Alienation of Affection Suits in Connecticut
A Guide to Resources in the Law Library

This guide is no longer being updated on a regular basis. But we make it available for the historical significance in the development of the law.

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Prepared by Connecticut Judicial Branch, Superior Court Operations, Judge Support Services, Law Library Services Unit

lawlibrarians@jud.ct.gov

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View our other research guides at https://jud.ct.gov/lawlib/selfguides.htm

This guide links to advance release opinions on the Connecticut Judicial Branch website and to case law hosted on Google Scholar and Harvard’s Case Law Access Project. The online versions are for informational purposes only.

References to online legal research databases refer to in-library use of these databases. Remote access is not available.

Connecticut Judicial Branch Website Policies and Disclaimers
https://www.jud.ct.gov/policies.htm
• **“Alienation of affections and breach of promise actions abolished.** No action may be brought upon any cause arising from alienation of affections or from breach of a promise to marry.” Conn. Gen. Stat. § 52-572b (2019).

• **“This is a tort based upon willful and malicious interference with the marriage relation by a third party, without justification or excuse. The title of the action is alienation of affections. By definition, it includes and embraces mental anguish, loss of social position, disgrace, humiliation and embarrassment, as well as actual pecuniary loss due to destruction or disruption of marriage relationship and the loss of financial support, if any.”** (Emphasis added.) *Donnell v. Donnell*, 415 S.W.2d 127, 132 (Tenn. 1967).

• **“At common law, a plaintiff could bring a variety of damages actions arising in the context of romantic relationships. These included causes of action for alienation of affections, criminal conversation, seduction, and breach of promise to marry. Only a spouse could bring an action for alienation of affections or criminal conversation; the former tort action provided redress against a third party who won the love of the plaintiff's spouse, while the latter involved sexual intercourse with the plaintiff's spouse. *Lombardi v. Bockholt*, 167 Conn. 392, 355 A.2d 270, 271 (suit against third party for criminal conversation and alienation of affections based upon defendant's extramarital affair with plaintiff's wife), *Bouchard v. Sundberg*, 80 Conn. App. 180, 834 A.2d 744, 752 n. 13 (’The common-law traditional heart balm tort of alienation of affections is a cause of action against a third party adult who “steals” the affection of the plaintiff's spouse.’).” *Brown v. Strum*, 350 F.Supp.2d 346; 2004 U.S. Dist. LEXIS 25680.

• **Heart Balm Act.** “The distaste for alienation of affection and breach of promise suits which has inspired in recent years the enactment of laws abolishing such ‘heart balm’ litigation has stemmed largely from publicized abuses of these common-law remedies as instruments of fraud and extortion.” *Tarquinio v. Pelletier*, 28 Conn. Supp. 487, 488, 266 A.2d 410 (1970).
Section 1: Spousal Alienation of Affection
A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to alienation of affection suits in Connecticut

DEFINITION:
- “Alienation of affections and breach of promise actions abolished. No action may be brought upon any cause arising from alienation of affections or from breach of a promise to marry.” Conn. Gen. Stat. § 52-572b (2019).
- Heart Balm Act. “The distaste for alienation of affection and breach of promise suits which has inspired in recent years the enactment of laws abolishing such ‘heart balm’ litigation has stemmed largely from publicized abuses of these common-law remedies as instruments of fraud and extortion.” Tarquinio v. Pelletier, 28 Conn. Supp. 487, 488, 266 A.2d 410 (1970).
- “Only a spouse could bring an action for alienation of affections or criminal conversation; the former tort action provided redress against a third party who won the love of the plaintiff’s spouse, while the latter involved sexual intercourse with the plaintiff’s spouse.” Brown v. Strum, 350 F. Supp. 2d 346 (2004) (2004 U.S. Dist. LEXIS 25680).

STATUTES: You can visit your local law library or search the most recent statutes and public acts on the Connecticut General Assembly website.

HISTORY:
- P.A. 67-275 (Reg. Sess.) “No action shall be brought upon any cause arising after October 1, 1967 from alienation of affection or from breach of a promise to marry.”
- P.A. 82-160, section 238 (Reg. Sess.)

COURT CASES: Once you have identified useful cases, it is important to update them to ensure they are still good law. You can contact your local law librarian to learn about updating cases.
**DIGESTS:**
- West Key Numbers: *Husband and Wife* 322 - 337; *Marriage & Cohabitation, Torts* 1101-1116

**ENCYCLOPEDIAS:**
  V. Right of Action
  C. Husband or Wife or Both Against Third Party
  3. Alienation of Affections
     § 251. Generally. Alienation of affections and criminal conversation
     § 252. Abolition of action
     § 253. Generally. Elements of cause of action
     § 254. Existence of marital relationship
     § 255. Intent
     § 256. Motive
     § 257. Necessity that defendant’s acts be the cause of the alienation
     § 258. Generally. Damages
     § 259. Punitive damages

  XII. Right of Action by Husband or Wife or Both
  B. Alienation of Affections and Criminal Conversation
     §§ 220-235


**FORMS:**
  VIII. Alienation of Affections and Criminal Conversation
     § 117 Introductory Comments
     § 118 Checklist – Drafting complaint, petition, or declaration in action for alienation of affections
     §§ 120-125 Complaint, petition declaration – For alienation of affections of spouse

**TEXTS & TREATISES:**
- 8 Connecticut Practice: Family Law and Practice with Forms 3d, by Arnold H. Rutkin et al., 2010, with 2020 supplement, Thomson West (also available on Westlaw).
  Chapter 43. Enforcement of custody and visitation orders.
     § 43.12. Tort claims

  § 80. Actions by husband or wife
  § 172g. Alienation of affections and loss of consortium

  § 7.2 Spousal alienation of affection
- **Damages in Tort Actions**, by Marilyn Kroll Minzer, et al., 2020, Lexis Matthew Bender (also available on Lexis).
  Chapter 11. Third Party Interference with Familial Relationships
  § 11.05. Alienation of Affections and Criminal Conversation
  § 11.05[4]. Spousal Action for Alienation of Affection

  § 8.3. Alienation of affections of spouse and criminal conversation

  Chapter 22. Interference with, and Torts to, Familial Relations
  B. Husband and Wife
  §22.2 Alienation of Affection
  §22.3 Causation
  §22.4 Alienation of Affections – Burden of proof; Sufficiency of evidence; damages
  §22.5 Statutory Abolition
  §22.6 Defenses

- **Domestic Torts: Civil Lawsuits Arising from Criminal Conduct with Family Relationships, 2d**, by R. Keith Perkins, 2020, Thomson West (also available on Westlaw).
  Chapter 8 Interference with Family Relationships
  I. Common Law Causes of Action
  A. Heart Balm Offenses
     §8:1 Introduction
     §8:2 Current Status of Heart Balm Offenses – Permitted Jurisdictions
     §8:3 Four Primary Heart Balm Causes of Action
  B. Alienation of Spouse's Affection
     §8:4 Civil Cause of Action
     §8:5 Elements
     §8:6 Cases

**LAW REVIEWS:**
- Sharlene A. McEvoy, *Heart Balm Redux: Should the Cause of Action for Alienation of Affection be Revisited as a Remedy for*
Alienation


Table 1: Spousal Alienation of Affections in Other States

<table>
<thead>
<tr>
<th>States</th>
<th>Abolished</th>
</tr>
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<tbody>
<tr>
<td>New York</td>
<td>Civil Rights Law Article 8</td>
</tr>
</tbody>
</table>

### Lists of States Abolishing

<table>
<thead>
<tr>
<th>Statutory and Case Law</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><em>Damages in Tort Actions</em>, by Marilyn Kroll Minzer, et al., 2020, Lexis Matthew Bender (also available on Lexis). §11.05 [4][c].</td>
</tr>
<tr>
<td></td>
<td>See Chart 11-5</td>
</tr>
<tr>
<td></td>
<td><em>Multi-Jurisdictional Survey of Abolition of Cause of Action For Alienation of Affections by State</em></td>
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</tbody>
</table>
# Table 2: Brown v. Strum

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<tbody>
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<td>Emotional Distress and Fraud</td>
<td>Courts of both states have held that a plaintiff may not circumvent the statutory prohibition on heart balm actions by recharacterizing them as emotional distress or fraud claims. To determine whether a plaintiff has a bona fide claim or is simply using an emotional distress claim to evade the anti-heart balm statute, courts look to the underlying factual allegations of the complaint. For example, in <em>Sanders v. Rosen</em>, 605 N.Y.S. 2d 805, 811 (N.Y. Sup. Ct. 1993), the plaintiff sued her former divorce attorney, alleging that he induced her to begin a romantic relationship soon after her divorce, talked about getting married, wrote a will for the plaintiff with himself as beneficiary, but then terminated the relationship and demanded that the plaintiff move out of his apartment. Id. at 807. The court found that the complaint had &quot;the earmarks of the earlier actions for seduction or breach of promise to marry, i.e., entering into and breaking off a sexual relationship by means of allegedly false promises.&quot; Id. at 811. Although the plaintiff had characterized her claim as infliction of emotional distress, the court found that the</td>
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</table>
allegations "fall into the category of fall-out from heartbreak," and therefore were not cognizable in the New York courts. Id. at 812.

Similarly, Connecticut courts "in determining whether an action is barred by §57-572b,...consider the underlying conduct alleged in the plaintiff's complaint." *Bouchard v. Sundberg*, 80 Conn. App. 180, 834 A.2d 744, 756. They will not hear claims of emotional distress that "flowed from" a heart balm claim. Id. at 754. The plaintiff in *Bouchard*, for example, attempted to bring a claim for emotional distress based upon his ex-wife's alleged attempts to alienate his children from him after a divorce. Because Connecticut had barred damages actions for alienation of affection, the plaintiff's claim was not cognizable even when framed as a claim for infliction of emotional distress. Id. In reaching this conclusion, the court examined the factual basis for the plaintiff's claim, which included the ex-wife encouraging the children not to communicate with him, and stated that any action "stemming from the alienation activities" would be barred by statute. Id.

<table>
<thead>
<tr>
<th>Fraud Claims</th>
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In *Tuck v. Tuck*, 14 N.Y.2d 341, 345 (N.Y. 1964) "An innocent woman who is deceived into contracting a void marriage and who thereafter cohabits with her putative spouse in the performance of her supposed conjugal obligations is entitled to recover damages in an action for deceit, and it matters not whether the marriage is void because bigamous or void for the reason that the ceremony leading to it was a sham."

The Connecticut Supreme Court has made clear that an action for fraud may not be maintained as a method of circumventing §52-572b (2011). *Piccininni v. Hajus*, 180 Conn. 369, 429 A.2d at 888. A fraud action relating to a promise to marry only may be maintained in Connecticut for "restitution of specific property or money transferred in reliance on various false and fraudulent representations, apart from any promise to marry, as to their intended use." Id. at 888-89. Thus, a plaintiff was permitted to maintain an action where he sued to recover money spent renovating the defendant's house in reliance on defendant's promise that she would marry him and allow him to move in with her. Id. However, the Supreme Court carefully distinguished an action to regain property from one "to recover for the breach [of a promise to marry] itself." Id. at 889.

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can contact your local law librarian to learn about the tools available to you to update cases.
Section 2: Criminal Conversation
A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to the tort of criminal conversation in Connecticut

DEFINITION:

- **“Criminal conversation action abolished.”** No action may be brought upon any cause arising from criminal conversation.” Conn. Gen. Stat. § 52-572f (2019).

- **Criminal Conversation:** “means adulterous relations between the defendant and the spouse of the plaintiff . . . . To sustain the action, plaintiff must establish (1) the marriage between the spouses, and (2) sexual intercourse between the defendant and the spouse during coventre.” Russo v. Sutton, 422 S.E.2d 750, 752 (S.C. 1992).

- “Only a spouse could bring an action for alienation of affections or criminal conversation; the former tort action provided redress against a third party who won the love of the plaintiff's spouse, while the latter involved sexual intercourse with the plaintiff's spouse.” Brown v. Strum, 350 F.Supp.2d 346; 2004 U.S. Dist. LEXIS 25680.

STATUTES:


HISTORY:

- P.A. 71-177 (Reg. Sess.) “No action shall be brought upon any cause arising after October, 1, 1971, from criminal conversation.” Approved May 17, 1971.

- P.A. 82-160, section 239 (Reg. Sess.)

COURT CASES:

- Hunt v. Beaudoin, Superior Court, Judicial District of Hartford-New Britain at Hartford, No. CV94-0544174 (Sep. 3, 1997) (1997 WL 568037). “Count one directed against Samuels has been characterized by Plaintiff as interference with marital contract but is best described as sounding in the common law actions of alienation of affections and criminal conversation, both of which have been abolished in Connecticut by statute. In accordance with Baldwin v. Harmony Builders, Inc., 31 Conn. App. 242 (1993), nominal damage of One Dollar ($1) is found against Keith Samuels.”


You can visit your local law library or search the most recent statutes and public acts on the Connecticut General Assembly website.
1, 1996) (1996 WL 166471). “Based on the language noted above, the plaintiff is alleging common law causes of action for negligence, intentional infliction of emotional distress, negligent infliction of emotional distress, breach of fiduciary duty, breach of a contractual obligation to a third-party beneficiary, and breach of an implied contract. Accordingly, the court finds that Mastrocola's motion to strike Counts One through Four of the plaintiff's complaint and Schiffer's motion to strike Counts Five through Seven of the plaintiff's complaint, on the ground that the torts of alienation of affections and criminal conversation have been abolished in Connecticut, are denied.”


**DIGESTS:**

- West Key Numbers: *Husband and Wife* 340 - 354; *Marriage & Cohabitation, Torts* 1121-1129

**ENCYCLOPEDIAS:**


  - V. Right of Action
    - C. Husband or Wife or Both Against Third Party
      - 4. Criminal Conversation
        - § 260. Generally
        - § 261. Abolition of action
        - § 262. Damages
        - § 263. Distinguished from Alienation of Affections

  - XII. Right of Action by Husband or Wife or Both
    - B. Alienation of Affections and Criminal Conversation
      - §§ 220-235


**FORMS:**

  - VIII. Alienation of Affections and Criminal Conversation
    - § 117 Introductory Comments
    - § 119 Checklist – Drafting complaint, petition, or declaration in action for criminal conversation
    - §§ 127-130 Complaint, petition declaration – For criminal conversation with spouse

**TEXTS & TREATISES:**

  - § 80. Actions by husband or wife

  - § 7:6 Criminal conversation

- Damages in Tort Actions, by Marilyn Kroll Minzer, et al., 2020, Lexis Matthew Bender (also available on Lexis).
  - § 11.05[1]. Understanding Alienation of Affections and Criminal Conversation
  - § 11.05[2]. Distinctions Between Alienation of Affections and Criminal Conversation
  - § 11.05[3]. Criminal Conversation
    - [a]. Development of Cause of Action
    - [b]. Proof Required
    - [c]. Abolition of Action

  - Chapter 47 Interference with Family Relationships
    - §602. Husband and wife: alienation of affections and criminal conversation

- 7 American Law of Torts, by Stuart M. Speiser, et al., 2011, with 2020 supplement, Thomson West (also available on Westlaw).
  - Chapter 22 Interference with, and Torts to, Familial Relations
    - B. Husband and Wife
    - §22.7 Criminal conversation

**LAW REVIEWS:**


**Table 3: Criminal Conversation in Other States**

<table>
<thead>
<tr>
<th>State</th>
<th>Statutory and Case Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>New York</td>
<td>N.Y. Civil Rights Law § 80-a</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>R.I. Gen. Laws § 9-1-42</td>
</tr>
</tbody>
</table>

**Lists of States Abolishing**

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
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<tbody>
<tr>
<td>Statutory and Case Law</td>
<td><em>Damages in Tort Actions</em>, by Marilyn Kroll Minzer, et al., 2020, Lexis Matthew Bender (also available on Lexis). §11.05 [2][D].</td>
</tr>
<tr>
<td></td>
<td><em>Multi-Jurisdictional Survey of Abolition of Cause of Action For Criminal Conversation by State</em></td>
</tr>
<tr>
<td>Statutory</td>
<td>26 <em>Personal Injury Actions, Defenses and Damages</em>, by Louis R. Frumer and Melvin I. Friedman, ed., 2020, Lexis Mathew Bender (also available on Lexis). § 130A.02[5][b]</td>
</tr>
<tr>
<td>Case Law</td>
<td>26 <em>Personal Injury Actions, Defenses and Damages</em>, by Louis R. Frumer and Melvin I. Friedman, ed., 2020, Lexis Mathew Bender (also available on Lexis). § 130A.02[5][b]</td>
</tr>
</tbody>
</table>

See footnote 82

See footnote 83
Section 3: Alienation of Affection of Parent or Child

A Guide to Resources in the Law Library

SCOPE:
Bibliographic resources relating to tort actions for alienation of affections of a child or parent

COURT CASES:
- **Bouchard v. Sundberg**, 80 Conn. App. 180, 194 (2003). “Therefore, because the legislature has abolished claims for alienation of affections and our Supreme Court in **Zamstein v. Marvasti**, 240 Conn. 549, 565, 692 A.2d 781 (1997) precluded a parent from bringing an alienation claim on the basis of a loss of a child’s affections, as a matter of law, we cannot recognize the claim.”

- **Mendillo v. Board of Education of Town of East Haddam**, 246 Conn. 456, 481, 717 A.2d 1177 (1998). “More specifically related to the present case, we have held that a minor child has no cause of action for alienation of his parent’s affections by a third party; **Overruled in part by Campos v. Coleman ...**

- **Campos v. Coleman**, 319 Conn 36, 123 A3d 854 (2015). “In Mendillo v. Board of Education, 246 Conn. 456, 461, 495-96, 717 A.2d 1177 (1998), this court declined to recognize a derivative cause of action for loss of parental consortium by a minor child. The primary issue presented by this case is whether we should overrule this holding in Mendillo. We conclude that we should.” (p. 37-38)

“Upon reconsideration of the relevant considerations, including the five factors that this court found determinative in Mendillo, we now agree with the concurring and dissenting opinion in Mendillo that the public policy factors favoring recognition of a cause of action for loss of parental consortium outweigh those factors disfavoring recognition. More specifically, we agree that the unique emotional attachment between parents and children, the importance of ensuring the continuity of the critically important services that parents provide to their children, society's interest in the continued development of children as contributing members of society, and the public policies in favor of compensating innocent parties and deterring wrongdoing provide compelling reasons to recognize such a cause of action.” (p. 43)

DIGESTS:
- West Key Number: Child Custody 968; Marriage and Cohabitation 1104-1116; Parent and Child 324, 354
- Dowling’s Digest: Parent and Child §1

ENCYCLOPEDIAS:
- Jeffrey F. Ghent, Annotation, Right of Child Or Parent to Recover for Alienation of Other’s Affection, 60 ALR 3d 931 (1974).
- R.H. Hursh, Annotation, Alienation of Child’s Affection As Affecting Custody Award, 32 ALR 2d 1005 (1953).

**TEXTS & TREATISES:**

Each of our law libraries own the Connecticut treatises cited. You can contact us or visit our catalog to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- 8 Connecticut Practice: Family Law and Practice with Forms 3d, by Arnold H. Rutkin et al., 2010, with 2020 supplement, Thomson West (also available on Westlaw).
  - Chapter 43. Enforcement of custody and visitation orders. § 43.12. Tort claims

  - Chapter 47 Interference with Family Relationships
    - §604. Alienation of a parent’s or child’s affections

- Domestic Torts: Civil Lawsuits Arising from Criminal Conduct with Family Relationships, 2d, by R. Keith Perkins, 2020, Thomson West (also available on Westlaw).
  - Chapter 8 Interference with Family Relationships
    - II. Alienation of Affections of Parent or Child
      - §8:15 Child’s Right to Recover
      - §8:16 Parent’s Right to Recover

  - Chapter 7 Heart Balm Offences and Other Torts Involving Family Relations
    - §§ 7.13-7.14 Alienation of Affections of Parent or Child
    - § 7:18.50 Negligent Infliction of Emotional Distress
    - § 7:19.50 Loss of Consortium in Parent-Child Relationship


• Sharlene A. McEvoy, Heart Balm Redux: Should the Cause of Action for Alienation of Affection be Revisited as a Remedy for Economic Loss, 23 Northeast Journal of Legal Studies 50 (2010).

Table 4: Intentional Infliction of Emotional Distress

<table>
<thead>
<tr>
<th>Intentional Infliction of Emotional Distress</th>
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<tr>
<td>Officially Reported Cases</td>
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<table>
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<tr>
<th>Case</th>
<th>Description</th>
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<tr>
<td><strong>Bouchard v. Sundberg</strong>, 80 Conn. App. 180, 198-199, 834 A.2d 744 (2003).</td>
<td>&quot;It is clear from the facts alleged in the amended complaint itself that the plaintiff was attempting to recast his claim for alienation of affections as a claim for <strong>intentional infliction of emotional distress</strong>. In particular, our reading of paragraph seven of the third count persuades us to conclude that this is nothing more than a claim for alienation of affections. As the legislature has abolished that cause of action, the court properly granted the defendants' motion to strike the third and fourth counts of the amended complaint.” (Emphasis added.)</td>
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<tr>
<td><strong>Gilman v. Gilman</strong>, 46 Conn. Supp. 21, 736 A.2d 199 (1999)</td>
<td>“To prevail upon a <strong>claim for emotional distress</strong>, a plaintiff must establish the following elements: ‘(1) that the [defendant] intended to inflict emotional distress or that he knew or should have known that emotional distress was the likely result of his conduct; (2) that the conduct was extreme and outrageous; (3) that the defendant's conduct was the cause of the plaintiff's distress; and (4) that the emotional distress sustained by the plaintiff was severe.’ (Emphasis added; internal quotation marks omitted.) Id. [<strong>Petyan v. Ellis</strong>, 200 Conn. 243, 253, 510 A.2d 1337 (1986)].” (Emphasis added.) (p. 22)</td>
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"The court finds that the aforementioned factors are sufficient to submit to a jury the question of whether the plaintiff’s distress was severe.

As to the named defendant's claims as to the other elements, the court finds that there are genuine issues of material fact as to whether the named defendant intended to inflict emotional distress and whether the named defendant's conduct caused the plaintiff's emotional distress.” (p. 24)

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.
### Unreported Connecticut Cases

<table>
<thead>
<tr>
<th>Case</th>
<th>Description</th>
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<tbody>
<tr>
<td>Pantaleo v. Pantaleo, Superior Court, Judicial District of New Haven, No. CV 90-0294250 (Apr. 30, 1993) (1993 WL 148680) (1993 Conn. Super. LEXIS 1110).</td>
<td>“The issue before this court is whether an attorney who is prosecuting an action against his wife for vexatious litigation, malicious prosecution, libel, slander, and negligent and intentional infliction of emotional distress should be allowed to represent himself pro se when they continue to live as husband and wife.”</td>
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### Secondary Sources

<table>
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<tr>
<th>Source</th>
<th>Description</th>
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### Table 5: Campos v. Coleman

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<tr>
<th><strong>Campos v. Coleman</strong></th>
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<tr>
<td>319 Conn. 36, 123 A3d 854 (2015)</td>
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<table>
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<tr>
<th>Issue</th>
<th>“In <em>Mendillo v. Board of Education of Town of East Haddam</em>, 246 Conn. 456, 461, 495-96, 717 A.2d 1177 (1998), this court declined to recognize a derivative cause of action for loss of parental consortium by a minor child. The primary issue presented by this case is whether we should overrule this holding in <em>Mendillo</em>. We conclude that we should.” (p. 38)</th>
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<tbody>
<tr>
<td>“We agree with the Campos children that we should recognize a cause of action by a minor child for loss of parental consortium resulting from an injury to a parent, subject to certain limitations.” (p. 38)</td>
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<tr>
<td>Derivative cause of action for parental consortium</td>
<td>“In <em>Mendillo</em>, a majority of this court ultimately declined to recognize a minor child’s claim for loss of parental consortium resulting from a tortfeasor’s conduct. At the outset of our analysis of this issue in <em>Mendillo</em>, however, we candidly acknowledged that &quot;many of [the arguments in support of recognizing such a claim] have considerable appeal . . . .&quot; Id., 480. In particular, we recognized that a minor child who, by virtue of a tortfeasor’s conduct, has been deprived of the love and companionship of a parent ‘has suffered a genuine injury, and a serious one.’” (p. 40)</td>
</tr>
<tr>
<td>Reconsideration of <em>Mendillo</em></td>
<td>“Upon reconsideration of the relevant considerations, including the five factors that this court found determinative in <em>Mendillo</em>, we now agree with the concurring and dissenting opinion in <em>Mendillo</em> that the public policy factors favoring recognition of a cause of action for loss of parental consortium outweigh those factors disfavoring recognition. More specifically, we agree that the unique emotional attachment between parents and children, the importance of ensuring the continuity of the critically important services that parents provide to their children, society’s interest in the continued development of children as contributing members of society, and the public policies in favor of compensating innocent parties and deterring wrongdoing provide compelling reasons to recognize such a cause of action. With respect to the countervailing policy considerations on which we relied in <em>Mendillo</em>, we now...”</td>
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are persuaded for the following reasons that our concerns were overstated.” (p. 43)

<table>
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<tr>
<th><strong>Five factors considered:</strong></th>
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<tbody>
<tr>
<td>1) Arbitrary Limitations</td>
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<td>2) Undue Societal Costs</td>
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<tr>
<td>3) Benefits to Society</td>
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<td>4) Risk of Double Recovery</td>
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<tr>
<td>5) Weight of Judicial Authority</td>
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arising out of the death of a parent, thereby recognizing that ‘children have a legal entitlement to their parent's society.’ *Williams v. Hook*, 1990 OK 136, 804 P.2d 1131, 1137 (Okla. 1990) ("[i]n enacting [a wrongful death statute providing for damages for loss of parental consortium], the [l]egislature has acknowledged that children have a legal entitlement to their parent's society" [footnote omitted]). Accordingly, we no longer can conclude that the weight of authority supports our holding in Mendillo, much less that it does so overwhelmingly.” (p. 56)

Ruling “Because we no longer agree with this court's weighing of the relevant public policy factors in *Mendillo*, we now overrule our holding in that case and conclude that we should recognize a cause of action for loss of parental consortium. To decide otherwise would be inconsistent with the 'the fundamental policy purposes of the tort compensation system—compensation of innocent parties, shifting the loss to responsible parties or distributing it among appropriate entities, and deterrence of wrongful conduct . . . .' *Mendillo v. Board of Education*, supra, 246 Conn. 482.” (p. 57)

Restrictions on Claims "Consistent with the foregoing analysis, however, we impose the following restrictions on loss of parental consortium claims. First, loss of parental consortium claims must be joined with the parent's negligence claim whenever possible, and the jury must be instructed that only the child raising the claim can recover the pecuniary value of the parent's services. Cf. *Hopson v. St. Mary's Hospital*, supra, 176 Conn. 494 (loss of spousal consortium claim should be joined in one action with injured spouse's claim and tried before single trier of fact to minimize possibility of inconsistent verdicts). Second, and relatedly, because a loss of parental consortium action 'is derivative of the injured [parent's] cause of action, the consortium claim would be barred when the [action] brought by the injured [parent] has been terminated by settlement or by an adverse judgment on the merits.' *Id.* Third, a loss of parental consortium claim may be raised only by a person who was a minor on the date that the parent was injured, and damages may be awarded only for the period between the date of the parent's injury and the date that the child reaches the age of majority.” (p. 57)

Liability Limits "The defendants also contend that, if we recognize a cause of action for loss of parental consortium, we should limit liability to damages arising from injury to the parent during the parent's life and thereby preclude damages arising from the parent's death. For the reasons set forth in our decision in *Ladd v. Douglas*, 203 Conn. 187, 523 A.2d 1301 (1987), we agree with the restriction advocated by the defendants.” (p. 58)
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<td><strong>“Our reasoning in Ladd applies equally to loss of parental consortium claims. We therefore conclude that loss of parental consortium claims are limited to claims resulting from a parent's injury during the parent's life.” (p. 59)</strong></td>
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| “In addition to adopting the foregoing limitations on liability, the fact finder necessarily must consider whether the parent's injuries were insignificant or serious, and whether they were temporary or permanent. We decline, however, to impose the limitation adopted by a number of courts that damages are recoverable only when the parent has suffered a 'serious, permanent and disabling mental or physical injury' that is 'so overwhelming and severe that it causes the parent-child relationship to be destroyed or [to be] nearly destroyed.' *Keele v. St. Vincent Hosp. & Health Care*, 258 Mont. 158, 162, 852 P.2d 574 (1993); accord Villereal v. Dept. of Transportation, supra, 160 Ariz. 480. Rather, 'the severity of the injury to the parent and its actual effect [on] the parent-child relationship . . . the nature of the child's relationship with the parent, the child's emotional and physical characteristics, and whether other consortium giving relationships are available to the child'; *Reagan v. Vaughn*, supra, 804 S.W.2d 467; are factors to be considered by the fact finder on a case-by-case basis in determining the amount of damages.” (p. 60) |

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<td>“... see also <em>Marone v. Waterbury</em>, supra, 11 n.10 (presumption of retroactivity of judicial decisions is limited to 'pending cases' because application of judicial decision to case in which no appeal is pending and trial court would be required to open and modify judgment would violate principles of res judicata and collateral estoppel). We therefore conclude that our holding recognizing a cause of action for loss of parental consortium applies to the present case and to other pending cases. No action for loss of parental consortium will be allowed, however, when a parent's 'claim for . . . injuries has been concluded by judgment or settlement or the running of [the] limitations [period] prior to the [issuance] of this opinion ...” <em>Hopson v. St. Mary’s Hospital</em>, supra, 496.</td>
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