant's claim pursuant to Practice Book §§ 40-13A and 40-15 (1) was waived. We agree with the state.

The following additional facts are necessary for the resolution of this claim. The victim testified on the first day of trial, February 13, 2019. During her testimony, the victim stated that the first person she had told about the sexual abuse was Milagros Vizueta, a therapist in North Branford.[10] During these sessions, Vizueta occasionally took notes and would write down things for

[8] Practice Book § 40-13A provides: "Upon written request by a defendant and without requiring any order of the judicial authority, the prosecuting authority shall, no later than forty-five days from receiving the request, provide photocopies of all statements, law enforcement reports and affidavits within the possession of the prosecuting authority and his or her agents, including state and local law enforcement officers, which statements, reports and affidavits were prepared concerning the offense charged, subject to the provisions of Sections 40-10 and 40-40 et seq."

[9] Practice Book § 40-15 provides in relevant part: "The term 'statement' as used in Sections 40-11, 40-13 and 40-26 means: (1) A written statement made by a person and signed or otherwise adopted or approved by such person . . . ."

[10] During cross-examination, the victim testified that Vizueta had studied psychology in Peru and that she subsequently was informed that Vizueta was not a licensed therapist in Connecticut.

the victim to "work on . . . ." During redirect examination, the prosecutor inquired whether the victim ever had seen her records from the therapy with Vizueta. The victim responded: "I have my journals. . . . I don't have—I don't know her records, but I have my journals."[11] Upon further inquiry, the victim stated: "For the journals, [Vizueta] would have me write a lot about either my relationship to [the defendant], with [the defendant], how the abuse happened, I would reflect a lot on how it made me feel, how I was missing, why I didn't want to talk. Sometimes in the journal we'd write about—like if I was having family fights, so my journals are the abuse that I lived with him, but also family fights with my siblings and my mom." The victim also stated that the journals were her "words through therapy."

On recross-examination, defense counsel inquired whether the victim had reviewed her journals prior to her testimony. The victim responded that she had looked at a "few pages" in one of her journals. The following colloquy between the victim and defense counsel then occurred:

"Q. Okay. Were those—and the—the journals that you have, are those your notes that [you] wrote at the time things were happening?

"A. No, it was while I was in therapy.

"Q. Okay. But it was part of the therapy process about what you spoke to the doctor about, what she told you and what happened to you, right?

"A. Yes.

"Q. And it would be much closer in time to the events that we're talking about; fair to say?

[11] On the basis of our review of the transcripts, it appears that neither the prosecutors nor defense counsel had been aware of these journals until the victim mentioned them during her testimony.

"A. When I was journaling, closer to the abuse, yes."

"Q. Would—would those be the best record you have of what happened? [The court overruled an objection by the state.]

"A. . . . Yes.

"Q. Okay. And you still have those journals?

"A. Yes."

At this point, defense counsel requested an in camera review of the victim's journals. The prosecutor objected, arguing that the journals did not constitute medical records, but rather were akin to a diary. The court inquired whether the journals were privileged documents, by statute or common law. The prosecutor then requested time to research the issue. Defense counsel suggested that the court should review the journals for exculpatory material. The court responded that the obligation to review the journals for exculpatory material rested with the prosecutors and that, if there was a claim of privilege, it would conduct an in camera review. Defense counsel responded: "I am asking for it as discovery; however, I was trying to be as respectful as I could be to the complainant." The court then suggested a further discussion of this issue in chambers and mentioned the possibility of recalling the victim as a witness, if necessary.

The next day, February 14, 2019, the court summarized the discussions that had occurred in chambers: "I have determined that [the victim's] journals should be reviewed by the state to determine, what, if anything in those journals [comprised of three notebooks totaling approximately 200 pages] concern—comprise statements by [the victim] concerning the incidents in questions here, and any exculpatory material. That upon that review they should disclose to defense counsel any such material, specifically statements made by [the

victim] in her journals concerning the sexual assault allegations here or any exculpatory material, and if there is anything the state is uncertain as to whether it is exculpatory [the prosecutors] can provide those portions of the journals to me and I will review them in camera to determine whether they should be disclosed to defense counsel.

"It is my understanding that the state has talked to [the victim]. She has agreed to provide the journals to them, they will be provided to the state sometime this afternoon, and the state—but apparently the journals are in Spanish so the state needs the assistance of someone on their staff to interpret those journals so that they can fulfill their obligation as I've outlined them." The prosecutors and defense counsel agreed with the court's summary, and neither side raised any objection.

The next day, the court placed the following on the record: "It is my order that the state review those journals to determine if there is any exculpatory information with respect to those journals that need to be disclosed to the defendant, and that includes any inconsistent statements and any statements regarding the therapy method used that may have fostered or—instructed her to use her imagination or speculate or embellish as to what happened but, basically, the . . . state needs to review those journals under its *Brady* obligations and—turn over to the defendant anything that is exculpatory."

The court then confirmed that defense counsel had argued that at least some portions of the journals were subject to disclosure because the victim had reviewed them prior to her testimony. The prosecutor countered that, aside from any *Brady* material, defense counsel was not entitled to review the victim's private journals.

The prosecutor further represented that her investigator had started the process of reviewing the 200 pages, which were handwritten in Spanish, and, after several hours of review, had not discovered any exculpatory material. The prosecutor also assured the court that she had given the investigator "very, very clear instructions on what is exculpatory and what is not. I sat in an office directly next to her, so if she had any questions at all she came to me, and there is nothing exculpatory or inconsistent so far at all . . . ."

The court then considered the defendant's claim that he was entitled to the journals because the victim had used them to refresh her memory prior to her testimony. After reading § 6-9 of the Connecticut Code of Evidence, the court stated: "In light of the fact that [the victim] testified that she only used a few pages of journals that consisted of hundred—at least, apparently, a couple hundred pages, and the fact that the state would be reviewing all the journals with the obligation to turn over any exculpatory evidence to the defendant, I am not going to order that the entire journals be turned over to the defense for examination. Also, in light of the private nature of those journals." The court indicated it would make the journals a court exhibit, and the parties noted their agreement that a translation was not necessary at that point.

On the next day of trial, February 25, 2019, the prosecutor indicated that the investigator had completed the review of the victim's journals.[12] Pursuant to General

[12] The prosecutor represented the following to the court: "These records . . . were reviewed by my office, specifically . . . [by] . . . an investigator for the state's attorney's office, she has been with the state's attorney's office for fifteen years, she has been an investigator in our office for five years, she is bilingual, she is a 2013 graduate of Albertus Magnus College with a major in Criminal Justice. She was instructed by [the prosecutors] as far as what she was looking for, we explained to her very carefully what the state's obligation is for exculpatory and *Brady* material.

"She indicated that she spent about ten hours reviewing these materials because they are in Spanish, and she took her time. These materials never

Statutes § 54-86c (b),[13] the prosecutors submitted, in a sealed envelope, four pages from the journals for review by a court for a determination of whether they contained exculpatory material. In their view, the contents of these four pages were protected by General Statutes § 54-86f,[14] but, "in the abundance [of] caution," sought a judicial determination as to whether these items should be disclosed to the defense.

Later that day, the court indicated that it had reviewed the four pages from the journals submitted by the prosecution and determined that one page should be disclosed to the defense. Specifically, the court stated: "One of the material issues in this case is the—is [the victim's] claim that she delayed disclosure of the alleged assaults by the defendant because, when [D] reported such assaults, the family rallied behind the defendant and she felt that there was no one she could report this

left the state's attorney's possession; they did not go to her home, they were done during business hours. She indicated that she spent about ten hours reviewing them and whenever she had any questions she would talk to [the prosecutors] . . . ."

[13] General Statutes § 54-86c (b) provides: "Any state's attorney, assistant state's attorney or deputy assistant state's attorney may request an ex parte in camera hearing before a judge, who shall not be the same judge who presides at the hearing of the criminal case if the case is tried to the court, to determine whether any material or information is exculpatory."

In the present case, the parties agreed that Judge Alander could review the four pages from the victim's journals to determine whether there was any exculpatory material contained therein.

[14] General Statutes § 54-86f (a) provides in relevant part: "In any prosecution for sexual assault under sections 53a-70, 53a-70a and 53a-71 to 53a-73a, inclusive, no evidence of the sexual conduct of the victim may be admissible unless such evidence is (1) offered by the defendant on the issue of whether the defendant was, with respect to the victim, the source of semen, disease, pregnancy or injury, or (2) offered by the defendant on the issue of credibility of the victim, provided the victim has testified on direct examination as to his or her sexual conduct, or (3) any evidence of sexual conduct with the defendant offered by the defendant on the issue of consent by the victim, when consent is raised as a defense by the defendant, or (4) otherwise so relevant and material to a critical issue in the case that excluding it would violate the defendant's constitutional rights. . . ."

assault to and be supported. . . . There is an incident [here] where she disclosed a claim of sexual abuse to her mother, which could be interpreted as the mother then supporting her claim. So, I think it is material and exculpatory so I will order it disclosed to the defendant."

On February 26, 2019, the court granted the defendant's motion to recall the victim as a witness. During redirect examination by the prosecutor, the victim explained that, following a prompt from Vizueta, she wrote a passage in her journal about what "an environment in which speaking about abuse should have looked like, instead of what I grew up in." Thus, the statements in her journal in which the victim wrote that she had disclosed a sexual assault by a different family member to her mother was hypothetical in nature and part of a therapy exercise, and not based on actual events.

A

The defendant first argues that he was entitled to review the contents of the journals because the victim had reviewed them prior to her testimony. Specifically, he contends that the court abused its discretion in not requiring the disclosure of the entirety of the journals on this basis. We disagree.

Our starting point is § 6-9 (b) of the Connecticut Code of Evidence, which provides in relevant part: "If a witness, before testifying, uses an object or writing to refresh the witness' memory for the purpose of testifying, the object or writing need not be produced for inspection unless the court, in its discretion, so orders. . . ." The official commentary to this subsection states that § 6-9 (b) "establishes a presumption against production of the object or writing for inspection in this situation . . . ." We review the trial court's decision on whether to order production of such an object or writing for an abuse of discretion. See *State* v. *Cosgrove*,

181 Conn. 562, 588–89, 436 A.2d 33 (1980); *State* v. *Watson*, 165 Conn. 577, 593, 345 A.2d 532 (1973), cert. denied, 416 U.S. 960, 94 S. Ct. 1977, 40 L. Ed. 2d 311 (1974). "In reviewing a claim of abuse of discretion, we have stated that [d]iscretion means a legal discretion, to be exercised in conformity with the spirit of the law and in a manner to subserve and not to impede or defeat the ends of substantial justice. . . . In general, abuse of discretion exists when a court could have chosen different alternatives but has decided the matter so arbitrarily as to vitiate logic, or has decided it based on improper or irrelevant factors. . . . Therefore, [i]n those cases in which an abuse of discretion is manifest or where injustice appears to have been done, reversal is required." (Internal quotation marks omitted.) *State* v. *Fortin*, 196 Conn. App. 805, 819, 230 A.3d 865, cert. denied, 335 Conn. 926, 234 A.3d 979 (2020); see also *State* v. *Maner*, 147 Conn. App. 761, 767, 83 A.3d 1182, cert. denied, 311 Conn. 935, 88 A.3d 550 (2014).

We conclude that the court did not abuse its discretion in not requiring the disclosure of the contents of the victim's journals to the defendant. As we previously noted, the court, in ruling on this request, considered the private nature of the journals, that the victim had reviewed only a few pages of the journals before testifying, and that the state was in the process of reviewing the entirety of the journals for exculpatory material. The court's consideration and its ultimate decision was neither so arbitrary as to vitiate logic nor based on improper or irrelevant factors. We cannot conclude, therefore, that the court abused its discretion.

B

The defendant next argues that he was entitled to the contents of the victim's journals because they constituted a statement pursuant to Practice Book §§ 40-13A and 40-15 (1). The state counters that the defendant

waived this claim before the trial court, and, therefore, we should not review it. We agree with the state.

On March 21, 2016, the defendant filed a motion for discovery, requesting that the state provide him with various materials. During the first day of the trial, both the prosecutors and defense counsel learned of the existence of the victim's journals. During the discussion regarding whether the court should review the contents of the journals, defense counsel indicated that he was requesting the journals as part of discovery, but in a manner respectful to the victim. The parties agreed to end the testimony of the victim, subject to her being recalled as a witness depending on the contents of the journals. The court then adjourned to discuss the issues regarding the journals with counsel in chambers.

The next morning, the court stated on the record that, following chambers discussions with the prosecutors and defense counsel, the state would review the journals for exculpatory material and any statements made by the victim regarding the incidents in question. If the journals contained such items, they would be disclosed to the defense. Additionally, the court stated that it would conduct an in camera review of any items that the state thought might be exculpatory. Defense counsel expressly agreed that the court's statements were consistent with what had been discussed previously in chambers, and raised no objection to that procedure. The next day, the court clarified its order as to the state's obligations in reviewing the journals. Again, defense counsel made no objection to this process. On the last two days of trial, when the parties discussed this issue with the court, defense counsel raised no objection and did not attempt to obtain the contents of the journals pursuant to Practice Book §§ 40-13A and 40-15 (1).

On the basis of this record, we conclude that the defendant waived the claim that he was entitled to the

contents of the victim's journals because they constituted a statement pursuant to the rules of practice. Defense counsel agreed to the procedure to be used in the review of, and potential disclosure of, the contents of the journals, and the defendant cannot now challenge said procedure. "When the defendant consented to the procedures, he waived his right to challenge them later on appeal. Our procedure does not allow a defendant to pursue one course of action at trial and later, on appeal, argue that the path he rejected should now be open to him. . . . For this court to rule otherwise would result in trial by ambuscade of the trial judge." (Internal quotation marks omitted.) *State* v. *Santaniello*, 96 Conn. App. 646, 669, 902 A.2d 1, cert. denied, 280 Conn. 920, 908 A.2d 545 (2006).

Our decision in *State* v. *Tierinni*, 165 Conn. App. 839, 140 A.3d 377 (2016), aff'd, 329 Conn. 289, 185 A.3d 591 (2018), provides additional support for this conclusion. In that case, the trial court informed the parties of its practice to hear brief evidentiary arguments at sidebar to avoid excusing the jury each time. Id., 843–45. The substance of these discussions would be placed on the record at a later time. Id., 844. In the event that the matter needed to be addressed immediately, the court indicated its willingness to excuse the jury. Id., 845. When asked if the parties objected to this procedure, both the prosecutor and defense counsel responded in the negative. Id. On appeal, the defendant claimed that he had been excluded from critical stages of the proceedings in violation of his state and federal constitutional rights as a result of the court's procedure with respect to evidentiary objections. Id., 841. We concluded that, by agreeing to the proposed procedure, the defendant had waived this claim. Id., 843.

In *Tierinni*, we first set forth the definition of waiver. "[W]aiver is [t]he voluntary relinquishment or abandonment—express or implied—of a legal right or notice.

. . . In determining waiver, the conduct of the parties is of great importance. . . . [W]aiver may be effected by action of counsel. . . . When a party consents to or expresses satisfaction with an issue at trial, claims arising from that issue are deemed waived and may not be reviewed on appeal. . . . Thus, [w]aiver . . . involves the idea of assent, and assent is an act of understanding. . . .

"Put another way, [w]e do not look with favor on parties requesting, or agreeing to, an instruction or a procedure to be followed, and later claiming that that act was improper. . . . [S]ee . . . *State* v. *Thompson*, 146 Conn. App. 249, 259, 76 A.3d 273 (when party consents to or expresses satisfaction with issue at trial, claims arising from that issue deemed waived and not reviewable on appeal), cert. denied, 310 Conn. 956, 81 A.3d 1182 (2013); *State* v. *Crawley*, 138 Conn. App. 124, 134, 50 A.3d 349 (appellate court cannot permit defendant to elect one course at trial and then to insist on appeal that course which he rejected at trial be reopened), cert. denied, 307 Conn. 925, 55 A.3d 565 (2012)." (Citations omitted; internal quotation marks omitted.) *State* v. *Tierinni*, supra, 165 Conn. App. 847–48.

Next, we noted that the actions of counsel could effect a waiver, and that when a party consents to the use of a procedure at trial, a claim arising from that procedure was not reviewable on appeal. Id., 849. Consequently, by accepting and acquiescing to the court's procedure, the defendant waived his claim that he was denied the right to be present at the sidebar discussions. Id.

In the present case, the defendant, through his counsel, agreed to the prosecutors' review of the journals and to the court's in camera review of any materials that might be exculpatory. Having agreed to this procedure

before the trial court, the defendant cannot obtain appellate review of this claim.

IV

The defendant's final claim is that his rights under *Brady* v. *Maryland*, supra, 373 U.S. 83, were violated as a result of the procedures employed by the prosecutors with respect to the review of the victim's journals for exculpatory information. Specifically, he contends that, under these facts and circumstances, the prosecutors were required to personally review the contents of the journals and that this task could not have been delegated to an inspector working for the prosecutors. We disagree.

The defendant acknowledges that this claim was not raised before the trial court and, therefore, seeks review pursuant to *State* v. *Golding*, 213 Conn. 233, 239–40, 567 A.2d 823 (1989), as modified by *In re Yasiel R.*, 317 Conn. 773, 781, 120 A.3d 1188 (2015). Pursuant to this doctrine, "a defendant can prevail on a claim of constitutional error not preserved at trial only if *all* of the following conditions are met: (1) the record is adequate to review the alleged claim of error; (2) the claim is of constitutional magnitude alleging the violation of a fundamental right; (3) the alleged constitutional violation . . . exists and . . . deprived the defendant of a fair trial; and (4) if subject to harmless error analysis, the state has failed to demonstrate harmlessness of the alleged constitutional violation beyond a reasonable doubt. . . . The first two *Golding* requirements involve whether the claim is reviewable, and the second two involve whether there was constitutional error requiring a new trial." (Citation omitted; emphasis in original, internal quotation marks omitted.) *State* v. *Castro*, 200 Conn. App. 450, 456–57, 238 A.3d 813, cert. denied, 335 Conn. 983, 242 A.3d 105 (2020); see generally *State* v.

Rosa, 196 Conn. App. 480, 496–97, 230 A.3d 677 (defendant's unpreserved *Brady* claim reviewable pursuant to *Golding* bypass doctrine), cert. denied, 335 Conn. 920, 231 A.3d 1169 (2020). The record is adequate and the defendant's claim is of constitutional magnitude, and, thus, the first two *Golding* prongs are satisfied. Our focus, therefore, is on whether the defendant demonstrated that a constitutional violation occurred. *State* v. *Rosa*, supra, 497.

"Our analysis of the defendant's claim begins with the pertinent standard, set forth in *Brady* and its progeny, by which we determine whether the state's failure to disclose evidence has violated a defendant's right to a fair trial. In *Brady*, the United States Supreme Court held that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution. . . . In *Strickler* v. *Greene*, 527 U.S. 263, [281–82], 119 S. Ct. 1936, 144 L. Ed. 2d 286 (1999), the United States Supreme Court identified the three essential components of a *Brady* claim, all of which must be established to warrant a new trial: The evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is impeaching; that evidence must have been suppressed by the [s]tate, either [wilfully] or inadvertently; and prejudice must have ensued. . . . Under the last *Brady* prong, the prejudice that the defendant suffered as a result of the impropriety must have been material to the case, such that the favorable evidence could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict. . . . If . . . [the defendant] . . . fail[s] to meet his burden as to [any] one of the three prongs of the *Brady* test, then [the court] must conclude that a *Brady* violation has not occurred." (Citations omitted; internal quotation marks omitted.) *State* v. *Rosa*, supra, 196 Conn.

App. 497–98; see also *State* v. *Bryan*, 193 Conn. App. 285, 315, 219 A.3d 477, cert. denied, 334 Conn. 906, 220 A.3d 37 (2019).

Our Supreme Court has summarized the obligations of the prosecutor with respect to *Brady* as follows. The state has a duty, pursuant to *Brady*, to disclose evidence that is favorable to the defense and material to the case. *State* v. *Guerrera*, 331 Conn. 628, 646–47, 206 A.3d 160 (2019). "As the state's representative, the prosecutor has a broad obligation to disclose *Brady* material because principles of fundamental fairness demand no less. . . . This obligation extends to evidence favorable to the defense that is not in the possession of the individual prosecutor responsible for trying the case; indeed, the obligation may encompass such evidence even if it is not known to the prosecutor. . . . More specifically, the prosecutor's duty of disclosure extends to *Brady* material that is known to the others acting on the government's behalf in [the case], including, but not limited to, the police. . . . In other words, the prosecutor is deemed to have constructive knowledge of *Brady* material possessed by those acting on the state's behalf. . . . Thus, the prosecutor has a duty to learn of exculpatory evidence in possession of any entity that is acting as an agent or arm of the state in connection with the particular investigation at issue." (Citations omitted; internal quotation marks omitted.) Id., 647; see also *Kyles* v. *Whitley*, 514 U.S. 419, 437–38, 115 S. Ct. 1555, 131 L. Ed. 2d 490 (1995) (individual prosecutor has duty to learn of any favorable evidence known to others acting on government's behalf, including police). Simply stated, the individual prosecutor or prosecutors trying a specific case bear the ultimate responsibility for compliance with the disclosure of evidence as required by *Brady* and its progeny. *United States* v. *Jennings*, 960 F.2d 1488, 1490 (9th Cir. 1992).

In the present case, the defendant has alleged a somewhat unusual *Brady* violation. He claims that the victim's journals needed to be reviewed personally by a prosecutor, rather than "a nonlawyer member" of the prosecutors' office. As we noted in part III of this opinion, the prosecutors assigned the task of reviewing the victim's journals, which were written in Spanish, to a bilingual, experienced investigator. They provided her with detailed instructions regarding this review, and a prosecutor remained available to answer any questions that arose during this process. The defendant contends, however, that in this case, the review of the victim's journals could not be delegated to a nonlawyer but, rather, required a personal review by the prosecutors in order to avoid violating his constitutional rights to due process.

In support of his argument, the defendant relies on language from cases stating that the prosecutor trying a particular case bears the ultimate responsibility for disclosing *Brady* materials independent from any conclusion reached by others acting as agents of the state in connection with the particular investigation. See, e.g., *Kyles* v. *Whitley*, supra, 514 U.S. 437; *State* v. *Guerrera*, supra, 331 Conn. 647, 656; see also, e.g., *McMillian* v. *Johnson*, 88 F.3d 1554, 1567 (11th Cir. 1996), cert. denied, 521 U.S. 1121, 117 S. Ct. 2514, 138 L. Ed. 2d 1016 (1997); *Walker* v. *New York*, 974 F.2d 293, 299 (2d Cir. 1992), cert. denied, 507 U.S. 961, 113 S. Ct. 1387, 122 L. Ed. 2d 762 (1993), cert. denied, 507 U.S. 972, 113 S. Ct. 1412, 122 L. Ed. 2d 784 (1993). These cases, however, do not support the claim advanced by the defendant in the present case. For example, the United States Court of Appeals for the Second Circuit has explained that the police satisfy their duty pursuant to *Brady* when they turn over exculpatory material to the prosecutor. *Walker* v. *New York*, supra, 298–99. The prosecutor, on the basis of his or her legal acumen, then

determines whether this material must be disclosed to the defense. Id., 299. The Second Circuit then explained: "A rule requiring the police to make separate, often difficult, and perhaps conflicting, disclosure decisions would create unnecessary confusion. It also would ignore the fact that the defendant's appropriate point of contact with the government during litigation is the prosecutor and not those who will be witnesses against him." Id. Thus, the Second Circuit clearly instructed, as a general rule, that the police are obligated to turn over material to the prosecutor's office for a determination of what is to be disclosed to the defense in order to comply with *Brady*. *Walker* does not, however, stand for the proposition that only the prosecutor in a case, and not a member of his or her staff acting under his or her supervision, may review materials for a determination of whether disclosure is required under *Brady*. See, e.g., *United States* v. *Claridy*, United States District Court, Docket No. 02:CR498 (LMM) (S.D.N.Y. March 20, 2003) (noting that *Kyles* v. *Whitley*, supra, 514 U.S. 419, did not require assigned prosecutor to personally review all relevant Securities and Exchange Commission personnel files in joint investigation).

Additionally, we note that the United States Court of Appeals for the Ninth Circuit twice has rejected the claim that an assistant United States attorney may be personally ordered to review for *Brady* material, before the trial, the personnel files of law enforcement officers expected to testify at trial. *United States* v. *Herring*, 83 F.3d 1120, 1122–23 (9th Cir. 1996); *United States* v. *Jennings*, supra, 960 F.2d 1488–89. In the latter case, the court noted that the assistant United States attorney prosecuting a case bore the responsibility for complying with *Brady* and its progeny. *United States* v. *Jennings*, supra, 1490. Cognizant of separation of powers concerns vis-à-vis a court interfering with prosecutorial independence, and relying on the lack of case law

requiring the personal efforts of an assistant United States attorney to review these personnel files and the absence of any indication that the prosecution would not adhere to its duties and obligations under *Brady*, the court determined that the United States District Court for the Southern District of California had improperly required personal review of the files by the assistant United States attorney. Id., 1490–92. In *United States* v. *Herring*, supra, 1121–23, the Ninth Circuit rejected the defendant's argument that *Jennings* had been overruled by the United States Supreme Court's decision in *Kyles* v. *Whitley*, supra, 514 U.S. 419. See also *United States* v. *Martin*, United States District Court, Docket No. 2:15-CR-0235 (TLN) (E.D. Cal. August 11, 2016). Additionally, the United States District Court for the Southern District of New York has noted that the Second Circuit does not have a requirement that prosecutors personally review the personnel files of anticipated government employee witnesses. *United States* v. *Principato*, United States District Court, Docket No. 01:CR588 (LMM) (S.D.N.Y. October 16, 2002).[15]

In the present case, the defendant has failed to demonstrate, through controlling or persuasive authority, that the prosecutors in the present case were required to personally review the contents of the victim's journals to satisfy *Brady*. We emphasize that, ultimately, the obligation for complying with *Brady* rests with the prosecutor, but it does not follow that the personal

[15] See also *United States* v. *Thomas*, United States District Court, Docket No. 1:18-CR-00458 (WJ) (D. N.M. October 23, 2018) (government satisfied its *Brady* duty by following current Department of Justice policy in which Drug Enforcement Agency attorneys and staff review personnel files and produce any exculpatory or impeachment materials to assistant United States attorney); *United States* v. *Burk*, United States District Court, Docket No. 3:15-CR-00088 (SLG-DMS) (D. Alaska September 8, 2016) (courts lack authority to order assistant United States attorney to personally review personnel files).

review of items such as the victim's journals by a prosecutor is constitutionally required. Accordingly, we conclude that, because the defendant has failed to establish a constitutional violation under the third *Golding* prong, his claim fails.

The judgment is affirmed.

In this opinion the other judges concurred.

CONNEX CREDIT UNION *v.* MICHELLE M. THIBODEAU
(AC 43830)

Alvord, Cradle and DiPentima, Js.

Syllabus

The plaintiff, a secured party, sought to recover monetary damages from the defendant debtor, for breach of a retail installment sales contract, secured by an interest in the defendant's vehicle. After the defendant defaulted, the plaintiff took possession of the vehicle and sent the defendant a presale notice regarding her right to redeem and the notice of sale. The defendant took no steps to redeem the vehicle, and the plaintiff sold it in an arm's-length transaction. Following the sale, the plaintiff sent the defendant a postsale notice advising her of the sale and informing her that the sale price was less than the amount that she owed and that the plaintiff may seek a deficiency judgment. The defendant did not pay the amount allegedly due. Following a bench trial, the trial court rendered judgment for the plaintiff and awarded certain damages, and the defendant appealed to this court. *Held*:

1. The trial court did not err in determining that the plaintiff properly provided notice of the right to an accounting as required by article 9 of the Uniform Commercial Code (UCC), as the provision of an actual accounting in lieu of a statement of a right to an accounting was enough to satisfy the requirements set out by the applicable statute (§ 42a-9-613 (1) (D)): although the statute only requires a statement that the debtor is entitled to an accounting, additional information is permitted and exact language is not required, and providing an actual accounting in the notice is the type of additional information that the statute allows; moreover, providing the actual accounting, especially when provided free of charge, served as a consumer focused means of meeting the statutory purpose of notification to the debtor; accordingly, the plaintiff's presale notice, which provided detailed information, including details of the defendant's debt and the amount she owed to the plaintiff, and

actively invited questions, adhered to the requirements of the UCC and thus satisfied the accounting provision of the statute.

2. This court declined to reach the merits of the defendant's claim that the trial court erred in determining that the plaintiff properly provided a telephone number from which the defendant could learn the full amount she would need to pay in order to redeem her vehicle as required by article 9 of the UCC, the claim not having been properly preserved for appellate review; the defendant did not raise this issue until her posttrial brief, and this court's careful review of the record revealed the issue was not raised at trial and was not addressed in the court's memorandum of decision, of which no further articulation was sought, and, because the court did not consider the issue, the factual record was wholly inadequate for review.

3. The trial court did not err in determining that the plaintiff satisfied the requirements of the Retail Installment Sales Financing Act (RISFA) (§ 36a-770 et seq.) regarding the repossession and sale of a motor vehicle.

a. The defendant's claim that the postsale notice failed to provide a proper itemization as required by statute (§ 36a-785 (e)) was not properly preserved for appellate review, the defendant having failed to raise this issue until her posttrial brief, and the record was unclear how, if at all, the issue was raised at trial since the issue was not addressed in the court's memorandum of decision.

b. The plaintiff did not violate § 36a-785 (g) when it credited the defendant with the actual sale price of the vehicle, an amount lower than the statutory fair market value as determined by the formula in § 36a-785 (g); the purpose of § 36a-785 (g) is not to calculate an amount that a creditor must credit to a debtor's account but, rather, to provide the debtor with the tools to defend herself in a deficiency proceeding brought by a secured party, and, where a secured party seeks a deficiency judgment following a calculation pursuant to subsection (g) of the statute, the secured party may rebut the presumed value of the vehicle with direct in-court testimony, which the plaintiff did here, presenting testimony regarding how the sale price represented the actual fair market value of the vehicle due to damage sustained in an accident that prompted the defendant's surrender of the vehicle, and, additionally, the defendant did not offer any evidence as to the vehicle's value.

Argued September 16—officially released November 30, 2021

Procedural History

Action to recover damages for breach of contract, and for other relief, brought to the Superior Court in the judicial district of New Britain, where the defendant filed a counterclaim; thereafter, the matter was tried to the court, *Aurigemma, J.*; subsequently, the defendant

withdrew the counterclaim; judgment for the plaintiff, from which the defendant appealed to this court. *Affirmed.*

Garrett A. Denniston, with whom, on the brief, was *Marisa A. Bellair*, for the appellant (defendant).

Robert C. Lubus, Jr., with whom were *Andrew S. Marcucci*, and, on the brief, *Stephanie Ann Palmer*, for the appellee (plaintiff).

Opinion

ALVORD, J. This appeal concerns the application of the statutory schemes that govern a secured party's repossession and subsequent sale of a motor vehicle in a consumer goods secured transaction. Connecticut has adopted article 9 of the Uniform Commercial Code (UCC), codified at General Statutes § 42a-9-101 et seq., which governs secured transactions. Specifically at issue here is the section that governs a secured party's notification to a debtor regarding the repossession and impending sale of collateral. Connecticut also has enacted the Retail Installment Sales Financing Act (RISFA), General Statutes § 36a-770 et seq., an act that governs installment sales contracts—a specific type of secured transaction. Specifically at issue here is the section that pertains to a secured party's notification to a debtor regarding the proceeds of the sale of a repossessed and sold motor vehicle. The underlying lawsuit arose from the defendant debtor's default on her car payments and the plaintiff secured party's subsequent repossession and sale of that vehicle. In essence, we are tasked with answering two questions: (1) what must a secured party tell a debtor *prior to* the sale of repossessed collateral and (2) what must a secured party do *after* the sale of a repossessed vehicle.

The defendant debtor, Michelle M. Thibodeau, appeals from the judgment of the trial court rendered in favor

of the plaintiff secured party, Connex Credit Union, in this breach of contract action. On appeal, the defendant claims that the trial court erred in determining that the plaintiff (1) provided notice of the right to an accounting as required by article 9 of the UCC, (2) provided a telephone number from which the defendant could learn the full amount she would need to pay in order to redeem her vehicle as required by article 9 of the UCC,[1] and (3) satisfied the requirements of RISFA regarding the repossession and sale of a motor vehicle. On the basis of these claims, the defendant argues that the plaintiff was precluded from recovering any deficiency upon resale due to its alleged failure to adhere to the statutory requirements.[2] We affirm the judgment of the trial court.

The following facts, as found by the trial court in its memorandum of decision, and procedural history are relevant to our discussion of the claims on appeal. "On April 7, 2014, the defendant . . . borrowed $19,993.12 [from the plaintiff] to be repaid with interest at 4.99 percent per annum over seventy-two months. The retail installment sales contract . . . signed by the defendant was secured by a security interest in the defendant's 2013 Kia Rio [vehicle] . . . . In the [c]ontract the defendant agreed to be responsible for repossession and sales costs as well as attorney's fees."

After her October 23, 2017 payment, the defendant made no further payments on the loan, and the trial court determined that, as a result, she had defaulted. The defendant "contacted the plaintiff on or about January 16, 2018, and advised it that her vehicle had been in an accident and she wished the plaintiff to come and take possession of the vehicle."

[1] Despite the phrasing of this claim, we note that the trial court made no such determination.

[2] Because we find that the plaintiff did not violate these statutes, we need not address the effects of such violations.

On January 17, 2018, the plaintiff sent a document titled "Right to Redeem and Notice of Sale" (presale notice) to the defendant via certified mail. This document noted the repossession date, advised the defendant of her right to redeem her vehicle, explained how to redeem the vehicle, and listed the details of the defendant's outstanding debt.[3] The defendant took no steps to redeem the vehicle.

On February 28, 2018, the plaintiff sold the vehicle in an arm's-length transaction for $4000. On March 20, 2018, the plaintiff sent the defendant a letter (postsale notice) advising her of the sale and informing her that the sale price was less than the amount that she owed. The postsale notice also informed the defendant that the plaintiff might seek a deficiency judgment against her. A named employee, identified as a collections specialist, signed the postsale notice which included the plaintiff's mailing address, website address, and phone number, and closed with the words "[i]f you have any questions, please call." The defendant did not contact the plaintiff with any questions.

In addition to the defendant's outstanding debt, the plaintiff incurred $760 in repossession and sales costs. Along with the sale proceeds, the plaintiff recovered a total of $1955.99 from the insurance it had on the vehicle. The plaintiff also applied $9 from a savings account that the defendant had with the plaintiff to the defendant's outstanding debt.

On August 30, 2018, the plaintiff commenced this action against the defendant for breach of contract. The

[3] "The document indicated that the repossession date was [January 16, 2018] and advised the defendant that she could 'still redeem (get back) [her] vehicle by curing [her] default.' It further advised that the defendant needed to pay $985.48 to the Credit Union for principal, interest and late fees and $200 to the Repossession agent 'on or before the REDEMPTION DATE,' which the document listed as [February 5, 2018]."

plaintiff sought principal damages of $4495.07, prejudgment interest in the amount of $263.22, and attorney's fees in the amount of $674. In response, the defendant asserted several special defenses, including assertions that the plaintiff had failed to inform her in its presale notice that she was entitled to an accounting and had not credited her with the correct value upon selling the vehicle.[4]

The case was tried to the court, *Aurigemma*, *J.*, on September 11, 2019. At trial, the plaintiff called J. R. Roy, the plaintiff's collection manager. Roy testified as to the vehicle's condition and value. The defendant did not present evidence on the value of the vehicle and presented no witnesses and no exhibits. The parties submitted simultaneous posttrial briefs.

On January 2, 2020, the court issued its memorandum of decision, in which it found that "the plaintiff [had] proved all the necessary elements of its cause of action." In addition, the court rejected each of the defendant's special defenses. The court rendered judgment for the plaintiff and awarded damages in the amount of $5432.29. This appeal followed. Additional facts will be set forward as necessary.

[4] In toto, the defendant asserted six special defenses. Specifically, she argued: (1) the plaintiff did not credit her with the fair market value of the vehicle, in violation of General Statutes § 36a-785 (g); (2) the plaintiff did not provide written notice explaining that she was responsible for retrieving personal property from the vehicle, in violation of § 36a-785 (c) (2); (3) the plaintiff failed to inform her that she was entitled to an accounting, in violation of General Statutes §§ 42a-9-613 (1) (D) and 42a-9-614; (4) the plaintiff failed to provide an accurate description of her liability for deficiency, in violation of § 42a-9-614 (1) (B); (5) the plaintiff's sale restricted her right to redeem under General Statutes § 42a-9-623 by requiring payment by cash or bank teller's check; and (6) the plaintiff misrepresented her right to redeem, in violation of § 42a-9-614 (5).

In addition, the defendant brought a counterclaim alleging violations of various consumer protection statutes. At trial, however, the defendant withdrew her counterclaim.

I

The defendant first claims that the court erred because "(1) it ignored the plain language of [General Statutes §§ 42a-9-614 (1) (A) and 42a-9-613 (1) (D)] by excusing [the plaintiff's] omission of language stating [that the defendant] had the right to request a written explanation of indebtedness and the cost for doing so (if any); and (2) what the court called an 'accounting' in the presale notice falls well short of what the [Connecticut] UCC requires." We disagree.

We first set forth the appropriate standard of review. Here, the financial amounts listed in the notices are not in dispute; in resolving the defendant's various claims, we are only tasked with determining what the relevant statutes require of secured parties. Thus, our consideration of this appeal requires only a review of the trial court's application of the law to the undisputed facts. "The process of statutory interpretation involves the determination of the meaning of the statutory language as applied to the facts of the case, including the question of whether the language does so apply. . . . When construing a statute, [o]ur fundamental objective is to ascertain and give effect to the apparent intent of the legislature. . . . In other words, we seek to determine, in a reasoned manner, the meaning of the statutory language as applied to the facts of [the] case, including the question of whether the language actually does apply. . . . In seeking to determine that meaning, General Statutes § 1-2z directs us first to consider the text of the statute itself and its relationship to other statutes. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered. . . . Furthermore, [t]he legislature is always presumed to have created a harmonious and consistent body of law . . . [so that] [i]n determining

the meaning of a statute . . . we look not only at the provision at issue, but also to the broader statutory scheme to ensure the coherency of our construction. . . . Because issues of statutory construction raise questions of law, they are subject to plenary review on appeal." (Internal quotation marks omitted.) *Robinson* v. *Tindill*, 208 Conn. App. 255, 264, A.3d (2021).

The first issue we address is the question of what information a secured party must include in a notice to a debtor *prior to* disposing of repossessed consumer goods collateral. In consumer goods secured transactions,[5] a notification of disposition of collateral requires a statement "that the debtor is entitled to an accounting of the unpaid indebtedness and [a statement of] the charge, if any, for an accounting . . . ." General Statutes § 42a-9-613 (1) (D); see also General Statutes § 42a-9-614 (1) (A). The parties agree that the notice in question did not include language expressly stating that the defendant was "entitled to an accounting . . . ." General Statutes § 42a-9-613 (1) (D). They disagree, however, as to whether the plaintiff's notification conforms to the statute's requirement despite the lack of the specific statement.

The defendant argues that a secured party cannot merely adhere to the "spirit" of §§ 42a-9-613 (1) (D) and 42a-9-614 (1) (A), but rather it must strictly comply with the requirements set out in the statute. The plaintiff responds that its notice "exceeded the minimum necessary contents to satisfy the statute by providing the actual accounting free of charge, rather than the right to request an accounting and the cost for the fulfillment of that request, if any." On the particular facts of this case, we conclude that the plaintiff did not violate the requirements of the statute.

[5] "'Consumer goods' means goods that are used or bought for use primarily for personal, family or household purposes." General Statutes § 42a-9-102 (23).

We begin by setting forth the relevant provisions of § 42a-9-614, which governs the contents and form of notification required before disposing of collateral in consumer goods transactions, and § 42a-9-613,[6] which, although it governs the contents and form of notification required before disposition of collateral in *nonconsumer goods transactions*, is incorporated in part into § 42a-9-614. Section 42a-9-614 provides that, "[i]n a consumer-goods transaction, the following rules apply . . . ."[7] Subsection (1) governs the information that must be provided in a notification of disposition. Specifically, a notification of disposition must provide four categories of information, only one of which is relevant to this discussion.[8] See General Statutes § 42a-9-614 (1). The relevant and first required category of information is "[t]he information specified in subdivision (1) of section 42a-9-613 . . . ." General Statutes § 42a-9-614 (1) (a). Section 42a-9-613 (1) (D) is the provision at issue and requires that a notification of disposition contain a statement that "the debtor is entitled to an accounting of the unpaid indebtedness" along with "the charge, if any, for an accounting . . . ." The other three catego-

[6] General Statutes § 42a-9-613 provides in relevant part: "Except in a consumer-goods transaction, the following rules apply: (1) The contents of a notification of disposition are sufficient if the notification: (A) Describes the debtor and the secured party; (B) Describes the collateral that is the subject of the intended disposition; (C) States the method of intended disposition; (D) States that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and (E) States the time and place of a public disposition or the time after which any other disposition is to be made. . . ."

[7] The requirements differ depending upon whether the transaction is a consumer goods transaction or not. See General Statutes §§ 42a-9-613 and 42a-9-614.

[8] General Statutes § 42a-9-614 (1) provides: "A notification of disposition must provide the following information: (A) The information specified in subdivision (1) of section 42a-9-613; (B) A description of any liability for a deficiency of the person to which the notification is sent; (C) A telephone number from which the amount that must be paid to the secured party to redeem the collateral under section 42a-9-623 is available; and (D) A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available."

ries of required information in disposing of consumer goods collateral, listed in § 42a-9-614 (1), are not relevant to this discussion.

Section 42a-9-614 (2) further provides that "[a] particular phrasing of the notification is not required." Lastly, although § 42a-9-614 (3) provides an example of a sufficient notification,[9] § 42a-9-614 (4) provides that "even

[9] General Statutes § 42a-9-614 (3) provides: "The following form of notification, when completed, provides sufficient information:

"(Name and address of secured party.)

"(Date)

NOTICE OF OUR PLAN TO SELL PROPERTY

" …. (Name and address of any obligor who is also a debtor.)

"Subject: …. (Identification of transaction)

"We have your …. (describe collateral), because you broke promises in our agreement.

"(For a public disposition:)

"We will sell …. (describe collateral) at public sale. A sale could include a lease or license. The sale will be held as follows:

"Date: ….

"Time: ….

"Place: ….

"You may attend the sale and bring bidders if you want.

"(For a private disposition:)

"We will sell …. (describe collateral) at private sale sometime after …. (date). A sale could include a lease or license.

"The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you (will or will not, as applicable) still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

"You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our expenses. To learn the exact amount you must pay, call us at …. (telephone number).

"If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at …. (telephone number) or write us at …. (secured party's address) and request a written explanation. (We will charge you $…. for the explanation if we sent you another written explanation of the amount you owe us within the last six months.)

"If you need more information about the sale call us at …. (telephone number) or write us at …. (secured party's address).

"We are sending this notice to the following other people who have an interest in …. (describe collateral) or who owe money under your agreement:

"…. (Names of all other debtors and obligors, if any.)"

if additional information appears at the end of the form," the notice remains sufficient.

We begin our analysis by noting that the question of whether providing an actual accounting in lieu of a statement of a right to an accounting satisfies the requirements set out in § 42a-9-613 (1) (D) is a matter of first impression in Connecticut. Although the statute only requires a statement "that the debtor is entitled to an accounting"; General Statutes § 42a-9-613 (1) (D); including additional information is permitted; see General Statutes § 42a-9-614 (4); and exact language is not required. General Statutes § 42a-9-614 (2). Providing an actual accounting in the notice instead of a statement that such an accounting may be obtained on request is the type of additional information that the statute allows. Indeed, providing the actual accounting, especially when provided free of charge as was done here, instead of a notice of a right to an accounting serves as a consumer focused means of meeting the statutory purpose of notification to the debtor.

An accounting is defined, inter alia, as "the aggregate unpaid secured obligations" and identifies "the components of the obligations in reasonable detail." General Statutes § 42a-9-102 (4) (B) and (C). In the present case, the presale notice stated the principal ($9700.06), the interest ($114.05 with a $1.33 per diem accrual), late fees ($30), and cost of towing ($200), for a total outstanding balance of $10,044.11. The notice also closed with "[i]f you have any questions, please contact me," and provided a phone number and address. In addition, the notice provided a three page long description of the defendant's redemption rights and outstanding debt. The plaintiff provided an actual accounting in compliance with the statute, comprised of "the principal, interest, per diem, late fees, [and] repossession costs . . . ." See General Statutes § 42a-9-102 (4).

On these facts, we conclude that the plaintiff's presale notice, which provided detailed information, including details of the defendant's debt and the amount she owed to the plaintiff, and actively invited questions, adhered to the requirements of §§ 42a-9-614 (1) (A) and 42a-9-613 (1) (D) and thus satisfied the accounting provision of the statute.

II

The defendant's second claim is that the court erred in finding that the plaintiff provided a telephone number that she could call to determine the total amount that she would need to pay to redeem the vehicle as required by § 42a-9-614 (1) (C).[10] Because this claim is not properly preserved for appellate review, we decline to reach the merits of this argument.

The following facts are relevant to our resolution of this claim. The defendant asserted several special defenses relating to the sufficiency of the plaintiff's presale notice and postsale notice in her amended answer. Although the defendant raised other defenses based upon §§ 42a-9-613 and 42a-9-614, she did not assert the defense that the plaintiff failed to provide a number that she could call in order to learn the total amount she would need to pay to redeem her vehicle.[11] See footnote 4 of this opinion. The defendant did not raise this issue until her posttrial brief, which was filed

[10] General Statutes § 42a-9-614 (1) provides that "[a] notification of disposition must provide the following information . . . ." Subdivision (C) requires that such notice include "[a] telephone number from which the amount that must be paid to the secured party to redeem the collateral under section 42a-9-623 is available . . . ." General Statutes § 42a-9-614 (1) (C).

[11] The presale notice provides, beneath the list of money past due and repossession costs: "In addition to the charges listed above, you will incur storage fees. Please contact the [r]epossession agent to determine the amount of the charge." The defendant argues that because the presale notice only provided contact information for the credit union and not for the repossession agent, the defendant was not provided with a number with which she could learn the amount she needed to pay to redeem the vehicle.

simultaneously with the plaintiff's brief. Further, our careful review of the record reveals that this issue was not raised at trial and is not addressed in the trial court's memorandum of decision, of which no further articulation was sought.

Because the trial court did not consider this issue, the factual record is wholly inadequate for our review. The court did not make findings of fact relevant to this specific issue. Therefore, in asking us to review this claim, the defendant is essentially asking us to make factual findings—a request with which we cannot comply. See *Byrne* v. *Spurling*, 105 Conn. App. 99, 103, 937 A.2d 70 (2007). "[A]n examination of the plaintiff's belated arguments demonstrates the need for factual findings that the record does not contain." Id. For these reasons, we cannot address the merits of this claim.

"The court shall not be bound to consider a claim unless it was distinctly raised at the trial or arose subsequent to the trial. . . ." Practice Book § 60-5. "[T]he reason for the rule is obvious: to permit a party to raise a claim on appeal that has not been raised at trial—after it is too late for the trial court *or the opposing party* to address the claim—would encourage trial by ambuscade, which is unfair to both the trial court and the opposing party. . . . [T]o permit the appellant first to raise posttrial an issue that arose during the course of the trial would circumvent the policy underlying the requirement of timely preservation of issues." (Emphasis in original; internal quotation marks omitted.) *Carroll* v. *Yankwitt*, 203 Conn. App. 449, 479 n.23, 250 A.3d 696 (2021). This court previously has declined to review a claim raised for the first time in a posttrial brief because doing so would "contravene the purpose of the preservation requirement," noting that it was "not surprising that the trial court did not address the defendant's [claim] in any manner in its memorandum of decision." *AS Peleus, LLC* v. *Success, Inc.*, 162 Conn.

App. 750, 759–60, 133 A.3d 503 (2016). Thus, because the issue was only raised in the defendant's posttrial brief and because the record is inadequate for review, we do not reach the merits of this claim.

III

Finally, the defendant claims that the trial court erred by "implicitly" finding that the plaintiff complied with RISFA, specifically, General Statutes § 36a-785 (e), and provided the defendant with a " 'written statement itemizing the disposition of the proceeds' " from the vehicle's sale. In addressing this claim, we move away from the adequacy of the presale notice and examine the defendant's actions *after* the vehicle was sold. The defendant further argues that, even if the plaintiff had satisfied § 36a-785 (e), the court erred in finding that the plaintiff credited the defendant the proper amount from the sale of the vehicle. As to the claim that the plaintiff failed to provide an itemization in the postsale notice, the defendant's argument was not properly preserved, and, therefore, we do not reach the merits of the claim. As to the argument that the plaintiff failed to credit the defendant with the proper amount, we disagree.

A

Similar to the defendant's claim detailed in part II of this opinion, the defendant's claim that the postsale notice failed to provide a proper itemization as required by § 36a-785 (e)[12] is not properly preserved for appellate review.

Although the defendant raised other defenses based on § 36a-785 in her amended answer, she did not assert

[12] General Statutes § 36a-785 (e), titled "Proceeds of resale," provides in relevant part: "Not later than thirty days after the resale, the holder of the contract shall give the retail buyer a written statement itemizing the disposition of the proceeds. . . ."

the defense of failing to provide a statement itemizing the proceeds of the disposition. See footnote 4 of this opinion. The defendant did not raise the issue until her posttrial brief—filed simultaneously with the plaintiff's posttrial brief. Again, the record is unclear how, if at all, this issue was raised at trial since the issue is not addressed in the trial court's memorandum of decision.[13] The defendant herself acknowledges that "neither [the plaintiff] nor the trial court addressed the postsale RISFA argument . . . ." Perhaps neither addressed this argument because each was mindful of the precept that raising an issue only in a posttrial brief "circumvent[s] the policy underlying the requirement of timely preservation of issues." (Internal quotation marks omitted.) *Carroll* v. *Yankwitt*, supra, 203 Conn. App. 479 n.23.

Although each party briefed this issue on appeal, we decline to review the claim as it was neither properly raised nor considered at trial. Therefore, because permitting this claim " 'would encourage trial by ambuscade' " and would " 'contravene the purpose of the preservation requirement,' "; id.; we conclude that the defendant has failed to properly preserve the claim for appellate review. See *AS Peleus, LLC* v. *Success, Inc.*, supra, 162 Conn. App. 759–60.

B

In addition to the claim that the plaintiff provided no itemized statement of disposition, the defendant claims

[13] After filing the present appeal, the defendant filed a motion for articulation with the trial court on February 27, 2020. Specifically, the defendant requested articulation of the trial court's "basis for rejecting [the defendant's] contention '[that the plaintiff] didn't send [the defendant] a written statement itemizing the disposition of the vehicle's sales proceeds,' which violates § 36a-785 (e) of RISFA and bars recovery." This contention was not raised in the defendant's amended answer, but was argued in her posttrial brief. The trial court did not rule on the motion for articulation and the defendant did not file a motion to compel the court to issue a ruling.

that, even if there were such a statement, the plaintiff necessarily violated the statute's mandate by crediting her with the incorrect value of the vehicle.[14] Specifically, the defendant claims that § 36a-785 (g) requires a secured party to credit a debtor with the fair market value as determined by the formula set forth in the statute (statutory fair market value) at the time the collateral is disposed of and that the trial court erred in concluding that the postsale notice properly credited her with $4000 in actual sales proceeds rather than the statutory fair market value as required under § 36a-785 (g). We disagree.

For the same reasons set forth in part I of this opinion, this claim is subject to plenary review. See *Wells Fargo Bank, N.A.* v. *Fratarcangeli*, 192 Conn. App. 159, 165, 217 A.3d 649 (2019).

The following facts are relevant to our resolution of this claim. At trial, the plaintiff called its collection manager, Roy, as a witness. Roy testified that the statutory fair market value of the vehicle was $6225. He also testified, however, that, according to the vehicle condition report, the vehicle's driver side front door and rear quarter panel as well as the passenger side front quarter panel, rear door, and rear quarter panel all were scratched and dinged. According to Roy, the sale price of $4000—not the statutory fair market value of $6225—represented the vehicle's actual fair market value. The defendant did not present any evidence regarding the vehicle's value. The trial court found that the plaintiff rebutted the fair market value presumption of § 36a-785 (g), and found that the sale price ($4000) was the vehicle's actual fair market value.

Section 36a-785 (g), titled "Fair market value," provides in relevant part: "If the goods retaken consist of

[14] Although the defendant articulates this argument as part of her itemized statement claim, because this question was, in fact, properly preserved, we reach the merits of this claim.

a motor vehicle the aggregate cash price of which was more than four thousand dollars, the prima facie fair market value of such motor vehicle shall be calculated by adding together the average trade-in value for such motor vehicle and the highest-stated retail value for such motor vehicle and dividing the sum of such values by two. Such average trade-in value and highest-stated retail value shall be determined by the values as stated in the National Automobile Dealers Association Used Car Guide [(NADA)] . . . as of the date of repossession. . . . The prima facie evidence of fair market value of such motor vehicle . . . so determined may be rebutted only by direct in-court testimony. If such value of the motor vehicle . . . is less than the balance due under the contract . . . the holder of the contract may recover from the retail buyer . . . the amount by which such liability exceeds such fair market value . . . .'' In essence, the statute creates a rebuttable presumption that the NADA value, the statutory fair market value, is the actual fair market value.

On appeal, the defendant claims that the plaintiff was required to credit her account with the statutory fair market value rather than the actual sale proceeds and was precluded from contesting the statutory fair market value until the matter was before a court. It is the defendant's position that the plaintiff is barred from recovering a deficiency judgment in this case because of its failure to credit her with the statutory fair market value when it sold the vehicle. The plaintiff essentially relies on the fact that the trial court found that Roy's testimony rebutted the presumption of fair market value in arguing that it complied with the statute.

We disagree with the defendant's interpretation of § 36a-785 (g). The purpose of subsection (g) is not to calculate an amount that a creditor/secured party *must* credit to a debtor's account, but rather to provide the debtor with the tools to defend herself in a deficiency

proceeding brought by a secured party. See General Statutes § 36a-785 (g). Where a secured party seeks a deficiency judgment, following a calculation pursuant to subsection (g), the secured party may rebut the presumed value of the vehicle with direct in-court testimony. See General Statutes § 36a-785 (g). In the present case, the plaintiff presented evidence of the statutory fair market value ($6225) and then rebutted the presumed value with Roy's testimony on the vehicle's sale price ($4000) and how that value represented the actual fair market value of the vehicle due to damage sustained in the accident that prompted the defendant's surrender of the vehicle. Finally, although the plaintiff presented ample evidence to rebut the statutory fair market value, the defendant did not offer any evidence as to the vehicle's value. We conclude that the plaintiff did not violate § 36a-785 (g).

The judgment is affirmed.

In this opinion the other judges concurred.

STEPHEN NELSON *v.* COMMISSIONER OF CORRECTION (AC 44294)

Elgo, Suarez and Clark, Js.

Syllabus

The petitioner, who had been convicted of several crimes after two trials, sought a writ of habeas corpus, claiming that he received ineffective assistance from counsel, F and R, who represented him in posttrial proceedings to reduce his sentences. The petitioner had been sentenced to eighteen years of incarceration after the first trial, in which a mistrial was declared as to certain charges on which the jury was unable to reach agreement. The Sentence Review Division of the Superior Court thereafter denied the petitioner's application for a sentence reduction. The petitioner was then retried and convicted of the charges on which the jury previously had failed to reach a verdict and was sentenced to fifty-five years of incarceration to run concurrently with the sentence in his first trial. At about the time of the second trial and after the

petitioner had cooperated with the state in conjunction with two murder trials, F represented him in discussions that led to an agreement with the state under which it would not oppose a sentence modification hearing as to the fifty-five year term of imprisonment. The modification hearing did not result in a sentence reduction. Thereafter, F discussed with the petitioner the possibility of applying for a review of the fifty-five year sentence, even though the deadline for such an application had expired. The petitioner then filed petitions for a writ of habeas corpus, which were consolidated before several counts were dismissed by the habeas court. R, the petitioner's habeas counsel, then negotiated an agreement with the respondent Commissioner of Correction to file a joint motion for a stipulated judgment under which the petitioner's right to apply with the Sentence Review Division for a reduction of the fifty-five year term of imprisonment was reinstated, and the petitioner would be foreclosed from filing any future civil actions challenging the judgments of conviction from his two trials and the remaining counts of his habeas petition would be stricken with prejudice. F represented the petitioner at the review proceeding after the petitioner's rights to sentence review were restored. The Sentence Review Division affirmed the petitioner's sentence, noting that it could not consider the petitioner's cooperation with the state because the sentencing court had not considered it when it sentenced the petitioner. In the present habeas petition, the petitioner alleged, inter alia, that F rendered ineffective assistance in advising him to pursue sentence review and failing to consult with R about the stipulation. The petitioner further claimed that R rendered ineffective assistance because he had not investigated and consulted with F to determine the basis for the stipulation before advising the petitioner to forgo his habeas corpus rights in exchange for sentence review. The habeas court denied the petition, concluding that neither F nor R rendered ineffective assistance, and that the petitioner's withdrawal with prejudice of the prior habeas petition was knowing and voluntary. Thereafter, the court granted the petitioner certification to appeal. *Held* that the habeas court properly denied the petition for a writ of habeas corpus: R informed the petitioner that the remaining claims in his consolidated habeas petition were weak and that sentence review might afford him relief from the fifty-five year sentence, F and R individually counseled the petitioner in separate and distinct capacities in the respective proceedings, and R believed that the petitioner comprehended the consequences of entering into the stipulated judgment, including his waiver of habeas corpus rights arising out of his convictions; moreover, the petitioner's claim that his withdrawal of his habeas corpus petition was not knowing or voluntary was unavailing, R having spent approximately one hour with him discussing the six page motion for the stipulated judgment and answering his questions before the petitioner signed the document; furthermore, the habeas court found R's testimony to be more credible than the petitioner's, and this court

was bound by those credibility determinations, as it is the habeas court that sits as the trier of fact.

Argued October 18—officially released November 30, 2021

Procedural History

Amended petition for a writ of habeas corpus, brought to the Superior Court in the judicial district of Tolland, where the court, *Bhatt, J.*, rendered judgment denying the petition; thereafter, the court granted the petition for certification to appeal, and the petitioner appealed to this court. *Affirmed.*

Peter G. Billings, assigned counsel, with whom, on the brief, was *Stephanie K. Toronto*, assigned counsel, for the appellant (petitioner).

Samantha L. Oden, former deputy assistant state's attorney, with whom, on the brief, were *Brian Preleski*, state's attorney, and *Michael Proto*, senior assistant state's attorney, for the appellee (respondent).

Opinion

PER CURIAM. The petitioner, Stephen Nelson, has filed numerous direct and habeas corpus appeals arising from his convictions for crimes committed on January 22, 2005. He now appeals from the judgment of the habeas court, *Bhatt, J.*, denying his amended petition for a writ of habeas corpus. He claims that the habeas court erred by determining (1) that habeas counsel's performance was not deficient and (2) that his withdrawal with prejudice of a prior habeas corpus petition was knowing and voluntary. We affirm the judgment of the habeas court.

The following facts and lengthy procedural history are relevant to our resolution of the present appeal. The petitioner was arrested and charged with numerous crimes for an incident in which he was involved on January 22, 2005. *State* v. *Nelson*, 105 Conn. App. 393,

396–97, 937 A.2d 1249 (*Nelson I*), cert. denied, 286 Conn. 913, 944 A.2d 983 (2008). At trial, the petitioner was represented by Attorney Claud Chong. Following the presentation of evidence, the jury found the petitioner guilty of conspiracy to commit robbery in the first degree in violation of General Statutes §§ 53a-48 (a) and 53a-134 (a), and not guilty of one of the other charges. Id. Members of the jury, however, were unable to reach a unanimous verdict on the remaining charges. The court, *Vitale*, *J.*, sentenced the petitioner to eighteen years of incarceration. The conviction was upheld on appeal to this court; id., 418; and our Supreme Court denied certification to appeal. See *State* v. *Nelson*, 286 Conn. 913, 944 A.2d 983 (2008).

The petitioner filed an application with the Sentence Review Division of the Superior Court, seeking to have his eighteen year sentence reduced. The Sentence Review Division denied the petitioner's request. See *State* v. *Nelson*, Superior Court, judicial district of New Britain, Docket No. CR-05-220383 (June 24, 2008).

In December, 2006, the state retried the petitioner on the charges on which the jury failed to reach a verdict in *Nelson I*: two counts of kidnapping in the first degree in violation of General Statutes § 53a-92 (a) (2) (A) and (B), two counts of burglary in the first degree in violation of General Statutes (Rev. to 2005) § 53a-101 (a) (1) and (2), and assault in the first degree in violation of General Statutes § 53a-59 (a) (1). *State* v. *Nelson*, 118 Conn. App. 831, 833, 986 A.2d 311 (*Nelson II*), cert. denied, 295 Conn. 911, 989 A.2d 1074 (2010). The petitioner elected to represent himself with Chong as standby counsel. Id., 837. The jury found the petitioner guilty of all counts, and the court, *D'Addabbo*, *J.*, sentenced the petitioner to a total effective term of fifty-five years of incarceration concurrent with the sentence he received in *Nelson I*. Id., 833 n.1.

At about the time of the trial in *Nelson II*, the petitioner cooperated with the state in conjunction with two murder trials. As a result of his cooperation and following his conviction in *Nelson II*, the petitioner engaged in discussions with the state about a possible modification of the sentence he received in *Nelson II*. Attorney Donald Freeman represented him during those discussions. As a result of those discussions, the state agreed to not oppose a sentence modification hearing for the petitioner but not to a specific sentence reduction. The modification hearing did not result in a reduction of the petitioner's sentence.

The petitioner subsequently filed an appeal from his *Nelson II* convictions. See id., 833. This court agreed with a double jeopardy claim the petitioner asserted and remanded the case to the trial court with direction to merge the two kidnapping convictions and to vacate the sentence imposed on one of them; id., 853–56; but affirmed the judgment in all other respects. Id., 862. On remand, the petitioner was resentenced to fifty-five years of incarceration. He did not seek a timely review of that sentence, thus waiving his right to sentence review.

The self-represented petitioner then filed two petitions for a writ of habeas corpus. *Nelson* v. *Commissioner of Correction*, 326 Conn. 772, 777, 167 A.3d 952 (2017). The petitions were consolidated, and Attorney David Rimmer filed an amended petition containing multiple counts. Id. The habeas court, *Schuman*, *J.*, dismissed four of those counts. Rimmer believed that the remaining habeas claims, although not frivolous, were weak. Meanwhile, Freeman had discussed with the petitioner the possibility of applying for a sentence review in *Nelson II* even though the deadline for making such an application had expired. Rimmer informed the petitioner of his assessment of his habeas claims and worked to accomplish a more favorable outcome

through negotiations with counsel for the respondent, the Commissioner of Correction. As a result of those negotiations, on December 1, 2011, the petitioner, Rimmer, and the respondent's counsel signed a motion for a stipulated judgment and filed it with the court clerk. "Under that stipulated judgment, the respondent agreed to the reinstatement of the petitioner's right to file an application with the Sentence Review Division for a reduction of the fifty-five year term of imprisonment that the petitioner received following [*Nelson II*]. For his part, the petitioner agreed to be foreclosed from filing any future civil actions challenging the judgments of conviction arising out of [*Nelson I* and *Nelson II*], and further, that the remaining counts of the then pending habeas petition were to be stricken with prejudice." Id., 777; see also id., 777 n.7. On December 6, 2011, the court, *Newson, J.*, took the papers on the motion for a stipulated judgment and issued an order granting it. See id., 777.

Freeman represented the petitioner at the review proceeding after the petitioner's rights to sentence review were restored pursuant to the stipulated judgment. At the sentence review hearing, Freeman and the petitioner argued for a reduction of the fifty-five year sentence. Although they principally argued that the victim of the petitioner's crimes was not murdered and did not suffer paralysis and, therefore, that the petitioner's sentence was disproportionately severe compared with sentences in other comparable cases, they also argued that the petitioner had cooperated with the state by testifying in two homicide trials. A member of the review panel asked whether the petitioner's cooperation occurred before or after the *Nelson II* trial and sentencing. Freeman informed the panel that the petitioner cooperated with the state prior to sentencing but that he did not testify until after he was sentenced. The Sentence Review Division affirmed the petitioner's

sentence, noting that it could not consider the petitioner's cooperation with the state because Judge D'Addabbo had not considered it when he sentenced the petitioner. See *State* v. *Nelson*, Superior Court, judicial district of New Britain, Docket No. CR-05-220383-A (November 2, 2012) (54 Conn. L. Rptr. 904, 905).

In 2013, the petitioner filed another petition for a writ of habeas corpus in which he alleged ineffective assistance of counsel at the *Nelson I* and *Nelson II* trials. The respondent moved to dismiss the petition pursuant to Practice Book § 23-29 (5)[1] on the basis of the stipulated judgment that barred the petitioner from filing any further civil actions pertaining to those trials. The habeas court, *Oliver*, *J.*, granted the motion to dismiss. The petitioner appealed, claiming that he did not knowingly and voluntarily enter into the stipulated judgment. *Nelson* v. *Commissioner of Correction*, supra, 326 Conn. 774. Our Supreme Court affirmed the judgment of dismissal, concluding that "the petitioner did not properly raise his challenge to the enforceability of the stipulated judgment in the habeas court and, further, that the stipulated judgment was a legally sufficient ground for dismissal of the present habeas action." Id., 775.

In 2015, the petitioner filed the present petition for a writ of habeas corpus. In his amended three count petition, he alleged in count one that Freeman, who represented him before the sentence review board, had provided ineffective assistance by advising the petitioner to pursue sentence review and failing to consult with Rimmer about the stipulation. In count two, the petitioner alleged that Rimmer, who was the petitioner's habeas counsel, had rendered ineffective assistance

[1] Practice Book § 23-29 provides in relevant part: "The judicial authority may, at any time, upon its own motion or upon motion of the respondent, dismiss the petition, or any count thereof, if it determines that . . . (5) any other legally sufficient ground for dismissal of the petition exists."

because he had not investigated and consulted with Freeman to determine the basis for the stipulation before advising the petitioner to forgo his habeas corpus rights in exchange for sentence review. In count three, the petitioner alleged that he was not fully and accurately apprised by Rimmer as to the full scope of the stipulation before withdrawing his habeas corpus petition.

The habeas trial was held on October 30, 2019. The petitioner, Freeman, and Rimmer testified. Following trial, Judge Bhatt denied the petition. As to the claim that Freeman's representation was ineffective, the court found that there was no evidence that "Freeman advised the petitioner that he should choose sentence review in lieu of the claims in his prior habeas petition." The court found that Rimmer had made the suggestion and concluded that Freeman's representation was not deficient.[2]

With respect to Rimmer's representation, the court credited Rimmer's testimony that the petitioner's habeas claims were not strong, given that he had represented himself in *Nelson II* and, therefore, was precluded from raising a claim of ineffective assistance of counsel. Even if the petitioner could prove that Chong provided ineffective assistance during *Nelson I*, the sentence imposed for that conviction was eighteen years, significantly shorter than the concurrent sentence he received in *Nelson II*. The petitioner presented no evidence that Rimmer failed to properly advise him that the sentence review board would not consider his cooperation with the state in the separate murder trials. Moreover, the court stated that the petitioner's simultaneous claims against Freeman and Rimmer would "require actions that each interfere with the other's representation of

[2] On appeal, the petitioner has not challenged the court's finding with respect to Freeman.

the same client. . . . [B]oth counsel strove to resolve the petitioner's matters by coordinating their respective efforts [to] get meaningful relief for the petitioner. The restoration of the petitioner's right to sentence review was meaningful relief."

The court credited Rimmer's testimony that he spent one hour explaining to the petitioner the motion for the stipulated judgment and believed the petitioner understood the motion. The petitioner, however, testified that he met with Rimmer for approximately ten minutes and that Rimmer gave him a single sheet of paper that he signed without reading. The motion for the stipulated judgment was placed into evidence, and the court found that it was six pages in length, including the signature page, and the petitioner's signature was on the last page.[3] The court concluded that Rimmer's representation was not deficient.

As to count three of the petition, which alleged that the petitioner's withdrawal of the prior habeas petition was not knowing and voluntary, the habeas court denied the claim because it was based on allegations that both Freeman and Rimmer provided ineffective assistance of counsel in connection with the stipulated judgment. The court already had determined that neither counsel had rendered ineffective assistance. In addition, the court found that the motion for a stipulated judgment was a proper basis for dismissal of the prior habeas petition, pursuant to our Supreme Court's decision in *Nelson* v. *Commissioner of Correction*, supra, 326 Conn. 774. The habeas court, therefore, denied the present petition for a writ of habeas corpus but granted the petitioner's petition for certification to appeal.

[3] Our review of the motion for stipulated judgment confirms the court's finding. Page 6 of the document contains the signatures and names of the petitioner, Rimmer, and counsel for the respondent.

On appeal, the petitioner claims that the court improperly determined that Rimmer did not render ineffective assistance and that the petitioner's withdrawal of the prior habeas petition with prejudice was knowing and voluntary. Factually, the claims are intertwined, as they both flow from the petitioner's allegations that Rimmer provided ineffective assistance by advising the petitioner to enter into the stipulated judgment.

In *Lozada* v. *Warden*, 223 Conn. 834, 613 A.2d 818 (1992), our Supreme Court "determined that the statutory right to habeas counsel for indigent petitioners provided in General Statutes § 51-296 (a) includes an implied requirement that such counsel be effective, and it held that the appropriate vehicle to challenge the effectiveness of habeas counsel is through a habeas petition." (Internal quotation marks omitted.) *Gerald W.* v. *Commissioner of Correction*, 169 Conn. App. 456, 463, 150 A.3d 729 (2016), cert. denied, 324 Conn. 908, 152 A.3d 1246 (2017). The question of whether the representation a petitioner received "was constitutionally inadequate is a mixed question of law and fact." (Internal quotation marks omitted.) *Sanders* v. *Commissioner of Correction*, 83 Conn. App. 543, 548, 851 A.2d 313, cert. denied, 271 Conn. 914, 859 A.2d 569 (2004).

"In a habeas appeal, this court cannot disturb the underlying facts found by the habeas court unless they are clearly erroneous, but our review of whether the facts as found by the habeas court constituted a violation of the petitioner's constitutional right to effective assistance of counsel is plenary." (Internal quotation marks omitted.) *Dwyer* v. *Commissioner of Correction*, 102 Conn. App. 838, 841, 927 A.2d 347, cert. denied, 284 Conn. 925, 933 A.2d 724 (2007). In a habeas trial, the court is the trier of fact and, thus, "is the sole arbiter of the credibility of witnesses and the weight to be given to their testimony . . . ." *Bowens* v. *Commissioner of Correction*, 333 Conn. 502, 523, 217 A.3d 609 (2019). "It

is simply not the role of this court on appeal to second-guess credibility determinations made by the habeas court." *Noze* v. *Commissioner of Correction*, 177 Conn. App. 874, 887, 173 A.3d 525 (2017).

To succeed on a claim of ineffective assistance of counsel, a habeas petitioner must satisfy the two-pronged test of *Strickland* v. *Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984). In *Strickland*, "the United States Supreme Court established that for a petitioner to prevail on a claim of ineffective assistance of counsel, he must show that counsel's assistance was so defective as to require reversal of [the] conviction. . . . That requires the petitioner to show (1) that counsel's performance was deficient and (2) that the deficient performance prejudiced the defense. . . . Unless a [petitioner] makes both showings, it cannot be said that the conviction . . . resulted from a breakdown in the adversary process that renders the result unreliable." (Internal quotation marks omitted.) *Sanders* v. *Commissioner of Correction*, supra, 83 Conn. App. 549. A petitioner can succeed only if he can satisfy both of the *Strickland* prongs. *Bowens* v. *Commissioner of Correction*, supra, 333 Conn. 538.

On the basis of our review of the record and having considered the briefs and arguments of the parties, we conclude that the court properly denied the petition for a writ of habeas corpus. Regarding the petitioner's claim that Rimmer provided ineffective assistance of counsel and, on the basis of the evidence presented at trial, the habeas court found that (1) Rimmer informed the petitioner that the remaining claims in his consolidated habeas petition were weak and that sentence review might afford him relief from the fifty-five year sentence in *Nelson II*; (2) Freeman and Rimmer individually counseled the petitioner in separate and distinct capacities in the respective proceedings; (3) Rimmer met with the petitioner for approximately one hour to review the

motion for the stipulated judgment, which was detailed and specific, and answered the petitioner's questions; and (4) Rimmer believed that the petitioner comprehended the consequences of entering into the stipulated judgment, including his waiver of habeas corpus rights arising out of his convictions.

With regard to the petitioner's claim that the withdrawal of his habeas corpus petition was not knowing or voluntary, the habeas court found that Rimmer spent approximately one hour with the petitioner discussing the six page motion for the stipulated judgment and answering the petitioner's questions before the petitioner signed the document. Importantly, the court found Rimmer's testimony to be more credible than the petitioner's. This court is bound by the credibility determinations of the habeas court, which sits as the trier of fact. See *Noze* v. *Commissioner of Correction*, supra, 177 Conn. App. 887.[4]

The judgment is affirmed.

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[4] In his habeas corpus petition, the petitioner did not allege that his waiver of his habeas rights were not voluntary and knowing because Judge Newson did not canvass him before granting the motion for the stipulated judgment. Judge Bhatt addressed the issue in his decision, and the petitioner made the argument in his appellate brief. The petitioner has not identified any authority in support of his argument other than Practice Book § 39-24 and *Almedina* v. *Commissioner of Correction*, 109 Conn. App. 1, 7, 950 A.2d 553, cert. denied, 289 Conn. 925, 958 A.2d 150 (2008). Those authorities are inapposite, as they both concern a guilty plea. Moreover, during oral argument before this court, counsel for the petitioner made clear that he was not claiming that the petitioner had a constitutional right to be canvassed.

MEMORANDUM DECISIONS

CONNECTICUT APPELLATE REPORTS

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EMILY S. SCHOONMAKER ET AL. *v.*
MATTHEW G. CRIBBINS ET AL.
(AC 43151)

Alvord, Alexander and Harper, Js.

Argued November 15—officially released November 30, 2021

Plaintiffs' appeal from the Superior Court in the judicial district of Stamford-Norwalk, Housing Session at Norwalk, *Spader*, *J.*

Per Curiam. The judgment is affirmed.

MAIN STREET BUSINESS MANAGEMENT, INC.
v. MANUEL MOUTINHO ET AL.
(AC 44362)

Alvord, Alexander and Lavine, Js.

Argued November 15—officially released November 30, 2021

Plaintiff's appeal from the Superior Court in the judicial district of Fairfield, *Welch*, *J.*

Per Curiam. The judgment is affirmed.

SHERI SPEER *v.* MICHAEL TEIGER
(AC 38557)

Prescott, Elgo and Eveleigh, Js.

Argued November 15—officially released November 30, 2021

Plaintiff's appeal from the Superior Court in the judicial district of Hartford, *Robaina*, *J.*

Per Curiam. The judgment is affirmed.

1195 NORTH COLONY ROAD, LLC
v. MOHAMMAD NADEEM
(AC 43931)

Prescott, Elgo and Eveleigh, Js.

Argued November 15—officially released November 30, 2021

Defendant's appeal from the Superior Court in the judicial district of New Haven, Housing Session, *Baio*, *J.*

Per Curiam. The judgment is affirmed.

RICHARD TATOIAN, TRUSTEE *v.* BRUCE D. TYLER ET AL.
(AC 44401)

Prescott, Suarez and Bishop, Js.

Argued November 16—officially released November 30, 2021

Named defendant's appeal from the Superior Court in the judicial district of Tolland, *Sicilian*, *J.*

Per Curiam. The judgment is affirmed.

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Employment discrimination; whether trial court properly upheld decision of defendant Commission on Human Rights and Opportunities that employee had proven intentional discrimination based on ancestry by plaintiff employer; claim that there was insufficient evidence that discharge of employee was motivated by discriminatory animus; claim that record did not permit reasonable inference that reasons for discharging defendant employee were pretextual.
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Landlord-tenant; action for return of security deposit; claim that trial court erred when it awarded plaintiff double damages pursuant to applicable statute (§ 47a-21 (d)) for defendant's failure to return portion of plaintiff's security deposit; whether trial court's determination that certain of defendant's charges for damages to premises were pretextual was erroneous; claim that trial court erred when it concluded that defendant's handling of security deposit and her failure to return portion of it violated Connecticut Unfair Trade Practices Act (CUTPA) (§ 42-110a et seq.); whether defendant was required to place security deposit into escrow account; whether plaintiff suffered ascertainable loss as result of defendant's withholding of portion of security deposit; claim that trial court erred when it awarded punitive damages to plaintiff under CUTPA; claim that trial court erred in holding that plaintiff was not entitled to return of certain rental payments pursuant to applicable statute (§ 47a-11); whether plaintiff abandoned

premises prior to end of lease term; claim that trial court erred in denying plaintiff's common-law claim for money had and received.
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Isaac *v.* Claude (Memorandum Decision) . . . 904
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Habeas corpus; claim that habeas court abused its discretion in denying petition for certification to appeal; claim that habeas court abused its discretion in declining to issue writ of habeas corpus; interpretation of rule of practice (§ 23-24); whether petitioner's first and second habeas petitions were identical; whether decision by habeas court to decline to issue writ of habeas corpus was proper due to lack of subject matter jurisdiction; whether retroactive application of 2013 amendment to risk reduction earned credit program for parole eligibility to petitioner violated ex post facto clause of federal constitution; whether case was distinguishable from Whistnant *v.* Commissioner of Correction *(199 Conn. App. 406) in context of habeas court's decision to decline to issue writ for lack of jurisdiction pursuant to § 23-24 (a) (1).*
JPMorgan Chase Bank, National Assn. *v.* Malick . . . 38
Foreclosure; claim that trial court improperly rendered judgment of strict foreclosure; whether trial court erred as matter of law when it accepted affidavit of debt and relied on it to establish amount of defendant's indebtedness even though defendant had articulated specific objections to amount of mortgage debt; whether trial court properly applied rule of practice (§ 23-18 (a)) in permitting plaintiff to prove amount of debt by submission of affidavit; whether defendant's articulated objections concerning amount of mortgage debt were sufficient to render application of § 23-18 improper.
J. W. *v.* S. H. (Memorandum Decision) . . . 904
L. W. *v.* M. W. . . . 497
Dissolution of marriage; motion for contempt; whether trial court properly calculated defendant's earned income pursuant to parties' separation agreement; whether defendant provided adequate record that would enable this court to review claims on appeal; whether, in absence of hearing transcripts, this court could evaluate defendant's arguments in support of appellate claims without impermissibly resorting to speculation.
Lopez *v.* Commissioner of Correction . . . 515
Habeas corpus; claim that state failed to disclose certain information during criminal case; claim that first habeas counsel rendered ineffective assistance; claim of actual innocence; whether habeas court improperly denied petition for writ of habeas corpus; adoption of habeas court's memorandum of decision as proper statement of relevant facts and applicable law on issues.
Main Street Business Management, Inc. *v.* Moutinho (Memorandum Decision) . . . 907
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Dissolution of marriage; postjudgment motion for attorney's fees; claim that, in ordering defendant to pay attorney's fees of plaintiff, trial court applied incorrect legal standard; whether trial court was required to make express finding that plaintiff lacked ample liquid funds to pay her own attorney's fees.
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Underinsured motorist benefits; whether plaintiffs' original joint appeal was taken from final judgments; whether this court lacked subject matter jurisdiction to entertain original joint appeal; claim that trial court improperly declined to award plaintiffs damages related to claims of post-traumatic stress disorder (PTSD); whether PTSD claims were compensable under underinsured motorist claims statute (§ 38a-336); whether PTSD and accompanying physical manifes-

tations could be construed as "bodily injury" within purview of § 38a-336; claim that trial court improperly reduced plaintiffs' damages by sums of workers' compensation benefits received; whether statutory and regulatory scheme governing underinsured motorist coverage in Connecticut imposed requirement on self-insurers to notify claimants of election of permissive offsets under applicable state regulation (§ 38a-334-6); claim that trial court committed error in declining to reduce one plaintiff's damages by sums recovered pursuant to Dram Shop Act (§ 30-102); whether plaintiff was compensated twice for same injury in violation of common-law rule precluding double recovery; whether, on remand, because plaintiffs were not entitled to recover damages against state, judgments must be rendered for state.

Merco Holdings, LLC *v.* CT Karka, LLC (See Brookstone Homes, LLC *v.* Merco Holdings, LLC) 789

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Habeas corpus; whether habeas court properly denied petition for writ of habeas corpus; claim of ineffective assistance of counsel in posttrial proceedings; claim that withdrawal of habeas corpus petition was not knowing or voluntary.

Ocwen Loan Servicing, LLC *v.* Sheldon. 132

Foreclosure; doctrine of unclean hands; whether trial court's finding that mortgage lender failed to restore defendants' credit following its own error was clearly erroneous; whether trial court abused its discretion in concluding that substitute plaintiff's legal title to property was unenforceable after finding for defendants on their special defense of unclean hands; claim that trial court's finding that certain conduct of mortgage lender was wilful was clearly erroneous; claim that trial court's finding that defendants came to court with clean hands was clearly erroneous; claim that trial court's finding that defendants' economic downfall was caused by mortgage lender was clearly erroneous.

Orzech *v.* Giacco Oil Co. 275

Workers' compensation; claim that Compensation Review Board improperly affirmed Workers' Compensation Commissioner's award of survivorship benefits to plaintiff; whether commissioner erred in making several subordinate findings supporting his determination that chain of causation connecting decedent's compensable injuries to his death existed; whether commissioner improperly failed to find that decedent's conduct leading up to his death constituted superseding cause of his death that defeated compensability pursuant to Sapko *v.* State *(305 Conn. 360).*

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Trespass; whether trial court improperly found defendants liable for trespass; claim that privacy fence defendants constructed was divisional fence pursuant to statute (§ 47-43) and within permitted limit of intrusion on plaintiffs' property; unpreserved claim that trial court improperly found defendant property owner liable for trespass because split rail fence was fixture appurtenant to property she owned; claim that trial court improperly found codefendant liable for conversion where plaintiffs never pleaded conversion in complaint or briefed it in motion for summary judgment, and complaint alleged that conduct in dismantling portions of fence constituted trespass.

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Habeas corpus; whether habeas court abused its discretion in denying petition for certification to appeal; whether habeas court properly concluded that petitioner was not prejudiced by his trial counsel's alleged ineffective assistance resulting from failure to investigate and present third-party culpability defense.

Savin Gasoline Properties, LLC *v.* Commission on the City Plan 513

Zoning; administrative appeal; motion for vacatur; whether appeal from trial court was moot; whether appeal became moot through no fault of plaintiff.

S. B-R. *v.* J. D. 342

Order of civil protection; whether trial court abused its discretion in issuing order of civil protection pursuant to statute (§ 46b-16a); claim that trial court did not apply objective standard in finding that plaintiff's fear was reasonable; claim that trial court failed to make finding that defendant would continue to commit acts of stalking against plaintiff.

Schoonmaker *v.* Cribbins (Memorandum Decision). 906

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State *v.* Andres C. 825
Sexual assault in third degree; risk of injury to child; motion to allow introduction of uncharged misconduct evidence; claim that trial court improperly admitted uncharged misconduct evidence; reviewability of claim that trial court erred in permitting state to present uncharged misconduct evidence; whether trial court properly denied defendant's motion to strike testimony regarding uncharged misconduct evidence; claim that defendant's due process right to fair trial was violated by prosecutorial impropriety; claim that trial court improperly denied defendant access to victim's journals; claim that defendant's rights under Brady *v.* Maryland *(373 U.S. 83) were violated because prosecutors delegated review of victim's journals for exculpatory material to nonlawyer investigator.*
State *v.* Austin (Memorandum Decision) 905
State *v.* Cowan 710
Robbery in second degree; larceny in third degree; conspiracy to commit larceny in third degree; claim that defendant's due process rights were violated because his conviction was obtained on basis of false testimony, which state failed to correct; whether witness' testimony at defendant's trial was false; whether state improperly withheld impeachment evidence regarding witness' credibility.
State *v.* Espinal 369
Manslaughter in second degree; whether trial court incorrectly determined that evidence of warrant for victim's rearrest was irrelevant and unduly prejudicial; claim that trial court's ruling substantially affected jury's verdict so as to constitute harmful evidentiary error; whether trial court improperly precluded from evidence recording of defendant's second 911 call as spontaneous utterance pursuant to § 8-3 (2) of Connecticut Code of Evidence; whether defendant's reaction to having been told by police that victim died constituted spontaneous utterance; unpreserved claim that trial court's ruling infringed on defendant's right to present defense; unpreserved claim that defendant was denied fair trial when trial court improperly instructed jury as to order of deliberations and misled it as to consequences of finding that defendant acted in self-defense; request that this court exercise its supervisory authority over administration of justice to require trial courts to consider defense of self-defense prior to considering whether defendant is guilty of charged offense and any lesser included offenses.
State *v.* Goode 198
Criminal damage to landlord's property in first degree; whether evidence was sufficient to support conviction; claim that state presented insufficient evidence to establish element of specific intent.
State *v.* Kennibrew 568
Motion to correct illegal sentence; whether trial court improperly denied motion to correct illegal sentence in violation of constitutional prohibition against double jeopardy when sentencing court had imposed concurrent terms of imprisonment on convictions of murder and felony murder but did not merge convictions or vacate felony murder conviction.
State *v.* Luna 45
Misconduct with motor vehicle; assault in third degree; whether evidence was sufficient to support conviction; claim that evidence was insufficient for jury to determine that defendant acted with criminal negligence; claim that trial court abused its discretion and violated defendant's constitutional right to present defense when it precluded her from introducing toxicology report into evidence; claim that admission into evidence of death certificate violated defendant's sixth amendment right to confrontation because death certificate contained testimonial hearsay; claim that trial court violated defendant's constitutional right to conflict free representation when trial court failed to inquire, sua sponte, into conflict of interest defense counsel created.
State *v.* Michael F.. 663
Assault in third degree; reckless endangerment in first degree; criminal violation of protective order; motions to open; whether trial court properly determined that it lacked jurisdiction to consider defendant's motions to open; claim that trial court abused its discretion when it failed to retain jurisdiction to determine

motions to open; whether, as matter of law, there was jurisdiction for court to retain; whether allegation of ineffective assistance of counsel provided trial court with continuing jurisdiction over criminal case; claim that trial court violated defendant's right to due process when it dismissed motions to open without providing notice and opportunity to be heard on issue of jurisdiction; whether procedures used were adequate to prevent erroneous deprivation of defendant's private interest in exercising right to redress grievances.

State *v.* Shawn G. 154

Possession of narcotics with intent to sell by person who is not drug-dependent; criminal possession of revolver; risk of injury to child; whether evidence was sufficient to support conviction; claim that evidence was insufficient to establish that defendant had dominion and control over and constructively possessed revolver and narcotics; claim that defendant was not in exclusive possession of apartment in which police found revolver and narcotics; whether evidence of loaded revolver hidden in storage container was sufficient to support conviction of risk of injury to child; whether trial court violated defendant's sixth amendment right to compulsory process when it declined to issue capias for police officer who failed to appear at trial in response to subpoena and denied request for continuance.

State *v.* Suzanne P. 592

Operation of motor vehicle while under the influence of intoxicating liquor or drugs; motion to modify condition of probation; claim that trial court improperly determined that special condition of probation prohibited defendant from having any contact with her children; claim that trial court improperly denied defendant's motion for modification because special condition of probation violated her procedural and substantive due process rights.

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Habeas corpus; whether petitioner failed to demonstrate that habeas court's denial of petition for certification to appeal from judgment denying petition for writ of habeas corpus constituted abuse of discretion; whether petitioner's trial counsel rendered ineffective assistance by permitting certain prejudicial prior misconduct evidence to be admitted at trial.

Ulanoff *v.* Becker Salon, LLC 1

Negligence; personal injury; claim that trial court erred by precluding plaintiff from introducing into evidence photograph of entryway to defendants' business, where her accident occurred, which she had obtained from defendant's website; claim that trial court erred in prohibiting plaintiff from questioning witness about appearance of entryway on date prior to incident; claim that cumulative effect of trial court's allegedly erroneous rulings was harmful.

U.S. Bank Trust, N.A. *v.* Healey (Memorandum Decision) 903

Waters Edge 938, LLC *v.* Mazzarella 361

Summary process; claim that trial court improperly concluded that statutory (§ 47a-23c) prohibition against landlords dispossessing disabled tenants who reside in complex consisting of five or more units without good cause did not apply to action; whether two buildings owned by different entities with common member constituted single complex under § 47a-23c.

Watson Real Estate, LLC *v.* Woodland Ridge, LLC 115

Contracts; attorney's fees; motion for judgment; claim that trial court improperly denied defendant's request for trial and appellate attorney's fees; whether trial court failed to exercise its discretion with respect to defendant's request for attorney's fees.

Zdrojeski *v.* State (See Menard *v.* State) 303

NOTICE

Public Comments on Revisions to the Connecticut Code of Evidence Being Considered by the Supreme Court

On November 16, 2021, the Supreme Court voted to submit for public comment the following proposed revisions to the Connecticut Code of Evidence.

Written comments may be submitted to the Code of Evidence Oversight Committee of the Supreme Court by email to Lori.Petruzzelli@jud.ct.gov. Comments should be received **no later than December 14, 2021.**

Attest:

Hon. Richard A. Robinson

Chief Justice, Supreme Court

INTRODUCTION

The following are amendments that are being considered to the Connecticut Code of Evidence, including revisions to the Commentaries. The amendments are indicated by brackets for deletions and underlines for added language. The designation ‘‘New’’ is printed with the title of each new rule.

Supreme Court

PROPOSED AMENDMENTS TO THE CONNECTICUT CODE OF EVIDENCE

ARTICLES AND SECTION HEADINGS

ARTICLE I—GENERAL PROVISIONS

Sec.
1-1. Short Title; Application
1-3. Preliminary Questions

ARTICLE IV—RELEVANCY

Sec.
4-11. Admissibility of Evidence of Sexual Conduct in Criminal Prosecutions
4-12. (New) Admissibility of Evidence of Victim's Sexual Behavior in Civil Proceedings Involving Alleged Sexual Misconduct

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ARTICLE IX—AUTHENTICATION

Sec.
9-1. Requirement of Authentication
9-3. Authentication of Public Records
9-3A. (New) Authentication of Business Entries

PROPOSED AMENDMENTS TO THE CONNECTICUT CODE OF EVIDENCE

ARTICLE I—GENERAL PROVISIONS

Sec. 1-1. Short Title; Application

(a) Short title. These rules shall be known and may be cited as the Code of Evidence. The Code of Evidence is hereinafter referred to as the ''Code.''

(b) Application of the Code. The Code and the commentary apply to all proceedings in the Superior Court in which facts in dispute are found, except as otherwise provided by the Code, the General Statutes or any Practice Book rule adopted before June 18, 2014, the date on which the Supreme Court adopted the Code.

(c) Rules of privilege. Privileges shall apply at all stages of all proceedings in the court.

(d) The Code inapplicable. The Code, other than with respect to privileges, does not apply in proceedings such as, but not limited to, the following:

(1) Proceedings before investigatory grand juries, as provided for in General Statutes §§ 54-47b through 54-47f.

(2) Proceedings involving questions of fact preliminary to the determination of the admissibility of evidence as provided in **[**pursuant to**]** Section 1-3 (a) of the Code.

(3) Proceedings involving sentencing.

(4) Proceedings involving probation.

(5) Proceedings involving small claims matters.

(6) Proceedings involving summary contempt.

(7) Certain pretrial criminal proceedings in which it has been determined as a matter of statute or decisional law that the rules of evidence do not apply.

COMMENTARY

(b) Application of the Code.

When the Code was initially adopted by the judges of the Superior Court in 1999 and then readopted by the Supreme Court in 2014, the adoption included both the rules and the commentary, thereby making both equally applicable. See *State* v. *Pierre*, 277 Conn. 42, 60, 890 A.2d 474, cert. denied, 547 U.S. 1197, 126 S. Ct. 2873, 165 L. Ed. 2d 904 (2006).

The Code is broadly applicable. The Code applies to all civil and criminal bench or jury trials in the Superior Court. The Probate Assembly adopted Probate Rule 62.1, effective July 1, 2013, making the Code applicable to all issues in which facts are in dispute. The Code applies, for example, to the following proceedings:

(1) court-ordered fact-finding proceedings conducted pursuant to General Statutes § 52-549n and Practice Book § 23-53; see General Statutes § 52-549r;

(2) probable cause hearings conducted pursuant to General Statutes § 54-46a, excepting certain matters exempted under General Statutes § 54-46a (b); see *State* v. *Conn*, 234 Conn. 97, 110, 662 A.2d 68 (1995); *In re Ralph M.*, 211 Conn. 289, 305–306, 559 A.2d 179 (1989);

(3) juvenile transfer hearings conducted pursuant to General Statutes § 46b-127 as provided in subsection (b) of that provision*; In re Michael B.*, 36 Conn. App. 364, 381, 650 A.2d 1251 (1994*); In re Jose M.*, 30 Conn. App. 381, 384–85, 620 A.2d 804, cert. denied, 225 Conn. 921, 625 A.2d 821 (1993);

(4) juvenile proceedings; however, adoption of subsection (b) is not intended to abrogate the well established rule that the court may relax

its strict application of the formal rules of evidence to reflect the informal nature of juvenile proceedings provided the fundamental rights of the parties are preserved; *In re Juvenile Appeal (85-2),* 3 Conn. App. 184, 190, 485 A.2d 1362 (1986); see *Anonymous* v. *Norton*, 168 Conn. 421, 425, 362 A.2d 532, cert. denied, 423 U.S. 925, 96 S. Ct. 294, 46 L. Ed. 2d 268 (1975); Practice Book § 32a-2 (a); and

(5) proceedings involving family relations matters enumerated under General Statutes § 46b-1.

The Code is not intended to apply to matters to which the technical rules of evidence traditionally have not applied. Thus, for example, the Code would be inapplicable to hearings on the issuance of bench warrants of arrest or search warrants conducted pursuant to General Statutes §§ 54-2a and 54-33a, respectively; see *State* v. *DeNegris*, 153 Conn. 5, 9, 212 A.2d 894 (1965); *State* v. *Caponigro*, 4 Conn. Cir. Ct. 603, 609, 238 A.2d 434 (1967).

Matters to which the Code specifically is inapplicable are set forth in subsection (d).

(c) Rules of privilege.

Subsection (c) addresses the recognition of evidentiary privileges only with respect to proceedings in the court. See Article V—Privileges. It does not address the recognition of evidentiary privileges in any other proceedings outside the court, whether legislative, administrative or quasi-judicial, in which testimony may be compelled.

(d) The Code inapplicable.

Subsection (d) specifically states the proceedings to which the Code, other than with respect to evidentiary privileges, is inapplicable. The list is intended to be illustrative rather than exhaustive, and subsection

(d) should be read in conjunction with subsection (b) in determining the applicability or inapplicability of the Code. The removal of these matters from the purview of the Code generally is supported by case law, the General Statutes or the Practice Book. They include:

(1) proceedings before investigatory grand juries; e.g., *State* v. *Avcollie*, 188 Conn. 626, 630–31, 453 A.2d 418 (1982), cert. denied, 461 U.S. 928, 103 S. Ct. 2088, 77 L. Ed. 2d 299 (1983);

(2) preliminary determinations of questions of fact by the court made pursuant to Section 1-3 (a); although there is no Connecticut authority specifically stating this inapplicability, it is generally the prevailing view. E.g., Fed. R. Evid. 104 (a); Unif. R. Evid. 104 (a), 13A U.L.A. 16–17 (1999);

(3) sentencing proceedings following trial; e.g., *State* v. *Huey*, 199 Conn. 121, 126, 505 A.2d 1242 (1986); see also *State* v. *Pena*, 301 Conn. 669, 680–83, 22 A.3d 611 (2011) (in sentencing, trial court may rely on evidence bearing on crimes of which defendant was acquitted). The Code, however, does apply to sentencing proceedings that constitutionally require that a certain fact be found by the trier of fact beyond a reasonable doubt before the defendant is deemed eligible for a particular sentence. See, e.g., *Apprendi* v. *New Jersey*, 530 U.S. 466, 490, 120 S. Ct. 2348, 147 L. Ed. 2d 435 (2000) (''[o]ther than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt''); *Bullington* v. *Missouri*, 451 U.S. 430, 446, 101 S. Ct. 1852, 68 L. Ed. 2d 270 (1981) (''many

of the protections available to a defendant at a criminal trial also are available at a sentencing hearing . . . in a capital case'');

(4) hearings involving the violation of probation conducted pursuant to General Statutes § 53a-32 (a); *State* v. *White*, 169 Conn. 223, 239–40, 363 A.2d 143, cert. denied, 423 U.S. 1025, 96 S. Ct. 469, 46 L. Ed. 2d 399 (1975); *In re Marius M.*, 34 Conn. App. 535, 536, 642 A.2d 733 (1994);

(5) proceedings involving small claims matters; General Statutes § 52-549c (a); see Practice Book § 24-23;

(6) summary contempt proceedings; see generally Practice Book § 1-16; and

(7) certain criminal pretrial proceedings; see, e.g., *State* v. *Fernando A.*, 294 Conn. 1, 26–30, 981 A.2d 427 (2009); see also General Statutes § 54-64f (b) (hearing on revocation of release).

Nothing in subsection (d) (2) abrogates the common-law rule that in determining preliminary questions of fact upon which the application of certain exceptions to the hearsay rule depends, the court may not consider the declarant's out-of-court statements themselves in determining those preliminary questions. E.g., *State* v. *Vessichio*, 197 Conn. 644, 655, 500 A.2d 1311 (1985) (court may not consider coconspirator statements in determining preliminary questions of fact relating to admissibility of those statements under coconspirator statement exception to hearsay rule; see Section 8-3 [1] [E]), cert. denied, 475 U.S. 1122, 106 S. Ct. 1642, 90 L. Ed. 2d 187 (1986); *Robles* v. *Lavin*, 176 Conn. 281, 284, 407 A.2d 958 (1978) (in determining whether authorized admissions against party opponent exception to hearsay

rule applies, authority to speak must be established before alleged agent's declarations can be introduced; see Section 8-3 [1] [C]); *Ferguson* v. *Smazer*, 151 Conn. 226, 231, 196 A.2d 432 (1963) (in determining whether hearsay exception for statements of pedigree and family relationships applies, declarant's relationship to person to whom statement relates must be established without reference to declarant's statements; see Section 8-6 [7]).

Sec. 1-3. Preliminary Questions

(a) Questions of admissibility generally. Preliminary questions concerning the qualification **[**and**]** or competence of a person to be a witness, the existence of a privilege or the admissibility of evidence shall be determined by the court.

(b) [Admissibility] Relevance conditioned on fact. [When the admissibility of evidence depends upon connecting facts,**]** If the relevance of evidence depends upon whether a fact exists, evidence must be admitted sufficient to support a finding that the fact does exist. **[**t**]**The court may admit the proffered evidence **[**upon proof of**]** on the condition that the connecting **[**facts or subject to later proof of the connecting facts**]** evidence be introduced subsequently.

COMMENTARY

(a) Questions of admissibility generally.

The admissibility of evidence, qualification of a witness, **[**authentication of evidence**]** or **[**assertion**]** applicability of a privilege **[**often is conditioned on a disputed fact**]** are preliminary questions to be determined by the court. Often, such a determination is dependent upon the existence of foundational facts. Was the declarant's statement

made under the stress of excitement? Is the alleged expert a qualified social worker? Was a third party present during a conversation between husband and wife? In each of these examples, the **[**admissibility of evidence, qualification of the witness or assertion of a privilege**]** court's determination will turn upon the answer to these foundational questions of fact. In most instances, **[**S**]**subsection (a) makes it the responsibility of the court to **[**determine**]** find these **[**types of**]** preliminary **[**questions of**]** facts. E.g., *State* v. *Stange*, 212 Conn. 612, 617, 563 A.2d 681 (1989); *Manning* v. *Michael*, 188 Conn. 607, 610, 453 A.2d 1157 (1982); *D'Amato* v. *Johnston*, 140 Conn. 54, 61–62, 97 A.2d 893 (1953).

[As it relates to authentication, this Section operates in conjunction with Section 1-1 (d) (2) and Article IX of the Code. The preliminary issue, decided by the court, is whether the proponent has offered a satisfactory foundation from which the finder of fact could reasonably determine that the evidence is what it purports to be. The court makes this preliminary determination in light of the authentication requirements of Article IX. Once a prima facie showing of authenticity has been made to the court, the evidence, if otherwise admissible, goes to the fact finder, and it is for the fact finder ultimately to resolve whether evidence submitted for its consideration is what the proponent claims it to be. *State* v. *Carpenter*, 275 Conn. 785, 856–57, 882 A.2d 604 (2005), cert. denied, 547 U.S. 1025, 126 S. Ct. 1578, 164 L. Ed. 2d 309 (2006); *State* v. *Colon*, 272 Conn. 106, 188–89, 864 A.2d 666 (2004), cert. denied, 546 U.S. 848, 126 S. Ct. 102, 163 L. Ed. 2d 116 (2005); *State* v. *Shah*, 134 Conn. App. 581, 593, 39 A.3d 1165 (2012).**]**

Pursuant to Section 1-1 (d) (2), courts are not bound by the Code in determining most preliminary questions of fact under subsection (a) **[**, except with respect to evidentiary privileges**]**. Accordingly, in finding these facts, the court may consider nonprivileged evidence that would otherwise be inadmissible under the Code. In such instances, the court acts as the fact finder in determining whether the foundational facts exist by a fair preponderance of the evidence. The court may assess the credibility of the foundational evidence, including any testimony offered by the proponent of the evidence.

The Code does apply, however, to factual determinations regarding the existence of an evidentiary privilege; see Section 1-1 (d); and questions of conditional relevance, including whether evidence has been sufficiently authenticated. See Section 1-3 (b).

(b) [Admissibility] Relevance conditioned on fact.

Frequently, the **[**admissibility**]** relevance of a particular fact or item of evidence depends upon **[**proof**]** evidence of another fact or other facts, i.e., connecting facts. For example, the **[**relevancy**]** relevance of a witness' testimony that the witness observed a truck swerving in and out of the designated lane at a given point depends upon other testimony identifying the truck the witness observed as the defendant's. Similarly, the probative value of evidence that *A* warned *B* that the machine *B* was using had a tendency to vibrate depends upon other evidence establishing that *B* actually heard the warning. When the **[**admissibility**]** relevance of evidence depends upon **[**proof**]** evidence of connecting facts, subsection (b) authorizes the court to admit the evidence upon **[**proof**]** admission of the connecting facts or **[**admit the

evidence] subject to later [proof] admission of the connecting facts. See, e.g., *State* v. *Anonymous (83-FG)*, 190 Conn. 715, 724–25, 463 A.2d 533 (1983); *Steiber* v. *Bridgeport*, 145 Conn. 363, 366–67, 143 A.2d 434 (1958) [; see also *Finch* v. *Weiner*, 109 Conn. 616, 618, 145 A. 31 (1929) (when admissibility of evidence depends upon connecting facts, order of proof is subject to discretion of court)].

If the proponent fails to introduce evidence sufficient to [prove] support a finding of the connecting facts, the court may instruct the jury to disregard the evidence or order the earlier testimony stricken. *State* v. *Ferraro*, 160 Conn. 42, 45, 273 A.2d 694 (1970); *State* v. *Johnson*, 160 Conn. 28, 32–33, 273 A.2d 702 (1970).

The authentication of evidence is another example of an instance in which the relevance of evidence to the case depends upon the existence of another fact or facts. Evidence can be relevant for the purpose for which it is being offered only if it is what the proponent claims it to be. As a preliminary matter, the court must decide whether the proponent has offered a satisfactory foundation from which the finder of fact could reasonably determine that the evidence is what it purports to be. The court makes this preliminary determination in light of the authentication requirements of Article IX. In conducting its preliminary inquiry, the court does not assess the credibility of the evidence proffered in support of authentication but simply determines whether the evidence, if credited, is sufficient to support a finding that the proffered evidence is what the proponent claims it to be. *State* v. *Porfil*, 191 Conn. App. 494, 519–21, 215 A.3d 161 (2019), cert. granted on other grounds, 333 Conn. 923, 218 A.3d 67 (2019). If the court

determines that a prima facie showing of authenticity has been made, the evidence, if otherwise admissible, goes to the fact finder. It is for the fact finder ultimately to decide whether evidence submitted for its consideration is what the proponent claims it to be. *State* v. *Carpenter*, 275 Conn. 785, 856–57, 882 A.2d 604 (2005), cert. denied, 547 U.S. 1025, 126 S. Ct. 1578, 164 L. Ed. 2d 309 (2006); *State* v. *Colon*, 272 Conn. 106, 188–89, 864 A.2d 666 (2004), cert. denied, 546 U.S. 848, 126 S. Ct. 102, 163 L. Ed. 2d 116 (2005); *State* v. *Shah*, 134 Conn. App. 581, 593, 39 A.3d 1165 (2012); see also commentary to Section 9-1.

The Code applies in making determinations required by Section 1-3 (b).

ARTICLE IV—RELEVANCY

Sec. 4-11. Admissibility of Evidence of Sexual Conduct in Criminal Prosecutions

''In any prosecution for sexual assault under sections 53a-70, 53a-70a, and 53a-71 to 53a-73a, inclusive, no evidence of the sexual conduct of the victim may be admissible unless such evidence is (1) offered by the defendant on the issue of whether the defendant was, with respect to the victim, the source of semen, disease, pregnancy or injury, or (2) offered by the defendant on the issue of credibility of the victim, provided the victim has testified on direct examination as to his or her sexual conduct, or (3) any evidence of sexual conduct with the defendant offered by the defendant on the issue of consent by the victim, when consent is raised as a defense by the defendant, or (4) otherwise so relevant and material to a critical issue in the case

that excluding it would violate the defendant's constitutional rights. Such evidence shall be admissible only after an in camera hearing on a motion to offer such evidence containing an offer of proof. If the proceeding is a trial with a jury, such hearing shall be held in the absence of the jury. If, after a hearing, the court finds that the evidence meets the requirements of this section and that the probative value of the evidence outweighs its prejudicial effect on the victim, the court may grant the motion. The testimony of the defendant during a hearing on a motion to offer evidence under this section may not be used against the defendant during the trial if such motion is denied, except that such testimony may be admissible to impeach the credibility of the defendant if the defendant elects to testify as part of the defense.'' General Statutes § 54- 86f (a)

COMMENTARY

Section 4-11 quotes General Statutes § 54-86f (a), which covers the admissibility of evidence of a victim's sexual conduct in prosecutions for sexual assault and includes a procedural framework for admitting such evidence. In 2015, § 54-86f was amended with the addition of subsections (b) through (d). Those subsections address procedural matters rather than admissibility and, therefore, are not included in Section 4-11. See General Statutes (Rev. to 2015) § 54-86f, as amended by Public Acts 2015, No. 15-207, § 2 (concerning, inter alia, sealing transcripts and motions filed in association with hearing under § 54-86f and limiting disclosure by defense of state disclosed evidence). Although Section 4-11, by its terms, is limited to criminal prosecutions for certain enumerated sexual assault offenses, the

Supreme Court has applied the exclusionary principles of § 54-86f to prosecutions for risk of injury to a child brought under General Statutes § 53-21, at least when the prosecution also presents sexual assault charges under one or more of the statutes enumerated in § 54-86f. See *State* v. *Kulmac*, 230 Conn. 43, 54, 644 A.2d 887 (1994). The court reasoned that the policies underlying the rape shield statute were equally applicable when allegations of sexual assault and abuse form the basis of both the risk of injury and sexual assault charges. See id., 53–54. Although the Code expresses no position on the issue, Section 4-11 does not preclude application of the rape shield statute's general precepts, as a matter of common law, to other situations in which the policies underlying the rape shield statute apply. See *State* v. *Rolon*, 257 Conn. 156, 183–85, 777 A.2d 604 (2001) (five part test for determining admissibility of evidence of child's previous sexual abuse to show alternative source of child's sexual knowledge).

In 2021, ''Criminal Prosecutions'' was added to the title of this section for ease of reference, in light of the adoption of Section 4-12, Admissibility of Evidence of Victim's Sexual Behavior in Civil Proceedings Involving Alleged Sexual Misconduct.

(New) Sec. 4-12. Admissibility of Evidence of Victim's Sexual Behavior in Civil Proceedings Involving Alleged Sexual Misconduct

''(a) As used in this section: (1) 'Sexual misconduct' means any act that is prohibited by section 53a-70b of the general statutes, revision of 1958, revised to January 1, 2019, section 53a-70, 53a-70a, 53a-70c, 53a-71, 53a-72a, 53a-72b or 53a-73a, and any act that constitutes

sexual harassment, as defined in subdivision (8) of subsection (b) of section 46a-60; and (2) 'victim' includes an alleged victim.

''(b) The following evidence is not admissible in a civil proceeding involving alleged sexual misconduct: (1) Evidence offered to prove that a victim engaged in other sexual behavior; or (2) evidence offered to prove a victim's sexual predisposition.

''(c) Notwithstanding the provisions of subsection (b) of this section, the court may admit the evidence in a civil case if the probative value of such evidence substantially outweighs the danger of (1) harm to any victim; and (2) unfair prejudice to any party. The court may admit evidence of a victim's reputation only if the victim has placed the victim's reputation in controversy.'' General Statutes § 52-180c (a) through (c), as amended by Public Acts No. 21-40, § 50.

COMMENTARY

Section 4-12 quotes General Statutes § 52-180c (a) through (c), as amended by Public Acts No. 21-40, § 50, which covers the admissibility of evidence of a victim's alleged sexual behavior in a civil proceeding that involves allegations of sexual misconduct as defined in subsection (a). The term ''victim'' includes an alleged victim. See Section 4-11, commentary. Because § 52-180c (d) and (e) concern the procedural framework for admitting such evidence in civil proceedings, the text of those subsections is not included in Section 4-12.

ARTICLE IX—AUTHENTICATION

Sec. 9-1. Requirement of Authentication

(a) Requirement of authentication. The requirement of authentication as a condition precedent to admissibility is satisfied by evidence

sufficient to support a finding that the offered evidence is what its proponent claims it to be.

(b) Self-authentication. Extrinsic evidence of authenticity as a condition precedent to admissibility is not required if the offered evidence is self-authenticating in accordance with applicable law.

COMMENTARY

(a) Requirement of authentication.

Before an item of evidence may be admitted, there must be a preliminary showing of its genuineness, i.e., that the proffered item of evidence is what its proponent claims it to be. The requirement of authentication applies to all types of evidence, including writings, sound recordings, electronically stored information, real evidence such as a weapon used in the commission of a crime, demonstrative evidence such as a photograph depicting an accident scene, and the like. E.g., *State* v. *Bruno*, 236 Conn. 514, 551, 673 A.2d 1117 (1996) (real evidence); *Shulman* v. *Shulman*, 150 Conn. 651, 657, 193 A.2d 525 (1963) (documentary evidence); *State* v. *Lorain*, 141 Conn. 694, 700–701, 109 A.2d 504 (1954) (sound recordings); *Hurlburt* v. *Bussemey*, 101 Conn. 406, 414, 126 A. 273 (1924) (demonstrative evidence). The category of evidence known as electronically stored information can take various forms. It includes, by way of example only, e-mail, Internet website postings, text messages and ''chat room'' content, computer-stored records, data, metadata and computer generated or enhanced animations and simulations. As with any other form of evidence, a party may use any appropriate method, or combination of methods, described in this commentary, or any other proof to demon-

strate that the proffer is what its proponent claims it to be, to authenticate any particular item of electronically stored information. See *Lorraine* v. *Markel American Ins. Co.*, 241 F.R.D. 534, 545–46 (D. Md. 2007).

The proponent need only advance ''evidence sufficient to support a finding'' that the proffered evidence is what it is claimed to be. Once this prima facie showing is made, the evidence may be admitted, and the ultimate determination of authenticity rests with the fact finder. See, e.g., *State* v. *Bruno*, supra, 236 Conn. 551–53; *Neil* v. *Miller*, 2 Root (Conn.) 117, 118 (1794); see also *Shulman* v. *Shulman*, supra, 150 Conn. 657. Consequently, compliance with Section 9-1 (a) does not automatically guarantee that the fact finder will accept the proffered evidence as genuine. The opposing party may still offer evidence to discredit the proponent's prima facie showing. *Shulman* v. *Shulman*, supra, 659–60.

Evidence may be authenticated in a variety of ways. They include, but are not limited to, the following:

(1) A witness with personal knowledge may testify that the offered evidence is what its proponent claims it to be. See, e.g., *State* v. *Conroy*, 194 Conn. 623, 625–26, 484 A.2d 448 (1984) (establishing chain of custody); *Pepe* v. *Aceto*, 119 Conn. 282, 287–88, 175 A. 775 (1934) (authenticating documents); *Booker* v. *Stern*, 19 Conn. App. 322, 333, 563 A.2d 305 (1989) (authenticating photographs); see also *Lorraine* v. *Markel American Ins. Co.*, supra, 241 F.R.D. 544–45 (electronically stored information).

(2) A person with sufficient familiarity with the handwriting of another person may give an opinion concerning the genuineness of that other

person's purported writing or signature. E.g., *Lyon* v. *Lyman*, 9 Conn. 55, 59 (1831).

(3) A contested item of evidence may be authenticated by comparing it with a preauthenticated specimen. See, e.g., *State* v. *Ralls*, 167 Conn. 408, 417, 356 A.2d 147 (1974) (fingerprints, experts); see also *Tyler* v. *Todd*, 36 Conn. 218, 222 (1869) (handwriting, experts or triers of fact); *Lorraine* v*. Markel American Ins. Co.*, supra, 241 F.R.D. 546 (electronically stored information).

(4) The distinctive characteristics of an object, writing or other communication, when considered in conjunction with the surrounding circumstances, may provide sufficient circumstantial evidence of authenticity. See *International Brotherhood of Electrical Workers Local 35* v. *Commission on Civil Rights*, 140 Conn. 537, 547, 102 A.2d 366 (1953) (telephone conversations); 2 C. McCormick, Evidence (7th Ed. 2013) § 224, pp. 94–96 (''reply letter'' doctrine, under which letter *B* is authenticated merely by reference to its content and circumstances suggesting it was in reply to earlier letter *A* and sent by addressee of letter *A*); C. Tait & E. Prescott, Connecticut Evidence (5th Ed. 2014) § 9.7, pp. 694–95 (same); see also *Lorraine* v. *Markel American Ins. Co.*, supra, 241 F.R.D. 546–48 (electronically stored information); *State* v. *Jackson*, 150 Conn. App. 323, 329, 332–35, 90 A.3d 1031 (unsigned letter), cert. denied, 312 Conn. 919, 94 A.3d 641 (2014); *State* v. *John L.*, 85 Conn. App. 291, 302, 856 A.2d 1032 (letters stored in computer), cert. denied, 272 Conn. 903, 863 A.2d 695 (2004).

(5) Any person having sufficient familiarity with another person's voice, whether acquired from hearing the person's voice firsthand or

through mechanical or electronic means, can identify that person's voice or authenticate a conversation in which the person participated. See *State* v. *Jonas*, 169 Conn. 566, 576–77, 363 A.2d 1378 (1975), cert. denied, 424 U.S. 923, 96 S. Ct. 1132, 47 L. Ed. 2d 331 (1976); *State* v. *Marsala*, 43 Conn. App. 527, 531, 684 A.2d 1199 (1996), cert. denied, 239 Conn. 957, 688 A.2d 329 (1997).

(6) Evidence describing a process or a system used to produce a result and showing that the process or system produces an accurate result. This method of authentication, modeled on rule 901 (b) (9) of the Federal Rules of Evidence, was used in *State* v. *Swinton*, 268 Conn. 781, 811–13, 847 A.2d 921 (2004), to establish the standard used to determine the admissibility of computer simulations or animations. The particular requirements applied in *Swinton* were "fairly stringent"; id., 818; because that case involved relatively sophisticated computer enhancements using specialized software. See id., 798–801. In other cases, when a proponent seeks to use this method to authenticate electronically stored information, the nature of the evidence establishing the accuracy of the system or process may be less demanding. See, e.g., *U-Haul International, Inc.* v. *Lubermens Mutual Casualty Co.*, 576 F.3d 1040, 1045 (9th Cir. 2009) (authentication of computer generated summaries of payments of insurance claims by manager familiar with process of how summaries were made were held to be adequate); see also *State* v. *Melendez*, 291 Conn. 693, 709–10, 970 A.2d 64 (2009) (admission of unmodified footage of drug transaction on DVD was not subject to heightened *Swinton* standard); *State* v. *Shah*, 134 Conn. App. 581, 595, 39 A.3d 1165 (2012) (chat

room transcripts were not computer generated evidence and therefore not subject to heightened *Swinton* standard).

(7) Outgoing telephone calls may be authenticated by proof that (1) the caller properly placed the telephone call, and (2) the answering party identified himself or herself as the person to whom the conversation is to be linked. *Hartford National Bank & Trust Co.* v. *DiFazio*, 6 Conn. App. 576, 585, 506 A.2d 1069, cert. denied, 200 Conn. 805, 510 A.2d 192 (1986).

(8) Stipulations or admissions prior to or during trial provide two other means of authentication. See *Stanton* v. *Grigley*, 177 Conn. 558, 559, 418 A.2d 923 (1979); see also Practice Book §§ 13-22 through 13-24 (in requests for admission); Practice Book § 14-13 (4) (at pretrial session).

(9) Sections 9-2 and 9-3 (authentication of ancient documents and public records, respectively) provide additional methods of authentication.

(b) Self-authentication.

Both case law and statutes identify certain kinds of writings or documents as self-authenticating. A self-authenticating document's genuineness is taken as sufficiently established without resort to extrinsic evidence, such as a witness' foundational testimony. *State* v. *Howell*, 98 Conn. App. 369, 379–80, 908 A.2d 1145 (2006). Subsection (b) continues the principle of self-authentication but leaves the particular instances under which self-authentication is permitted to the dictates of common law and the General Statutes.

Self-authentication in no way precludes the opponent from coming forward with evidence contesting authenticity; see *Atlantic Industrial*

Bank v. *Centonze*, 130 Conn. 18, 19, 31 A.2d 392 (1943); *Griswold* v. *Pitcairn*, 2 Conn. 85, 91 (1816); as the fact finder ultimately decides whether a writing or document is authentic. In addition, self-authenticating evidence remains vulnerable to exclusion or admissibility for limited purposes under other provisions of the Code or the General Statutes.

Common-law examples of self-authenticating writings or documents include:

(1) writings or documents carrying the impression of certain official seals; e.g., *Atlantic Industrial Bank* v. *Centonze*, supra, 130 Conn. 19–20; *Barber* v. *International Co. of Mexico*, 73 Conn. 587, 602, 603, 48 A. 758 (1901); *Griswold* v. *Pitcairn*, supra, 2 Conn. 90–91; and

(2) marriage certificates signed by the person officiating the ceremony. E.g., *Northrop* v. *Knowles*, 52 Conn. 522, 525–26, 2 A. 395 (1885).

Familiar statutory examples of self-authenticating writings or documents include:

(1) acknowledgments made or taken in accordance with the Uniform Acknowledgment Act, General Statutes §§ 1-28 through 1-41; see General Statutes § 1-36; and the Uniform Recognition of Acknowledgments Act, General Statutes §§ 1-57 through 1-65; see General Statutes § 1-58;

(2) copies of records or documents required by law to be filed with the Secretary of the State and certified in accordance with General Statutes § 3-98;

(3) birth certificates certified in accordance with General Statutes § 7-55;

(4) certain third-party documents authorized or required by an existing contract and subject to the Uniform Commercial Code; General

Statutes § 42a-1-307; see also General Statutes § 42a-8-114 (2) (signatures on certain negotiable instruments);

(5) marriage certificates issued pursuant to General Statutes § 46b-34; see General Statutes § 46b-35; and

(6) copies of certificates filed by a corporation with the Secretary of the State in accordance with law and certified in accordance with General Statutes § 52-167.

It should be noted that the foregoing examples do not constitute an exhaustive list of self-authenticating writings or documents. Certified copies of many public records for example are self-authenticating pursuant to statute. See, e.g. General Statutes § 1-14. Of course, writings or documents that do not qualify under subsection (b) may be authenticated under the principles announced in subsection (a) or elsewhere in this article.

Sec. 9-3. Authentication of Public Records

The requirement of authentication as a condition precedent to admitting into evidence a record, report, statement or data compilation, in any form, is satisfied by evidence that (A) the record, report, statement or data compilation authorized by law to be recorded or filed in a public office has been recorded or filed in that public office, (B) the record, report, statement or data compilation, purporting to be a public record, report, statement or data compilation, is from the public office where items of this nature are maintained, or (C) the record, report, statement or data compilation, purporting to be a public record, report, statement or data compilation, is made available in electronic form by a public authority.

COMMENTARY

It generally is recognized that a public record may be authenticated simply by showing that the record purports to be a public record and

comes from the custody of the proper public office. *State* v. *Calderon*, 82 Conn. App. 315, 322, 844 A.2d 866, cert. denied, 270 Conn. 905, 853 A.2d 523, cert. denied, 543 U.S. 982, 125 S. Ct. 487, 160 L. Ed. 2d 361 (2004); see *Whalen* v. *Gleeson*, 81 Conn. 638, 644, 71 A. 908 (1909); *Barber* v. *International Co. of Mexico*, 73 Conn. 587, 602, 48 A. 758 (1901). Thus, although certified copies of most public records are ''self-authenticating'' in accordance with other provisions of the General Statutes**[**; see, e.g., General Statutes § 7-55 (birth certificates);**]**, certification is not the exclusive means by which to authenticate a public record. The rule extends the common-law principle to public records, including electronically stored information.

Proviso (A) assumes that documents authorized by law to be recorded or filed in a public office—e.g., tax returns, wills or deeds—are public records for purposes of authentication. Cf. *Kelsey* v. *Hanmer*, 18 Conn. 310, 319 (1847) (deed). Proviso (B) covers reports, records, statements or data compilations prepared and maintained by the public official or public office, whether local, state, federal or foreign.

(New) Sec. 9-3A. Authentication of Business Entries

(a) Authentication of business entries by certification. The requirement of authentication as a condition precedent to admitting into evidence a business entry under Section 8-4 may be satisfied by sworn certification of the custodian of the record or other qualified witness attesting to the following:

(1) The affiant is the duly authorized custodian of the records or another qualified witness who has and is acting with authority to make the certification;

(2) The record was made in the regular course of business, that it was the regular course of such business to make such a record, and

that it was made at the time of the act described in the report, or within a reasonable time thereafter, as required by General Statues § 52-180;

(3) The information contained in the record was based on the entrant's own observation or on information of others whose business duty it was to transmit it to the entrant; and

(4) To the best of the certifying person's knowledge, after reasonable inquiry, the record or copy thereof is an accurate version of the record that is in the possession, custody, or control of the certifying person.

(b) Certification admissible. A certification made in compliance with subsection (a) is admissible evidence of the matters set forth therein. A party opposing admissibility of a record offered through a proper certification under subsection (a) bears the burden of showing that the record is not what it purports to be.

(c) Notice and opportunity to contest. A party intending to offer a record into evidence under this section must provide written notice of that intention to all adverse parties and must make the record and certification available for inspection sufficiently in advance of their offer into evidence to provide an adverse party with a fair opportunity to challenge them.

COMMENTARY

(a) Authentication of business entries by certification. This provision offers a procedure by which parties can authenticate certain business records other than through the testimony of a foundation witness. The procedure is intended to help the parties determine in advance of the evidentiary proceeding whether there is a real dispute as to authenticity, and to increase the efficiency of the authentication process when there is not. The certification process, which has been adopted in some form in many other jurisdictions, will increase effi-

ciency and reduce logistical burdens by limiting the need for a party to produce a witness at the evidentiary proceeding for the purpose of authenticating a business record. A proponent seeking to authenticate a business record under this section must present a certification containing information that would be sufficient to establish authenticity were that information provided by a witness at the evidentiary proceeding. If the certification provides information that would be insufficient to authenticate the record if the certifying person testified, then a sufficient showing of authenticity has not been made under this section.

Even without the certification procedure, parties often will stipulate to the authenticity of business records; use of that practice remains unaffected by this provision. More broadly, the certification process is provided as an alternative to other means of authentication, and nothing herein is intended to prevent a party from authenticating a business record through witness testimony, or through a combination of certification and witness testimony.

(b) Certification admissible. The court makes the preliminary determination of whether the proponent has made a sufficient showing of authenticity, but the fact finder ultimately determines whether the evidence is what its proponent claims it to be. See commentary to Section 1-3 (b). Consequently, when a record is authenticated by means of certification, the certification itself must be admissible for consideration by the fact finder as part of its determination.

(c) Notice and opportunity to contest. The certification procedure is intended to increase the efficiency of the authentication process with respect to business records, but the procedure must not be used to curtail or impair a party's ability to test or contest the authenticity of such record. Section 9-3A (c) ensures that a party will have the

opportunity to ascertain whether grounds exist to contest the accuracy or validity of a certification. Determining the precise timing and disclosure proceedings that are necessary to offer a fair opportunity to contest authentication will require balancing the efficiency sought to be achieved by the certification process with the rights of all parties to raise and litigate the issue when a good faith doubt may exist regarding the authenticity of a record.

NOTICE OF CONNECTICUT STATE AGENCIES

DEPARTMENT OF SOCIAL SERVICES

Notice of Intent to Submit Emergency Preparedness and Response Amendment (Appendix K) to the Department's 1915(c) Home and Community-Based Medicaid Waivers

In accordance with the provisions of section 17b-8 of the Connecticut General Statutes, notice is hereby given that the Commissioner of the Department of Social Services (''DSS'' or the ''Department'') intends to submit an Emergency Preparedness and Response Amendment (''Appendix K amendment'') related to the following 1915(c) Home and Community-Based Medicaid Waivers:

- Connecticut Home Care Program for Elders
- Personal Care Assistance Waiver
- Acquired Brain Injury Waiver
- Home & Community Supports Waiver for Persons with Autism
- Acquired Brain Injury Waiver II
- Mental Health Waiver
- Katie Beckett Waiver

The Appendix K amendments are temporary and expire six months following the expiration of the Federal Public Health Emergency related to the continued consequences of the Coronavirus Disease (COVID-19) pandemic. The following is a summary of the proposed changes, as more-fully described in the Appendix K amendment.

I. The Department is proposing the following temporary increases in provider payment rates:

- 3.5% rate increase, retroactive to July 1, 2021, in existing rates approved by CMS for all provider types and services covered under this Appendix K, other than those specifically excluded. This 3.5% increase is required for cost-of-living adjustments in order to recognize the significant cost increases experienced for service providers during the pandemic. Provider types and services specifically excluded: Assistive Technology; Environmental Accessibility Modifications; Personal Response Systems; Skilled Chore; Specialized Medical Equipment; Individual Goods and Services; and all Self-Directed Services.

- 6% minimum wage increase, retroactive to August 1, 2021, and pursuant to PA 19-4, for provider types where rates, as approved, are based on minimum wage. Service rates impacted by increase in minimum wage: Agency-based Personal Care Assistants (PCAs), Chore/Homemaker, Companion Services, Assisted Living Services, Adult Day Health, Recovery Assistance; Community Mentor; and Agency-based Respite Services.

- 1% enhanced performance-based supplemental payments, based on the requirements and methodology listed below, for all provider types covered under the waivers listed in this Appendix K as of the issuance date of the respective payment, other than those provider types and services specifically

excluded. Excluded providers and services: Assistive Technology; Environmental Accessibility Modifications; Personal Response System; Skilled Chore; Specialized Medical Equipment; Individual Goods and Services; and all Self-Directed Services.

Performance requirements for the March 2022 performance payment are as follows, and are based on 1% of expenditures beginning July 1, 2021 and ending February 28, 2022:

1) Participation in the DSS Racial Equity Training
2) Provider has a data sharing agreement executed with Connie, the state's Health Information Exchange (HIE).

Performance requirements for the July 2022 performance payment are as follows:

1) Participation in the DSS Racial Equity Training
2) Signing, at a minimum, the Empanelment Use Case
3) Action plan detailing how the provider sends their client roster in Connie, the state's HIE.

The payment methodology for quarterly ongoing performance payments, including the July 2022 payment, are based on 1% of expenditures for the quarter that immediately precedes the payment. For the July 2022 payment, this is 1% of expenditures beginning March 1, 2022 and ending June 30, 2022.

- ***5% enhanced one-time supplemental payment*** for recruitment and retention of staff, estimated at 5% of total SFY 2021 expenditures for all providers other than those provider types and services specifically excluded. The one-time supplemental payment will be made to eligible providers within 30 days of the Centers for Medicare and Medicaid Services (''CMS'') approval of this Appendix K. Supplemental payments are based on 5% of SFY 21 expenditures. All provider types covered under the waivers applicable to this Appendix K that are enrolled upon the payment issuance date are eligible for the 5% enhanced supplemental payment, other than those provider types listed as excluded services. Excluded providers and services: Assistive Technology; Environmental Accessibility Modifications; Personal Response Systems; Skilled Chore; Specialized Medical Equipment; Individual Goods and Services; and all Self-Directed Services.

II. The Department is proposing to temporarily add the following services across all waivers referenced above:

- *COPE Caregiver Supports and Participant Training*: The state will implement the evidence-based COPE (Care of Persons with Dementia in their Environments) program. The COPE intervention is designed to optimize older adults' functional independence, and to improve caregiver dementia management skills and health-related outcomes. COPE features coordinated in-home occupational therapy visits, and skilled nursing visits.
- Caregiver Supports and Participant Training: Care for the Caregiver Program consists of an interdisciplinary team of specialized occupational therapists and nursing services for care of persons other than those with dementia. The evidence-informed program supports family members who are providing extraordinary care to persons living with serious or chronic illness.
- CAPABLE Program: The Department will implement the evidence-based environmental adaptation program, CAPABLE (Community Aging in Place, Advancing Better Living for Elders). The program includes a nurse, an occupational therapist, and a handy worker to address the home environment,

and uses the strengths of the older adults themselves to improve safety and independence.

A complete text of the Appendix K amendment is available, at no cost, upon request to the Community Options Unit, Department of Social Services, 55 Farmington Ave., Hartford, Connecticut 06105; or via email to shirlee.stoute@ct.gov. It is also available on the Department's website, www.ct.gov/dss, under ''News and Press,'' as well as the following direct link: http://portal.ct.gov/DSS/Health-And-Home-Care/Medicaid-Waiver-Applications/Medicaid-Waiver-Applications. In addition, it is also available on the Department of Mental Health and Addiction Services (DMHAS) website, www.ct.gov/dmhas, under ''What's New!'' as well as the following link: https://portal.ct.gov/DMHAS/Programs-and-Services/Mental-Health-Waiver/Mental-Health-Waiver.

Any written comments must be submitted by **December 30, 2021** to the Department of Social Services, Community Options Unit, 55 Farmington Ave, Hartford, CT 06105, Attention: Jennifer Cavallaro, Director; or via email to Jennifer.Cavallaro@ct.gov.

Department of Social Services

Notice of Proposed Medicaid State Plan Amendment (SPA)

SPA 21-0032: COVID-19 Disaster Relief SPA 7 - Rate Increases and Coverage Additions for State Plan Home and Community-Based Services (HCBS) Option Portion of the Connecticut Home Care Program for Elders (CHCPE) Under Section 1915(i) of the Social Security Act and Rate Increase for Support and Planning Coach for Community First Choice (CFC) Under Section 1915(k) of the Social Security Act

The State of Connecticut Department of Social Services (DSS) proposes to submit the following Medicaid State Plan Amendment (SPA) to the Centers for Medicare & Medicaid Services (CMS) within the U.S. Department of Health and Human Services (HHS). This public notice is submitted in accordance with section 17b-8 of the Connecticut General Statutes.

Changes to Medicaid State Plan

Effective on the dates set forth below, this COVID-19 disaster relief SPA will amend Section 7.4-A of the Medicaid State Plan to add the provisions detailed below. This disaster relief SPA is governed by the flexibility in standard federal requirements implemented by CMS and pursuant to the state's approved waiver from CMS pursuant to section 1135 of the Social Security Act during the federally declared national emergency and public health emergency to help assist with the state's response to the COVID-19 pandemic and its effects. In accordance with federal flexibility requirements, this COVID-19 disaster relief SPA will sunset no later than the last day of the federally declared COVID-19 public health emergency, as extended. This flexibility is available only for SPAs that increase access to services, increase rates, or provide other flexibilities designed to expand access to Medicaid services.

The purpose of this SPA is to implement relevant provisions of the state's Spending Plan for Implementation of the American Rescue Plan Act (ARPA) of 2021, Section 9817. In addition, consistent with that plan and the applicable federal statute and CMS guidance, the rate increases and service expansions included in this SPA will help address the COVID-19 pandemic and its effects by enabling the specified HCBS providers to recruit and retain qualified staff, help address staffing shortages worsened by COVID-19, and recognize additional costs and burdens resulting from COVID-19 and its effects.

1. Rate Increases and One-Time Payments

This SPA makes the following rate increases and one-time payment the services covered under: (1) the State Plan Home and Community-Based Services (HCBS) option under Section 1915(i) of the Social Security Act Portion of the Connecticut Home Care Program for Elders (CHCPE), which applies to all such services except for the following: Assistive Technology; Environmental Accessibility Modifications; Personal Response Systems; Skilled Chore; Specialized Medical Equipment; Individual Goods and Services; and all Self-Directed Services and (2) support and planning coach services only under the Community First Choice (CFC) Program under Section 1915(k) of the Social Security Act.

- Effective July 1, 2021, a 3.5% rate increase for all services not excluded above, which is intended to provide cost-of-living adjustments for providers in order to recognize the significant cost increases experienced for service providers during the pandemic
- Effective August 1, 2021, a 6% increase to reflect the providers' costs of complying with the August 1, 2021 increase in the state's minimum wage, which applies only to the following section 1915(i) CHCPE services not excluded above: Agency-based Personal Care Assistants (PCAs), Chore/ Homemaker, Companion Services, Assisted Living Services, Adult Day Health, Recovery Assistance, Community Mentor, and Agency-based Respite Services.
- Effective July 1, 2021, a performance-based supplemental payment for all services not excluded above using the following methodology:
    - Performance requirements for a performance payment to be made in a supplemental payment on or before March 31, 2022 are as follows, and are based on 1% of applicable expenditures beginning July 1, 2021 and ending February 28, 2022:
        - Participation in the DSS Racial Equity Training
        - Provider has a data sharing agreement executed with Connie, the state's Health Information Exchange (HIE).
    - Performance requirements for a performance payment to be made in a supplemental payment on or before July 31, 2022 calculated at 1% of expenditures during the calendar quarter ending June 30, 2022 are as follows:
        - Participation in the DSS Racial Equity Training
        - Signing, at a minimum, the HIE's Empanelment Use Case
        - Action plan detailing how the provider will get their client roster in Connie, the state's HIE.
    - After the payments noted above, effective for dates of service on and after July 1, 2022, the provider may be eligible for additional ongoing quarterly supplemental payments made on or before the last day of the

month following each calendar quarter calculated at 1% of expenditures for the calendar quarter that immediately precedes the payment. The performance requirements for such ongoing payments are under development and will be detailed in a future SPA.

- Effective July 1, 2021, a one-time supplemental payment for recruitment and retention of staff, which will be paid in a lump sum not later than 30 days after CMS approval of this SPA and will be calculated at 5% of total State Fiscal Year (SFY) 2021 Medicaid expenditures for the provider's services under this category (except for services excluded above).

2. Service Expansions

Effective July 1, 2021, this SPA adds the following services to the section 1915(i) portion of the CHCPE:

- COPE Caregiver Supports and Participant Training: The state will implement the evidence-based COPE (Care of Persons with Dementia in their Environments) program. The COPE intervention is designed to optimize older adults' functional independence, and to improve caregiver dementia management skills and health-related outcomes. COPE features coordinated in-home occupational therapy visits, and skilled nursing visits.
- Caregiver Supports and Participant Training: Care for the Caregiver Program consists of an interdisciplinary team of specialized occupational therapists and nursing services for care of persons other than those with dementia. The evidence-informed program supports family members who are providing extraordinary care to persons living with serious or chronic illness.
- CAPABLE Program: The Department will implement the evidence-based environmental adaptation program, CAPABLE (Community Aging in Place, Advancing Better Living for Elders). The program includes a nurse, an occupational therapist, and a handy worker to address the home environment, and uses the strengths of the older adults themselves to improve safety and independence.

Payment for each of these services is a fixed fee as set forth in the state's fee schedule, which is posted to https://www.ctdssmap.com, select ''Provider Fee Schedule Download'' then select the applicable fee schedule.

Fiscal Impact

DSS estimates that this SPA will increase annual aggregate expenditures by approximately $862,000 in State Fiscal Year (SFY) 2022 and $673,000 in SFY 2023.

Obtaining SPA Language and Submitting Comments

This SPA is posted on the DSS web site at this link: https://portal.ct.gov/DSS/Health-And-Home-Care/Medicaid-State-Plan-Amendments. The proposed SPA may also be obtained at any DSS field office or the Town of Vernon Social Services Department, or upon request from DSS (see below).

To request a copy of the SPA from DSS or to send comments about the SPA, please email: Public.Comment.DSS@ct.gov or write to: Medical Policy Unit, Department of Social Services, 55 Farmington Avenue, 9th Floor, Hartford, CT 06105 (Phone: 860-424-5067). Please reference ''SPA 21-0032: COVID-19 Disaster Relief SPA 7 - Rate Increases and Coverage Additions for State Plan Home and Community-Based Services (HCBS) Option Portion of the Connecticut Home Care Program for Elders (CHCPE) Under Section 1915(i) of the Social Security Act and Rate Increase

for Support and Planning Coach for Community First Choice (CFC) Under Section 1915(k) of the Social Security Act''.

Anyone may send DSS written comments about the SPA. Written comments must be received by DSS at the above contact information no later than December 30, 2021.

Department of Social Services

Notice of Proposed Medicaid State Plan Amendment (SPA)

SPA 21-AP: Pediatric Inpatient Psychiatric Services

The State of Connecticut Department of Social Services (DSS) proposes to submit the following Medicaid State Plan Amendment (SPA) to the Centers for Medicare & Medicaid Services (CMS) within the U.S. Department of Health and Human Services (HHS).

Changes to Medicaid State Plan

Effective on or after December 1, 2021 and ending on December 31, 2023, this SPA will amend Attachment 4.19-A of the Medicaid State Plan in order to make the following changes to reimbursement for pediatric inpatient psychiatric services.

First, this SPA will implement an interim voluntary value-based payment (VBP) for increasing bed capacity and utilization that consists of a rate add-on to the applicable per diem rate. Each eligible hospital that increases its daily average number of pediatric inpatient psychiatric beds paid by Medicaid for dates of service in each calendar quarter by at least 10% or at least 2 beds, whichever is greater, compared to the daily average number of beds paid by Medicaid for dates of service in the same calendar quarter in calendar year 2019, may be eligible for this add-on. Each eligible hospital must also provide the state with documentation of current and future certification of beds including the effective date of expansion/increased bed capacity, real-time bed tracking, conduct post-discharge follow-up, participate in the state's care transition and suicide prevention initiatives, and provide additional data reporting to the state. The add-on will apply to all Medicaid pediatric inpatient psychiatric bed days paid at the per diem rate, including the newly expanded days. For each eligible in-state non-governmental short-term general hospital that is currently paid in the first or second tier of the three tiered inpatient psychiatric per diem rate system, the add-on will be equivalent to transition to the current highest tier, which will then increase by 2% each January 1st to align with the same annual increase in the underlying psychiatric per diem rate for such hospitals as set forth in the approved Medicaid State Plan and in accordance with the state's 2019 settlement agreement with such hospitals. For each eligible in-state psychiatric hospital, the rate add-on will be equivalent to transition to the highest rate in the three-tiered system in effect during calendar year 2021. For each eligible in-state children's general and governmental short-term general hospital, the rate add-on will be equivalent to transition to the highest rate in the three-tiered system not incorporating any increases due to the 2019 settlement agreement with in-state non-governmental short-term general hospitals. A hospital that currently receives the highest inpatient psychiatric rate or a chronic disease hospital will receive a 10% rate add-on.

Second, this SPA will implement an interim acuity-based add-on to the applicable per diem rate. Each eligible hospital will be paid a 10% rate add-on to the hospital's inpatient psychiatric per diem rate in addition to the first rate add-on described above, if applicable, for the pediatric inpatient psychiatric bed days provided to each child whose behavior demonstrates acuity that requires additional support on the inpatient unit and is sufficiently acute that it interferes with the therapeutic participation or milieu on the inpatient unit of the child or other children based on the condition of the child. To receive this add-on, the state or its agent must approve the hospital's prior authorization request for this add-on which must include the hospital's documentation that the specified bed days meet the requirements of this paragraph.

Third, this SPA will revise the medically necessary discharge delay policy. Due to current high demand for inpatient services in conjunction with decreased capacity for non-inpatient services, the hospital will be paid the full applicable per diem rate, not the discharge delay rate, when the individual no longer needs to remain in the inpatient setting but the state or the behavioral health administrative services organization (ASO) confirms as part of the inpatient authorization or concurrent review process that: the hospital has made and continues to make every attempt to secure the appropriate discharge plan that best meets the individual's needs; the discharge plan is appropriate, but cannot be implemented for the applicable dates of service due to lack of availability of services that are appropriate for the individual's discharge plan; and that active treatment is occurring in the hospital that is based on the individual's needs and meets medical necessity. If the hospital does not meet all of those conditions, however, the hospital may still be eligible for the applicable medically necessary discharge delay rate to the extent that it complies with the current requirements for receiving such rate, in accordance with the current provisions in the approved Medicaid State Plan.

The purpose of these voluntary value-based payment opportunities is to help address the unmet need for pediatric inpatient psychiatric services and improve the quality of such services.

Fiscal Impact

DSS estimates that this SPA will increase annual aggregate expenditures by approximately $5.7 million in State Fiscal Year (SFY) 2022 and $17.5 million in SFY 2023.

Obtaining SPA Language and Submitting Comments

This SPA is posted on the DSS web site at this link: https://portal.ct.gov/DSS/Health-And-Home-Care/Medicaid-State-Plan-Amendments. The proposed SPA may also be obtained at any DSS field office or the Town of Vernon Social Services Department, or upon request from DSS (see below).

To request a copy of the SPA from DSS or to send comments about the SPA, please email: Public.Comment.DSS@ct.gov or write to: Medical Policy Unit, Department of Social Services, 55 Farmington Avenue, 9th Floor, Hartford, CT 06105 (Phone: 860-424-5067). Please reference ''SPA 21-AP: Pediatric Inpatient Psychiatric Services''.

Anyone may send DSS written comments about the SPA. Written comments must be received by DSS at the above contact information no later than December 15, 2021.

CONNECTICUT HEALTH INSURANCE EXCHANGE
d/b/a Access Health CT

Notice of Intent to Adopt Revisions to Policies

In accordance with Section 1-121(a) of the Connecticut General Statutes, notice is hereby given that the Connecticut Health Insurance Exchange (the Exchange) is proposing to adopt revisions to the policy for Procurement: Acquisition of Real and Personal Property and the policy for Procurement: Contracting for Personal Services.

Interested persons wishing to present their views on these policies are invited to do so in writing within thirty (30) days following publication of this notice. Comments can be submitted electronically to Marcin Olechowski at marcin.olechowski@ct.gov. (The subject line should read: Public Comment). Comments can also be mailed to Marcin Olechowski, Access Health CT/Connecticut Health Insurance Exchange, 280 Trumbull Street, 15th Floor, Hartford, CT 06103.

The proposed revisions to the policies are available at https://agency.accesshealthct.com/policies-legislation#three or via email to Marcin Olechowski at marcin.olechowski@ct.gov.

NOTICES

Notice of Administrative Suspension of Attorneys

ORDER: The following list of attorneys having been presented by the Client Security Fund Committee pursuant to Practice Book Section 2-79(a) for purposes of placing those attorneys so listed on administrative suspension from the practice of law for failing to pay the client security fund fee for calendar year 2020, due November 30, 2020, as required by Practice Book Section 2-70, and it appearing from the records of the Client Security Fund Committee that the following attorneys have not paid the fee for said calendar year, it is hereby ORDERED that the following attorneys are deemed administratively suspended from the practice of law in this state until such time as payment of the fee, and a reinstatement fee of $75.00, is made. Pursuant to Practice Book Section 2-79(a), such suspension shall be effective upon publication of the list in the Connecticut Law Journal.

By the Court,
Hon. David Sheridan
Date: November 19, 2021

Juris No. Name

406061 DAVID P ABATEMARCO
403792 DAVID VARNUM ABBOTT
302894 MELANIE BETH ABBOTT
401145 ROSS MARTIN ABELOW
412907 JONATHAN DAVID ABRAHAM
420048 DAPHNA ABRAMS
432720 JACOB JOHN ABRAMS
407575 VICTOR H ABRAVAYA
410442 CRAIG THOMAS ABRUZZO
421811 JOSEPH PAT ACCETTURO
405049 F RANDOLPH ACKER
420533 STEPHEN M ACKLEY-ORTIZ
300209 CHARLOTTE MARY ACQUAVIVA
307315 JANE M ADAMO
309653 CHRISTINE ANNE ADAMS
306707 ELIZABETH SQUIER ADAMS
433876 ERIN ELIZABETH ADAMS
305826 ROBERT T ADAMS
306842 LINDA LARSON ADAMSON
426519 NICHOLAS JAMES ADAMUCCI
416025 AMY MARIE ADORNEY
402449 ARTHUR AFFLECK
409887 OLIVER A AGHA
308689 KRISTI M AGNIEL
429011 BARBARA K AGOSTINO
405296 JOAN AGOSTINO
408583 BARRY DANIEL AHEARN
410853 CHRISTOPHER JAMES AHEARN
428132 DENISE B AHERN
300226 FRANCIS MICHAEL AHERN
300229 L JEFFREY AKER
439991 TAIMUR ALAMGIR
401362 JOSEPH MICHAEL ALBERO
431005 BENJAMIN SCOTT ALBERT
300231 FELIX ALBERT
421817 CHRISTOPHER O ALBIZU
424674 JOHN DAVID ALBRIGHT
411235 TINA E ALBRIGHT
411898 DAVID ALDERMAN
404799 LORI ANN ALESIO
100013 DENNIS C ALEX
435774 DAVID JAMES ALEXANDER
405563 HEIDI J ALEXANDER
421309 JEFFREY MICHAEL ALEXANDER
305338 THOMAS KACZMARCYK ALEXANDER
303558 VALERIE ALEXANDER
300244 JAMES ALFORD
432347 JOHNY G ALHAYEK
430316 ALEXIS LYNN ALIRE
300248 JOHN MALCOLM ALLAN JR
426460 COREY J ALLARD
405297 FRANK PAUL ALLEGRETTI
403975 FRANK E ALLEN
415141 OTIS GEORGE ALLEN
407861 KAREN MCCLINCH ALONSO
413938 LORI JEAN ALPERT
426572 JOSE LUIS ALTAMIRANO
300267 LAURENCE PAUL ALTERMAN
306709 LISA MILLER ALTMAN
409498 MARJORIE HENNIGAN ALUTTO
410967 DONNA L ALVAREZ
413166 AMR ALY
436772 JENNIFER MEGHAN AMBROSE
402121 EDWARD ANTHONY AMBROSINO

404802 FRANCIS C AMENDOLA
403271 MADELENE CLARE AMENDOLA
300279 CARL JOSEPH AMENTO
421313 ANTHONY AMETRANO
406959 LINDA R ANDERS
300739 JONATHAN ANDERSON
432349 KEVIN JAMES ANDERSON
410243 JANET AGOGLIA ANDOLINA
302657 CHRISTINE I ANDREW
303884 KAREN E ANDREWS
401363 HOWARD F ANGIONE
424682 N TODD ANGKATAVANICH
416167 VINCENT CHARLES ANSALDI
000680 FRANK ANSELMO
413720 BRIAN MARTIN ANSON
415759 PENNY H ANTHOPOLOS
402202 RONALD H ANTONIO
403272 RICARDO A ANZALDUA-MONTOYA
000750 PAUL J APARO
404353 MORTON APFELDORF
300316 STUART H APPELBAUM
401365 JOHN ALBERT ARANEO
426511 AWO MANSAH ARCHAMPONG-GRAY
308949 JUDITH ANN ARCHER
420181 ALAIN ARMAND
439706 JOHN DAVID ARNOLD
411560 JEFFREY F ARONIS
403853 DAVID MARK ARONOWITZ
420541 JEANNE REGAN ARONSON
418762 NOREEN DEVER ARRALDE
428497 APRIL AMANDA ARRASATE
300336 PETER A ARTURI II
431643 TAMARA SHYAMA ARZT
423219 RAYMOND L ASAY
416863 LISA ASCHKENASY
425911 LAUREN M ASHBROOK
409455 JOHN LAWRENCE ASHELFORD
407362 LAURA ANN ASINAS
305774 MARIE S ASPINWALL
300344 GREGORY T ATKINSON
303153 LYNN ATKINSON
306284 SARA LOU AUGENBRAUN
426494 LINDSAY A AUGER
423220 HANS HENRY AUGUSTIN
428960 KYLE THOMAS AUTY
415678 ANNALEI AVANCENA
307829 ARLENE FRANCIS AVERY
437116 GRACE GLORIA AVILES
423221 SI AYDINER
403068 NAT JOHN AZZNARA
305815 ERIC M BABAT
404328 LANCE B BABBIT
418575 EMILE JOACHIM BABIN III
433887 LOUIS W BACH
415023 RIK ANDREW BACHMAN
406030 CHRISTOPHER ANTHONY BACOTTI
405060 DAVID M BADAMI
411239 PATRICIA GAIL BADE
408768 DAVID G BAGHDADY
420548 DARREN D BAHAR
421831 PAULA J BAILEY
402049 DENISE ANNE BAILEY-LAROUCHE
401152 MICHAEL BAIN
102816 TODD R BAINER
439002 ARIANNA COLETTE BAKER
429651 DAVID EDWARD BAKER
436157 CHRISTINE LYNN BAKER-RODRIGUEZ
401153 MARILYN BALCACER
420550 AIMEE-JOAN CAPARAS BALDILLO
408750 BRIAN MERRITT BALDWIN
305518 EILEEN PAALZ BALDWIN
409713 DANIEL BALINT
405542 ANTHONY ALONZO BALL
100637 DAVID P BALL
431351 ANNE BALLA
308953 KEN E BALLANTYNE
309543 ROGER SCOTT BALLENTINE
405302 EMILY LYNN BALLER
409890 REBECCA L BALZAC
412563 SUSAN M BANKS
427787 BRANDON EVERETT BANNOCK
306655 ROBERT A BARAD
102373 MARY ELIZABETH BARAN
428969 VICTOR JOHN BARANOWSKI III
303493 ROBERTA JILL BARBANEL
419083 GEORGE PAUL BARBARESI
408910 STEPHEN JOSEPH BARBER
436159 MICHELLE LYNN BARBINO
410756 STEPHEN BARD
409305 CYNTHIA L BARDALES
307101 JUDITH BARES
406915 AMY L BAREST
414369 SPENCER ZANE BARETZ
425897 COURTNEY LYNN BARGER
308296 MARY ANN BARILE
434609 RACHEL LAUREN BARMACK
424696 ANANYA BARMAN
409499 MICHAEL J BARNABY
419557 JAMES STODDARD BARNES
300802 THOMAS JOSEPH BARNES
301187 JOSEPH WILLIAM BARNETT
413173 LISA MARIE BARNETT
405062 BRADFORD JAY BARNEYS
407863 NANCY ELISE BARR
428493 STEPHEN ROCCO BARRESE
301197 EDWARD V BARRETT
433425 JAMES ARTHUR BARRETT
420182 ERIKA M D BARRIE
301201 AUDREY BARRIS
411625 VALERIE MARGARET BARRISH
002215 JOHN F BARRY JR
401369 KEVIN MATTHEW BARRY
419558 NATALIA MAUREIRA BARTELS
002262 PETER J BARTINIK
401154 MICHAEL JOSEPH BARTLEY
419924 NICOLE BARTNER
418204 CRAIG ALAN BARTON
426699 DAVID HOWARD BARTON
411780 JOHN MARSHALL BARTON III
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415900 JENNIFER R BASSETT
414509 IVETTE BASTERRECHEA

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405980 LORIN E BAUER HIMMELSTEIN
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428593 GREGORY JOSEPH BAUTISTA
421839 PAUL S BAVIER
412099 ROSANNE C BAXTER
424702 BRANDON JON BAYLEY
002570 BRIAN E BAYUS
413270 VIRGINIA L BEACH
427965 KATE ANN BEARDSLEY
408344 BRUCE H BEATT
408621 AMY LOUISE BEAUCHAINE
407368 JAMES JOSEPH BEAUDREAU III
418206 DEREK MATTHEW BEAULIEU
305376 MICHAEL F BECHER
412288 THEODORE ANDREW BECHTOLD
301256 CAROLYN ELIZABETH BECK
401155 DANIEL SCOTT BECKER
418765 JASON L BECKERMAN
405251 DEBORAH RYAN BECKMANN
428061 AMY J BEECH
408817 ROBERT LIEBERT BEERMAN
409231 GERALD FRANCIS BEGLEY JR
428979 BRIAN LOGAN BEIRNE
308343 HARVEY BELKIN
437895 ALESSIA TAMARA BELL
426520 ANGELA CHRISTINE BELL
427972 GENEA ODESSA BELL
419938 JAIME NICOLE BELL
415684 KAREN J BELL
003130 SHERRY F BELLAMY
412088 DIANE CAROL BELLANTONI
428539 ERIN S BELLOWS
310017 ROBERT VINCENT BELTRANI
301304 DANIEL P BEN-ZVI
403492 MICHELLE DIANE BENESKI
102828 ERIC J BENGSTON
406966 THOMAS JAMES BENISON
408916 WILFREDO BENITEZ
307938 JOEL B BENJAMIN
435784 BRUCE PHILLIP BENNETT
436795 FARAH LEILA BENSLIMANE
427119 NICHOLAS A BERARDIS JR
405547 KERRY ELIZABETH BERCHEM
101171 DINA R BERGER
405746 KENNETH ALAN BERGER
412808 JUDITH BERGER-EFORO
428984 KAREN MICHELE BERGGREN
413724 MARNIE GILLA BERK
308962 RICHARD J BERKA
408109 ALISON BETH BERKLEY
406763 ROBERT JOSEPH BERKOWITZ
301318 STEVEN H BERKOWITZ
102914 PATRICIA BERLIN
408037 JAIMI BERLINER
411432 BRADLEY WOLFE BERMAN
421324 PETER B BERNIER JR
406093 ANDREW HOWARD BERNSTEIN
308668 HAROLD F BERNSTEIN
405745 MARK R BERNSTEIN
411372 MEREDITH L BERNSTEIN
004037 NORMAN J BERNSTEIN
004062 SAMUEL J BERNSTEIN
305381 ADAM SAMUEL BERSIN
308492 M EDWARD BERTHIAUME JR
411248 EDWARD JAMES BETCHER
430003 KAREN BEZNICKI
424712 LUIGI BIANCO
411433 G THOMAS BICKFORD
413057 ROBERT HUNTER BIDEN
400982 VALERIE SUSAN BIEBUYCK
401373 LYNN SUSAN BIEDERMAN
004387 JOHN P BIGDA
406969 DANIEL BILDNER
409717 JONATHAN PRIM BILLER
101938 WILLIAM A BINGHAM
420568 WAYNE BINOWSKI
414838 ROBIN M BISCHOF
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308439 H JAMES BLAKESLEE
307939 MAUREEN T BLANEY
306206 DAVID J BLECKNER
403574 DAVID IAN BLEE
306239 JUDITH A BLEI
301410 STUART JAY BLENNER
308378 PETER J BLESINGER
404823 SALLY BLINKEN
411250 DEVRA ANNE BLOCK
411435 NANCY J BLOCK
100773 BRUCE BLOMFIELD
413553 MARK JOEL BLOOM
423724 MICHELE BLOSSER
418159 IVAN K BLUMENTHAL
402847 JAMES BOAK
430350 HOLLY NACHT BOBROW
100635 DAVID BODINE
420784 LAURA BOEHRINGER
301439 GLENN NED BOGDONOFF
419569 ALLISON MARY BOGOSIAN
301444 JAMES BRUCE BOISTURE
408625 MARCO THOMAS BON TEMPO
306507 JOSEPH MICHAEL BONASSAR
415401 ANDREW FRED BONITO
409862 GAIL BONNER
420043 LAURA MARIE BOOKER
301926 JOEL ANTHONY BOONE
426448 EMILY SUSAN BOOTHROYD
005218 JOSEPH S BORKOWSKI
410010 MICHAEL THOMAS BORRUSO
102472 JOHN K BOSEE
411592 TERESIA LINNETTE BOST
428133 EVAN J BOUCHER
409505 WYCUIE OMEGA BOUKNIGHT
302673 KEVIN F BOWEN
415905 RALPH GREG BOWEN
401157 THOMAS MICHAEL BOWERS
101762 ALLEN P BOYARSKY

102218 WILLIAM H BOYD
413973 REINE C BOYER
423254 DANA REDWAY BOYLAN
403927 WAYNE M BOYLAN
005443 ROBERT H BOYNTON
303232 SALLY J BOYNTON
420213 TYLYN L BOZEMAN
422767 JAMES J BRACKEN IV
427125 LYMAN SHERWOOD BRADFORD IV
421231 BECKY L BRADLEY
407145 LAURA L BRADLEY
439018 MARK EDWARD BRADLEY
412929 CAROLYN CRINK BRADY
416031 MARC WATERMAN BRAGIN
401381 PETER BEVIER BRANDOW
420579 JEFFREY LAWRENCE BRANDT
404539 LAURA MARIE BRANK
410255 MEREDITH NORMINGTON BRASCA
421330 ANNEMARIE LEONARDINI BRAUN
409419 LONNIE BRAXTON II
413726 JON WILDER BRAYSHAW
307941 ANTONIO BRAZ
421862 CHRISTOPHER MICHAEL BRECCIANO
307942 PAUL JOHN BREDICE
403291 WILLIAM PATRICK BREEN JR
301535 IRVING AARON BREITOWITZ
301575 DANIEL EDWARD BRENNAN
418718 LESLIE BRENNAN-SOMPS
401384 DAVID MARSHALL BRENSILBER
303159 SHEILA J BRENT
309023 VINCENT PAUL BRESHNAHAN JR
429014 ERIC ANDREW BRESLOW
408039 KEVIN MICHAEL BRESNAHAN
410014 CRISTY LYNN BRESSON
404754 LAURA ULRICH BRETT
435182 ANN E BREUER
301551 BAYARD R BRICK
101251 LAWRENCE S BRICK
413388 PATRICK STEPHEN BRISTOL
401385 JANEANN BRITT
405197 TRACY LOMBINO BRITTIS
306453 ISABELLE FARRELL BRITTON
436800 KELSEY BROADMEADOW
420524 CHARLSA D BROADUS
306873 JAMES P BROCHIN
305534 DEBORAH MAXINE BRODER
433911 JULIE ANNE BRODER
400984 SUSAN W BRODKIN
440589 RACHEL E BRODY
308782 SUSANNE BRODY
402850 JANET ADELE BROECKEL
417629 STEPHEN HENRY BROER
401387 JOHN GERARD BROETSKY
305335 SHARON BRONTE
403784 PATRICIA CYNTHIA BROOKE
006511 LYNN ALAN BROOKS
404318 WAYNE NORRIS BROOKS
436174 WILLIAM R BROOKS II
302211 RICHARD DAVID BROOME
305854 SAMUEL BROQUE
430164 ALICIA J SANGIORGIO BROTHERS
435072 JOSHUA PHILIP BROUDY
403536 CLAUDE MOTT BROUILLARD
403294 ARTHUR F BROWN III
402706 AVERY LOUIS BROWN
403326 CAROLYN DUNPHEY BROWN
301600 CHRISTOPHER VANDYCK BROWN
006632 JAMES E BROWN
421868 KEITH M BROWN
101586 LUCILLE E BROWN
427129 MELISSA JEAN BROWN
301607 MICHAEL K BROWN
429728 CHRISTOPHER M BROWNE
418770 CHARLES BRIAN BRUNDAGE
401158 JOHN A BRUNJES
306306 CHIRSTOPHER J BRUNO
416865 EDWARD C BRUNO
410988 GWENDOLYN KISHA BRUNSON
409237 PETER F BRUSH
439022 MARLON J W BRYAN
406976 LISA LOUISA BRYANT
429023 SANDRA LYNN BRYANT
439671 MELISSA COLLEEN BRYSON
102236 SUSAN J BRYSON
405973 ROBERT NICHOLAS BUA
305113 ROBERT ALAN BUCCI
410788 THOMAS W BUCCI JR
405548 BRANDON BUCKINGHAM
423263 COLLEEN MARIE BUCKLEY
411077 REGINA HILLMAN BUCKLEY
423264 RICHARD EARL BUCKLEY
102257 PERRY C BUDDINGTON
417659 BRYAN T BUDNIK
411937 DOUGLAS CHRISTOPHER BUFFONE
306549 GREGORY P BUFTHITIS
403296 GLENN MILLS BUGGY
307121 PAUL D BUHL
400988 ANDREA LOUISE BULL
412397 BRENDA NAOMI BUONAIUTO
404831 ERIC BUONAMASSA
432367 CHRISTOPHER J BUONTEMPO
411789 CATHLEEN ELIZABETH BURGESS
370547 PETER H BURKARD
370548 BRIAN F BURKE
303390 EILEEN BURKE
307883 HAROLD R BURKE
370550 JOHN A BURKE
429028 JOHN FRANCIS BURKE
304131 JUNE ANNE BURKE
437732 MICHAEL JOSEPH BURKE
305858 THOMAS ALBERT BURKE
424745 DENIELLE M BURL
007495 STEPHEN BURLINGAME
102010 EILEEN P BURLISON
309063 JANE COLLINS BURNS
431045 KRISTEN SUZANNE BURNS
412517 SUSAN ELIZABETH BROWN BURRELL
401397 JAMES A BURROWS
007528 WALTER L BURROWS JR
416922 DANIEL EDWARD BURTON
303162 JUDITH A BUSCH
412293 SMITA G BUTALA
433851 JENNIFER AYANNA BUTLER
370589 NANCY L BUTTERFIELD-SCHONS

420027 CARI J BUXBAUM
428523 EMILE GEORGE BUZAID III
411581 JAMES I BYER JR
301003 STEPHANIE FOUNTAIN BYNUM
404251 CHRISTOPHER J BYRNE
408252 JAMES P BYRNE
417358 STEVEN BYRNE
419009 ELIZABETH BYRNE-CHARTRAND
422775 MEGAN A BYRNES
430377 LISA BYRNS
431249 STEPHANIE CABRAL
424191 ANTHONY R CACCAMO
101742 JEFFREY P CADOUX
414521 CARMIA NICHEL CAESAR
412931 MARCO JOHN CAGGIANO
420143 SUSANNE MARIE CAHILL
404835 CHRISTOPHER C CAIAZZO
300465 DAVID M CAIN
301975 LAURIE GRELE CAIN
407601 MARJORY CAJOUX
422776 AMY MARIE CALABRESE
424751 PETER ANTHONY CALATOZZO
407388 LEONARD P CALBO
410461 JOHN DAVID CALDER
420597 ALFRED J CALI
418593 CHRISTOPHER T CALIO
415655 DAWN SEARS CALLAGHAN
423274 BRIAN ROBERT CALLAHAN
421881 TRAVIS WILLIAM CALLAHAN
403584 ERIN MARIE CALLAN
100751 ROSALIE CALVE
418910 GEORGE M CAMERON
413898 DAVID RICHARD CAMPBELL
421337 GOLDEN CAROLE CAMPBELL
405344 JEANMARIE CAMPBELL
428033 LATRICE CAMPBELL
428045 LINDA SIMMONS CAMPBELL
310070 M VICTORIA CAMPBELL
303862 MARK A CAMPBELL
411583 MICHAEL RENWICK CAMPBELL
309657 VICTORIA CAMPBELL
404837 CHRISTINE ELIZABETH CAMPIONE
415187 GARRETT AINSLEY CAMPORINE
401309 DAWN RUSSO CAMPSON
409509 MARY ANN CANDELARIO
307694 MARIANNE CANDITO
405207 RENEE MAYERSON CANNELLA
412551 JOSEPH CHARLES CANTONI JR
302682 DAVID JOSEPH CANTOR
300508 JAY STUART CANTOR
008265 J MICHAEL CANTORE JR
306877 BRENDAN THOMAS CANTY
300512 RICHARD A CANZONETTI
430384 LINSEY ELAINE CAPECELATRO
309037 ELIZABETH BLANCHE CAPEN
008320 LEWIS E CAPLAN
410263 BRUCE STEVEN CAPLIN
419176 FRANK ROBERT CAPONE
407234 ANDREW JULIUS CAPPEL
417243 PATRICIA A CAPPETO
421021 AMANDA L CAPPILLO
303164 DENNIS WALTER CARAHER
428015 CHRISTOPHER MICHAEL CARAPELLA
421883 MARK R CARBUTTI
429212 KELLY ANNE CARDEN
433434 KEITH ANTHONY CARDOZA JR
407849 BRETT CAREY
423031 DANIEL FRANCIS CAREY
008478 L GERALD CAREY
419272 JENNY ANN CARLES
406780 DON ANTHONY CARLOS JR
308458 DALE L CARLSON
300537 ALLYN MYLES CARNAM
404064 BETH A CARPENTER
300541 DANIEL EDGAR CARPENTER
306332 CHRISTOPHER R CARPENTIERI
418429 PETER CARPIO
431253 JOSHUA RICHARD CARRAFA
432764 CATJA CARRELL
306333 JOSEPH FRANCIS CARROLL JR
008654 KEVIN L CARROLL
300556 PHILIP ROGER CARROLL
008727 JOHN J CARTA JR
008772 ARTHUR F CARTER
102744 ELIZABETH W CARTER
308417 JOHN HENRY CARTER JR
402015 MARTIN LUTHER CARTER
414147 MICHAEL RICHARD CARTER
008782 WILLARD R CARTER
427139 SHEREE CARTER-GALVAN
402174 JAMES RICHARD CARTIGLIA
308111 JOAN M CARTY
441203 JOSEPH GERARD CASACCIO
412294 LAURA JEAN CASARANO
400689 STEPHEN CHARLES CASE
422779 BARBARA ANNE CASEY
414381 JENNIFER ANNE CASEY
401412 JOANNE KILDUFF CASHIN
306662 GEORGE JOHN CASPAR III
102077 THOMAS P CASPER
406781 AVI D CASPI
415081 WILLIAM J CASS
401413 ROBERT JOHN CASSANDRO
427899 KATHLEEN A CASSIDY
008935 MARY LOU CASSOTTO
430394 JOSE O CASTANEDA JR
100299 RAUL C CASTELLS
430395 JULIAN J CASTIGNOLI
433435 RACHEL ANN CASTIGNOLI
440503 JOSEPH JONATHAN CASTRIANNI
421892 DAME ROSE CATALAN
303865 FRANK ANTHONY CATALANO JR
424762 MICHAEL C CATALANOTTO
421893 ANNE FLORENCE CATAPANO
402713 JOSEPH JUDE CAVALLARO
430399 JESSICA CAVALLO
400691 CHARLES JOSEPH CAVANAUGH
404478 JOHN W CAVILIA
409899 JANET DENISE CEBULA
409730 VIKTORIA KAROLINA CECH-VINHAIS
412408 JOHN DOUGLAS CECHINI
417470 JEFFREY D CEDARFIELD
430400 ADAM S CEDERBERG
413189 CHRIS EDWARD CELANO

009025 JOSEPH CELENTANO
403091 ANGELA SOFIA CERINI
420613 STEPHEN ALPHONSE CERRATO
420230 CARRIE LYNN CERRETO
428568 LAUREN ANN CERRI
429919 TAMAR ELIZABETH CHALKER
301936 R MARK CHAMBERLAIN
424770 RASHAD V CHAMBERS
431733 D ZACHARY CHAMP
431734 JULIANA CHAN
424771 MELISA CHAN
307358 DEBORA CHANDLER
423290 CALVIN YUNG CHANG
305348 DEBORAH CHANG
428081 EDWARD W CHANG
300614 JIH-KUEI CHANG
413193 SHELLEY C CHAO
429046 JENNIFER KATHRYN CHAPLA
420615 ANDRE KEITH CHARBONNEAU
429047 TODD MICHAEL CHARD
101447 GARY G CHARLAND
303444 JAMES MORRISSON CHASE
307132 MICHELLE SCOTT CHASE
435801 SARAH QAYYUM CHAUDHRY
402585 JOAN MCKINNEY CHEEVER
431572 LISA A CHENEY
305544 NAN BUDDE CHEQUER
401420 ERIC DAVID CHERCHES
307312 ROBERT D CHEROFSKY
403303 APRIL LYNN CHERRY
009335 LAWRENCE C CHESLER
426423 REBECCA CHEVALIER
414149 SAMUEL CHI
417854 MELISSA MARASIGAN CHIA
437765 JENNIFER MARIE CHIARELLA
309050 RANDALL JOHN CHIERA
402249 DEBRA KAY CHIN
403587 BARBARA JEAN CHISHOLM
412584 JOSEPH CHIU
413195 JOANNE DELMASTRO CHIULLI
401254 JENNIFER LANDSMAN CHOBOR
428044 JESSIE CHOI
428595 DAVID VACCO CHOMICK
413305 KIMBERLY S CHOTKOWSKI
309051 REGINA CHOU
404082 ARTHUR JIN DONG CHOY
405992 MICHAEL EDWARD CHOY
407605 THOMAS ATHANASIUS CHRISTOPHER
427650 MOLLY ELIZABETH CHRISTY
440319 GAYE LYNNE CHUN
420621 KEVIN EDWARD CIAGLO
309839 GEORGE RICHARD CIAMPA
414151 ANTHONY CHARLES CICIA
418504 ROBERT JOHN CIPPITELLI
300656 ANTHONY LAWRENCE CLAPES
413815 GEORGE WESLEY CLARK
309971 ROBERT F CLARK
305392 ROBERT JAMES CLARK
300674 RONALD J CLARK
409656 BENNETT D CLARKE
411262 AMY CHRISTINE CLAUSS
303336 ELIOT R CLAUSS
300685 JAMES A CLAYTON JR
426804 DANIEL MILNER CLEARY
416040 MICHAEL JOHN CLEMENTE
407607 JOHN N CLO
406552 ELDIN E CLOUDEN
415377 PRIYA SINHA CLOUTIER
102897 JONATHAN E CLUNE
415944 PATRICIA ANN COCCHIA
300703 JOHN BRYSON COCHRAN
400118 SUSAN COCOCCIA
433936 LINDA ANNE CODY
433937 ADAM B COELHO
434671 CHRISTOPHER JOHN COEN
414865 CRAIG JEFFREY COFFEY
400120 CURTISSA R COFIELD
009915 GEORGE M COHAN
419328 AARON GRAY COHEN
424784 ALLISON COHEN
417364 AMY S COHEN
102563 DAVID E COHEN
310020 ELLIOT COHEN
010012 GERALD H COHEN
414525 JEFFREY EVAN COHEN
404383 JONATHAN REIMAN COHEN
309467 JONATHAN T COHEN
300873 LAWRENCE A COHEN
300874 LORIS L COHEN
418102 MICHAEL ARI COHEN
427150 MICHELE ALEXANDRA COHEN
101831 RUDOLPH A COHEN
305550 SUSAN C COHEN-RICH
429060 BRANDI ADELE COLANDER
401427 STEVEN A COLAROSSI
403471 LISA COLCHETE J S
430418 DANIELLE K COLE
427848 DAVID PATRICK COLE
401166 PATRICIA SOPHIA COLELLA
406109 BEVELYN ANTOINETTE COLEMAN
413199 GRANETTA MARUTH COLEMAN
307884 JOSEPH P COLEMAN JR
411440 ROBERT EMMET COLEMAN
405838 TIMOTHY ASHTON COLEMAN
427151 SIMONE ROSEMARIE COLEY
411794 KIMBERLY ANN COLFER
306986 LUCY ANNE COLLETT
407612 ANN MARIE COLLINS
420629 GARY H COLLINS
010460 MARSHALL R COLLINS
302909 MICHAEL FRANCIS COLLINS
010512 THOMAS W COLLINS
409250 WILLIAM G COLLINS
426550 JAMES NORRIS COMMODORE
405559 NEAL C COMSTOCK
010620 MARY GRACE CONCANNON
401180 PATRICIA ANN DAVIS CONDON
309065 NEAL GOVERMAN CONE
426240 SHANNON D CONGDON
426203 ELIZABETH ANNE CONKLIN
307363 ROBERT VINCENT CONKLIN
305552 ELIZABETH E CONLIN
427154 DAVID JOSEPH CONN
417119 JAMES JOSEPH CONNOLLY

428043 THOMAS CONNOLLY
101824 HALDAN E CONNOR JR
417829 MARK JAMES CONNOR
417933 JAMES P CONNORS
309066 LAURETTA L CONNORS
309847 CAROL ANN CONNORS-ODEA
406785 KATHERINE MITCHELL CONSTAN
101508 GREGORY M CONTE
101607 ROCCO CONTE
415241 JOHN JOSEPH CONVERTITO
414257 JOSEPH MICHAEL CONZA
430421 BRIAN CHRISTOPHER COOK
403594 IVY ILYSSA COOK
420028 TARA PAM COOK-LITTMAN
010079 B COOMARASWAMI
408639 ELIZABETH ROSE COONEY
404843 LEONARD BARRY COOPER
410032 SAMARA JO COOPER
303364 STEVEN D COOPER
401432 ROBERT ALAN COPEN
424207 ANDREW NICHOLAS COPPO
414528 GARRISON CORBEN
011143 F DAVID CORBETT
401980 NANCY HASLEY CORBETT
428080 WALTER FREEMAN CORBIERE
101477 J WALTER CORCORAN
303319 RICHARD GLENN CORDE
300981 CHARLES MITCHELL CORDEN
300984 WILLIAM JOHN COREY JR
407761 DENISE D CORIN
306686 IRENE CORNISH
405640 STEPHANIE V CORRAO
309067 THOMAS FRANCIS CORRIE
407617 BRIAN NOEL CORRIGAN
406992 NANCY DENARDO CORRIGAN
426912 VICTORIA MARIE COSENTINO
426658 ANDREW THOMAS COSGROVE
304331 RITAMAE GOBER COSGROVE
428471 LORI ANN COSTELLO
440025 THOMAS ANDREW COSTELLO
419573 CARRIE B COTE
419599 RAYMOND A COTE
418776 ANTHONY LOUIS COTRONEO
100078 BRIAN COTTER
439715 QUINN AMERLING COTTER
303565 ANTHONY F COTTONE
301000 NEIL PATRICK COUGHLAN
306579 J JEFFREY COUGHLIN
420185 KERRY M COURTNEY
309068 MARSHALL ASHBY COURTNEY
439036 DANIEL JAMES COURY
436425 ELISE A COUSINEAU
411944 AMY MELISSA COUTANT
413479 CHERYL REYNOLDS COVELLO
417369 JENNIFER L COVIELLO
421927 ANNEMARIE FRANCES CRAIG
307957 SONIA BURGOS CRANNAGE
425312 CHRISTINA YOUNG CRAWFORD
428136 JASON GETHING CRAWFORD
421299 JUEL R CRAWFORD
411964 VITTORIA ADELE CREA
301055 CATHERINE CRICHTON
102846 LORY A CRISORIO
401173 ROBERT JOHN CRISPI
418162 RALPH JOSEPH CRISPINO
405343 MARY CRITHARIS
420037 CATHERINE RYDER CRITTON
439038 RYAN CRIVELLA
013032 RICHARD J CROMIE
302499 THOMAS L CRONAN III
426489 VINCENT JOHN CRONAN
438832 LISA M CRONIN
408878 HENRY H CRONK
438861 DWIGHT R CROOKS
403099 JAMES DUNBAR CROSS
409908 MOIRA ANN CROUCH
307775 EUGENE F CROWE
303124 BARBARA E CROWLEY
434678 CHRISTOPHER MARK CROWLEY
100781 RALPH C CROZIER
408939 JAY D CRUTCHER
431745 E LEWIS CRUZ
408940 LUIS CRUZ
013167 DAVID CRYSTAL II
435207 STEVEN PHILLIP CUFF
301084 FLOYD CORNELIUS CULHANE JR
301090 PETER F CULVER
013298 RICHARD H G CUNNINGHAM
416044 MICHAEL A CUOMO
306885 WILLIAM EDWARD CURBOW
416831 PHILIP L CURCIO
410382 BRIAN F CURRAN
424802 JOSEPH K CURRAN JR
409737 M KATE CURRAN
404257 STACIE ELLEN CURRAN
414387 NIAMH ALEXANDER CURRY
301100 WILLIAM E CURRY JR
419222 ANDREW JOSEPH CURTIN
403119 DEIRDRE FILAN CURTIS
305260 MICHAEL CUSHING
301115 JOHN AUGUST CVARCH
101478 FRANK H CZAJKOWSKI
426477 STEPHANIE ELISSA CZAP
301944 AMY A D ADDETTA
414400 ERNEST NICHOLAS D AGOSTINO
404866 ROCCO F D AGOSTINO
404545 CHRISTINE CLAIRE D ALESSANDRO
403327 JOY MARGARET D AMORE
401203 DOMENICK L D ANGELICA
421939 KELLY BLYTHE D AURIA
101731 LORETTA LYNN D ERAMO
407012 KIM C D SOUZA
420643 DAVID G DAGITZ
403596 NORA JEAN DAHLMAN
419606 ERIC PAUL DAIGLE
309980 MARILYN CERNAK DAIGNAULT
419416 JAMES F DAILY III
402059 BERNARD CHARLES DALEY
408115 DENNIS JOHN DALTON
403949 GEORGE DALTON
370615 HARLON LEIGH DALTON
410041 CYNTHIA ANN DALY
404852 STEPHEN DALY
307887 PATRICK J DAMANTI

303880 JAMES GRAHAM DAMON III
303879 JENNIFER MARTYN DAMON
427692 AMY LOUISE DANCAUSE
406146 THOMAS M DANEHY
414159 VIRGINIA A DANFORTH
402128 JOHN JAMES DANIELS
418778 JEFFREY JOHN DANILE
405108 JOSEPH MARTIN DARA
423320 HELENA DARAS
405672 HOLLY QUACKENBUSH DARIN
410693 WILLIAM A DARRIN JR
413978 JEAN-MARC MARCEL DAUTREY
307707 PETER F DAVEY JR
412898 VANESSA V DAVEY
405112 BRUCE JONAS DAVID
426591 EVA Y DAVID
409253 JILL ALLISON DAVID
305413 DAVID FRANCIS DAVIDSON
419610 DONALD NORMAN DAVIDSON JR
427158 JAMES EDWARD DAVIES
403987 BRET JAY DAVIS
301653 GERARD HOWARD DAVIS
410284 HELEN ANNE DAVIS
300815 J DANIEL DAVIS JR
409348 OLAYINKA O DAWODU-OGUNDIPE
426538 KYLE C DAWSON
405322 AMY CARRON DAY
301666 HARRY D DAY
411606 MELISSA BETH DAY
424818 SCOTT DAY
427771 WILLIAM TIMOTHY JOHN DE LA MAR
423322 STEPHEN LANE DE VORE
301669 SHERRY C DEANE
436628 JOHN PAUL DEARIE
404855 JEREMIAH A DEBERRY
420654 MONICA LYNN DEBIAK
305291 BRUNO JOSEPH DEBIASI
417254 ANTHONY PHILLIP DECAPUA
301680 ELAINE A DEEDY-SINCALI
415243 MICHAEL ANTHONY DEEM
416046 ROBERT PATRICK DEGEN
409739 JANET MIRIAM DEGNAN
417669 FRANK DEGRASSE
411949 ALBERT DEGREGORIS
424819 JEAN-CLAUDE F DEHMEL
101642 PETRA F DEICHMANN
428531 NICOLETTA DEL VECCHIO
371539 ROBERT D DELANEY
305884 ROSS DELANEY
409517 ALFRED ANTHONY DELICATA JR
424820 STACEY DELICH-GOULD
432796 MICHAEL PAUL DEMARCO
410790 RONALD FREDERICK DEMATTEO
300736 TODD M DEMATTEO
428632 ROSEMARY JACQUELINE DEMPSEY
421360 NATALIE A DENNERY
404857 PETER JONATHAN DENNIN
302916 ANTHONY JOSEPH DEPAUL
419617 SCOTT E DERBY
309093 MICHAEL DERGARABEDIAN
418611 SOHANKUMAR SURESHINGH DESAI
408823 MARGARET HAMILTON DESAUSSURE
416716 BRIAN ANTHONY DESAUTELS
404577 GERALD ALAN DESIMONE
424830 KRISTINA DETMER
412824 JOHN PATRICK DEVER
102348 FREDERICK P DEVINE JR
425893 ROBERT E DEVINE III
413210 ERICKA DEWEY
410669 PATRICIA DEWITT
403604 ANN CECELIA DI BUONO
431370 GINA FRANCESCA DI GRANDI
307961 KONSTANTINOS MENELAOS DIAMANTI
370268 JOHN DAVID DIAMOND
404858 ROBERTA LYNN DIAMOND
417373 AXEL PHILLIP DIAZ
405753 ROBERT DIAZ
429937 TRACEY B DICKAU
414165 LOUISE EMILY DICOCCO
425916 JOSEPHINE MARIE DICOSMO
426310 M MELCEDITHA DIEGOR
015359 LUCIEN P DIFAZIO JR
429100 LAUREN VICTORIA DILEONARDO
404208 NOREEN ANN DILLMAN
415378 THOMAS J DILLON
405348 LILLIAN DILORENZO
422804 SABRINA JANINE DIMAURO
309099 PATRICIA CORINNE DINEEN
407866 MITCHELL ANDREW DINKIN
102428 JOHN G DIPERSIA
015600 ANDREW M DIPIETRO JR
015621 FRANCIS J DISCALA
370290 MARK ROBERT DISLER
102926 DAWN M DITTMAR
101204 THOMAS M DIVENERE
416117 PHYLLIS MICHELLE DIVINS
415147 LON ERIC DOBBS
301718 MARTIN HENRY DODD
305890 DANIEL LEE DOHERTY
423329 PATRICK F DOHERTY
436541 SANDRA BECK DOMBRO
304089 JOSEPH P DOMBROSKY
102814 PAUL A DOMINIANNI
370316 BRIAN WILLIAM DONAHUE
401193 STEPHANIE DONATO
309101 JOHN CHARLES DONELKOVICH
408881 JAMES JOSEPH DONNELLAN
433962 TIMOTHY JOHN DONNELLY
430460 ELIZABETH CLAIRE DONOGHUE
370328 DAVID ALLEN DONOHOE
402062 JAMES FRANCES DONOHUE
429106 FIONA TERESA DONOVAN
409744 RICHARD LOUIS DONOVAN
429941 SEAN T DONOVAN
435966 GARY LEON DONOYAN
370336 THOMAS HOWARD DOOLEY
427933 MARISA ANNE DOONEY
401196 ANN-CHRISTINE DORAN
420670 ELISSA KIM DOROFF
411386 RISA ILENE DORSKY
404581 JUDITH DOS SANTOS
306892 MARIO F DOTTORI
412828 BRYAN CHRISTOPHER DOUGHERTY

305202 HYACINTH V DOUGLAS-BAILEY
417486 MIRIAM DOWD
415297 SEAN PATRICK DOWNING
427171 CAROLINE SARINA DOWNS
430464 JOHN WILLIAM DOYLE
307484 MARY ANN DOYLE
414399 THOMAS MARTIN DOYLE JR
440572 AMY GRACE DRAIS
304602 MARJORIE H DRAKE
426633 RACHEL STOBER DRANOFF
306273 JANET BEA DREIFUSS
429945 JOHN DRESTY III
305892 BARRY MARK DRIESMAN
406099 DENNIS WAYNE DRISCOLL
370388 MARIANNE DROST
426697 RAFAEL JOHN DROZ
309742 DAVID VICTOR DRUBNER
101002 LEONARD M DRUCKER
403608 F RUSSELL DU PUY III
409145 JANETTE E DUBIN
402867 PAUL R DUBINSKY
417489 SARAH ELIZABETH DUBITSKY
303078 DAVID LEWIS DUBROW
407417 RACHEL MARIAN DUFAULT
414429 SHEILA LAHEY DUFFY
407419 JOHN CONOR DUGGAN
419434 FRANK DUMONT
401200 SHARYN MAITLAND DUNCAN
410882 YVONNE P DUNCAN
404141 JAMES J DUNHAM JR
307385 PATRICK SYNAN DUNLEAVY
401355 SHERYL ANN WATKINS DUNLEAVY
102093 RAYMOND B DUNN
435747 BRITTANY ANAIR DUNNE
418440 TIMOTHY DUNPHY
309472 MICHAEL P DUNWORTH
410212 CYNTHIA T DUPONT
406801 RICHARD PETER DUPREY
424216 ROBERT JOHN DURBIN
423342 KIRKANDRE DELGADO DURRANT
431773 KRISTYN MARIE DUSEL
413906 FONDA Y DUVANEL
309108 JILL ERIKA DWORKIN
406802 CHRISTOPHER DAVID DWYER
407422 JAMES JOSEPH DWYER
412299 SANDRA ERICA ANN DWYER
407625 DANIEL EDWIN DYER
306586 BENJAMIN I DYETT JR
401202 KENNETH IAN DYM
411398 CAROLENE S EADDY
425872 BRINA ROSE MASI EADES
411609 MICHAEL JOSEPH EAGEN
101636 JOHN T EARLY
102798 LYDIA B EARLY
429114 BENJAMIN THOMAS EASTMAN
306456 GARY M EATON
427174 MICHAEL LEWIS EATON
309111 TIMOTHY JAMES EATON
403110 BARBARA JAN EBENSTEIN
300001 MARY U EBERLE
300003 MARTIN S ECHTER
428051 EILEEN ECK
423346 ILANA ALEXANDRA ECK
407629 HAROLD NELSON EDDY JR
409524 IRENE MARIA EDDY
421969 KEITH JONATHAN EDELSTEIN
414545 ERIC JAMES EDEN
438615 LARA MARIE BRUNO EDMONDS
306230 JETA-LYNN EDWARDS
307665 CHRISTIAN E EDYE
017942 WARREN W EGINTON
300021 PATRICIA A EHLERS
306349 DAVID MICHAEL EHRLICH
301952 JOHN CHARLES EICHNER
405490 RANDI S EISENSTEIN
411446 MONIQUE THERESE EL-MASRY
430474 MYRIAM ELAMRAOUI
400460 LUCY ELDRIDGE
307487 LAURENCE BROOKE ELGART
300031 DAVID WAYNE ELKIN
407015 ROBERT SCOTT ELKINS
411612 JESSICA G ELLIOTT
303243 R BRIAN ELLIOTT
300035 THEODORE H ELLIOTT JR
309694 RICHARD MARTIN ELLIS
421971 ROBERT E ELLIS
427175 STEVEN LAZAR EMANUEL
410292 DANA M EMERY
410488 BRADFORD CORCORAN EMMET
423355 PETER A EMMI
411956 MATIN EMOUNA
404776 KATHLEEN M ENDRELUNAS
409708 MIMI ENG
412830 RITA L ENG
416274 ANNIE HANNA ENGEL
303893 MARK CHRISTOPHER ENGEL
102823 CREIGHTON M ENGLISH
300064 JONATHON LEWIS ENSIGN
409526 DOUGLAS A EPSTEIN
300069 RAFAEL EPSTEIN
406489 ROBERT WILLIAM ERB
413735 JILLIAN LEE ERDOS
407632 JOSEPH PAUL ERIOLE
307158 FRANCES ERLICHSON
420258 THEODORE JAMES ERVIN
018365 DAVID R ERWIN
426627 MARCIA MONIQUE ESCOBEDO
309115 JOAN ESCOFFERY-RATTRAY
424851 LEIGH DAVID ESKENASI
420686 HEATHER WHITE ESKEY
409748 PETER DAVID ESSER
409402 LISA SPEAR ETHRIDGE
419996 ALICIA FABE
406013 JILL F FABER
423360 SOSIMO J FABIAN
404589 CHRISTOPHER J FAGAN
406033 JOHN K FAHEY
102042 CHRISTOPHER C FAILLE
403065 NISHA ANTONY FALCIGNO
411958 GABRIEL I FALCON
400463 JOHN P FALCONE
426600 BENJAMIN PAUL FALIT
305579 LAWRENCE W FALKIN
432812 TIMOTHY W FALLER

305294 JOSEPH R FALLON
370452 JOHN HENRY FALSEY
400464 ROSEMARY FANELLI
439532 ERICKA FANG
421978 ARI FARKAS
308328 ANTHONY PAUL FARLEY
401008 EFFA GUZMAN FARNSWORTH
414407 ASTON FARQUHARSON
408957 LYNN M FARRAND
410294 KEVIN MICHAEL FARRELL
411448 KEVIN PATRICK FARRELL
018854 RICHARD W FARRELL
417756 SLOAN WILLIAM FARRELL
370469 J MICHAEL FARREN
409527 ELIZABETH ANN FAUGHNAN
429750 WILLIAM STANLEY FAULKNER
417420 VICKY FAUPEL
406113 CHARLES JOSEPH FAVATA
307392 JESSE MICHAEL FEDER
423364 STACY LYNN FEDORCHUK
439725 ELLEN PATRICIA FEENEY
370486 STEPHEN PHILIP FEIGIN
415640 AUDREY CATHERINE FELD
303035 RICKI ANN FELDMAN
424858 ROBIN B FELDMAN
370501 ABIGAIL FELICIANO-GOMEZ
436499 ANNA LEORA FELIX
370502 DAVID SHERMAN FELMAN
406808 ARTHUR A FELTMAN
400467 NICOLE LYNN FELTON
307892 CHRISTOPHER R FENELON
306458 KATHLEEN S FENELON
423365 WILLIAM PAUL FENN
440322 WILLIAM JOSEPH FENRICH
413831 SUSAN G FENTIN
411618 DONNA SIOBHAN FENTON
019443 CHARLES P FERLAND
402261 ANGELO G FERLITO
306739 MICHAEL FRANCIS FERNON
427178 BRIDGET ANN FERNQUIST
433451 LAURA JANE FERRANTE
403117 KAREN ELISABETH FERRARE
423370 JENNIFER CHRISTINA FERRER
413426 LORRAINE FERRIGNO
370633 JOSEPH C FERRUSI
019530 LAWRENCE A FIANO
410053 GARY RUDOLPH FIEDLER
406028 NANCY ELIZABETH FIELDING
418443 HOWARD REGINALD FIELDS
416193 IAN MATTHEW FIELDS
305582 JOSEPH FRANCIS FIELDS
300714 JUAN A FIGUEROA
405754 LINDA WANDA FILARDI
407429 KEITH STANLEY FILEWICZ
405130 PARISIS GERASIMOS FILIPPATOS
418444 KATHARINE MARGARET FINCH
402874 LAWRENCE JEFFREY FINEBERG
403121 ERIC STUART FINGER
306616 ANDREW FREDERICK FINK
306517 SUSAN BETH FINK
400470 THOMAS JUSTIN FINN
309997 SCOTT CRAIG FIRESTONE
408007 JOANNE FIRSTENBERG
409918 LLOYD J FISCHBECK
370673 JOHN P FISCHER
413907 KAHLIA ELENA FISHER
413786 JONATHAN J FITTA
432334 COREY SCOTT FITZGERALD
402185 JAMIE JOHNSON FITZGERALD
303181 PATRICE MARIE FITZGERALD
406810 JAMES GERARD FITZMAURICE
302295 EDWARD B FITZPATRICK III
020215 WALTER T FLAHERTY JR
102007 BRETT FLAMM
426855 ERIN REGINA FLANAGAN
421987 JOHN DAVID FLANAGAN
305804 MARY-ELLEN FLATOW
415932 CHRISTOPHER JORDAN FLATT
431272 ADAM PAUL FLEISCHER
426668 LAURA ANNE FLEISCHMANN
308121 PETER EMMET FLEMING III
414100 KELLY A FLINT
412644 ANTON F FLIRI
305407 JONATHAN PALTIEL FLOM
302723 FERN FLOMENHAFT
427181 LINDSAY ANN FLOREK
431526 DAVID FLORIN
427028 KIA D FLOYD
406812 ELLEN M FLYNN
416760 MARK STEPHEN FLYNN
101114 THOMAS F FLYNN III
416761 PATRICK MICHAEL FOGARTY
414273 TERRY FOKAS
418273 ROCHELLE F FOLCKEMER
419527 JOHN STEPHEN FOLMSBEE
436214 MELIKA S FORBES
370984 GARY LEVAUNT FORD
404878 KEVIN THOMAS FORDE
308864 DAVID ANDREW FORDIANI
416873 ALBERT JOHN FOREMAN
302419 JAY MERRILL FORGOTSON
400477 ANDREA EVE FORMAN
303423 DIANE PRIOR FORNUTO
424226 JOMO CLAUDE FORRESTER
020625 MATTHEW J FORSTADT
420708 THOMAS JOHN FOTE
307171 SHIRLEY ANN FOUNTAIN
411556 BETH ANN FOURNIER
400479 PATRICIA L R FOWLER
408184 RONALD A FOX
402619 SUSAN ELLEN FOX
407642 ROBERT FRANKLIN FOXWORTH III
370995 JAMES L FOY
436629 JILL FRADIN-RHODES
403622 ELIZABETH BELLO FRANCHINA
102571 JOHN E FRANCKLING
307172 CHRISTOPHER P FRANCO
412958 JAMES J FRANCOEUR
101178 RICHARD FRANK
303365 ROBIN JO FRANK
020761 LLOYD FRAUENGLASS
413082 FRANZ PETER FRECHETTE
020847 ROGER J FRECHETTE
415197 LINDA MOLUMPHY FREEHILL

408688 MICHELLE A FREEMAN
421998 MORISSA STUHLMAN FREGEAU
412360 PETER EVAN FREILICH
371019 IRA FREIMAN
419653 MATTHEW STEPHEN FREIMUTH
100088 PHILIP FRENCH
020985 RICHARD J FRICKE
371027 HAROLD J FRIEDMAN
414041 JUDITH HESSION FRIEDMAN
420713 RUTH LYNN FRIEDMAN
412959 STEVEN ADAM FRIEDMAN
421232 THOMAS P FRIEDMAN
102184 MARTIN H FRIMBERGER
304266 LINDA ANNE FRITTS
429956 CANDICE DESIREE FROST
423390 JOSEPH PAUL FUCCILLO
424875 DANIELA FUDA
407432 ASTRID REGINA FUENZALIDA
371039 STANLEY GOWAN FULLWOOD
403626 BRADLEY JOEL FUNNYE
404263 TINA ANN FUOCO
304269 DAVID JOHN FURIE
021160 JOHN B FURMAN
306909 DAVID FUSCO
405365 DINO FUSCO
415504 MATTHEW ROBERT GABRIELSON
424878 SUJATA GADKAR-WILCOX
422823 PATRICK JAMES GAFFNEY
424234 MARK P GAGLIARDI
429139 MICHAEL R GAICO
309639 GREGORY ANTHONY GALBO
401215 DOUGLAS JUSTER GALL
100774 ELIZABETH A GALLAGHER
426767 WILLIAM JOSEPH GALLAGHER
404618 MARGARET GALLARDO-CORTEZ
420718 KELLY MARIE GALLIGAN
310047 ANTHONY JOSEPH GALLINARI
432824 WILLIAM JOHN GALLITTO
303851 SUSAN BOHACS GALLO
426165 DAVID JAMES GALLUZZO
430506 KATHRYN SCARBROUGH GALNER
400739 PATRICIA SULLIVAN GALVIN
100129 DENNIS E GAMACHE
021632 KENNETH M GAMMILL
307893 SUSAN J GANZ
431789 TODD G GARBATINI
301969 ELLEN KAYE GARBER
420277 YVONNE FRANCENE GARBETT
414270 ALANA MARIE GARBUS
402880 DANIEL ANTHONY GARDELLA
417684 CHRISTOPHER H GARDEPHE
309610 KAREN RUTH GARDINER
401104 TROY ALAN GARDNER
433584 CHRISTINE ELIZABETH GARG
429144 KUMAR ANKUR GARG
426764 KRISTEN GARLANS
420722 DAVID PAUL GARNER JR
403126 GREGORY PETER GAROFALO
413512 DAVID CHRISTOPHER GAROFOLI
435249 KATHERINE C GARVEY
428285 LAWRENCE ARTHUR GARVEY
371070 JEFFREY N GASTER
431277 RACHEL L GATEWOOD
424238 KEISHA SHANTELL GATISON
435689 SARA GATTIE
414414 ALICIA GAUDIO
101935 DONALD G GAUDREAU
404159 MAX G GAUJEAN
429959 CHRIS GAUTHIER
425914 GRACE GAVIGAN
403629 GLENN ALLAN GAZIN
414557 MELISSA B GEETTER
438124 DANNIELLE FRANCESS GEFFRARD
422007 JOSEPH L GEGENY
427807 LAUREN ELIZABETH GEHRIG
424886 JOHN F GEIDA
411967 PETER GREGORY GEIS
307716 J SUZANNE GEISS
403630 BRUCE HOWARD GELBAND
429147 NICHOLAS S GELFUSO
407256 ROBERTA GELLER
309882 JANE ANDREA GELMAN
371075 PHYLLIS GELMAN
423397 COURTNEY ELIZABETH GENGLER
309883 CATHY BRIER GENNERT
403341 ELIZABETH A GENOVA
403128 PAULA JEANNE GENOVESI
400495 JOHANNA MARIE GEOGHAN
432456 IMISIOLUWA OLUWAMAYOMIKUN GEOR
424888 JOYCE V GEORGE
422827 MARIA OLIVA GEORGE
419925 TINA JOAN GEORGIADES
422010 CHARALAMBOS GEORGIOU
421381 ROBERT G GERAGE
022149 HAROLD GERAGOSIAN
409871 JOHN JOSEPH GERAH JR
435252 REBECCA LYNN GERARD
437209 ELIZABETH GENEVIEVE GERMANO
306231 LINDA GERSTEL
414415 MICHAEL J GESCHWER
404385 ERIC A GESS
305915 JANETTE ROWE GETZ
302935 ROBERT E GHENT
418185 ALAN MICHAEL GIACOMI
418786 SARA MARIAN GIANAZZA
414416 THOMAS MICHAEL GIANGRANDE
100654 GORDON GIANNINOTO
407037 NICHOLAS LOUIS GIANNUZZI
101913 EDWARD F GIBBONS
432831 JULIA CURTIS GIBNEY
408654 SARAH HAMLIN GIBSON
303186 RICHARD W GIFFORD
405575 KELLY GILCHRIST
412948 WENDY LISA GILDIN
419665 DESIREE CHRISTINA GILER MANN
405576 PAULA S GILES
418317 TINA GILL
305917 KEVIN WILLIAM GILLEN
400497 NANCY L GILLESPIE
304312 PETER E GILLESPIE
427735 RACHEL KATHRYN GILLETTE
422014 JENNIFER O GILLIS
411634 MATTHEW VINCENT GILLIS

424891 AMANDA BURRELL GILMAN
407436 MATTHEW D GILMOND
101690 SCOTT J GILMORE
400499 LORI J GILMORE-MORRIS
406627 ROGER P GILSON
022674 SIDNEY GIMPLE
022700 ELLIOT GINSBERG
400500 PETER S GINSBERG
420283 DEBORAH A GINTER
416201 BRUNO VINCENT GIOFFRE JR
301786 ANTHONY VINCENT GIORDANO
405142 JOHN M GIRARDI
420732 LORRAINE MICHELE GIROLAMO
406568 STEVEN JAMES GLADSTONE
428608 ALEXANDER JOACHIM GLAGE
409927 ELIZABETH ANNE GLASSER
424245 JEFFREY SCOTT GLASSMAN
308298 KENNETH BRIAN GLASSMAN
410793 MICHAEL RONALD GLICKMAN
400503 BRUCE WILLIAM GLOVER
309998 GARY LEE GLUSKIN
418145 MICHAEL ANDREW GOBA
408963 JAMES JOSEPH GODBOUT
429963 JOHN PATRICK GODBOUT
415937 CHRISTOPHER DAVID GOEBEL
433864 BENJAMIN JOHN GOETSCH
304335 STEVEN MICHAEL GOLD
309661 CHARLES E GOLDBACH
423409 PETER J GOLDBACH
400505 EVAN M GOLDBERG
305920 JUDITH K GOLDBERG
371142 MICHAEL LEE GOLDBERG
402886 RICHARD L GOLDBERG
418520 MICHELLE L GOLDBERG-CAHN
438337 ANTON GOLDBLATT
421389 JACK BENJAMIN GOLDEN
307409 JOHN A GOLDENBERG
403138 STEVEN W GOLDFEDER
307410 MITCHELL GOLDKLANG
371154 CHARLES D GOLDMAN
429155 GABRIEL R GOLDMAN
405959 MIRI GOLDMAN
416063 STEVEN FRANKLIN GOLDMAN
409119 MICHELE GOLDMEER
309809 ADAM RICHARD GOLDSMITH
406817 AIMEE DAVIS GOLDSTEIN
416671 BARRIE LYNN GOLDSTEIN
023665 HENRY L GOLDSTEIN
101782 IRVING J GOLDSTEIN
426632 JONATHAN CHARLES GOLDSTEIN
410306 JORDAN MARC GOLDSTEIN
433997 PETER M GOLFMAN
418522 KEVIN GOMEZ
405145 PATRICK EDWARD GONYA JR
304342 MARCELLA GONZALES-PHILLIPS
436827 ANNE NELSON GONZALEZ
434709 MARIA DEL PILAR GONZALEZ
100749 PETER H GOODE
403139 BONNIE SUE GOODMAN
417388 LAURIE BETH GOODMAN
309160 LYNN IDA GOODMAN
023882 ABRAHAM I GORDON
407439 ALISON RANDI GORDON
405378 CHERYL ANN GORDON
307413 DANA GORDON
417724 DONYA DENISE GORDON
424249 ERICA HAYLEY GORDON
023982 RICHARD M GORDON
439902 SAMANTHA O GORDON
401438 TODD ANDREW GORDON
309163 WILLIAM JAMES GORDON
403344 KEVIN GORI
400747 DAVID JOHN GORMAN
309486 BRENDAN THOMAS GORMLEY
430529 WILLIAM CHARLES GORTON
400748 SHEILA MARIE GOSS
406074 ARLENE KASPER GOTTLIEB
436563 CHARLES JOSEPH GOTTLIEB
101795 RUTH A GOTTLIEB
424904 NATASHA NELLY GOUEY-GUY
408125 EDWARD MANNING GOULD
404890 MICHAEL N GOULD
405380 OLYMPIA GOUVIS
417506 WILLIAM FREDERICK GOVIER
432839 ALAN M GOWELL
429161 KATRINA MONIQUE GOYCO
302244 STANLEY GRABIA
371190 JAMES JOSPEH GRADY
305926 RICHARD MARC GRAFFAM-RODRIGUEZ
418167 PAULA EVE GRAFSTEIN-SUAREZ
405381 COLLEEN ANN GRAHAM
426768 GEORGIA DAVIES GRAHAM
304693 CHRISTOPHER GRAHAME-SMITH
426309 JENNIFER L GRAY
415940 FIONA MARIE GREAVES
412597 CLAUDIA J GRECO
440315 ALAN MONROE GREEN
401439 GREGORY EDWARD GREEN
409361 KATHERINE GAIL GREEN
371214 RICHARD K GREENALCH
409362 DANIEL S GREENBERG
419902 STACEY FERN GREENBERG
404611 RHONDA ELLEN GREENBLATT
431279 DARIUS CORNELL GREENE
410893 DAVID R GREENE
024536 JAMES W GREENE
428156 SCOTT GERALD GREENE
406560 THEODORE JAY GREENE
410577 SUSAN MELISSA GREENSTEIN
405150 ROBERT CHARLES GREIF
100995 THOMAS P GRIFFEN
309173 ELIZABETH A GRIFFIN
309174 STEVEN DODD GRIFFIN
371230 FORREST L GRIFFITH III
420290 MICHAEL GERARD GRIMM
430541 NATASHA GRINBERG
309531 SHARYN F GRINDROD
304369 A HOWARD GRIZZARD
403639 LAURENCE ANDREW GROB
427200 JAYE ANN GROCHOWSKI
401441 DENNIS WILLIAM GROGAN
371239 GLEN A GROSS
407187 JENNIFER WELSH GROSS

025374 MARK GROSS
415524 STEVEN R GROSS
414564 MICHAEL JOSEPH GROSSANO
301791 DONALD E GROSSFIELD
416064 GREGG H GROSSMAN
308127 JOANN L GROSZEWSKI
309176 KERRY M GROVER
405385 ROBIN ELLYN GRUBER
413951 TERESA A GRUBER
102900 JERRY GRUENBAUM
429175 D FRANCESCA GRUER
403997 JAMES ANTHONY GRUTZMACHER
409932 GEORGE KENT GUARINO
306921 ALAN NICHOLAS GUBITOSI
404267 KATHLEEN VOUTE GUDMUNDSSON
416206 MARK GUERRA
309938 J HANSON GUEST
301793 THOMAS J GUIDERA
371256 RICHARD JOHN GULIANI
428008 ANTHONY DOMENIC GULLUNI
425885 WINIFRED GYONGYI GULYAS
413840 NICHOLAS ALEXANDER GUMPEL
412599 JAY S GUNSHER
414026 ALEXANDER J GUREVICH
404897 CHRISTINA GUST
304477 JAMES B GUST
371263 RAYMOND J GUSTINI
309177 MARK ALAN GUTERMAN
419905 ROBYN A GUTHEIL
307423 DAVID A GUTOWSKI
430544 ERIC BOAHENE GYASI
302526 MARK WROTH GYOROG
420755 TRENTON C HAAS
408322 THOMAS CHRISTOPHER HABERLACK
426298 JOHN BRISTOL HABERLAND
425910 DAWN MICHELLE HABIB
435754 NOEL NICHOLE HADDOCK
437788 JAMES R HAFFNER
306368 SALLY ANN HAGAN
025969 THOMAS J HAGARTY
419010 JANE CALLAHAN HAGERTY
403215 MARLENE REISS HAHITTI
371274 SUSAN J HAINE
414870 STACY ANN HAINES
430545 MICHELE ELISSA HALICKMAN
403145 ELIZABETH FOX HALL
309810 JOHN HENRY HALL JR
101845 MARCUS V HALLUM
405387 KEITH GORDON HALPERIN
410974 JACK ANDREW HALPRIN
416238 ERICA R HALSTEAD
420292 JEAN MARIE HAMER
422031 JAMES A HAMILTON
309641 REGINALD WAYNE HAMILTON
371291 STUART ALLAN HAMMER
427202 BERNARD CHANG HAN
406657 KENNETH SAWKHOON HAN
423429 STEPHEN F HANNIGAN
419684 DAVID ELIAS HANNOUSH
432717 JESSICA N HANSEN
420295 MARTHA BROOKE HANSEN
407056 STEPHEN SCOTT HANSEN
414568 WILLIAM ROCKEFELLER HANSON
401443 JOSEPH DAVIL HARALSON
417507 TRACEY ELISE HARDMAN
416355 JOHN ANTHONY HARLOW III
401228 ANNE ELLIS HARNES
410795 LAURETTE AMY HARPER
422843 OTIS T HARPER II
306520 CHRISTINE L HARRIGAN
430553 DANIELLE M HARRIS
405411 HEIDI ELLEN HARRIS
307981 JAMES PHILIP HARRIS
409271 MICHAEL PAUL HARRIS
430555 PHILIP HARRIS
405578 MARK IRA HARRISON
303672 ROBERT D HARRISON
302530 JUDITH A HART
400512 JULIA DAWN HART
400513 SHARON MARIE HARTLEY
307428 MINDY ELLEN HARTSTEIN
411460 CYNTHIA HARTWELL
371320 BRUCE HASBROUCK
426393 SARA DEE HASKAMP
415154 STEPHANIE HATZAKOS
407914 JAY STEVEN HAUSMAN
303190 CATHERINE M HAVENS
307199 JOHN S HAVERSTOCK
429976 BRADFORD HAYAMI
304550 KENNETH W HAYDEN
402119 HAROLD CHRISTOPHER HAYES
026912 JAMES E HAYES
309187 JENNIFER LYNN HAYES
302941 MICHAEL J HAYES
421442 SONJA J HAYES
304552 HELEN HAYNES
371393 ROBERT THOMAS HAYOZ
309985 ANDREA ROSE HAZELL
435128 JOHN JOSEPH HEALEY
403148 BRIAN MICHAEL HEALY
304555 CHRISTOPHER R HEALY
415248 MATTHEW EDWIN HEALY
426581 LEON FRANCIS HEBERT JR
405160 DANIEL H HECHT
304557 DAVID RONALD HECKMAN
410896 DANIEL D HEDIGER
416211 STACEY AMES HEENEY
402983 ELLEN ROBERTS HEFTER
404900 MARK BRIAN HEIDINGER
429187 JENNIFER LOIS HEIGHT
403644 STEVEN PAUL HEINEMAN
100084 WILLIAM J HEINRICHS JR
403645 WARREN STUART HEIT
426602 JULIE CHERI HELLBERG
420772 MELANIE DIAMANT HELLER
027143 PAUL A HELLER
428125 STEIN MARTIN HELMRICH
302745 JAMES RICHARD HELMS
430560 IAN SULLY HENDERSON
027210 SAMUEL J HENDERSON
430561 KATE HENNING
416213 ANDREA BIRNBAUM HERBST
413240 MARY CHRISTINE HERDMAN

306754 LENORE SYDNEY HERMAN
407670 SUSAN COOPER HERMANSON
425905 ROBERT OVILA HEROUX
422040 DEBORAH ANN HERRINGTON
309189 JONATHAN SCOTT HERRON
309950 JOSHUA GIDEON HERSCHBERG
409543 JENNIFER DALE HERSH
409366 JOSHUA ZALMAN HERSH
411979 ILENE C HERZ
402906 ALLEN JAY HERZFELD
415609 LINDA K HERZNER
027320 JAMES W HESLIN JR
406635 JAMES JORDAN HESS
304566 RICHARD MATHESON HESS JR
422041 MARGARET AMY HETHERINGTON
404624 JENNIFER CHAPIN HICKOX
308481 JAMES MARSHALL HICKS JR
434024 JENNIFER ELIZABETH DOERR HICKS
435129 JESSE FRANCIS HICKS
411306 ROLAND RICHARD HICKS
422042 RENEE LYNN HILDRETH
401449 CELAYNE G HILL
413565 DONALD BRUCE HILL
407674 THOMAS JOHN HILLGARDNER
424948 CARRIE ELIZABETH HILPERT
429360 SCARLETT OBADIA HIRSBERG
305426 GLEN D HIRSCH
403150 KAREN LISA HIRSH
432859 PETER EPHREM HITT
403362 KHUONG HO
430566 BERTRAND H HOAK JR
430567 HOLLY SHINO HOBART
400759 MARC STEVEN HODES
308736 THOMAS FRANCIS XAVIER HODSON
411274 DEIRDRE E HOEBICH
411463 PATRICK WALTER HOEBICH
414183 ROBERT JOSEPH HOEFFERLE
422850 JESSICA LEE HOFF
421411 ROBERT BRIAN SIEGEL HOFF
303037 MARLA J HOFFMAN
414184 PATRICIA LEE HOFFMAN
426428 GREGORY SCOTT HOFFNAGLE
407679 MICHELE ELISABETH HOGAN
432861 AMY LYNN HOLBROOK
400763 BARBARA L HOLDREDGE
423443 BRIAN RICHARD HOLE
410508 PATRICIA ANN HOLLAND
401965 WILLIAM FITZGERALD HOLLAND
407337 LESLIE STEPHEN HOLLO
424263 ANDREW KENNETH HOLMES
402910 ROBERT A HOLMES
100611 RICHARD L HOLMS JR
401238 JOSEPH KENNEDY HOLOHAN
412845 BJORN J HOLUBAR
306374 HENRY VALENTINE HOLZ II
400221 DAVID M HOLZBACH
424956 PAUL J HOMER
411980 CHARLES EDWARD HOOD
305622 JAMES J HOOGHUIS
426155 ALISA FAY LEFKOWITZ HOOVER
407941 KIRSTEN C HOPES-MCFADDEN
371480 WILLIAM HAYES HOPKINS
027910 CAMERON HOPPER
304590 JOHN MICHAEL HORAK
306232 DIANA HORAN
308466 MICHAEL JOHN HORNBROOK
304593 BARBARA R HOROWITZ
305211 DAVID ADAM HOROWITZ
307437 KENNETH PAUL HOROWITZ
406468 DREW FRANCIS HORRELL
304597 MARTHA MCQUEENY HOSP
305623 ANN M HOTUNG
306212 THERESA L HOUCK-EGAN
309439 JANE MARIE HOUDEK
028195 JOHNESE WHITE HOWARD
417515 STEPHEN MICHAEL HRYNIEWICZ
416877 JAMES JOHN HUBEN
371507 LEE MCCARTHY HUBER
400640 JEANNE HUBER-HAPPY
304606 MEGAN A HUDDLESTON
371511 RANDALL AVERY HUFFMAN
404906 DIANA L HUGHES
405155 JANE ELIZABETH HUGHES
419701 JESSICA MARGUERITE HUHN-KENZIK
429203 DUSTIN RICHARD HUI
102565 PATRICK T HULTON
408975 CARLTON LIVINGSTONE HUME
405167 CYNTHIA L HUMMEL
439810 ZACHARY ALLAN HUMMEL
408780 JEFFREY KENNETH HUNSINGER
028369 PETER C HUNT
411655 W KENNETH HUNT
404627 WILLIAM PATRICK HUNT III
434723 ALEX STEPHEN HUOT
028385 LOIS A HUOT
302944 MARC HUREL
405939 STEVEN PAUL HURLEY
404907 JOHN ANDREW HURVITZ
309587 ROBERT A HURWICH
412464 ALYSON MOLLOY HUSSEY
406467 SCOTT FREDERICK HUSSLEIN
418639 KATHLEEN HUSTEK
414761 THOMAS GABOR HUSZAR
302538 VIRGINIA DALEY HUTCH
407063 STEVEN DAVID HUTENSKY
309889 CLIFFORD C HYATT
028489 ROBERT E HYLAND
416218 RAYMOND JOSEPH IAIA
403202 KATHLEEN NICOLE IANNOTTI
370002 JOHN NICHOLAS IANNUZZI
418792 ROBERT MICHAEL IBRAHAM
426915 GINA REIF ILARDI
413046 MARY INCERTO-TOMLIN
409111 VICTORIA M INGBER
404001 WILLIAM ROBERT INGRAM
370013 ROBERT J INTRAVIA
307902 ISTRATE IONESCU II
407009 RANDI ISAACS
302946 MARK SAMUEL ISENBERG
403652 STUART MARC ISRAEL
301724 TAKA IWASHITA
413243 ROBERT JAMES JABLONSKI

418857 ADAM FRANCIS JACHIMOWSKI
410723 ALLISON LOUISE JACOBS
370186 BARRY JACOBS
303476 JEFFREY L JACOBS
427212 MICHAEL J JACOBS
423452 JENNIFER BETH JACOBSON
408269 RICHARD PATRICK JACOBSON
401241 BETH JAYE JACOBWITZ
309891 NANCY TRENT JAKUBIK
307442 ANDREW L JALOZA
370082 CHRISTOPHER G JAMES
416360 DAVID WILLIAM JAMISON
309208 EDWARD JACOB JANGER
414423 DAVID JAY JANOW
370090 DEBORAH DARMSTAETTER JANS
407885 LIZANNE M JANSSEN
303919 DIANE MARIE JANULIS
403656 STEVEN B JASON
414843 MADELYN JAYE
405758 FRITZ GERALD JEAN
427946 MICHAELLE JEAN-PIERRE
302250 WILLIAM THOMAS JEBB II
305628 RUTH JEBE
029478 S ROBERT JELLEY
029507 NORMAN K JELLINGHAUS
403370 JEFFREY ANDREW JENNES
301704 DEBRA MALONE JENNINGS
102882 JOHN KINCAIDE JEPSON
403504 MEDINA K JETT
423522 MARTHA ELIZABETH JOERGER
429987 FINCEY JOHN
300763 BEVERLY JOHNS
436255 LORA REGINA JOHNS
424269 ALBERT JAMARJ JOHNSON
100006 ALBERT R JOHNSON JR
406031 ALLEN HERBERT JOHNSON JR
309642 ANGELA MAIORANO JOHNSON
101364 COLIN D JOHNSON
102304 KATHY A JOHNSON
402430 KIMLA JOHNSON
412848 LANCE JOSEPH JOHNSON
421416 LOUISE ANNA JOHNSON
401244 MAUREEN WROBBEL JOHNSON
029743 MELVIN E JOHNSON
408982 REBECCA L JOHNSON
102601 RICHARD R JOHNSON
029754 ROBERT C JOHNSON
370134 KARL DONALD JOHNSTON JR
440574 JONATHAN IRWIN JONAS
305629 DOLORES ARLENE JONES
370141 DONALD T JONES
437239 EMILY THERESE LOUISE JONES
415945 ERIC HAROLD JONES
422606 LESLIE E JONES
302405 LESLIE O JONES
370147 RICHARD D JONES
308139 BARBARA ELAINE JORDAN
403095 KATHY MARY JORDAN
309833 MAUREEN ANNE JORDAN
431832 CHERYL C JOSEPH
030056 RICHARD J JOSEPH
302543 TAFFY JOWDY JR
400772 CAROLYN ANN JOY
418642 EDWARD MICHAEL JOYCE JR
403159 BRIAN MICHAEL JUDGE
371929 KURT R KABOTH
030129 EDWARD KACZMARCYK
439734 AVERY AUGUSTINE KAHN
433594 HENRY DAVID KAHN
404468 ANTHONY ZANNIS KALAMS
030225 MITCHEL E KALLET
308202 MOIRA EMIKO KAMGAR
030298 JUDITH KAMPF
411026 DANIEL JOSEPH KANE
402272 RHODA B KANET
422076 ERIN HEATHER KANTERMAN
417551 MANISHA HEMISH KAPADIA
411984 DINA SARA KAPLAN
430596 JASON L KAPLAN
422859 JENNIFER HOTCHKISS KAPLAN
428572 SHEELA GOPA KAR
422860 PANAGIOTIS KARAHALIOS
412972 PETER WILLIAM KARDARAS
406023 ORI J KAREV
301807 JAMES L KARL II
435849 JOANNA IVY KARLITZ
030525 JOHN S KARLS
309701 KAREL SUE KARPE
309216 LINDA S KARTER
404139 KELLY ANNE KASHETA
409548 ALAN J KATZ
403791 BENNETT KATZ
424282 EDDAN ELIZAFON KATZ
305949 SHERYL ELLEN KATZ
309758 LINDA S KAUFMAN
306470 ANTHONY STEVEN KAUFMANN
302546 JODY L KAVA
400518 TERRANCE LOUIS KAWLES
428594 JUSTIN MARC KAYAL
422863 JORDAN DANIEL KAYE
303687 DEBORAH R KEARNS
434042 SEAMUS MICHAEL KEATING
417522 MICHAEL J KEEFE
411662 COLLEEN MARY KEEGAN
101392 RAYMOND J KEEGAN
415025 CHRISTOPHER P KEENAN
411663 JOHN E KEENAN
427432 MELANIE CARRIE KEENE
425937 GLENN WILLIAM KEIDERLING JR
305357 JEFFREY ROBERT KEITELMAN
423474 JOHN JOSEPH KELEHER IV
406563 PATRICIA ANN KELLEHER
416075 BARBARA ANN KELLER
406840 MATTHEW KELLER
404915 RICHARD ALAN KELLER
432878 MELVIN JOHN KELLEY IV
407784 ANDRIA SIMONE KELLY
100079 JAMES KELLY
417696 KARIN DAI KELLY
427777 KENNETH JOSEPH KELLY III
304830 MARGARET ANN KELLY
307682 BARRY LEE KELMACHTER
031103 EDWARD KELMAN
304831 GAIL M KEMP

427220 BRIAN WILLIAM KEMPER
400483 HILARY JOY KEMPNER
306471 JOHN HOWARD KENAGA
304834 RALPH L KENDALL JR
411826 LISA DOUGHERTY KENNA
403161 BRENDAN KENNEDY
406002 KENNETH HOWARD KENNEDY JR
410514 MARY CAMERON KENNY
407913 THOMAS LOUIS KENT
414293 KIM ELISA KERBER
417271 MICHAEL DAVID KERN
437799 SUSAN PENDLETON KERR
372014 WILLIAM J KERRIGAN
404920 STEVEN ALAN KERSCHENBAUM
305084 MARGARET LYONS KESSLER
305635 MICHAEL KESTENBAUM
414294 RUSSELL JAY KESTENBAUM
407690 ALBERT KHAFIF
418416 SARA AZARM KHORAMI
101355 LINDSEY C KIANG
302379 PENLEY TOFFOLON KIDD
424286 SHANNON CLARK KIEF
436706 CATHERINE BANNER KIEFER
429232 RICHARD EDWARD KIELBANIA
421840 KATHLEEN KIELY
KIELY-BECCHETTI
420803 EVANS H KILLEEN
425812 JASON ALEXANDER KILLHEFFER
101411 THEODORE R KILLIAM
426549 MEENAH KIM
403416 LISA KIMMEL
306763 JULIE MARIE KINCH
407693 CHRISTOPHER GENE KING
307995 EDWARD LARKIN KING
304840 JOHN SPALDING KING
405178 RICHARD A KING
400780 SHAWN MICHAEL KING
411669 WILLIAM SPENCER KING
031714 JAMES M KIRKER
417338 CHARLES GORDON KIRKMAN JR
304843 RANDY A KIRSCH
401472 ROBERT JAY KIRSHENBERG
412853 EDWARD N KISS
301874 BRITTA KAREN KIVELL
402138 RICHARD MARK KLAPOW
031760 LINDA C KLATT
304850 LEWIS MITCHELL KLEE
372036 ALAN SHOLOM KLEIMAN
406035 ADAM HY KLEIN
416223 JASON MATTHEW KLEIN
419438 JESSICA KLEIN
407783 JULIE ANN KLEIN
405412 MARC DAVID KLEIN
417397 ILYA KLEYNERMAN
306828 LISA W KLINE
411471 JORDAN LEE KLINGSBERG
303090 PETER A KLOCK
412885 SARAH SCOVA KLUG
307996 ANDREW J KLYDE
420312 MARK ROBERT KNALL
437800 GINA M KNAUER
425737 RAMON KEITH KNAUERHASE
411670 PATRICK SULLIVAN KNIGHTLY
409674 JAMES CHARLES KNOX
305958 LYNNE M KNOX
423490 GEORGE THOMAS KOCHILAS
428664 BEN R KOCIUBINSKI
429247 PATRICIA NICOLE KOCSONDY
409471 KURT DAVID KOEHLER
425625 SHAWNA HARRISON KOHL
308537 RICHARD A KOHLBERGER
404928 NICHOLAS G KOKIS
416081 JOHN ANDREW KOKOLAKIS
427935 CATHERINE LAKE KOLLET
403666 ROBERT NEIL KOLTUN
102045 RICHARD S KORRIS
400524 ALAN L KORZEN
303073 KAREN ELIZABETH KOSKOFF
307214 NANCY MCCALLUM KOSTAL
372072 WILLIAM THEODORE KOSTURKO
410753 THOMAS KOTTLER
425003 RAYMOND JOSEPH KOTULSKI
436847 ALEXEI S KOVTUNENKO
411990 JAN EDWARD KOWALSKI
411473 KATHY KOWLER
422110 PETER KOZIOLKOWSKY
304877 THOMAS H KOZLARK
422097 KATHLEEN HAE KYUNG KRAFT
422868 TODD J KRAKOWER
435292 ALEXANDER JOSEPH KRANTZ
434051 KATHERINE LOUISE KRASCHEL
420817 PHILOMENA ANN KRASINSKI
411991 THOMAS J KRATOCHVIL
032402 HELEN KRAUSE
430626 SHAWN CHAIM KRAVICH
421178 CHRISTOFFEL KREDIET
414191 MARK JAMES KREMIN
425005 TODD D KREMIN
417273 DAVID PATRICK KREPPEIN
101719 EVELYN L KRETA
415203 BRIAN REDMOND KREX
413261 JOHN RICHARD KROGER
422603 AMANDA ROSE KRONIN
402324 GARY THOMAS KROPKOWSKI
304885 BEN MICHAEL KROWICKI
422869 ROY HANS KRUEGER
420820 TRICIA LYNN KRUPNIK
000505 FREDERIC D KRUPP
402921 MICHAEL W KRUTMAN
408784 PETER GEORGE KRUZYNSKI
407170 STACY TICK KUDLER
412554 ERIC WARD KUHN
418649 CATHERINE JULIA KULAK
308749 SONJUI LAL KUMAR
372101 EDWARD ROBERT KUMP
430631 JUSTIN DEREK KUMPULANIAN
419306 JAYA SINHA KUMRA
412135 ROBIN A KURANKO
423497 CHRISTOPHER TYNER KURTZ
411830 ERIK LOUIS KUSELIAS
405666 PATRICIA CAROL KUSZLER
431480 COBY STOCKARD KUTCHER
405185 KENNETH JOHN KUTNER
401026 EDWARD KWAKU KWAKWA

410521 THOMAS O KWON
434052 GRACE E KYNE
413096 CHRISTOPHER JOHN LACADIE
421430 JAMEN MICHAEL LACHS
415783 KELLY EILEEN LACLUYZE
403386 GREGORY B LADEWSKI
413264 KEVIN LADIEU
101003 RICHARD W LAFFERTY
415417 MARK L LAFONTAINE
303702 THOMAS K LAGAN
411474 JOHN F LAGRATTA
404276 ANDREW ROBERT LAITMAN
372366 KEITH D LAKEY
417425 DANA LAMACCHIA
417316 MARA SULLIVAN LAMANNA
305641 TERRY LAMANTIA
422873 KRISTEN M LAMBERT
430633 FRANK HUGHES LAMONACA
305005 DAVID SCOTT LANDMAN
307670 JEANNINE JULIANN LANE
372374 KARL D LANGE
412318 LOU ANN LANGFORD
307497 DONNA J LANZETTA
404059 MARILYN RUTH LAPIDUS
302557 DOUGLAS M LAPIN
372379 GREGORY PAUL LAPOINTE
428127 JAMIE L LARKIN
435301 YESHAYA A LARKIN
307141 MARY KATHRYN LAROSE
406848 STUART JAMES LAROSE
305435 BRADLEY P LARSON
410524 JOHN PATTON LASALA
407701 ANDREW MICHAEL LASKIN
400531 MAXINE KAREN LAST
421434 JAIME LATHROP
425019 DANIEL MILTON LAUB
401479 JOHN CHARLTON LAUTERBACH JR
401972 RICHARD ROBERT LAVIERI
301821 MARY ANN LAWLOR
421435 CRAIG RICHARD LAWRENCE
102367 HOWARD A LAWRENCE
402751 SUSAN JEAN LAWSHE
413459 JASON MARC LAZAR
432891 WILLIAM FREDDY LAZCANO
400794 ROBERT HUGH LAZUK
410525 CHRISTIAN GUILLERMO LE BRUN
411676 MARY M LEACH
411327 ADAM CHARLES LEARMAN
416882 PATRICK WILLIAM LEARY
417533 STEVEN BRUCE LEAVITT
429262 SARAH LEBERSTEIN
405420 MICHAEL A LEBIT
372413 ALAN LEBON
407083 MARC ANDREW LEBOWITZ
401481 STEVEN MARK LECHER
425023 CAROLYN AMY LEDER
440451 EVE NATHALIE LEDERMAN
418532 MICHAEL C LEDLEY
420316 DAVID A LEE
308421 DUCAN ROGERS LEE II
372423 ELWYN CORNELIUS LEE
425024 ISABEL K LEE
425799 KYUMIN KEVIN LEE
408131 MARGARET LEE
372425 PETER MARK LEE
413158 SUSAN SOOYEON LEE
412092 EDMOND FRANCIS LEEDHAM III
412555 SOPHIE VAN TIL LEEDHAM
407084 MAURA BETH LEEDS
418795 JOHN JOSEPH LEEN
415518 LAWRENCE LEHAN
100113 SANDRA VILARDI LEHENY
372432 ALAN FRANK LEHMAN
302953 RICHARD D LEHR
415787 ROSEMARY DESMOND LEITZ
306936 RAYMOND JOSEPH LEMLEY
423514 TARA FRANCES LENICH
310049 GREGORY ALOYSIUS LENIHAN
424294 MINDY SUZANNE LEON
101732 SUZAN GROSSBEFG LEONARD
033840 EDWARD N LERNER
416768 GEORGE M LESNETT
405759 LEONARD FREDERICK LESSER
408147 RENEE SIMON LESSER
408605 PAOLA MICHELE LEVATO
430650 KARNEISHA CRENSHAW LEVI
034011 DAVID M LEVIN
418817 CHRISTINE NOELLE LEVINE
401482 JEFFREY M LEVINE
438800 STEPHANIE RACHEL LEVINE
402186 STUART MORTON LEVINE
308206 TEDD S LEVINE
425032 RON LEVINER
426574 ANDREW CRAIG LEVINSON
403673 PHYLLIS B LEVITAS
425874 SHERI M LEVSON
404322 DEBORAH MARA LEVY
400542 SAMUEL J LEVY
415891 JONATHAN LEWIS
411330 JOSEPH MICHAEL LEWIS
401535 NANCY R LEWIS
307512 RONALD LEWIS
427647 JULISSA LEZCANO
307224 MORTON H LIBBEY JR
423521 LEIGH A LIEBERMAN
402327 HAL LIEBES
401130 EVELYN HOPE LIEBKE
400543 BRADLEY NATHAN LIEBMANN
417280 JAMES THOMAS LIELL
303076 RICHARD ARTHUR LIESE
418115 IAN ROLAND LIFSHUTZ
372489 JOHN RENATUS LILLIENDAHL III
101025 JOHN E LILLIS
404224 CATHERINE KWANG-CHIN LIN
420854 LINDA MAY LIN
300755 WALLACE E LIN
416869 LISA K LINDSAY
306773 ALAN PAUL LINK
306634 JOAN SUZANNE LINKER
101768 CAROLYN R LINSEY
306583 LISA RUTH LIPMAN
401486 MATTHEW ERIC LIPMAN
302776 DAVID A LIPS
411336 JEFFREY H LIPTON

303939 RITA C LISKO
409282 DONALD LOWELL LISKOV
420857 SANDRA LEE LITTLETON
305056 RICHARD ELIOT LITVIN
403171 FRANCES LIU
400804 JAIME G LLUCH
414197 JOSEPH A LO PICCOLO
430657 TINA ANN LOCASTO
307514 JOHN FRANCIS LOCCISANO
410909 MICHAEL A LOCKABY
439635 NAWA ARSALA LODIN
306775 DANIEL ADAM LOEWENSTERN
423523 MONICA LYNN LOGAN
415956 DAVID LOGLISCI
434874 LARS HERMAN LOHMANN
034515 FRANK P LOMBARD
305061 THOMAS EDWARD LOMBARDO
437931 JULIA VICTORIA LONDON
403401 DONNA-MARIA LONERGAN
307226 MARGET ELAINE LONG
402931 JOANN MARIE LONGOBARDI
407253 MARILYN LOPEZ-HADDAD
411913 FREDERIC HENRY LORD
305066 THOMAS SUMNER LORD
404657 LORI LYNN LOUCKS
307516 MARK JOHN LOUGHRAN
309245 VIRGINIA LOUGHRAN
414431 PAMELA BENNETT LOUIS
412627 DIANA LOUW
428031 CHRISTINE LOVE
417283 JANE MAUREEN LOVE
409554 JOHN J A M LOVELESS
419594 SARA CLINTON LOWENSTINE
405187 JULIE LANGER LOWITZ
405198 MARC J LOWITZ
303831 FRANK P LUBERTI JR
305617 BARBARA LUBIN
034662 THEODORE A LUBINSKY
102989 R JACK LUCAS
102369 JOSEPH J LUCCHESI
303002 CHARLES E LUCENO
403176 GREGG DREW LUCHS
428665 ROBERT ARIC LUCKRITZ
305074 TERRENCE PETER LUDDY
307766 ALEXANDER M LUDLOW
408210 NICOLE MORGANTHALER LUGLI
417851 ADA MICHELE LUGO OLIVERAS
309766 CHARLES K LUK
309972 LEON K LUK
409377 ROSALYN EVE LUKACS
408889 DAVID BLAIR LUKEHART III
419762 ALEXANDER LUMELSKY
305078 ANNE ELIZABETH LUPICA
401489 ROBERT THOMAS LUPO
372540 ROBERT MICHAEL LUPOLI
406855 EDWARD T LUSSEN
401260 STEVEN EDWARD LUST
402932 MICHAEL NICHOLAS LYGNOS
418247 GEORGE J LYMAN
408997 RICHARD JEFFREY LYMAN
034852 DANIEL E LYNCH
411029 NANCY DAVIS LYNESS
402276 EDWARD JOSEPH LYONS
305653 LOIS M LYONS-GIBSON
415792 JOHN CHRISTOPHER MABEN
411340 ANTHONY DOMENICK MACARI
400548 JOHN BRADFORD MACAULAY
308967 ROBERT P MACCHIA
416429 MARCELA LOPEZ MACEDONIO
306312 JAMES JOSEPH MACHOWSKI
406858 KEVIN MACKAY
421444 ANNE MARGARET MACKLE
404941 DAVID CAMERON MACLEAN JR
102890 RICHARD E MACLEAN
406458 HEATHER MARIE MACMASTER
372788 EUGENE EDWARD MADARA
435760 TARA ELIZABETH MADDEN
407095 ELIZABETH ANNE MAFALE
404942 WILLIAM ANTHONY MAGLIANO
416037 KELLY ANNE MAGNUSON
407717 KATE ELIZABETH MAGUIRE
408136 LISA K MAGUIRE
414305 RAJ R MAHALE
410910 SHARMILA MAHENDRA
439259 PATRICIA MAHER
035376 JOHN J MAHON
306940 DEBORAH LOUISE MAHONEY
308973 MARY ANN MAHONEY
412607 TIMOTHY JOHN MAHONEY
408790 SUSAN SALLARD MAIGNAN
408287 HIROE RUBY MAKIYAMA
418798 ANTHONY MICHAEL MAKRIDES
409953 CORI LEAVITT MALABY
309903 SEDRICK G MALCOLM
410799 ROBERT PETER MALEWSKI
408276 ANJU MALHOTRA
401036 MARK RIDER MALINA
425060 MELISSA BETH MALLAH
307009 DANIEL P MALLOVE
407488 BRETT L MALOFSKY
035547 CRAIG D MALONE
035555 ROBERT J MALONE
420871 STEFANIE JOSEPHINE MALONE
302318 CHRISTOPHER JOHN MALONEY
407826 JENNIFER CHRISTIE MALONEY
440220 LAUREN N MALONEY
413394 RICHARD R MAMMON
432902 BENJAMIN BYRON DEUTSCH MANCHAK
417791 JOHN ORESTE MANCINI
406861 GAYLE A MANDARO
407146 ANDREA N MANDELL
403409 BRUCE ALAN MANDELL
425061 CRAIG L MANEMEIT
307018 MICHAEL JOSEPH MANFREDA
307019 ALBERT MANFREDONIA
425976 DANA MARIE MANGO
411030 CHRISTOPHER LEE MANGOLD
308352 LISA BETH MANN
410675 MONROE YALE MANN
307021 JAMES LUCIAN MANNELLO
404663 JENNNIFER ABBE MANNER
415959 LAURA LEE MANNINO
438878 BENJMIN S MARASHLIAN

412005 ADAM TROY MARCHUCK
307026 FRANK J MARCO
308976 MARY KATHERINE MARCON
425732 MARK WILLIAM MARCONE
404945 REYNA ELIZABETH MARDER
102782 JOAN ECKENWALDER MARGENOT
101776 MARC J MARGOLIUS
408329 RICHARD A MARGULIES
372836 RALPH ALFRED MARIANI
309989 SARAH MOODY MARIANI
036064 TERENCE D MARIANI
426619 JOSH ST JOHN MARINELLI
436289 MICHAEL ALBERT MARINO
308981 MICHAEL RICHARD MARINO
303950 MARIE E MARKOWITZ
405761 MICHAEL KRAMER MARKS
309973 MARY ANN MARLOWE
408599 GAIL MARR
403178 STEVEN ERIC MARSHALL
307528 GREG MARTELLO
419772 SEBESTYEN QUENTEN MARTENS
101403 MARTHA RAFFERTY MARTI
306955 B DIANE MARTIN
302220 CYNTHIA ANN MARTIN
406709 DIANE LYNNE MARTIN
036427 DONALD L MARTIN
407491 JAMES A MARTIN
406554 JOSEPH MICHAEL MARTIN
103013 SARA R MARTIN
419774 THEA A MARTIN
401495 ALEIDA MARTINEZ-MOLINA
428143 PETER DOMINIC MARTINO
427734 MARIO CHRISTOPHER MARTINS JR
100780 PAUL J MARZINOTTO
401132 DEBORAH M MASON
417404 JONATHAN G MASON-KINSEY
415255 ARIANA MASS
430022 MAUREEN PATTEN MASSA
412006 MARIA MASSUCCI
401038 KENNETH JAY MASTRONI
402765 RICHARD MATHER
409879 JOSEPH BARTHOLOMEW MATHIEU
408592 AUGUST JOSEPH MATTEIS JR
420879 ELIZABETH KATHLEEN MATTHEWS
100335 EDWARD MATTISON
372873 MARSHALL MATZ
423547 GUY MAURICE
403415 KENT D MAWHINNEY
423779 MELISSA MAXIM
407726 JODI MICHELE MAXON
413519 ELIZABETH MAXWELL-GARNER
431890 CALVIN KUSHNIR MAY
419229 NICHELLE MONIQUE MAYNARD-ELLIO
400945 WILLIAM JOSEPH MAYO
308989 MICHAEL JOSEPH MAZZEI
439744 J ALEX MAZZELLA
411691 SHARON MC CONVERY
400275 PATRICIA C MCALLISTER
430023 ZACHARY FULTON MCBRIDE
407099 ANDREW JOSEPH MCCABE
422154 THOMAS EUGENE MCCABE
407728 ROBERT KEVIN MCCAFFERTY
404950 MARY ELIZABETH MCCAFFREY
308213 STEPHEN W MCCAFFREY
415513 ANDREW C MCCARTHY III
403544 DENNIS PATRICK MCCARTHY
307058 DONALD J MCCARTHY JR
405877 GARY JAMES MCCARTHY
404014 JUSTIN BRIAN MCCARTHY
404666 PEGGY LEWIS MCCARTHY
303053 TERESA MCCARTHY-VADIVELOO
307063 JOHN E MCCAULEY
427755 KRISTEN PAIGE MCCLAIN
305445 MICHAEL JOHN MCCLARY
411488 MOIRA MADELINE MCCOLLAM
411420 MICHAEL PIERCE MCCOOEY
427942 GABRIEL JAMES MCCOOL
102383 VALERIE L MCCORD
404116 MARCIA MCCORMACK
418250 HEIDI LYN MCCORMICK
420886 TARA MCCORMICK
404668 ROBERT E MCCRACKEN JR
372897 HARRY R MCCUE
400562 DIAN KERR MCCULLOUGH
414602 MONIQUE DURANT MCCURLEY
412462 KAREN CURESKY MCCUSKER
307233 DOUGLAS J MCDADE
420336 CHAD ALLEN MCDANIEL
409602 DOUGLAS CHARLES MCDERMOTT
102948 CHRISTOPHER J MCDONALD
302319 MATTHEW JAMES MCDONALD
412463 GUY MADDEN MCDONOUGH
433499 ANDREW JOSEPH MCELROY
300761 GARTH W MCELYA
305670 MICHAEL FRANCIS MCENENEY
309075 DIANE CROSSON MCENROE
401269 MARK TRESHAM MCENROE
308993 MIRIAM KATHLEEN MCENROE
040857 WILLIAM S MCGEE
406119 JAMES PETER MCGEVNA
405878 JOAN MARIE MCGILLYCUDDY
431302 DANIEL PATRICK MCGINN
307537 RICHARD MICHAEL MCGLYNN
421457 BARRY B MCGOEY
308994 PETER GERARD MCGONAGLE
405829 FRANK A MCGOWAN JR
425085 KATHERINE MIRIAM MCGRAIL
440646 DENNIS JOSEPH MCGRATH
415963 PATRICK JOHN MCGRATH
402219 PAUL ANTHONY MCGRATH
424872 REBECCA FREEDMAN MCGRATH
306493 PETER J MCGUINNESS
420890 BRIAN MARTIN MCGUIRE
429312 SARAH MCGUIRE
417544 FRANCIS STEPHEN MCGURRIN
041133 DAVID M MCHUGH
410538 SUSAN LYNN MCINTOSH
420891 JOHN ARNOLD MCINTYRE
438175 ANDREA NICOLE MCKAY
404477 ANN MIZNER MCKAY
403114 CATHLEEN FAHEY MCKENNA
401606 JOSEPH F MCKEON JR
414437 MICHAEL JOHN MCKEON

404537 MARY BORDEN MCKERNAN
402945 CHRISTINE MCLAUGHLIN
412865 LIAM JAMES MCLAUGHLIN
409383 ROGER LEE MCLAUGHLIN
041378 MICHAEL S MCLAURIN
415256 JOHN E MCLEAN
102047 KATHLEEN A MCLEOD
406871 TIMOTHY W MCLERON
441062 DEVIN L MCMAHON
423553 KEENAN-MARIE MCMAHON
408674 BRIAN PATRICK MCMANUS
309519 WILLIAM E MCMANUS
405840 L LONDELL MCMILLAN
415421 DONALD CREW MCPARTLAND
407937 RUTH ANNE MCQUADE
305361 THERESA M MCSWEENEY
414438 LAWRENCE JOSEPH MCSWIGGAN
042000 ALAN D MCWHIRTER
302965 BARBARA HARRIS MCWHIRTER
411007 CHRISTOPHER KENNETH MEAD
419298 JUSTIN PATRICK MEAGHER
414610 ALEXANDRA DANIELLE MEASE-WHITE
420183 ELIZABETH D MEHLING
405440 OMID EDWARD MEHRFAR
416374 SAMIR BHARAT MEHTA
419787 JOHN PAUL MELE
412182 BRADFORD C MELIUS
307239 MARK P MELLY
307093 MATTHEW ELIOTT MELMED
430703 STEPHANIE MICHELLE MELOWSKY
415007 CRAIG FRED MELTZER
037228 L SCOTT MELVILLE
303395 MARK MELZER
411351 DIANE C MEMINGER
309974 ELIO RAFAEL MENA
101646 SUSAN L MENDE
419789 ERIK LENNART MENGWALL
100089 RICHARD A MENO
430713 AURELIA M MENSH
372965 GORDON GALE MENZIES
405684 GEORGE JOHN MERCER
037395 JOHN F MERCHANT
418121 SUSAN BETH MERCHANT
426343 KRISTY M MERINGOLO
403183 GABRIEL ANTHONY MERO
423563 SARAH CURRIER MERRILL
411493 CYNTHIA KULAS MESSEMER
420897 TIMOTHY ALLEN MESSNER
309708 GILBERT EVANS MESTLER
037568 JAMES J METER
405442 JOHN LAWRENCE MEUNKLE
438641 CHRISTOPHER ANDREW MEYER
427264 LANCE H MEYER
037689 JOHN MEYERHOLZ
309613 MARGARET A MEYERING
102979 ROBERT M MEYERS
415005 STEVEN DAVID MEYERS
400571 MICHAEL C MEYERSON
414785 ROBERT ALLEN MEZZO
411494 JENNIFER MARIA MIANI
037758 THOMAS P MIANO
037761 GARY R MICHAEL
425100 PAUL RENE MICHAUD
417792 BENJAMIN WOODWARD MICHELSON
429322 MARGARET MOOG MIDDLETON
439684 JOHN THOMAS MIDGETT
037845 SOCRATES H MIHALAKOS
101940 VIRGINIA P MIHALKO
407294 SUSAN PODGWAITE MIKOS
409006 MICHAEL MARTIN MILAK
303959 ROBERT A MILANA
037927 LOUIS A MILANO JR
404959 DONALD ALEXANDER MILES
037948 MICHAEL S MILES
410333 ERIC PETER MILGRIM
426672 BRIAN JAY MILITZOK
403424 LINDA TERESA MILLARES
420346 CHRISTOPHER J MILLER
400826 ELISABETH ANNE MILLER
426792 GLENN MILLER
100061 GRANT H MILLER JR
403185 HOWARD MARC MILLER
420347 JESSICA L MILLER
423570 MEGAN ELIZABETH MILLER
435114 S SCOTT MILLER
409851 NADIA D MILLERON
307240 JAMIE L MILLS
100308 DANIEL MILLSTONE
439393 JESSICA VICTORIA MILNAR
429327 JULIE M MILNER
412094 PATRICIA JANE MINARD
308021 FRANCIS ANTHONY MINITER
100009 JAMES V MINOR
415967 THOMAS JOHN MINOTTI
305682 PHILIP J MIOLENE
406091 ODISSEAS MIRIANTHOPOULOS
427902 SARA MIRO
433507 BRIANNE NELSON MITCHELL
307547 GLENN MATTHEW MITCHELL
424317 JOSEPH PATRICK MITCHELL
301836 LESLIE K MITCHELL
420906 LISA DIANE MITCHELL
409824 MARCUS LOVELL MITCHELL
409008 WILLIAM PAUL MITCHELL
373016 PETER M MITERKO
308025 MICHAEL JAY MITTEL
300765 NEAL C MIZNER
428496 ROBERT N MIZRAHI
420167 RICHARD ADAM MLYNEK
408065 MARJORIE MODESTIL
038415 ROBERT E MODI II
308027 MYRA DELAPP MOFFETT
422177 ANNE MOGILEVICH
432924 JAMES MICHAEL MOHER JR
430176 ALISON BEARDSLEY MOHR
300839 ROBERT L MOKS
308029 CHARLES JOHN MOLL III
429331 ROBERT TIMOTHY MOLLER
424057 KELLY A MOLLOY
309821 KENNETH J MOLLOY
414442 DARLEEN MARIE MONACO
401713 JOSEPH D MONACO
413111 PAUL EDWARD MONAGHAN JR

432926 SEAN KEVIN MONAHAN
308030 THOMAS J MONAHAN
038538 TIMOTHY F MONAHAN
406459 CHRISTOPHER MICHAEL MONE
038575 JOSEPH MONIZ
416232 ALEJANDRO MONROY
425899 PATRICE SUZANNE MONTALTO
423577 LUIS J MONTALVO
419937 RICHARD MONTANEZ
430724 LESLIE HAUSNER MONTANILE
420908 PETER MATTHEW MONTANO
407595 EUGENIA MONTEMARANO
413465 JANINE MARALLO MONTONI
431166 CHRISTOPHER DAVID MOORE
433981 EILEEN M MOORE
407832 JAMES DERWIN MORAN JR
309769 JAMES HENRY MORENO
401502 JOELLE ANNE MORENO
403078 EILEEN A MORGAN
308554 JOHN T MORGAN
418466 MALLORY SIOBHAN MORGAN
308402 PATRICK J MORGAN
306307 ROBERT PAUL MORGAN
439145 SARAH ANN MORGAN
421104 MELISSA W MORIN
308044 FRANCINE J MORRIS
415211 JOHN E MORRIS JR
402590 MICHELLE MORRIS
412012 PETER JOHN MORRIS
406707 LISA MORRISON
430033 DANIEL PATRICK MORRISSEY
425111 JACOB CONRAD MORROW
401503 JANE KOCHANOWSKY MORROW
411697 TYEDANITA MOSAKU
426682 SHARON ANN MOSCA
402144 KEITH OVID MOSES
305688 KEVIN L MOSLEY
406886 MICHAEL JAY MOSS
418328 RONALD JOSEPH MOSS
436312 CYNTHEA MARIE MOTSCHMANN
373070 JOHN A MOTTALINI
411496 WILLIAM FRANCIS MOUGHAN JR
413656 CATHERINE MUMMERT MOUNT
433511 JACQUELYN L MOUQUIN
403694 LYNN ANNE MOUREY
417292 SHERIF K MOUSSA
406555 DANIEL GEORGE MOUZON
430034 ATOSSA MOVAHEDI
303295 WENDY ELIZABETH MROSEK
101500 MARY-ANNE MULHOLLAND
418805 THOMAS J MULLANEY
402591 DAVID JOHN MULLEN
418544 KIMBERLY ANN MULLER
407109 DANIEL TERENCE MULLIN
423587 KATHLEEN M MULLINS
427272 JOHN MORLEY MUNRO
373952 ALFRED E MUNROW
100164 PETER N MUNSING
412014 SETH MURASKIN
101602 DENNIS C MURPHY
101300 DENNIS C MURPHY
307674 EILEEN MURPHY
307831 ELIZABETH GEAN MURPHY
423592 EMILY BROOKE MURPHY
039870 JOHN F MURPHY JR
308141 JOSEPH FRANCIS MURPHY
409011 CHRISTINA MONTALTO MURRAY
418754 DEIRDRE ANN MURRAY
438962 MARTIN JOSEPH MURRAY
305993 MICHAEL W MURRAY
404724 MORNA ANN MURRAY
305994 SUSAN AMELIA MURRAY
308895 CAROLINE CHINETTI MUSMANNO
406681 SCOTT ALAN MUSSELMAN
308061 MARK ANTHONY MUZZILLO
411032 SETH MICHAEL MYERS
409787 RICHARD NACCA
309453 MICHAEL E NAFTOLIN
440622 TONISA DAPHNE NAILS
400590 PAUL JOHN NAJARIAN
302175 PETER A NALEWAIK
401405 CAMILLE CANIGLIA NANNI
417411 EDWARD F NARROW
423596 JOSHUA MORDECHAI NASSI
414623 ANA-CRISTINA NAVARRO
434764 JULIO NAVARRO
302795 VICKRAM FRANCIS NAZARETH
427275 JOHN PATRICK NEALON
412468 LESLIE NEIDITZ
404293 EVE LORRAINE NELSON
042475 GRANT NELSON
413890 MARRIANNE NELSON
412019 THOMAS S NEMEC
426690 JASON G NEROULIAS
427278 MELISSA ANN NESHEIM
434766 JENNIFER NICOLE NETROSIO
408348 SUSAN E D NEUBERG
306270 SUSAN R NEVAS ESQ
411215 ANN ARIEL NEVEL
431930 DONALD L NEVINS
420923 KENNETH A NEWBY
302798 JOHN DAVID NEWMAN
426773 CHAU NGO
307250 BRUCE GILBERT NICHOLLS
430685 BRYNNE E NICHOLS
423603 ELLEN MARGARET NICHOLS
302259 GEORGIA L NICHOLS
042869 ROBERT J NICHOLS
413298 E DAVID NICHOLSON
403815 CATHERINE ANNE NICOLAY
407744 STACEY DAWN NIDITCH
300166 CHRISTINE MARIE NIEDERMEIER
404229 PAUL EDWARD NIESOBECKI
409789 THOMAS HENRY NIKKEL
417560 JAY MARTIN NIMAROFF
405455 EDWARD J NITKEWICZ
310028 WARREN CHARLES NITTI
416461 WILLIAM PATTERSON NIX
043080 CHRISTOPHER NOBLE
402411 PETER A NOBLE
403187 RACHEL ANN NOE
412844 FRANCES C NOLAN
101699 J KEITH NOLAN
400474 KATHLEEN E NOLAN

043123 THOMAS F NOONAN
308230 PAMELA J NORLEY
401279 MICHAEL ANTHONY NORMOYLE
309250 JUDITH A NORRISH
305701 OKSANA NOSAL
431403 ADAM MICHAEL NOSKA
412870 GWENDOLYN FIELD NOTO
043321 WARREN K NOVICK
420259 ELZBIETA NOWAKOWSKI
427281 NATALIE GRACE NOYES
309666 MARK J NUZZOLO
400593 MAURICE NYBERG
435888 NICHOLAS LANDMARK NYBO
416733 ANNE LOUISE O BRIEN
407747 FERN ELIZABETH O BRIEN
419360 JENNIFER A O BRIEN
416851 KAREN O BRIEN
409966 KELLI MARIE O BRIEN
405461 JOHN DANIEL O BYRNE
407511 RICHARD ALLAN O CONNELL
043937 WILLIAM P O CONNELL JR
303272 ANN MARIE O CONNOR
430042 JOHN STEWART O CONNOR
417929 KATHLEEN P O CONNOR
407512 KEVIN JAMES O CONNOR
423610 MARY ELLEN O CONNOR
405602 MICHAEL LIAM O CONNOR
435750 LAURIE LYNNE O DONNELL
410554 WILLIAM EMERSON O FARRELL
408066 LINDA PATRICIA O GORMAN
401283 PATRICIA O HAGAN-SCHOEN
413001 JANE R O HARA
423612 MARK DAVID O HARA
428694 MARY ELIZABETH O KEEFE
432945 STEPHEN O LOUGHLIN
306404 SYLVIA N O MARD
303515 JOHN W O MEARA
423614 JOANNA D O NEILL
414072 BRIAN CHARLES O SHAUGHNESSY
405221 SUSAN ELIZABETH O SHAUGHNESSY
417415 AMY MAURA O SHEA
302802 MICHAEL JOSEPH O SULLIVAN
409297 ANDREW CHARLES OATWAY
102484 DAVID E OBAROWSKI
306855 MARK WILLIAM OBERLATZ
420364 INNOCENT IKECHUKWU OBI
410551 STENROOS ANGELA OBJAY
413457 JOANNE MARY OBRIEN
404978 LIZA ELLEN OCONNOR
309646 WESLEY MICHAEL ODELL
410339 RITA MARLENE ODIN
419361 STANLEY ODUKWU
433474 KIMBERELY KIMMONE ODUMS
401280 CHRISTOPHER MARTIN OGLE
300774 CHARLES ANTHONY OGNIBENE
305707 KEVIN OGRADY
436643 GREGORY O OGUNSANYA
425133 NAOTO OKURA
414446 IRINA A OLEVSKY
430748 BETHANY J OLEYNICK
428480 CAROLINE PILLSBURY OLIVER
422200 JOSEPH PATRICK OLIVIERI
307557 RICHARD JOSEPH OLIVIERI
431406 RUTH J OLIVO
429365 KATHRYN NORA OLSEN
428064 RACHEL MARIE OLSON
410841 CHRISTOPHER NEAL ORACHEFF
417250 ELIZABETH CORWIN ORAM
306080 MARCIA GUY ORENSTEIN
303741 ELIZABETH A ORFAN
416282 DANIEL LEE ORIGLIA
427527 ALIA ORNSTEIN
309647 DEBRA ORNSTEIN
405781 JEFFREY LYNDON ORRIDGE
410139 GUY E ORTOLEVA
418808 NILS GUSTAVE OSTERBERG
412331 SALLY OTOS
414318 MEGAN JULE OUCHTERLONEY
423621 CHARISE RENE OVALLE
044742 WILLARD J OVERLOCK
414876 M LESLIE III OWEN
309262 ANDRE EARLE OWENS
407115 CEM OZER
305087 ANTHONY J PACCHIA
305708 MARCOS A PAGAN III
305327 MARK A PAGANI
425143 KARIN ROSE PAGE
414448 ADAM LAWRENCE PAGET
401285 KEITH ANDREW PAGNANI
440544 BENJAMIN BERNARD PAHOLKE
422917 SON YOB PAK
425791 SHARI PALEY
406473 WAYNE GEOVAUGN PALMA
301733 PETER C PALMER
409481 WILLIAM SYLVESTER PALMIERI
410341 CHRISTOPHER CHARLES PANARELLA
372572 ROBERT M PANISCH
309623 FREDERICK CHRISTOPHER PAPPALAR
416382 ALEXANDER GEORGE PAPPAS
407989 NICHOLAS JAMES PAPPAS
426717 ELIZABETH ANN PARCELLA
411366 LAURENCE DENNIS PAREDES
419364 MICHAEL ERNEST PARHAM II
409593 ANDREW I PARK
411506 JENNY PARK
416383 JIN WOO PARK
306000 JEFFREY ROBERT PARKIN
414320 FRANKLIN MICHAEL PARLAMIS
426664 DAVID FREDERICK PARTRIDGE
405994 SCOTT DAVID PARVEN
430761 CHARLES CARLETON PASCAL
408217 DIANE MARIE PASQUARETTA
422212 ELIZABETH PASQUINE
400557 JUDITH MARRONE PASSANNANTE
401286 JOHN T PATAFIO
426512 YOGENDRA B PATEL
427826 YUHTYNG TSUEI PATKA
406926 JOANNE S PATRICK
419220 JENNIFER COSSIFOS PATRISSI
306007 TERESA MARY PATTEN
406893 JOHN J PATTERSON

400601 PAUL DAVID PATTON
303140 BETTE L PAUL
306010 LORRAINE R PAULHUS
411034 GEORGE FRANCIS PAVARINI III
406910 DARA R PAVIA
305301 DOROTHY M PAVLICA
401505 SHERRI N PAVLOFF
424328 JUSTIN MICHAEL PAWLUK
045666 JASON E PEARL
428674 ERIK B PEARSON
307567 TODD ANDREW PECHTER
308901 CHRISTINE B PECK
308821 LAWRENCE MILTON PECK JR
402282 JOYCE D PEDERSEN
101332 FRANCISCO PEDRAZA
405467 LAWRENCE BENEDICT PELLEGRINO
411367 RICHARD JOHN PELLICCIO
309497 JOHN ANTHONY PELOSI
433521 JENNIFER LEIGH PELTON
421485 ELISA J PENSAVALLE
102787 JILL A PENZA
406895 ELLEN P PEPPARD
372615 EDWARD W PEPYNE JR
046028 PETER G PERAKOS
434630 KATHERINE L PERDUTA
402221 WILLIAM GABRIEL PEREZ
372619 PATRICIA B PERKINS
430852 ILANA STACY PERRAS
428096 E JAMES PERULLO
426689 PAULA PESCARU
425157 CLAIRE ELIZABETH PETER
415979 CONSTANCE C PETERS
401511 GEORGE CHRISTY PETERS
408606 MARK STERLING PETERS
303091 EMIL FREDERICK PETERSEN III
403738 DIANNE M PETERSON
434131 EMILY ANN PETERSON
420481 JOANNA PETERSON
428054 SARAH ELAINE PETERSON
418679 MICHAEL GEORGE PETRIE
405046 CONCETTA PETRILLO
401056 DAVID BRYAN PETSHAFT
306795 MARIE ROSE PEYRON
404299 DAVID MARTIN PFEIFFER
303980 NEAL LAWRENCE PHENES
404300 ELAINE CONSTANTINA PHILIS
404052 ANNE PAPPAS PHILLIPS
303587 LYNDELLE TOLLIVER PHILLIPS
101594 STEPHEN G PHILLIPS
402095 MARIA PICCIUCA
306039 RICHARD PILE-STROTHER
405723 CALEB MCIVOR PILGRIM
372649 ROBERT HARRY PILPEL
307915 JOHN A PINHEIRO
414324 COSTANZA PINILLA
302976 RONALD J PIOMBINO
306410 JOSEPH ANTHONY PISCINA
303981 DEBORA A PITMAN
102774 WILLIAM K PITMAN
412878 JANET DIANA PITTER
304980 LUKE M PITTONI
302261 ROBERT J PLANTE
426809 SAMANTHA LAUREN PLITNICK
403709 LAWRENCE R PLOTKIN
436887 JAY D PLUMLEY
400607 JEFFREY L POERSCH
430090 KAREN STOLP POIRIER
401292 GEORGE JOHN POLES
310030 DAVID MICHAEL POLLACK
404302 JESSICA GLASS POLLACK
303422 ANTHONY CHARLES POLVINO
372669 JOHN JAMES POMEROY
309668 TABITHA DAMAYANTHI PONNAMBALAM
309992 LAUREN KAYE POPPER
420029 BRIAN D JR PORCH
412615 PAUL L PORRETTA
410486 JEANNE DONOVAN PORTER
401515 MILLER TIMOTHY PORTERFIELD
305463 SALVATORE D PORZIO
414210 IVAN MILES POSEY
421720 JOY MARIE POSNER
100693 EDWARD P POTANKA
407121 BARBARA C POTTER
422926 JEFFREY ERIC POTTER
306797 MARIA MADELEINE POTTER
047493 RUSSELL F POTTER JR
423648 MATTHEW STEPHEN POULTER
310050 KIM DENISE POWE
430053 FABIAN E POWELL
047615 JOHN J POWERS
418130 DAVID PETER POWILATIS
429405 PATRICIA A POWIS
409028 HENRY KWASI PREMPEH
410344 JOEL C PRESS
305224 LINDA PEARCE PRESTLEY
309789 MARTHA WATTS PRESTLEY
422928 JAMES PHILIP PRICE
403675 VALERIE A PRICE
413759 ANDRES GUSTAVO PRIETO
428107 GUY PRIMOR
416394 RICHARD ABRAHAM PRIMUS
401296 PATRICIA E PRINCE
413795 TIA M PRIOLO
306054 STEPHEN E PROSTANO
417764 RACHEL MARIE PROULX
372690 JOHN PROVAN
305247 JOHN SCOTT PRUDENTI
436505 KEVIN A PRUE
303274 RONALD MARK PRUNER
425172 RICHARD JOHN PUCHOWICZ
047824 MATHEW A PUGLIESE
304058 THEODORE CONSTANTINE PULOS
413475 VINCENT THOMAS PUMA
417765 SUSAN MARY PUNCH
400613 JOSEPH FRANCIS PUSATERI
425174 JOHN MICHAEL PUZZIO
413012 ERICA OMES QUARTARONE
435900 MEGAN LESLIE QUATTLEBAUM
303760 CAROLYN K QUERIJERO
403211 STEVEN J QUESTORE
403212 STEPHEN JOHN QUINE
408101 WILLIAM JAMES QUINLAN

402285 MICHAEL QUIRINDONGO
415341 NAVEED QURAISHI
303987 FRANK ANTHONY RACANO
405477 ADAM JAMES RADER
048565 FRANK RAFFA JR
400860 ROY JOSEPH RAFOLS
432714 ELIZABETH M RAGAVANIS
413312 DAVID HOWARD RAISNER
434141 SHALMI RAJAN
429412 JILL HARRI RAKOFF
308414 DONN A RANDALL
309291 PAMELA JEAN RANDBY
422930 JENNIFER L RANDO
410928 ELIZABETH RANKIN
416118 JODY LYNN RAPOPORT
412032 REGINALD MICHAEL RASCH
404992 ANTHONY LOUIS RAUCCI
408689 STEVEN ALAN RAUCHER
418176 GWENDOLYN RAWLS
419366 MATTHEW ALLEN RAY
309714 JAIME M RECABO
402828 ROBERT J RECIO
410559 ROBERT LOUIS REDA
429416 ADAM PHILLIP REDDER
437341 APURVA ADLA REDDY
411513 JEFFREY BRUCE REDNICK
372331 GILBERT J REGAN
413478 ROBERT FRANCIS REGAN
415982 ROSE MAY REGISTRE
423658 CHRISTINE REHAK
308251 ROY E REICHBACH
304984 TANIS REID
307575 PATRICK G REIDY
413796 BRIAN THOMAS REILLY
407760 DAVID M REILLY
417306 GREGORY BERTRAM REILLY
406903 JOHN ROBERT REILLY
417417 JUSTIN M REILLY
407128 ALLISON REILLY-BOMBARA
402356 NAOMI DEVORAH REIN
306313 ELEANORE BEULAH GERST REINER
303211 DANIEL REITENBACH
304988 MICHAEL P REITER
416239 JOHN MICHAEL REITWIESNER
400619 DIANNE RELLA
424344 DANIEL VICTOR REMER
372351 PAUL CHARLES REMUS
421498 DOMINICK RENDINA
409569 DWIGHT H RENFREW JR
306654 STEPHEN MICHAEL RENNA
413966 KAREN ANNE RENNIE-QUARRIE
417124 CHRISTINE HAYER REPASY
403217 DAVID SCOTT RETTIG
402339 ARCADIO JORGE REYES
430790 ALEX SYLVAN REYNOLDS
439897 CONOR DWYER REYNOLDS
412333 JENNIFER MELISSA REYNOLDS
304967 ROBERT NOLAN REYNOLDS JR
421499 ARTHUR DAVID RHEINGOLD
306225 PAMELA BONNIE RIBAK
417862 DONALD JAMES RICCITELLI
306800 CARLOTTA ELIZABETH WICK RICE
305726 DAVID LAWRENCE RICH
401138 ALPHIE JOSEPH RICHARD
428676 CANDICE MICHELLE RICHARDS
416123 DAVID LAUREN RICHARDS
309297 SUSAN LAURA RICHARDSON
420979 DANIEL JOHN RICHERT
403715 ANNE PATRICE RICHTER
416125 ROY T RICHTER
416888 MICHAEL THOMAS RICIGLIANO
425870 ROBERT ALEXANDER RICKETTS
413480 STEPHEN JOHN RIEBLING
416777 CHRISTOPHER MARSHALL RIES
414650 CONSTANCE LYNN RIESS
306802 DAVID MITCHELL RIEVMAN
417372 DOROTHY RIGGIO
305470 CHARLES C RIM
050335 JAMES P RING
408896 KEVIN THOMAS RIORDAN
427669 NICOLE C RIORDAN
401299 ALAN SETH RIPKA
406052 SCOTT VINCENT RIPPA
434786 ADAM DUANE RISER
405243 ELLEN POBER RITTBERG
401524 GAIL LESLIE RITZERT
404997 RICHARD RIVERA
413761 SHELLEY ANN RIVERA
372261 DAVID HENRY RIVERS
308647 CHRISTOPHER J RIXON
410808 JOANNA IRENE RIZOULIS
421500 ELISA SHEVLIN RIZZO
401301 JOHN MICHAEL RIZZO
422410 LYNDA RIZZO-STOWE
406098 DONALD NICHOLAS RIZZUTO
402981 ROBIN I ROACH
426430 SUZETTE MCTIGUE ROAN
417036 BRIAN JAMES ROBBINS
303992 JAMES MICHAEL ROBBINS
305728 SUSAN ILENE ROBBINS
420981 REGINA F ROBERT
307582 ALAN ROBERTS
430801 CHASITY VAREE ROBERTS
418681 JEFFREY HOWELL ROBERTS
101546 LEWIS J ROBERTS
411733 JON SCOTT ROBINS
306139 KEVIN R ROBINSON
405584 MARY A ROBINSON
414808 PAUL L ROBINSON JR
422246 RICHARD E ROBINSON
413583 STEPHEN C ROBINSON JUDGE
426702 TAMMY J ROBINSON
401302 TODD NATHAN ROBINSON
420982 VIRGINIA RUTH ROBINSON
309303 BONNIE CUMMINS ROBSON
431315 KYLE A ROCHA
413358 LISA KAY ROCHE
420983 TIMOTHY MICHAEL ROCHE
430802 PATRICIA MARIE ROCOURT
415985 JOHN M RODIA
372223 ROGER M RODWIN
403799 R P ROECKER
404306 DEBBIE LYNN ROFFMAN
426439 WILLIAM FRANCIS ROGEL

420384 HEIDI BETH ROGERS
432511 NICOLE DENISE ROGERS
402340 THOMAS EDWARD ROHAN JR
431317 HEATHER MAIREAD ROHDE
431418 JASMIN MARIE ROJAS
422962 SHARINA TALBOT ROMANO
308256 JILL A ROMER
407764 PATRICK NICHOLAS RONA
406081 PETER RONAI
407298 DEIRDRE CAHILL RORICK
426723 AMYE M ROSA
304929 PETER J ROSA
301736 JERRY P ROSCOE
402342 KEITH ANTONIO ROSEBORO
425689 BONNIE ELAINE ROSEN
410809 BRIAN MICHAEL ROSEN
372194 HARRIET B ROSEN
302185 KENNETH ELIOT ROSEN
401527 FREDERIC ROSENBERG
404144 GLEN LOUIS ROSENBERG
405413 LISA KOFF ROSENBERG
436356 RACHAEL ROSENBERG
401526 STEVEN LAWRENCE ROSENBERG
402343 ALAN ASA ROSENFELD
304939 DAVID ERIC ROSENGREN
427456 JOHN BUTTLER III ROSENQUEST
429438 JESSICA ROSENRAICH
372206 DAVID Z ROSENSWEIG
413539 JOSEPH ARNOLD ROSENTHAL
430808 MAXWELL DAVID ROSENTHAL
424357 AMY THOMAS ROSS
405493 ANTHONY J ROSS
308257 BARBARA DANETZ ROSS
420387 LENWOOD M ROSS JR
372171 MALCOLM A ROSS
407526 ROBERT PHILIP ROSS
407767 CHRISTOPHER A ROSSI
402148 ANGELA MARIE ROSSITTO
307468 TANINA ROSTAIN
410568 IAN ROBERT ROTH
051910 KATALIN ROTH
409488 LINDA ROTH
414216 DEBRA BETH ROTHSTEIN
309314 PAUL N ROTIROTI
413481 MARC ROUSSEAU
417577 MICHAEL A ROUSSOS
426646 MONCIE ROWTHER
413699 CONSTANCE LAUREL ROYSTER
052095 JEFFREY A ROZEN
415263 JAMIE LYN RUBIN
420989 MICHAEL NEAL RUBIN
414812 STEVE RUBINSHTEYN
438659 THEODORE JOHN RUCCI
307764 JEFFREY KEITH RUCKER
307272 KEITH BRIAN RUDICH
439410 DOUGLAS DEANE RUDOLPH
305737 WILLIAM PETER RUFFA
372147 SANFORD L RUGEN
404446 SARAH RUMAGE
309317 JOSEPH L RUSCITO
414655 JAMES JOSEPH RUSH
303145 MARY ANN RUSH
400635 DANIELE RUSKIN
402414 ALLAN DAVID RUSSELL
427306 JESSE DAVID RUSSELL
419848 KEVIN MICHAEL RUSSELL
303279 MATTHEW MORISON RUSSELL
425798 MYCHEL KEMA RUSSELL-WARD
427921 ALLISON A RUSSO
411384 EILEEN M RUSSO
439762 JOCELYN MARIE RUSSO
372159 RICHARD WOODSON RUTHERFORD
414458 SUZZETTE BAGAYBAGAYAN RUTHERFO
421493 HOLLY L RUTKO
414217 ANTHONY REJEAN RUTLEDGE
052551 DANIEL B RYAN
432477 DANIEL RICHARD RYAN JR
430818 LEIGH H RYAN
411278 TARA C F RYAN
305740 THOMAS J RYAN
101206 THOMAS J RYAN III
408738 ELIZABETH A RYCHLING
303032 KATHLEEN A SABO
417726 MARK JOHN SACCO
052779 STEPHEN P SACHNER
418403 JENNIFER L SACHS
052935 KALMAN A SACHS
409803 PETER WILLIAM SACHS
422259 JENNIFER ALISE SADAKA
428615 KEVIN RYAN SAHAIRAM
440255 MICHAEL DAVID SAILY
305475 ELYN R SAKS
407533 EILEEN SALATHE
415892 MATTHEW SALIBA
426345 KORY JAMES SALOMONE
426603 ELIZABETH SALSEDO
406912 LEE JAY SALTZMAN
053355 FRANK SALZ
426200 CHRISTOPHER G SAMIOS
408742 CATHERINE ALICIA SAMMARTINO
430825 JANE SAMPEUR
415010 JOANNA DUNN SAMSON
414218 MARK FRANCIS SANANGELO
413765 TEJASH V SANCHALA
303424 JONATHAN SANCHEZ-JAIMES
302054 JON LESLIE SANDBERG
402798 MARK DAVID SANDERS
100687 ALFRED SANTANIELLO JR
415346 ANTONY MICHEL SANTOS
400880 CARLOS MANUEL SANTOS
403468 ROBERT A SANVILLE
305477 JUDITH A SARATHY
426504 PAUL A SARKIS
439765 ABENA AMOATEMAA SARPONG
407138 CHRISTOPHER JOHN SASSO
418178 SABRA ROCHELE SASSON
101475 ANITA TOMASELLI SATTI
101727 DAVID SAUER
415164 RANDA KHADER SAUERBORN
372129 BRIAN LANCE SAUERTEIG
409312 STEVEN R SAUNDERS
421514 MICHAEL JOHN SAUV
373940 LAURENCE ARTHUR SAVAGE

302836 JOSEPH CHARLES SCALA
423683 ROBERT A SCALERA III
308262 SHARON A SCANLAN
411521 THOMAS SCAPOLI
423685 DAVID BRIAN SCHAFFER
407534 JENNIFER LYNN SCHANCUPP
303033 ELIZABETH J SCHEFFEE
306537 ALEXANDER SCHEIRER
305342 SCOTT NEAL SCHELL
410354 TRISHA RENEE SCHELL-GUY
409133 DONALD JOSEPH SCHELLHARDT
408072 JOHN K SCHERER
404349 MARSHALL M SCHERER
435912 PETER SCOTT SCHERMERHORN
407139 HARRY BENJAMIN SCHESSEL
308572 THOMAS SCHEUER
308085 PAULA L SCHIFFER
102953 STUART M SCHIMELMAN
304763 ELIZABETH SCHLAFF
416779 MARY O SCHLAGETER
424362 RUTH M D SCHLEIFER
405254 ALAN THOMAS SCHMIDLIN
419853 BRIAN T SCHMIDT
054532 NANCY L SCHMIDT
308627 WINFRIED F SCHMITZ DR
410355 MELANIE CAREN SCHNOLL-BEGUN
371871 RALPH F SCHOENE
424364 STEPHEN MATTHEW SCHONHOFF
403729 GREGG BARNET SCHOR
054675 ROBERT A SCHPERO
306810 PAUL ROBERT SCHREYER
427309 ZACHARY GERMANO SCHUCK
101661 DAVID L SCHULMAN
427928 JESSICA MICHELE SCHUR
401536 ALAN GREGORY SCHWARTZ
309345 DAVID ARLEN SCHWARTZ
403731 DAVID M SCHWARTZ
304003 RAIMONDE L SCHWARZ
055042 DWIGHT OWEN SCHWEITZER
438514 DONALD J SCIALABBA
407212 CAROL A SCOTT
419259 HEATHER M SCOTT
309573 JACK RALPH SCOTT
308919 MARK SCOTT
409041 MATTHEW JUDE SCOTT
438234 MICHAEL HATHAWAY SCOTT
055419 HOMER G SCOVILLE
402223 ROBERT PHILIP SCOVILLE
406917 CRYSTAL LIZETTE SCREEN
404750 RUTH ANN SCROGGINS
414662 SABRINA ELAINE SEAL
409146 DOUGLAS MITCHEL SECULAR
308785 JOHN MICHAEL SEDENSKY
407777 KARIN FROMSON SEGALL
410388 MIGUEL ANGEL SEGARRA
427855 ALLISON SEIDMAN
055757 RICHARD H SEIDMAN
309350 VANESSA RAE SEIDMAN
302378 EILEEN SCHOR SEIGER
371908 PETER M SEIGLE
414336 GREGORY JOSEPH SEITZ
412886 SENGAL MICAEL SELASSIE
421011 STEVEN JOSEPH SELBY
307461 WILLA ESTHER SELDON
301878 KATHRYN CLAIRE SENIE
304790 WILLIAM S SEPLOWITZ
421519 PATRICIA ANN-MARGARET SERAFINN
439263 JOHNATHAN P SEREDYNSKI
422273 MICHAEL PAUL SERFILLIPPI
302334 DANIEL G SERGIACOMI
410357 GEORGE E SERMIER
402463 GLENN M SERRANO
418181 DANIEL EDWARD SETNESS
404730 WADE A SEWARD
055986 JOSEPH F SGUEGLIA JR
060759 THERESA M SGUEGLIA
440940 TREVOR MICHAEL SHACKETT
429309354 DENISE L SHANE
309677 LANCE PAYNE SHANNON
371799 TERENCE P SHANNON
414337 ANDREW IRWIN SHAPACK
403733 DAVID JOSEPH SHAPIRO
309915 DAVID MARK SHAPIRO
407147 DAWN CAREN SHAPIRO
402288 WARREN JAY SHARE
428494 VARSHA MATHUR SHARMA
406115 LAURENCE SHAW
427316 MICHAEL THOMAS SHAW
410844 CARRIE ANNE SHAY
402151 ELIZABETH PLANTZ SHAY
056735 WILLIAM T SHEA
407939 CHARLES R SHEARD
417868 DOUGLAS D SHEEHAN
411393 KEVIN PATRICK SHEEHAN
414224 THOMAS MARK SHEEHAN
416246 STEVEN CARL SHEINBERG
435396 MONA SHELAT V
304741 PHILIP ARTHUR SHELTON
430851 HEMA V SHENOI
373780 HENRY LONGDON SHEPHERD III
407305 FELICE DIANE SHERAMY
405263 PAUL ANTHONY SHERRINGTON
436370 MALIKA B SHETH
410935 WEI SHI
304750 DAY R SHIELDS
426755 DAVID ERIC SHIFREN
433249 JOHN K SHIN
407149 SUSAN CHUNG-WON SHIN
424370 VICTORIA S SHIN
426414 ROBYN L SHINDLER-RASHID
421965 NYDIA SHIPMAN
439201 DYLAN THOMAS SHIRLEY
412810 JANE K SHORTELL
057530 I FREDERICK SHOTKIN
436493 ROBERT ALLAN SHRAGE
429135 IRENA SHTERNFELD
415845 STEFANIE LEE SHUB
420157 CLAIRE LOUISE SHUBIK
304719 BRUCE C SHULAN
427844 JULIA MARGARET SHULLMAN
307605 TERI L SHULMAN
423705 D ALEXANDER SHULTS
427966 CRYSTAL D SHUMAKER

306626 JEFFREY S SHUMEJDA
057619 IRVING B SHURBERG
408073 CHRISTOPHER MARC SHUST
057702 JOSEPH A SICILIANO
304724 GREGOIRE ROBERT SIDELEAU
403227 HOWARD FREDRICK SIEGEL
307607 JOSHUA D SIEGEL
304727 MATTHEW D SIEGEL
430082 RANDI ALISON SIEGEL
427901 ALEXIS C SIEKMAN
417037 JULIETTE SIGNORE
435973 ANGELA CAMILLE SIJUWADE
429472 KALEEM SIKANDAR
057775 IGOR I SIKORSKY JR
426583 KAREN ESTHER SILVER
371785 THEODORE A SILVER
426336 FELIX H SILVERIO
408861 RANDI J SILVERMAN
300785 STANLEY P SILVERSTEIN
432700 JULIANNE SIMEONE
430857 JENNIFER E SIMMONS
430084 LAUREN CORI SIMON
058375 MARTIN SIMON
417869 WILLIAM A SIMONS
409318 DONNA LEA SIMS
306227 RUSSELL W SIMS
402347 JEANNE M SINCLAIR
406924 DAVID E SINGER
401978 HOWARD MARC SINGER
404234 LAURIE ANN SINGER
410360 JOHN JOSEPH SINISKO
424372 ROBIN STEPHANIE SINTON
302194 STEVEN PAUL SION
058515 JOSEPH J SIRICO
058520 LOUIS J SIRICO JR
405769 LESLEY CAROLE SISKIND
421026 JOHN BYRON SITARAS
407306 KURT A SIUZDAK
300857 WILLIAM E SKARREN
371758 JOHN THOMAS SKINNER
439206 CHRISTOPHER DAVID SKOCZEN
420398 BRENT ZEFF SKOLNICK
429479 SCOTT EDMUND SKRYNECKI
422952 BRIAN C SLATER
309650 JOEL SLAWOTSKY
308792 RICHARD CHARLES SLISZ
101212 SHAUN M SLOCUM
371735 ANTHONY W SLUSARZ JR
404285 DEBORAH MARSHALL SLYNE
403739 PATRICK KEVIN SLYNE
416858 ADAM EVAN SMALL
411529 MICHAEL ROBERT SMALL
400631 JOHN PETER SMARTO
306157 JACEK I SMIGELSKI
413344 ALLISON LOUISE SMITH
418823 BARBARA CECELIA SMITH
420158 BRENDA MARIE SMITH
422953 CHARNINA RUNELLE SMITH
417733 CHERYL A SMITH
422292 COLIN DAVID SMITH
430862 COURTNEY PEIRCE SMITH
436897 ERIC M SMITH
433661 JANICE KEAYS SMITH
301737 JEFFREY A SMITH
304012 JENNIFER CLAIRE SMITH
438246 KHIREE T SMITH
371707 LORENZO SMITH JR
424374 MICHAEL J SMITH
408809 NANCY JOY SMITH
410846 RODGER FIELD SMITH JR
307615 S STEWART SMITH
303148 SANDRA KAY SMITH
412892 SUZANNE LISA SMITH
409400 THOMAS A SMITH
410813 THOMAS ANDREW SMITH
371714 THOMAS LEWIS SMITH III
407543 TONI M SMITH-ROSARIO
436426 JESSE DAVID SMOLIN
413647 STEVEN R SMTIH
435112 BRIGID MADEL DAVIS SNOW
414461 DAVID MARK SOBEL
402592 MOJGAN SOBHANI
417311 JENNIFER FREDI SOBOL
409051 MARK MICHAEL SOCHA
417870 MATTHEW AARON SOKOL
059988 MARK S SOLAK
409583 THOMAS R SOLI JR
422299 JOSEPH MICHAEL SOLIMENE
415167 LINO A SOLIS
413139 ADAM CRAIG SOLOMON
423718 LAURENE SORENSEN
411045 RANDALL ALAN SORSCHER
371668 KATHERINE SORTOR
306161 GREGORY JON SOUTHWORTH
308197 KAREN E SOUZA
416413 JOSEPH A SPADARO
306162 DOREEN SPADORCIA
060218 ELIZABETH K SPAHN
303098 ALAN D SPARGO
415998 VICTOR JOHN SPATA JR
429487 ANTHONY JOHN SPATH
427945 SERGIO ANTHONY SPAZIANO
060333 JOHN A SPECTOR
305772 KEVIN JOSEPH SPENCER
300788 FRANK P SPINELLA JR
308276 MILAN PAUL SPISEK
418182 CHRISTIAN MATTHEW SPLETZER
408103 PETER CHARLES SPODICK
400894 LORING NOEL SPOLTER
407963 JOSEPH W SPROULS
408763 DAVID MIGUEL SPRUANCE
404026 JANET SQUITIERI
404027 DAPHNE DARYA SRINIVASAN
429493 HEATHER CHRISTINE ST GERMAIN
410364 JACQUELINE A ST JOHN
371575 ROGER J STALOWICZ
301887 BLAKE D STAMM
308479 WILLIAM B STAMMER
422958 TARA LYN STANCHFIELD
060805 PAUL STANDISH
408235 MITCHELL ANTHONY STANLEY
438249 CHRISTOPHER DANIEL STANTON
419870 GERALD JOSEPH STANTON
402349 ROBYN B STANTON

309932 PAUL HOWARD STARICK
060917 NOAH STARKEY
306166 AMY LOUISE STAROBIN
304646 BARBARA DEE STARR
413569 CAROLYN MARGUERITE STARR
307622 THOMAS A STARTUP
307690 ELIZABETH A STAUGAARD
414346 KENDRA L STEARNS
439906 MARGARET SKARBEK STEFANDL
304648 HOWARD E STEIN
400897 JOSHUA OWEN STEIN
434199 MATTHEW A STEIN
401322 DARRYL ROSS STEINBERG
422309 JASON SCOTT STEINBERG
433023 LEANNE HEATHER STEINBERG
309863 DAVID MILLER STEINER
439396 MARISSA F STEINER
306431 ALAN M STEINMETZ
302069 RICHARD R STEINMETZ
432489 SUSAN ELIZABETH STELLATO
405990 CAROLYN PAULAMARIE STENNETT
405514 JOAN T STEPHAN
304124 S DWIGHT STEPHENS
400660 TAMARA STEPTON
434201 MEGAN RUTH STERBACK
429500 ANDREW P STERLING
307624 ARTHUR RICHARD STERN
404236 GAIL SARA STERN
061224 KENNETH D STERN
309382 MIRIAM STERN
309383 ROBERT ALLAN STERN
418278 MATTHEW WILLIAM STEVENS
416250 TARA CONSTANCE STEVER
401325 ANNETTE Y STEWART
305488 CAROLYN SMITH STEWART
421044 NADIRA SHANI STEWART
412341 HEATHER ALLISON STIERS DORN
412940 MOLLY CUSSON STILES
403013 HARRY MCKINNEY STOKES
435412 DANIEL ROBERT SALSBERY STOLLER
417315 JEFFREY EVAN STORCH
304663 LAWRENCE MICHAEL STORM
422313 JOHN STORR
416251 HENRY CLAYTON STRADA
435923 RYAN P STRANKO
402807 MICHAEL ATWATER STRATTON
305782 GLORIA A STRAZZA
412491 VIRGINIA BLODGET STREET
101896 JEFFREY H STRICHARTZ
371639 WILLIAM F STRIEBE JR
422315 DAVID R STROBEL
409681 THOMAS JAMES STRONG
371642 STANLEY IRA STROUCH
411755 STEPHEN IAN STROUD
430884 JACOB ZELL STUDENROTH
430091 MELISSA STACY STUDIN
421050 P TOBIAS STULL
309387 MARGARET RUTH STYSLINGER
062142 JOEL SUISMAN
304672 JAMES EDWARD SULICK
304673 EILEEN PATRICIA SULLIVAN
414319 ERIN M SULLIVAN
409056 JAMES LAWRENCE SULLIVAN
062192 JOHN B SULLIVAN
309389 KATHERINE MCG SULLIVAN
409404 KEVIN JOSEPH SULLIVAN
102785 PAULA D SULLIVAN
307630 TERENCE M SULLIVAN
403491 MARCIA Y SUNG
403493 NANCY RUBIN SUSSMAN
300791 BRUCE ARTHUR SUTPHIN
421537 JOELLE ANNIQUE SVAB
401649 JAMES SWAINE
414673 ROBERT D SWARTOUT
425246 SHELLY ANNE SWEATT
304629 CRAIG L SYLVESTER
404313 JOHN DEVEREUX SYZ
425254 CHRISTOPHER RICHARD SZEFC
418279 ANNA SZIKLA
412545 WILLIAM ENGLE TABER III
438669 RADHIKA TAHILIANI V
306486 DESPINA MARY TAHMIN
302633 KAREN ANN TAKACH
410367 ROBERT TAMBINI
413030 AMIT TANDON
440156 FAREN M TANG
306432 FERNANDO TAPIA
415586 JEANEAN M TARANTO
407792 ANDREW ROSS TARSHIS
063060 HARGREAVES V TATTERSALL III
440343 AMY L TAYLOR
428700 BENJAMIN TAYLOR
303398 BRIAN B TAYLOR
304532 JANE CRUMP TAYLOR
439219 MICHAEL W TAYLOR
420411 OCTAVIA TAYLOR
407794 SUZANNE KATHERINE TAYLOR
418696 RUTH M TEITELBAUM
310012 JAN ANITA TEMPLEMAN
063280 JOHN E TENER
439222 HANNAH JANE TENISON
308281 CLAUDIA TENNEY
434804 BENJAMIN SCOTT TERNER
421380 MELISSA-JON TESTA
309395 ROSA ANNA TESTANI
416292 JOHN BOYD THACHER
420109 JAMES LATHROP THAXTON
373948 WILLIAM JOHN THOM
404188 AUDREY D THOMAS
101851 DAVID R THOMAS
371343 JOHN EDWARD THOMAS
433034 KENNETH A THOMAS
305494 KENNETH L THOMAS
412494 RUTH MARTHA THOMAS
063424 BRUCE W THOMPSON
414235 PETER JOSEPH THOMPSON
410213 RICHARD LLOYD THOMPSON II
302078 MATTHEW H THOMSEN
404200 BRENDA MARIE THOMSON
423737 BROOKE MEAGAN THOMSON
430901 ROBERT GLEN THOMSON
371350 GREGORY LEE THORNTON
428091 PATRICK DAVID THORNTON

426189 STEPHANIE ANN TIBBITS
422326 WILLIAM MICHAEL TIERNEY
100832 CHARLES M TIGHE
422967 KATHERINE ANNE TIGHE
433035 LOWELL TILLETT
405521 VICTOR TIMOSHENKO
304027 CHRIS TIMPANELLI
407552 M J F TITUS
409493 WILLIAM PERRY TOCCHI
420526 TRACY LYNN TOCE
303800 DAVID Y TODD
419261 KEVIN L TODD
306821 MARGARET BLAKE TODD
412775 CHRISTOPHER M TODOROFF
307688 KIMBERLY RONDA TODT
401346 BETTY NORA TOEPFER
302866 NORMAN PAUL TOFFOLON
417007 THOMAS JOSEPH TOLAN
423741 SARAH BETH SHERMAN TOLCHIN
400904 LAUREN M TOMAYKO
430903 LAURA ALLISON TORCHIO
434218 ALYSSA M TORNBERG
404977 PATRICIA E TORRENTE
405030 FRANK R TORTORA
433036 ASHLEY TOTORICA
421544 ALAN ERNEST TRACY
305304 IRVING E TRAGER
416000 LESTINA CONSTANCE TRAINOR
401349 JOSEPH ALEXANDER TRANFO
409407 LAWRENCE RICHARD TRANK
064326 STEPHEN TRAUB
427698 JERROLD F TREHEY
421078 ANNE I TREIMANIS
418851 CAROLYN M TREISS
422941 SARAH ROQUE TRESSLER
408857 JENNIFER HELENE TRIBULSKI
308154 CHARLES WILLIAM TRICOMI
308659 CLAUDIA J TRIGGS
412344 TERESA V TRIGLIA
432499 HOAN KHAI TRINH
405279 WENDY CAROL TRIPODI
428689 PATRICK JAMES TROY
417740 WAYNE A TRUMBULL
401544 LEE-ANN RENEE TRUPIA
407175 GEORGE JOHN TSIMIS
425269 GREGORY A TSONIS
304029 DIANA TUAL
305497 JUDITH BALL TUCKER
307291 HARRY TUN
404753 SHAWNA RAE TUNNELL
403837 MICHAEL JAMES TUOHY
411410 KATHLEEN LOUISE TURLAND
306179 ANNE STUART TUTTLE
412059 THOMAS WILLIAM TVARDZIK
403503 JAMES SCOTT TWADDELL
411050 TIMOTHY ALLING TWINING
417009 CHRISTOPHER JAMES TWOMEY
304224 LAWRENCE JOSEPH TYTLA JR
409323 CHRISTOPHER UHL
440936 CHIDINMA UKONNE
407805 CHRISTOPHER FRANCIS ULTO
307635 ROBERT A UNGAR
065029 STEVEN F UNGER
414826 CINDY J UNKENHOLT
409061 JOSEPH DANIEL URADNIK
413508 FRANCIS CHRISTOPHER URZI
421083 PAULA-MARIE USCILLA
305791 HENRY JOHN USCINSKI JR
307926 DOMINICK UVA
410848 LOUIS F VALENTI
101578 JOHN W VALENTINE
423750 TRACI JO VALERY
416242 GABRIELLE NICOLE VALIQUETTE
404756 LOUISE VAN DYCK
408868 JOSHUA WALTER VAN HULST
304102 CARMEN ESPINOSA VAN KIRK
411411 CAROLINE ANN VAN RYN
413362 ADAM FOSTER VAN ZANDT
430913 JOHN HARRISON VANARSDALE
307638 STEVEN TODD VANDERVELDEN
419556 JESSICA BANNON VANTO
303805 STEVEN WILLIAM VARNEY
404757 DAVID JOHN VAROLI
405283 THOMAS FRANCIS VASTI III
428037 COLIN SPELLMAN VAUTOUR
308285 J A VAUTOUR
404238 NANCY VAVRA
416397 KRISTIN MARIE RAFFONE VAZQUEZ
413773 STEPHEN THOMAS VEHSLAGE JR
415861 WENDY L VEILLEUX
433044 STEVEN CHRISTOPHER VELARDI
418852 JASON M VENDITTI
405523 ANN MARGARET VERMES
413194 TINA CHERICONI VERSACI
412899 VINCENT W VERSACI
432719 EMILY H VERSTEEG
307292 J RUSSELL VERSTEEG
426552 JARED DANIEL VERTERAMO
437400 CHELSEA KATHRYN VETRE
413364 DENISE INEZ VIERA
309995 ANTHONY PETER VIGNA
065450 THOMAS L VIGUE
406623 GIL HOWARD VILKAS
421097 JESSICA ANN VILLARDI
414031 ELPIDIO VILLARREAL
423754 MARK ERIC VILLENEUVE
414685 PAUL B VIOLETTE
407806 NICOLE A VISAGGI
309406 MARY LOUISE VITELLI
434473 MIKHAEL VITENSON
065630 SALVATORE V VITRANO
370895 PETER ERNEST VON ELTEN
439231 JONATHAN EDWARD VOSPER
400913 E CHARLES VOUSDEN
418565 GEMMA GABRIELLE WAANANEN
065802 KATHRYN M WACHSMAN
401554 RENA WACHTEL
403511 ANDREW JOHN WAGHORN
431343 BRIAN M WAGNER
421100 NATHAN JAMES WAGNER
405035 LOIS H WAGREICH
417319 PETER J WAIBEL
404201 RUTH WALDEN
401556 BENJAMIN JAY WALDMAN

302875 MARY ELLEN WALKAMA
406498 JAMES QUENTIN WALKER
406005 KEVIN MICHAEL WALKOWSKI
411543 LISA NICOLE WALL
426691 BLAIR HARRISON WALLACE
414469 MICHAEL JOHN WALLACE
418283 MICHAEL RAYMOND WALLACE
417634 PAULINE WALLACE
422980 BEN E WALLERSTEIN
427343 BRENDAN FRANCIS WALSH
422355 DAVID ALLEN WALSH
300795 HENRY A WALSH JR
066105 JOHN J WALSH
416004 JOHN PATRICK WALSH
423760 KAREN MICHELE WALSH
419230 MICHELLE PARKER WALSH
309411 ROBERT CARLTON WALSH JR
413526 DONNA L WALTON
429536 JAMILIA TASHIMA WANG
404760 BEVERLY I WARD
370842 LAWSON LEWIS WARD
404761 MARK BRIAN WARD
370843 THOMAS JOSEPH WARD
429539 RAFIEL DEON WARFIELD
410227 DENISE MARIE WARNER
429290 ELIZABETH STILLWELL WARNER
370845 JON P WARNICK
428614 ELIZABETH ANNE WARREN
405525 JENNIFER CYNTHIA WARREN
416259 JIMMY WARREN JR
424402 LIONEL DAVID WARSHAUER
405037 MONA R WASHINGTON
403023 RONALD WASHINGTON
303814 WILLIAM K WASSERMAN
402296 DANIEL SCOTT WASSMER
309773 RAYMOND OLIVER WATERS JR
409067 BRIAN NEIL WATKINS
403515 JOHN MICHAEL WATKINS
411771 NGOZI BOMANI WATTS
409289 TRACY M WAUGH
066475 JONATHAN H WAXMAN
421107 JASON SANFORD WEATHERS
413146 MICHAEL DAVID WEBB
304129 SHARON D WEBB
404137 LISA W WEBBER
066575 MORTON M WEBBER
418065 RICHARD HOWARD WEBBER
405528 RICHARD WEBER
303815 RICHARD G WEBER
100011 STUART A WEBSTER
101715 WILLIAM A WECHSLER
412385 GEORGE HENRY WEEKS
430923 LOWELL PALMER WEICKER III
418485 EVAN D WEINER
424405 PIETER GERSHON WEINRIEB
411773 DAVID C WEINSTEIN
412386 ROBYNE STACI WEINSTEIN
303816 YERACHMIEL EPHRAIM WEINSTEIN
102301 ANDREW WEISS
308633 CLAUDIA S WEISS
067017 JEFFREY S WEISS
407186 MICHAEL IAN WEISS
423009 AHRON WEISSMAN
418333 REPHOEL A WEITZNER
418567 TIMOTHY PAUL WELCH
426778 AYANA BERNADETTE WELLINGTON
308808 ARTHUR STANTON WELLS
413147 JENNIFER ANNE WELLS
419945 STEVEN L WELLS
410607 JUDITH F WERTHEIMER
300796 HOLLY RODGERS WESCOTT
402823 ARNOLD BERNARD WEST
438275 OLIVIA ASHLEY WEST
306976 JASON D WESTCOTT
305503 GAYL SHAW WESTERMAN
400412 LAURA L WESTLUND
417617 GLENN EDWARD WESTRICK
304149 EDWARD C WETMORE
414243 JAMES WILLIAM WHALEN IV
400919 DIANE CAROL WHEELER
304065 CATHERINE LEWIS WHITAKER
101969 JARVIS WHITE
418737 LORRAINE MARIE WHITE
304154 ROCHELLE LITOWSKY WHITE
425712 WHITNEY LEIGH WHITE
302883 ELLEN EVANS WHITING
102931 JAMES L WHITING III
101449 PAUL B WHITMAN
409410 MARK MCELDOWNEY WHITNEY
067587 NORMAN E WHITNEY
067590 PETER A WHITSETT
430932 PAUL VINCENT WHITTY
436914 GABRIELLE ALEXANDRA WICHOWSKI
426233 JENNIFER PATRICIA WIDNESS
413370 MICHAEL JAMES WIEBER
302885 ROSALIND ZELDINA WIGGINS
417437 CHRISTOPHER ALAN WIGHTMAN
304127 KATHRYN ANNE WIKMAN
434817 BENJAMIN ALDRICH WILES
429550 GEOFFREY BRIAN WILHELMY
439551 TIMOTHY ONEIL WILKERSON
100042 JOHN R WILLARD
410610 BRENDA WILCOX WILLIAMS
100115 DAVID S WILLIAMS
303289 DAVIDSON D WILLIAMS
427354 DEBRA A WILLIAMS
401570 ELVIN VINCENT WILLIAMS
405532 IVANA I WILLIAMS
405289 JOHN JOSEPH WILLIAMS
424410 LENWORTH LESTER WILLIAMS
407192 MICHAEL ROBERT WILLIAMS
401569 SARAH JANE WILLIAMS
432507 TARA GEORGETTE WILLIAMS
417438 TAYA NICOLE WILLIAMS
101735 THOMAS J WILLIAMS
439855 BRYSON WESTWOOD WILSON
370741 JAMES D WILSON
417439 JULIA WILSON
306199 LORI RENE WILSON
426636 TANYKA T WILSON
102899 THOMAS P WILSON
410951 TIMOTHY M WILSON

101930 PATRICIA WILSON-COKER
102533 RENEE F WINCHESTER
307656 ROBIN LISA WINICK
410861 LISA BESSEGHINI WINJUM
412348 MICHAEL JACOB WINSTON
068350 RICHARD L WINTER
101431 HOWARD M WINTERSON JR
412509 ERIK J WINTON
370727 ALFRED I WIRTENBERG
401572 STEPHAN WISLOCKI
409429 WILLIAM ROBERT WITCRAFT JR
102319 OTTO P WITT
428017 R MARTIN WITT
101775 ENID SCOTT WOLCH
416008 CATHERINE ANNE WOLFF
300787 RUSSELL THOMAS WOLFGANG-SMITH
429557 ADAM JACOB WOLKOFF
400928 MARK JAY WOLLMAN
370698 RONALD WAYNE WOLSEY
400967 JAY THOMAS WOLTER
410237 TINA WOO
307517 BARBARA ANN WOOD
304074 JOHN DANIEL WOOD
068785 LAURENCE M WOOD
304128 SUSAN M WOOD
418710 DAVID ANDRE WOODARD
405043 JEFFREY S WOODARD
302096 GARY J C WOODFIELD
430941 JESSICA AISHA WOODHOUSE
428032 BRETT CHRISTOPHER WOODIS
414477 PAMELA LEILA WOODLEY
403554 GLENN D WOODS
403252 THERESE MARIE WOODS
418711 PAMELA WOODSIDE
409121 GREGORY WOZNIAK
304079 STEPHEN X WRIGHT
407566 JENNIFER LEIGH WRINN
425754 ANIA MARIA WROBLEWSKA
309514 SHANLON WU
404770 ROBERT O WYNNE
420054 RAY ANDREW WYNTER
433572 YUJIA JULIA XIA
424412 FENG XU
416263 CHERI L YAGER
413554 KUANG-CHANG YEH
069180 BARRY J YELLEN
410850 SUE CHONG YI
423783 DONNA LEE YIP
428088 NELS WALL YLITALO
414006 DAVID PHILLIP YON
405292 STEVEN JOSEPH YOUNES
434234 BRIAN CLAY YOUNG
403920 JOYCE H YOUNG
409306 MARY M YOUNG
300400 ROLAND FREDERIC YOUNG III
300402 STUART JAY YOUNG
413377 DONG YU HWAN
426346 ZHUANG YUAN
307703 JOHN YUASA
422986 ROBERT KEITH YULE
434236 VITALIY NIKOLAYEVICH YUSENKO
402826 JONATHAN DAVID ZABIN
400648 ROBERT JOSEPH ZACCAGNINO
401359 CHERIE LOUISE ZACKER
414401 DEBRA ZAGER
412068 ALBERT APGAR ZAKARIAN
411417 HARRIS JAY ZAKARIN
411434 MICHELLE LYNN ZAKARIN
303324 RICHARD JOSEPH ZAKIN
431429 SAWSAN Y ZAKY
307751 JOHN G ZANDY
415363 JURIS VILHELMS ZAULS
416154 ELISE ZEALAND
419390 JOSH PAUL ZEIDE
069708 MARTIN ZELDIS
417747 AVA L ZELENETSKY
415871 CHRISTOPHER J ZEMAN
307663 GARY BURTON ZENKEL
415873 ANTHONY VINCENT ZEOLLA
403257 MICHAEL A ZEYTOONIAN
426638 YUE ZHENG
306272 NOEL M ZIEGLER
305352 CATHERINE CORNELIA ZIEHL
300428 CHARLES JOSLYN ZIFF
421135 ANNE ZIMMERMAN
402115 JEAN-MARC ZIMMERMAN
309432 JENNIFER HOLLY ZIMMERMAN
429572 RYAN JACOB ZIMMERMAN
426675 STACIE ANN ZIMMERMAN
427827 DANIEL M ZINN
300436 CHRISTOPHER ZIOGAS
405534 CHARLES GEORGE ZISKIND
071350 HOWARD F ZOARSKI
433067 JOSEPH ZOCCALI
418013 PATRICIA F ZOCCOLILLO
403030 BARRY STEPHEN ZORNBERG
431439 VERONICA NIEVES ZORRILLA
300446 STEPHEN ALOYSIUS ZRENDA JR
414359 JAMES STEVEN ZUCKER
300453 SHIMEN BARRY ZUDEKOFF
403259 ERIC MICHAEL ZYLA

Notice of Inactive Status of Attorney

DOCKET NO. NNH-CV21-6118337-S. DISCIPLINARY COUNSEL VS. ANTHONY SPINELLA. SUPERIOR COURT, J.D. OF NEW HAVEN AT NEW HAVEN, NOVEMBER 17, 2021.

ORDER

After hearing the court enters the following orders:

1. The Respondent, Anthony Spinella, juris number 422303, is placed on inactive status effective immediately pursuant to Practice Book Section 2-56 et seq. until further order of the court.

2. The Respondent is presently not a member of a law firm and has not undertaken to commence the private practice of law, does not maintain an IOLTA account, and therefore no trustee appointment is necessary.

3. The Respondent must comply with Practice Book Section 2-47B, restrictions on the activities of deactivated attorneys.

By the Court,
James W. Abrams

Notice of Reprimand of Attorney

Pursuant to § 2-54 of the Connecticut Practice Book, notice is hereby given that on October 13, 2021 in Docket Number HHD-CV21-6143770-S, Attorney Stefan J Rozembersky, Juris No. 434793, is reprimanded.

Susan Quinn Cobb
Presiding Judge