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2016 Edition

Motion for Review

A Guide to Resources in the Law Library

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See Also:

- [Motion for Articulation](#) (Research Guide)

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

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Introduction

A Guide to Resources in the Law Library

Sec. 66-7. Motion for Review of Motion for Rectification of Appeal or Articulation
(Applicable to appeals filed on or after July 1, 2013.)

Any party aggrieved by the action of the trial judge regarding rectification of the appeal or articulation under Section 66-5 may, within ten days of the issuance of notice by the appellate clerk of the decision from the trial court sought to be reviewed, file a motion for review with the appellate clerk, and the court may, upon such a motion, direct any action it deems proper. If the motion depends upon a transcript of evidence or proceedings taken by a court reporter, the procedure set forth in Section 66-6 shall be followed. Corrections or articulations which the trial court makes or orders made pursuant to this section shall be included in the appendices as indicated in Section 66-5.

(P.B. 1978-1997, Sec. 4054.) (Amended June 5, 2013, to take effect July 1, 2013; amended Sept. 16, 2015, to take effect Jan. 1, 2016.)

HISTORY—2016: Prior to 2016, the first sentence of this **section read**: “Any party aggrieved by the action of the trial judge as regards rectification of the appeal or articulation under Section 66-5 may, within ten days of the issuance of notice of the order sought to be reviewed, make a written motion for review to the court, to be filed with the appellate clerk, and the court may, upon such a motion, direct any action it **deems proper.**”

Conn. Practice Book (2016)

Section 1: Motion for Review of Rectification

A Guide to Resources in the Law Library

- SCOPE:** Bibliographic resources relating to the Connecticut Practice Book section 66-7 appellate motion for review
- SEE ALSO:**
- [Motion for Articulation](#) – Research Guide
- DEFINITIONS:**
- Motion for review: " Any party aggrieved by the action of the trial judge regarding rectification of the appeal or articulation under Section 66-5 may, within ten days of the issuance of notice by the appellate clerk of the decision from the trial court sought to be reviewed, file a motion for review with the appellate clerk, and the court may, upon such a motion, direct any action it deems proper." Conn. Practice Book § [66-7](#) (2016).
 - Motion for rectification: "A motion seeking correction in the transcript or trial court record ... shall be called a motion for rectification." Conn. Practice Book § [66-5](#) (2016).
 - "A motion for rectification...is appropriate when the record must be modified **or augmented in some fashion**. 'A motion for rectification can be used to make (1) additions to the record, (2) corrections to the record or (3) deletions from the record. The motion cannot be used to add new matters to the record that **were not presented at trial.**' (Footnotes omitted.) C. Tait & E. Prescott, Connecticut Appellate Practice and Procedure (4th Ed. 2014) § 6-2:3.3;" [State v. Walker](#), 319 Conn. 668, 680, 126 A.3d 1087 (2015).
- COURT RULES:**
- Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).
- Conn. Practice Book (2016)
 - § [60-2](#). Supervision Procedure
 - § [60-5](#). Review by the Court; Plain Error; Preservation of Claims
 - § [61-10](#). Responsibility of Appellant to Provide Adequate Record for Review
 - § [66-5](#). Motion for Rectification; Motion for Articulation
 - § [66-6](#). Motion for Review; In General
 - § [66-7](#). Motion for Review of Motion for Rectification of Appeal or Articulation
- FORMS:**
- 2 Conn. Practice Book (1997), Form 3000.15
- CASES:**
- [State v. Walker](#), 319 Conn. 668, 679, 126 A.3d 1087 (2015). "It is self-evident that Practice Book § 61-10 (b) refers only to articulations. Our rules of practice, however, recognize two mechanisms for remedying deficiencies in a record for appellate review: articulation and rectification. See Practice Book § 66-5; see also Practice Book § 66-7 (review of such motions). Admittedly, prior to the enactment of Practice Book

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.

§ 61-10 (b), our case law occasionally has failed to properly distinguish the two.”

- [Holmes v. Hartford Hospital](#), 147 Conn. App. 713, 84 A3d 885 (2014). “...insofar as the plaintiff challenges the court's October 12, 2012 order granting her revised motion for rectification, such an order can only be contested by way of a motion for review, pursuant to Practice Book § 66-5, which provides in pertinent part that “[t]he **sole** remedy of any party desiring the court having appellate jurisdiction to review the trial court's decision on [a motion for rectification]. . . shall be by motion for review under Section 66-7.” (Emphasis added.) In accordance with this section, the plaintiff filed a motion for review, which this court dismissed on February 7, 2013. Thus, the plaintiff already obtained the review to which she was entitled.”
- [Winters v. Winters](#), 140 Conn. App. 816, 60 A. 3d 351 (2013). “Included in the plaintiff's broader claim that the defendant's financial resources were calculated improperly are several specific claims. First, the plaintiff contends that the court made a clearly erroneous statement of fact concerning the defendant's weekly expenses. In accordance with this court's order, the trial court issued an articulation, which stated that the defendant had expenses amounting to \$3000 per **month**, whereas the record clearly reflects that he had expenses of \$3000 per **week**. After the plaintiff raised this issue on appeal, the defendant filed a motion for rectification, seeking to clarify the error. The trial court issued an order correcting the error. Because the error has been corrected, we need not address it further.” [Footnote 1]
- 8A Arnold H. Rutkin et al., [Connecticut Practice, Family Law and Practice with Forms](#) (3d ed. 2010).
 - Chapter 52. Post-Judgment Motions
 - § 52.3. Motion for articulation or clarification
 - Chapter 54. Appeals
 - § 54.7. Motion for articulation
- Wesley W. Horton and Kenneth J. Bartschi, [Connecticut Rules of Appellate Procedure](#) (2015-2016 ed.).
 - See Authors' Comments following § 66-7
- Colin C. Tait and Hon. Eliot D. Prescott, [Connecticut Appellate Practice and Procedure](#), (4th ed. 2014).
 - § 1-5: 3. Supreme court rules.
 - § 1-5: 3.2. Motion for review.
 - § 6-2: 5. Motion for review
 - § 6-2: 5.5 Rectification or articulation

TEXTS & TREATISES:

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Table 1: Amendment to § 61-10 and Official Commentary

Connecticut Practice Book (2016)

Sec. 61-10. Responsibility of Appellant to Provide Adequate Record for Review

(Applicable to appeals filed on or after July 1, 2013.)

(a) It is the responsibility of the appellant to provide an adequate record for review. The appellant shall determine whether the entire record is complete, correct and otherwise perfected for presentation on appeal.

(b) The failure of any party on appeal to seek articulation pursuant to Section 66-5 shall not be the sole ground upon which the court declines to review any issue or claim on appeal. If the court determines that articulation of the trial court decision is appropriate, it may, pursuant to Section 60-5, order articulation by the trial court within a specified time period. The trial court may, in its discretion, require assistance from the parties in order to provide the articulation. Such assistance may include, but is not limited to, supplemental briefs, oral argument and provision of copies of transcripts and exhibits.

(P.B. 1978-1997, Sec. 4007.) (Amended Oct. 18, 2012, to take effect Jan. 1, 2013; amended June 5, 2013, to take effect July 1, 2013; amended July 8, 2015, to take effect Jan. 1, 2016.)

COMMENTARY—January, 2013: Subsection (b) was adopted to effect a change in appellate procedure by limiting the use of the forfeiture sanction imposed when an appellant fails to seek an articulation from the trial court pursuant to Section 66-5 with regard to an issue on appeal, and the court therefore declines to review the issue for lack of an adequate record for review. In lieu of refusing to review the issue, when the court determines that articulation is appropriate, the court may now order an articulation and then address the merits of the issue after articulation is provided. The adoption of subsection (b) is not intended to preclude the court from declining to review an issue where the record is inadequate for reasons other than solely the failure to seek an articulation, such as, for example, **the failure to procure the trial court's** decision pursuant to Section 64-1 (b) or the failure to provide a transcript, exhibits or other documents necessary for appellate review.

HISTORY—2016: Prior to 2016, the second sentence of **subsection (b) read: "If the court determines that articulation of the trial court decision is appropriate, it may remand the case pursuant to Section 60-5 for articulation by the trial court within a specified time period."** In 2016, in the third sentence of subsection (b), **"After remand to the trial court for articulation," was deleted before "the trial court" and the "t" in "the" was capitalized.** Also in 2016, the January, 2013 commentary was edited to reflect these changes.

Section 2: Motion for Review of Articulation

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to the Connecticut Practice Book section 66-7 appellate motion for review

SEE ALSO: • [Motion for Articulation](#) – Research Guide

DEFINITIONS: • Motion for review: "Any party aggrieved by the action of the trial judge as regards rectification of the appeal or articulation under Section 66-5 may, within ten days of the issuance of notice of the order sought to be reviewed, make a written motion for review to the court, to be filed with the appellate clerk, and the court may, upon such a motion, direct any action it deems proper."
Conn. Practice Book § [66-7](#) (2016)

• Motion for articulation: "A motion ... seeking articulation or further articulation of the decision of the trial court shall be called ... a motion for articulation...."
Conn. Practice Book § [66-5](#) (2016)

• "It is well established that [a]n articulation is appropriate where the trial court's decision contains some ambiguity or deficiency reasonably susceptible of clarification.... [P]roper utilization of the motion for articulation serves to dispel any...ambiguity by clarifying the factual and legal basis upon which the trial court rendered its decision, thereby sharpening the issues on appeal." (Internal quotation marks omitted.)
[State v. Walker](#), 319 Conn. 668, 680, 126 A.3d 1087 (2015).

COURT RULES: • Conn. Practice Book (2016)
§ [60-2](#). Supervision Procedure
§ [60-5](#). Review by the Court; Plain Error; Preservation of Claims
§ [61-10](#). Responsibility of Appellant to Provide Adequate Record for Review
§ [66-5](#). Motion for Rectification; Motion for Articulation
§ [66-6](#). Motion for Review; In General
§ [66-7](#). Motion for Review of Motion for Rectification of Appeal or Articulation

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

RECORDS & BRIEFS: • *Connecticut Appellate Court Records and Briefs*, December 1986, [Southington v. De Mello](#), 10 Conn. App. 581, 524 A.2d 1151 (1987). "In this [further] articulation, the court ordered that the fine imposed was to be paid to the state. The defendant filed a motion for review of this articulation with this court in which he requested that the trial court be directed to order that the fine be paid to the town of Southington as originally ordered. The trial court was so directed and it amended its order accordingly." [Figure 1](#)

CASES:

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- [State v. Walker](#), 319 Conn. 668, 679, 126 A.3d 1087 (2015). "It is self-evident that Practice Book § 61-10 (b) refers only to articulations. Our rules of practice, however, recognize two mechanisms for remedying deficiencies in a record for appellate review: articulation and rectification. See Practice Book § 66-5; see also Practice Book § 66-7 (review of such motions). Admittedly, prior to the enactment of Practice Book § 61-10 (b), our case law occasionally has failed to properly distinguish the two."
- [Macellaio v. Newington Police Department](#), 145 Conn App. 426, 75 A.3d 78 (2013). "Practice Book § 66-5 provides in **relevant part that** '[t]he sole remedy of any party desiring the court having appellate jurisdiction to review the trial court's decision on the motion [for articulation] filed pursuant to this section . . . shall be by motion for review under Section 66-7 . . .' The plaintiff's pursuit of review and remedy through appeal is, therefore, inappropriate. See *Rivnak v. Rivnak*, 99 Conn. App. 326, 334-35, 913 A.2d 1096 (2007). We decline to review this claim further."
- [Lynn v. Lynn](#), 145 Conn. App. 33, 74 A.3d 506 (2013). [fn2] "Insofar as the defendant challenges the judgment on the ground that the court denied one or both of his motions for articulation, the claim is not a proper subject of this appeal. The record does not reflect that the defendant sought appellate review of the court's denial of his articulation requests in accordance with Practice Book § 66-7. The motion for review, not the appeal, is the only appropriate means by which to obtain a remedy with regard to a decision on a motion for articulation."
- [Deroy v. Estate of Baron](#), 136 Conn. App. 123, 43 A. 3d 759 (2012). "Although the dissent is correct to note that, under some circumstances, the failure of an appellant to seek an articulation requires the presumption that 'the trial court considered all of the facts before it and applied the correct **legal standard**'; *State v. Mathis*, 59 Conn. App. 416, 422 n. 3, 757 A.2d 55, cert. denied, 254 Conn. 941, 761 A.2d 764 (2000); the application of this presumption has been limited by our Supreme Court to cases in which the trial court's reasoning is unclear or ambiguous. See *Walton v. New Hartford*, 223 Conn. 155, 164, 612 A.2d 1153 (1992) (**applying presumption when** 'there is nothing in the record to indicate that the court did not consider the appropriate principles of law governing easements in Connecticut'); *Bell Food Services, Inc. v. Sherbacow*, 217 Conn. 476, 482, 586 A.2d 1157 (1991) ('[w]here an appellant has failed to avail himself of the full panoply of articulation and review procedures, **and absent some indication to the contrary**, we ordinarily read a record to support, rather than to contradict, a

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trial court's judgment' [emphasis added]). No ambiguity exists in the present case."

- [Sosin v. Sosin](#), 300 Conn. 205, 14 A. 3d 307 (2011). "The plaintiff also contends that, under Practice Book § 66-5, the exclusive procedure for challenging an articulation is a motion for review. We are not persuaded. Practice Book § 66-5 **provides in relevant part:** 'The sole remedy of any party desiring the court having appellate jurisdiction to review the trial court's decision on [a] motion [for articulation] ... or any other correction or addition ordered by the trial court during the pendency of the appeal shall be **by motion for review**' We note that, since this language was adopted in 1996; see Connecticut Law Journal, Vol. 57, No. 47 (May 21, 1996) p. 29E; the Appellate Court previously has disregarded an articulation by the trial court that was inconsistent with the trial court's original ruling, even though no party had filed a motion for review of the inconsistent articulation. See *In re Christian P.*, supra, 98 Conn. App. at 266-67 n. 4, 907 A.2d 1261. Although there was no claim in that case that a motion for review is the sole means by which an inconsistent articulation may be challenged, we see no reason why the rule that the trial court cannot alter the substance of a ruling by way of an articulation should apply only in proceedings in which a motion for review has been filed. If the issue is raised on appeal, all parties have the opportunity to address it, and the record is otherwise adequate for review, nothing would be gained by requiring a court with appellate jurisdiction to treat an articulation that is inconsistent with the trial court's original ruling as an independent and equally valid ruling in the absence of a motion for review. Indeed, in the present case, the plaintiff concedes that, on their face, the February 7, 2007 articulation and June 8, 2007 order were incorrect as a matter of law. We also note that the defendant filed a motion for review of the trial court's February 7, 2007 articulation and subsequently withdrew it, apparently because, before the Appellate Court could rule on the motion for review, the trial court granted her motion to reargue and for reconsideration of the February 7, 2007 articulation and issued its June 8, 2007 order. Under these circumstances, it would be particularly unfair and counterproductive to treat the February 7, 2007 articulation and June 8, 2007 order as independently valid rulings merely because their validity was not determined in proceedings on a motion for review."
- [Discover Bank v. Mayer](#), 127 Conn. App. 813, 17 A. 3d 80 (2011). "On March 15, 2010, the plaintiff filed a motion for articulation of the court's decision denying its request for postjudgment interest. The court denied the motion, and the plaintiff filed a motion for review of the court's denial of its motion for articulation. On June 16, 2010, this court granted review and ordered the trial court to articulate the legal and

factual basis for denying the plaintiff's request for postjudgment interest.”

**TEXTS &
TREATISES:**

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 - Chapter 52. Post-Judgment motions
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 - See Authors' Comments following § 66-7
- Colin C. Tait and Hon. Eliot D. Prescott, [Connecticut Appellate Practice and Procedure](#) (4th ed. 2014).
 - § 1-5:3. Supreme court rules.
 - § 1-5:3.2. Motion for review
 - § 6-2:5. Motion for review (Rectification or articulation)

Figure 1: Motion to Correct Articulation

No. CV 76 0128261	SUPERIOR COURT
TOWN OF SOUTHLINGTON, ET AL.	JUDICIAL DISTRICT OF HARTFORD-NEW BRITAIN
vs.	AT NEW BRITAIN, CONNECTICUT
ANTONIO DEMELLO	OCTOBER 29, 1985

MOTION TO CORRECT ARTICULATION

The Defendant in the above-entitled case requests the court to correct its Articulation dated October 24, 1985 and filed October 25, 1985 in one respect namely: to delete the sentence on Page 3 "The fine imposed is to be paid to the State of Connecticut." Replace it with: The fine imposed is to be paid to the Town of Southington, pursuant to the orders of the court made on July 18, 1985 pursuant to the transcript attached hereto. (TR pp. 37-38, 40-41).

Defendant, Antonio Demello

By
Attorney

The undersigned hereby certifies that a copy of the foregoing was mailed postage prepaid: to Clerk, Appellate Court, 231 Capitol Avenue, Drawer A, Station A, Hartford, CT 06106, and _____ this 29th day of October, 1985.

Table 2: Motion for Review – § 66-6

Motion for Review - § 66-6	
<ul style="list-style-type: none">Wesley W. Horton and Kenneth J. Bartschi, Connecticut Practice Series, Connecticut Rules of Appellate Procedure (2015-2016 ed.).	
See Authors' Comments following § 66-6:	
<ol style="list-style-type: none">Review of Extensions of TimeStays of ExecutionWaiver of FeesFindingReview Prior to AppealTimelinessWithdrawal of AppearanceBondReview on Merits of AppealDenial of Request to AppealWorkers' Compensation AppealsMiscellaneous	
<ul style="list-style-type: none">Colin C. Tait and Hon. Eliot D. Prescott, Connecticut Appellate Practice and Procedure (4th ed. 2014).	
§ 6-2:5. Motion for Review (Rectification or articulation)	
.1 In General	
.2 Extension of Time	
.3 Waiver of Fees, Costs and Security	
.4 Withdrawal of Appointed Appellate Counsel	
.5 Rectification or Articulation	
.6 Perfecting the Record; Appellate Procedures	
.7 Orders Concerning Stay of Execution	
.8 Orders Concerning Bail	
.9 Procedure	
.10 Review of Appellate Court Decision by Supreme Court	