ZARELLA, J., dissenting. The majority overrules a long line of prior decisions that defines the meaning of property for purposes of General Statutes § 46b-81. Because I believe that any redefinition is more appropriately the function of the legislature, I respectfully dissent.

The test for determining whether an interest, benefit or resource constitutes property for purposes of equitable distribution under § 46b-81 historically has been whether the party to the dissolution has an existing enforceable right to it. See, e.g., *Lopiano* v. *Lopiano*, 247 Conn. 356, 366–67, 752 A.2d 1000 (1998) (personal injury award); *Bornemann* v. *Bornemann*, 245 Conn. 508, 516–18, 752 A.2d 978 (1998) (stock options); *Krafick* v. *Krafick*, 234 Conn. 783, 797–98, 663 A.2d 365 (1995) (vested pension benefits). In cases in which such a right does not exist on the date of dissolution, we have refused to recognize that interest, benefit or resource as property subject to equitable distribution under § 46b-81. E.g., *Simmons* v. *Simmons*, 244 Conn. 158, 167, 708 A.2d 949 (1998) (medical degree); *Rubin* v. *Rubin*, 204 Conn. 224, 232, 527 A.2d 1184 (1987) (expected inheritance); see also *Smith* v. *Smith*, 249 Conn. 265, 274, 752 A.2d 1023 (1999) (expected interest in family trust);

Krause v. *Krause*, 174 Conn. 361, 365, 387 A.2d 548 (1978) (expected inheritance). Today, the majority abandons that test. Although the defendant does not possess an existing enforceable right to unvested pension benefits, the majority concludes that a determination must be made as to whether the *expectancy* in those benefits is so *speculative* that they cannot qualify as property available for distribution under § 46b-81. I believe that the majority's analysis and conclusion with respect to the designation of unvested pension benefits as property subject to equitable distribution under § 46b-81 are fundamentally contrary to the language of that statute and our case law.

I

As a preliminary matter, I note that whether a particular interest constitutes property under § 46b-81 raises an issue of statutory construction. ''Statutory construction . . . presents a question of law over which our review is plenary.'' (Internal quotation marks omitted.) *Gartrell* v. *Dept. of Correction*, 258 Conn. 137, 147, 779 A.2d 124 (2001). ''In construing statutes, [o]ur fundamental objective is to ascertain and give effect to the apparent intent of the legislature.'' (Internal quotation marks omitted.) *Wallerstein* v. *Stew Leonard's Dairy*, 258 Conn. 299, 302–303, 780 A.2d 916 (2001). ''[W]e attempt to determine the intent of the legislature as expressed by the common and approved usage of the words in the statute.'' (Internal quotation marks omitted.) *Peck* v. *Jacquemin*, 196 Conn. 53, 65, 491 A.2d 1043 (1985). As the majority correctly states, '' '[w]hen a statute does not define a term, we look to the common understanding expressed in the law and in dictionaries.' '' Accord *Krafick* v. *Krafick*, supra, 234 Conn. 794; see also General Statutes § 1-1 (a) (''[i]n the construction of the statutes, words and phrases shall be construed according to the commonly approved usage of the language''). In construing a statute, we also presume that ''the legislature did not intend to enact meaningless provisions. . . . Accordingly, care must be taken to effectuate all provisions of the statute.'' (Citation omitted; internal quotation marks omitted.) *Giaimo* v. *New Haven*, 257 Conn. 481, 493, 778 A.2d 33 (2001).

The majority's new test for determining what constitutes property under § 46b-81 runs afoul of these basic tenets of statutory construction. We previously have determined in a long line of cases that, in using the term ''property,'' the legislature meant to encompass only those interests that are presently existing and enforceable at the time of dissolution of the marriage. See, e.g., *Lopiano* v. *Lopiano*, supra, 247 Conn. 366; *Rubin* v. *Rubin*, supra, 204 Conn. 230–31. Thus, any change in this definition is rightfully within the province of the legislature, not the judiciary.[1]

Under the majority's new test, a party's expectancy in a presently unvested pension shall be considered

property under § 46b-81 as long as the party's *expectancy* of receiving benefits thereunder in the future is not too speculative. Such an interpretation of the term ''property'' renders subsection (c) of § 46b-81 superfluous. General Statutes § 46b-81 (c) provides in relevant part that, ''[i]n fixing the nature and value of the property, if any, to be assigned, the court . . . shall consider . . . [inter alia] *the opportunity of each* [*party*] *for future acquisition of capital assets and income*.'' (Emphasis added.) The majority's new test renders subsection (c) of § 46b-81 superfluous because, if the ''opportunity'' is too speculative, then it cannot be considered. Cf. *Thompson* v. *Thompson*, 183 Conn. 96, 100, 438 A.2d 839 (1981). If the opportunity is not too speculative, then the majority determines that it is property subject to valuation and distribution. The trial court must determine, therefore, whether a party's expectancy in future assets or income transforms those future assets or income into presently existing property available for equitable distribution at the time of dissolution instead of considering the parties' respective opportunities to acquire assets and income in the future, as the statute instructs. Thus, the majority's new test is contrary to the language of § 46b-81.

II

The majority's new test also runs afoul of the relevant case law in that it changes, sub silentio, our established meaning of the term ''property'' in § 46b-81.[2] I agree with the majority that we often have stated that ''[r]ather than narrow the plain meaning of the term property from its ordinarily comprehensive scope, in enacting § 46b-81, the legislature acted to expand the range of resources subject to the trial court's power of division, and did not intend that property should be given a narrow construction.'' (Internal quotation marks omitted.) *Lopiano* v. *Lopiano*, supra, 247 Conn. 365. We also have concluded, however, ''that our broad definition of property [is] not entirely without limitation . . . .'' Id., 365–66.

Accordingly, in *Smith* v. *Smith*, supra, 249 Conn. 272, we held that the trial court improperly retained continuing jurisdiction in anticipation of dividing the plaintiff's expected interest in a family trust, if and when the plaintiff ever obtained such an interest. Our conclusion was based, in part, ''on the fact that the marital estate divisible pursuant to § 46b-81 refers to interests already acquired, not to expected or unvested interests, or to interests that the court has not quantified.'' Id., 274. ''The purpose of a property division pursuant to a dissolution proceeding is to unscramble existing marital property in order to give each spouse his or her equitable share at the time of dissolution. . . . [A]n attempt to divide *expected* property is outside the scope of the statutes because it does not divide the property that the [parties] possessed during their

marriage.'' (Citations omitted; emphasis in original.) Id., 275.

Similarly, in *Simmons* v. *Simmons*, supra, 244 Conn. 158, we concluded that a medical degree is not property subject to equitable distribution under § 46b-81 because it ''entails no presently existing, enforceable right to receive any particular income in the future. It represents nothing more than an *opportunity* for the degree holder, through his or her own efforts, in the absence of any contingency that might limit or frustrate those efforts, to earn income in the future.'' (Emphasis in original.) Id., 167.

Conversely, we held in *Krafick* v. *Krafick*, supra, 234 Conn. 783, that vested pension benefits come within the meaning of the term ''property'' in § 46b-81 ''as the interest in receiving such benefits is contractual in nature''; id., 795; and because they ''represent an employee's *right* to receive payment in the future, subject ordinarily to his or her living until the age of retirement.'' (Emphasis in original.) Id., 797. In so concluding, we noted that the classification of ''vested pension benefits as property does not run afoul of the limitation, recognized in the context of inheritance and trust interests, that § 46b-81 applies only to presently existing property interests, not mere expectancies. . . . [T]he defining characteristic of an expectancy is that its holder has no *enforceable right* to his beneficence. . . . The fact that a contractual right is contingent upon future events does not degrade that right to an expectancy.'' (Citations omitted; emphasis in original; internal quotation marks omitted.) Id.

Likewise, in *Bornemann* v. *Bornemann*, supra, 245 Conn. 517–18, we concluded that vested yet unmatured stock options[3] were property under § 46b-81 because they created an enforceable right in the holder. ''Generally speaking, much like the right of a pension beneficiary to collect a pension once the particular conditions under which the pension was offered have been satisfied . . . the holder of a stock option possesses the right to accept, under certain conditions and within a prescribed time period, the employer's offer to sell its stock at a predetermined price. . . . Should the employer attempt to withdraw the offer, the employee has a [cause of] action in contract against the employer.'' (Citation omitted; internal quotation marks omitted.) Id., 517.

The majority misconstrues the reasoning underlying our relevant case law.[4] As the foregoing cases clearly indicate, only those interests in which a party has a presently existing, enforceable right may be classified as property subject to equitable distribution pursuant to § 46b-81. Therefore, I respectfully disagree with the majority's analysis of the cases on which its holding is premised.[5]

III

The majority correctly recognizes the three part analysis that a trial court must employ when effecting the distribution of property upon dissolution. First, the trial court determines whether the interest, benefit or resource is property subject to equitable distribution. If the trial court determines that an interest is property subject to equitable distribution, the trial court then determines whether the interest reasonably could be valued and, if so, what is the most appropriate method of valuation. Finally, the trial court considers how best to distribute the property equitably. See, e.g., *Lopiano* v. *Lopiano*, supra, 247 Conn. 364. Heretofore, if the interest was property under § 46b-81, but its value was speculative, it was not subject to distribution. *Eslami* v. *Eslami*, 218 Conn. 801, 807, 591 A.2d 411 (1991). If the interest was not a presently existing interest, then it was not property and could not be distributed. E.g., *Rubin* v. *Rubin*, supra, 204 Conn. 232.

In the present case, the majority collapses the classification stage of the analysis into the valuation stage, concluding that, if an expectation can be valued, then it is not speculative but, rather, is transformed into property subject to equitable distribution. Notwithstanding the majority's conclusion, the speculative test is relevant to the second stage of the analysis, not to the first as the majority would have us believe. The case law informs us that, if an interest is merely an expectancy, it is not property subject to equitable distribution pursuant to § 46b-81. E.g., id. Thus, I disagree with the majority's conclusion that our case law "reflect[s] a common theme, namely, that in determining whether a certain interest is property subject to equitable distribution under § 46b-81, we look to whether a party's expectation of a benefit attached to that interest [is] too speculative to constitute divisible marital property."[6]

The majority's new test also muddles the already murky waters through which the trial court must wade in distributing marital assets pursuant to § 46b-81. This is no more apparent than in the context of trust and inheritance interests.[7]

Pursuant to our established test for determining property, this court previously has rejected "the position that . . . a contingent award of *expected* property . . . can be upheld as a property transfer authorized by § 46b-81." (Emphasis in original.) *Rubin* v. *Rubin*, supra, 204 Conn. 230; see also *Smith* v. *Smith*, supra, 249 Conn. 274–75. In *Rubin*, the trial court ordered "the plaintiff husband to pay to the defendant wife a share of the assets that he may acquire under his mother's will and on termination of a revocable inter vivos trust created by her."[8] *Rubin* v. *Rubin*, supra, 225. In *Rubin*, we reiterated that "[t]he terms 'estate' and 'property,' as

used in the statute, connote presently existing interests. 'Property' entails 'interests that a person has already acquired in specific benefits.' " Id., 230–31. We then concluded that simply because "the plaintiff [was required to] pay the defendant a one third share of the assets [that] he may acquire under his mother's will and on termination of her inter vivos trust only if and when this acquisition materialize[d] [did] not transmute such expected assets into 'property' of the plaintiff." Id., 232. In *Eslami* v. *Eslami*, supra, 218 Conn. 801, we acknowledged that the plaintiff wife's vested interest in her father's estate[9] was property subject to equitable distribution under § 46b-81; id., 806; but nonetheless concluded that her financial interest was not subject to equitable distribution because an unresolved will contest prevented its value from being ascertained with certainty. Id.

The distinction between those two cases lies in how we classified the parties' respective interests according to whether the parties had held presently enforceable interests in them. In *Rubin*, the husband had a mere expectancy in the trust and his mother's estate because they were not vested. See *Rubin* v. *Rubin*, supra, 204 Conn. 230–32. In *Eslami*, the wife possessed an enforceable right in her father's estate because it was vested. *Eslami* v. *Eslami*, supra, 218 Conn. 806. The majority's test negates this distinction. Under the new test for determining property subject to equitable distribution pursuant to § 46b-81, not only will a vested inheritance be considered property, but so will those expected inheritances that are not so speculative as to preclude their valuation.[10]

Had the court in *Rubin* analyzed the plaintiff's expected inheritance and trust interests according to the majority's test, we would have had to conclude that such interests were property available for distribution pursuant to § 46b-81. First, the evidence in *Rubin* demonstrated not only that the sixty-two year old plaintiff was a residuary beneficiary of a revocable inter vivos trust established by his mother, but, also, that he had been receiving funds from that trust during the marriage. *Rubin* v. *Rubin*, supra, 204 Conn. 227. Surely, this is strong evidence tending to support the certainty of the plaintiff's expectancy in the trust interest. Additionally, the uncertainty surrounding the vesting of the plaintiff's residuary interests in both the trust and his mother's estate could not defeat their classification as property under the majority's test because such uncertainties would be addressed in the valuation and distribution stages. As the foregoing cases demonstrate, application of the majority's new test for determining property always will hinge on the degree of speculation associated with the expectancy. Such a test is unworkable and contrary to our established case law.

IV

The majority's inverted logic leads to the necessary conclusion in part II of its opinion concerning the distribution of the unvested pension. The majority correctly rejects the reserved jurisdiction method of distribution. The majority's conclusion that unvested pensions are property, however, compels the majority to accept both the present value method—also known as the immediate offset method—and the present division method of deferred distribution as appropriate methods for distributing unvested pensions.[11] The majority recognizes the major weakness of the immediate offset method, namely, that the employee spouse exclusively shoulders the risk that the unvested pension may never vest and may never become an enforceable interest while the nonemployee spouse receives existing property at the time of dissolution. See B. Turner, Equitable Distribution of Property (2d Ed. 1994) § 6.09, p. 331 (''Relatively few persons die before receiving their vested pension benefits, but it is not at all uncommon for employees to move from one employer to another. Thus, there is a very real risk that the holder of an unvested pension will not actually receive any benefits.''). The majority nonetheless concludes that the immediate offset method is acceptable because it severs the parties' economic ties and avoids postdissolution court supervision. Had the majority applied the test that we previously had employed in determining what constitutes property under § 46b-81, that is, whether the interest is a presently existing interest, such potentially inequitable results would not occur. They could not occur because only interests that qualify as ''property'' may be distributed at the time of dissolution. The potential results of the immediate offset method are contrary to the equitable nature of Connecticut's property distribution scheme.

Additionally, inasmuch as the majority concludes that the unvested pension benefits are property subject to equitable distribution, it allows for ''deferred distribution, delaying distribution . . . .'' Under the deferred distribution method, the trial court orders a contingent award of expected property,[12] a result that we previously had rejected in *Rubin*. See *Rubin* v. *Rubin*, supra, 204 Conn. 232. Although *Rubin* involved an expected inheritance, our conclusion in that case is no less applicable in the context of unvested pensions.[13] See *Simmons* v. *Simmons*, supra, 244 Conn. 167 (''it is not the pension's character as deferred compensation that makes it property subject to equitable distribution pursuant to § 46b-81, but the presently existing, enforceable contract right to receive the benefits that does so'').

V

In concluding that unvested pension benefits are not property subject to equitable distribution under § 46b-81, I do not mean to suggest that they are irrelevant to

a fair financial arrangement between the parties. Rather, as subsection (c) of § 46b-81 provides, in fashioning an equitable division of property, the trial court shall consider the parties' respective opportunities for acquiring capital assets and income in the future. General Statutes § 46b-81 (c). In *Thompson* v. *Thompson*, supra, 183 Conn. 100–101, we rejected the plaintiff's argument that the trial court improperly *considered* unaccrued[14] pension benefits in making financial and property distribution orders because those benefits were too uncertain and speculative for valuation purposes. We reasoned that ''[p]ension benefits represent a form of deferred compensation for services rendered. . . . As such they are conceptually similar to wages. General Statutes §§ 46b-81 (c) and 46b-82 both require the trial court to consider, inter alia, the occupation and the amount and sources of income of each of the parties when ordering property assignments and alimony. Just as current and future wages are properly taken into account under these statutes, so may unaccrued pension benefits, a source of future income, be considered.'' (Citation omitted.) *Thompson* v. *Thompson*, supra, 100.

Additionally, the trial court could consider the pension benefits, upon vesting and in payment status, as a changed circumstance warranting a modification in alimony awarded to the nonemployee, former spouse under General Statutes § 46b-86.[15] See *Smith* v. *Smith*, supra, 249 Conn. 273 (§ 46b-86 confers authority on trial courts to modify final orders of periodic alimony). As this court acknowledged in *Eslami*, ''[t]he plaintiff's interest in her father's estate . . . [was] not wholly irrelevant to a fair financial arrangement between the parties. When periodic alimony has been ordered, a substantial change in the financial need or ability of a party provides a basis for modification of such an award, unless such a change was contemplated at the time of . . . dissolution. General Statutes § 46b-86. In *Rubin* we concluded that the increase in the husband's financial ability that would occur upon his mother's death would constitute a change of circumstances ordinarily warranting an increase in the weekly alimony payment . . . . *Rubin* v. *Rubin*, supra, [204 Conn.] 236.'' (Internal quotation marks omitted.) *Eslami* v. *Eslami*, supra, 218 Conn. 807. Similarly, in the present case, when the value of the pension has been established and is in payment status, ''there would be a basis for adjusting the alimony order, unless other circumstances relevant to financial ability or need may have intervened. Any prediction of what justice between the parties may require when a future event may occur is likely to be less well considered than a determination made after the event, when speculation as to the circumstances involved has been supplanted by actuality.'' (Internal quotation marks omitted.) Id., 807–808.

In conclusion, although unvested pension benefits

should not be classified as property subject to equitable distribution, § 46b-81 (c) requires the trial court to *consider* them in fashioning property distribution orders at the time of dissolution. When a pension benefit becomes vested and is in payment status, the trial court may treat this situation as a changed circumstance warranting a modification of an award of periodic alimony under § 46b-86. This approach remains faithful to the case law, the language of the relevant statutes and the legislative intent to expand the resources available for equitable distribution.

The majority fundamentally changes the meaning of the term ''property'' in § 46b-81. Because I believe that the majority's new approach to classifying property subject to equitable distribution is contrary to the language and intent of § 46b-81 and case law governing the classification of property under § 46b-81, I respectfully dissent.

[1] Through the legislative process, a number of jurisdictions have expanded the meaning of ''property'' to include unvested pension rights. Fla. Stat. ch. 61.076 (1) (2001); Kan. Stat. Ann. § 23-201 (b) (Sup. 2000) (military retirement benefits); N.H. Rev. Stat. Ann. § 458:16-a I (Sup. 2000); Or. Rev. Stat. § 107.105 (1) (f) (Sup. 1998). At least one jurisdiction, however, has proscribed it by statute. Ala. Code § 30-2-51 (b) (1998).

[2] The majority claims that it has not overruled prior cases, but, ''instead, [has] built upon their foundation'' in deciding that unvested pension benefits are property subject to equitable distribution pursuant to § 46b-81. In my opinion, the cornerstone of that foundation has been the principle that only presently enforceable interests qualify as property subject to equitable distribution under § 46b-81.

[3] In *Bornemann* v. *Bornemann*, supra, 245 Conn. 514, the court used the term ''unvested'' to characterize the stock options at issue in that case. In my view, however, those stock options were vested inasmuch as the defendant had an enforceable contractual right to them at the time of dissolution. Id., 518.

[4] Although the majority states that its ''conclusion that the defendant's unvested pension benefits are not a mere expectancy is consistent with the nature of retirement benefits . . . and the fact that employers and employees treat retirement benefits as property in the workplace,'' we previously have rejected that rationale as a justification for classifying an expectancy as property under § 46b-81. In *Simmons* v. *Simmons*, supra, 244 Conn. 158, the defendant argued ''that a medical degree is substantially similar to pension benefits because both are a means to obtain deferred compensation. In both circumstances . . . the marital unit forgoes current income and invests those resources to acquire the benefit of future income.'' Id., 166. In concluding that a medical degree is a mere expectancy, we stated that ''it is not the pension's character as deferred compensation that makes it property subject to equitable distribution pursuant to § 46b-81, but the presently existing, enforceable contract right to receive the benefits that does so.'' Id., 167.

[5] In footnote 8 of its opinion, the majority states that its ''conclusion is also consistent with the majority of other appellate courts that have addressed this issue.'' This statement is misleading upon a closer review of the cases to which the majority cites. For example, in *Jackson* v. *Jackson*, 656 So. 2d 875 (Ala. Civ. App. 1995), the Alabama Court of Civil Appeals extended the rule in *Ex parte Vaughn*, 634 So. 2d 533 (Ala. 1993), in which the Alabama Supreme Court held that vested military retirement benefits were property subject to equitable division, to cover unvested military retirement benefits. *Jackson* v. *Jackson*, supra, 877. In *Ex parte Vaughn*, however, the Alabama Supreme Court held that ''disposable military retirement benefits, as defined by 10 U.S.C. § 1408 (a) (4) [Sup. II 1990], accumulated during the course of the marriage constitute marital property and, therefore, are subject to equitable division . . . .'' *Ex parte Vaughn*, supra, 536. Title 10 of the United States Code, § 1408 (a) (4) defines ''disposable retired pay'' as ''the total monthly retired pay to which a member is *entitled* . . . .'' (Emphasis added; internal quotation marks omitted.) *Ex parte Vaughn*,

supra, 535, quoting 10 U.S.C. § 1408 (a) (4) (Sup. II 1990). The decision in *Jackson*, which was released on March 3, 1995, was not appealed to the Alabama Supreme Court. Later that year, the Alabama legislature amended Ala. Code § 30-2-51 to authorize a judge to include in the estate of either spouse only those current or future retirement benefits in which the spouse has a *vested* interest. See 1995 Ala. Acts 95-549, § 1 (effective January 1, 1996). Accordingly, the statute now provides in relevant part: ''The judge, at his or her discretion, may include in the estate of either spouse the present value of any future or current retirement benefits, that a spouse may have a vested interest in or may be receiving on the date the action for divorce is filed . . . .'' Ala. Code § 30-2-51 (b) (1998). The West Virginia case to which the majority cites involves vested as opposed to unvested benefits. See *Butcher* v. *Butcher*, 178 W. Va. 33, 40 n.15, 357 S.E.2d 226 (1987). Although the New York Court of Appeals has determined that unvested pension benefits are property for purposes of equitable distribution; *Burns* v. *Burns*, 84 N.Y.2d 369, 376, 643 N.E.2d 80, 618 N.Y.S.2d 761 (1994); it also has determined that medical degrees are property; *O'Brien* v. *O'Brien*, 66 N.Y.2d 576, 580–81, 584, 489 N.E.2d 712, 498 N.Y.S.2d 743 (1985); which is contrary to our decision in *Simmons* v. *Simmons*, supra, 244 Conn. 158. The value of the remaining cases is diminished further by the variety of theories posited and the different distribution methods employed in those cases. Some states permit immediate distribution, while others prohibit it, and, like the majority, still others conclude that both immediate and deferred distribution methods are available. See A. Rutkin & K. Hogan, 7 Connecticut Practice Series: Family Law and Practice (1999) § 26.1, p. 470 (''[t]he . . . differences between Connecticut's equitable distribution provision and the statutes in effect in many other jurisdictions mean that some caution must be used in applying to Connecticut situations cases which were decided in other jurisdictions or works discussing property distributions generally'').

[6] The majority incorrectly paraphrases the language from the cases to which it cites. For example, in *Simmons* v. *Simmons*, supra, 244 Conn. 158, the court uses the word ''speculative'' only in the context of the issue of valuation; id., 183 n.14; and not the issue of whether the resource, a medical degree, was property subject to equitable distribution. In *Simmons*, the court noted that, in *Drapek* v. *Drapek*, 399 Mass. 240, 503 N.E.2d 946 (1987), a Massachusetts case addressing whether a medical degree is property subject to equitable distribution; id., 243–44; the Massachusetts ''court initially concluded that the degree was not property subject to equitable distribution because it represent[ed] future earned income, the value of which [was] too *speculative* and subject to too many variables.'' (Emphasis added.) *Simmons* v. *Simmons*, supra, 183 n.14, citing *Drapek* v. *Drapek*, supra, 244. *Simmons* stands for the proposition that ''[w]hether the interest of a party to a dissolution is subject to distribution pursuant to § 46b-81, depends on whether that interest is: (1) a presently existing property interest or (2) a mere expectancy. . . . [Section] 46b-81 applies only to presently existing property interests, not mere expectancies.'' (Citation omitted; internal quotation marks omitted.) *Simmons* v. *Simmons*, supra, 165.

[7] I reject the majority's contention that the uncertainties surrounding the vesting of pension benefits are not in the same speculative category as those surrounding a potential inheritance. As with ''the unquantifiable aspects of human nature which often cause wills to be revised''; *Thompson* v. *Thompson*, supra, 183 Conn. 101; the vagaries of the employment market affect the vesting of a party's pension benefits, especially in fiscally difficult times when public and private employers tighten their belts and reduce their respective workforces. In each situation, the holder of the expectancy is without control of the ''unquantifiable aspects''; id.; surrounding vesting. The vesting of pension benefits also is affected in fiscally flush times when employees change jobs to seek out better opportunities.

[8] The plaintiff in *Rubin* was the residuary beneficiary of a revocable inter vivos trust consisting of $225,000 in securities, from which he periodically had received funds during the marriage, and was one of ''two equal residuary legatees under [a] will executed by his mother, whose assets at the time of . . . dissolution were approximately $725,000.'' *Rubin* v. *Rubin*, supra, 204 Conn. 227.

[9] In *Eslami*, the plaintiff's father had died approximately two and one-half years before the parties' dissolution proceedings. *Eslami* v. *Eslami*, supra, 218 Conn. 806.

[10] Although the majority informs us of this new test, it does not explain the degree of certainty that an expectancy must possess in order to qualify as property subject to equitable distribution. In other words, the majority

does not provide the trial courts of this state with any real guidance in deciding how speculative is too speculative for purposes of determining whether an expectancy is property subject to equitable distribution under § 46b-81.

[11] The majority does not reject any other method of distribution that might be available other than the reserved jurisdiction method.

[12] In the present case, the trial court issued the following contingent award: ''[U]ntil such time, if any, as [the] defendant's right to receive retirement benefits from the city of Meriden [city] vests, [the] plaintiff shall be the beneficiary of, and be entitled to receive, the refundable contributions, with accrued interest or yield thereon, if any, made by or on behalf of [the] defendant if such contributions, etc., shall ever become payable by the city . . . . And there is hereby entered a Qualified Domestic Relations Order assigning to [the] plaintiff one half of the disability and/or retirement benefits earned by [the defendant] from his employment by the city . . . for his labors for said city through the date of this decree. (The court is aware that [the] defendant's right to receive retirement benefits has not yet vested.)''

[13] See footnote 7 of this opinion.

[14] I note that the terms ''unaccrued'' and ''vested'' are not synonymous. As the court in *Thompson* explained, ''unaccrued pension benefits [are] those benefits which will accrue in the future if the employee continues to work for the employer. . . . Vested benefits on the other hand, refer to those accrued benefits to which the employee has a nonforfeitable right to receive at retirement age whether or not he is in the service of the employer at that time.'' (Citations omitted.) *Thompson* v. *Thompson*, supra, 183 Conn. 100 n.3.

[15] General Statutes § 46b-86 (a) provides in relevant part: ''Unless and to the extent that the decree precludes modification, any final order for the periodic payment of permanent alimony . . . may at any time thereafter be continued, set aside, altered or modified by [the] court upon a showing of a substantial change in the circumstances of either party . . . .''