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The ''officially released'' date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the ''officially released'' date appearing in the opinion. In no event will any such motions be accepted before the ''officially released'' date.

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BERDON, J., dissenting in part and concurring in part. I agree with part IV of the majority opinion with respect to the award of attorney's fees to the plaintiff, Paulette Montoya, in order to defend this appeal. Because those fees were specifically prohibited by the prenuptial agreement (agreement), the reversal of such an award was proper. Our agreement, however, ends at that point. For the reasons set forth herein, I would reverse the entire judgment of the trial court and remand the case for a new trial.

The trial court found that the agreement was drafted by the attorney for the defendant, Fred Montoya, and, as a result, the court construed the agreement in favor of the plaintiff. Indeed, the court underscored the importance of this construction by stating that it "*considered a significant factor in its decision* the fact that the [agreement] was drafted by the attorney for the [defendant]." (Emphasis added.) In considering that factor, the court ignored paragraph thirty-four of the agreement, which provides: "The parties acknowledge that this . . . [a]greement is a document which has been negotiated by both parties and the parties agree that *for purposes of construction neither party is deemed to be the draftsman thereof*." (Emphasis added.) The decisive factor in this case is the construction of the agreement.

The majority shrugs off that provision of construction in the agreement by pointing out that the trial court also provided other bases for its decision. Specifically, the majority relies on the trial court's finding that it " 'presume[d] that the parties understood the meaning and intended the consequences of their words.' " In other words, the majority comes to its conclusion on the basis of the plain language of the agreement and that there were no "tiebreakers."[1] There were, however, "tiebreakers." For example, as the majority concedes, "[o]nce again, we note that we have considered the court's construction, the relevant provisions and the evidence regarding the parties' intent. Although we conclude that the court's construction was proper, we note that it was not the only construction possible." It becomes very obvious that the trial court, when construing the agreement, did, in fact, consider as "a significant factor in its decision" its finding that the attorney for the defendant drafted the agreement.

The majority continuously underscores the importance of the trial court's interpretation of the agreement. By way of further example, the majority writes that "[t]he court expressly recognized the ambiguity caused by paragraphs eight and fourteen and attempted to 'give meaning and effect' to the agreement by 'resolv[ing] the apparent conflict between [them] . . . .' " Simply

put, that is a construction of an ''ambiguity in the contract language,'' which the trial court construed against the defendant, ignoring the fact that the agreement states ''that for purposes of construction neither party is deemed to be the draftsman [of the agreement].''

The majority also suggests that we can ignore the fact that the trial court conceded that it gave significant weight to the claim that the defendant drafted the agreement because the defendant failed to seek an articulation. The simple answer is that an articulation would not produce anything other than the dictionary definition of ''significant,'' to wit: ''Important, weighty, notable . . . .'' Webster's Third New International Dictionary (1966).

Furthermore, even if we surmount the foregoing and construe the agreement against the defendant, we should still reverse the court's judgment. For example, the agreement provides that only ''marital'' property shall be divided equally. Marital property is defined in the agreement as the appreciation of the parties' assets during the marriage and specifically excludes earned income received *before* or *during* the marriage.[2] Indeed, the defendant testified, without contradiction, that prior to the marriage, the parties discussed that their retirement accounts and income derived therefrom would remain separate property. The retirement accounts of the defendant are clearly earned income and, pursuant to the agreement, the trial court should not have identified them as maritial property as it did.

The judgment of the trial court should be reversed and the case remanded for a new trial. Accordingly, I respectfully concur in part and dissent in part.

[1] If there were no ''tiebreakers'' and the plain language of the agreement was to be applied, the appropriate standard of appellate review requires, as the majority concedes, that we must determine on appeal the intent of the parties from the four corners of the agreement because it is a question of law requiring plenary review. *Issler* v. *Issler*, 250 Conn. 226, 235–36, 737 A.2d 383 (1999). In other words, it cannot be held for one purpose that there were ''tiebreakers'' and for another purpose that there were no ''tiebreakers.'' Indeed, as the majority concedes throughout its opinion, the court did construe the agreement, and it obviously had in mind that the agreement was drafted by the defendant and therefore must be construed against him.

[2] The agreement provides in paragraph fourteen: ''All property received by a party as compensation for his or her personal services, skill or effort (*whether received before or during the marriage of the parties hereto*) shall be and remain the separate property of the party receiving such property. All property received by a party as gifts, bequests, trust distributions or inheritances (whether received before or during the marriage of the parties hereto) shall be and remain the separate property of the party receiving the property.'' (Emphasis added.)