INVESTMENT ASSOCIATES *v.* SUMMIT ASSOCIATES, INC., ET AL.
(SC 18910)

Rogers, C. J., and Norcott, Palmer, Zarella, Eveleigh, McDonald and Espinosa, Js.

Argued March 18—officially released August 27, 2013

Proloy K. Das, with whom was *Bernard F. Gaffney*, for the appellant (defendant Joseph D. Lancia).

Pasquale Young, for the appellee (plaintiff).

Opinion

McDONALD, J. In 2009, our legislature created a mechanism whereby a judgment creditor can "revive" an unsatisfied judgment for money damages at any time before the period for enforcement expires; Public Acts 2009, No. 09-215, § 1 (c) (P.A. 09-215); see General Statutes § 52-598 (c);[1] the purpose of which was to aid in the execution of such judgments in foreign jurisdictions. The present case requires us to consider the nature of proceedings under § 52-598 (c) regarding questions of subject matter jurisdiction and personal jurisdiction over a nonresident defendant with respect to a judgment rendered before the effective date of § 52-598 (c).

Upon our grant of certification, the defendant Joseph D. Lancia[2] appeals from the judgment of the Appellate Court affirming the trial court's 2010 judgment reviving a 1994 judgment in favor of the plaintiff, Investment Associates, pursuant to § 52-598 (c). *Investment Associates* v. *Summit Associates, Inc.*, 132 Conn. App. 192, 31 A.3d 820 (2011) The defendant contends that the Appellate Court improperly determined that: (1) his challenge to the trial court's subject matter jurisdiction on the grounds that the plaintiff was neither a legal entity nor an entity in existence was barred as an improper collateral attack on the original judgment; and (2) § 52-598 (c) applies retroactively and provides a proper basis for the trial court's jurisdiction over the defendant for purposes of adjudicating the motion to revive. We affirm the judgment of the Appellate Court.

The following facts are undisputed. In 1991, the plaintiff commenced an action to recover on a promissory note executed by Summit Associates, Inc. (Summit), and guaranteed by Ned B. Wilson and the defendant. The complaint identified the plaintiff as having been at all relevant times a joint venture, equally owned by R. S. S. McKosky and Alton W. Seavey, Jr., and having its usual place of business in North Branford. The complaint further identified the plaintiff as the holder and owner of the note and as the assignee of a related security agreement. In 1992, while the action was pending, the defendant moved from Connecticut to South Carolina. The defendant continued to be represented by counsel at proceedings on the action, at which he asserted various defenses to the merits but no jurisdictional challenges. In 1994, the trial court, *Hon. Frank S. Meadow*, judge trial referee, rendered judgment in the plaintiff's favor in the amount of $272,530.03 plus costs. Under Connecticut law, the plaintiff had twenty years from the date judgment entered to obtain an execution on the judgment. See General Statutes § 52-598 (a). Under South Carolina law, the plaintiff had ten years from that date to obtain an execution in that state's courts. See S.C. Code Ann. § 15-3-600 (2005); *Abba Equipment, Inc.* v. *Thomason*, 335 S.C. 477, 481,

517 S.E.2d 235 (App. 1999). The plaintiff did not seek an execution of the Connecticut judgment in South Carolina before that state's limitations period expired.[3]

In 2007, the plaintiff commenced a separate action in Connecticut solely against the defendant to enforce the judgment. The defendant filed a motion to dismiss the action for lack of personal jurisdiction, which the trial court, *A. Robinson, J.*, granted. *Investment Associates* v. *Lancia*, Superior Court, judicial district of New Haven, Docket No. CV-07-4028746-S (May 5, 2008) (45 Conn. L. Rptr. 437). The court recognized that Connecticut would have a valid interest in enforcing the judgment. Id., 440. Nonetheless, it concluded that the defendant's sole contact with Connecticut since leaving the state in 1992—the 1994 judgment—was insufficient to satisfy the requirements of either the long arm statute; General Statutes § 52-59b; or due process to allow the court to exercise personal jurisdiction over him.[4] *Investment Associates* v. *Lancia*, supra, 439–40.

In June, 2009, the legislature enacted P.A. 09-215, codified as § 52-598, and made effective October 1, 2009. Pursuant to the newly enacted subsection (c) of § 52-598, the plaintiff filed a motion on October 6, 2009, to revive the 1994 judgment, alleging that the judgment remained unsatisfied and that the period for executing the judgment had not yet expired. In response, the defendant moved to dismiss the motion, claiming that the court lacked personal jurisdiction over him in light of: (1) his South Carolina residency and lack of contact with Connecticut since 1992; (2) the trial court's ruling dismissing the plaintiff's 2007 action for lack of personal jurisdiction as res judicata; (3) the absence of any basis in § 52-598 (c) or postjudgment procedure statutes conferring personal jurisdiction; and (4) his lack of minimum contacts with the state to render the exercise of such jurisdiction consonant with due process. The court issued a decision in 2010 concurrently denying the motion to dismiss and granting the motion to revive. The defendant thereafter moved to reargue the motion to revive, claiming that he had not been given an opportunity to assert substantive challenges to the merits of the motion because he could not have advanced such claims without conceding personal jurisdiction. The trial court denied that request, and the defendant appealed from the revived judgment to the Appellate Court.

In that appeal, the defendant renewed claims previously made to the trial court, and, for the first time, challenged the plaintiff's standing to invoke the court's jurisdiction, claiming that the plaintiff, as a joint venture, was neither a legal entity nor in existence at the time it commenced the action. *Investment Associates* v. *Summit Associates, Inc.*, supra, 132 Conn. App. 195–96. Following oral argument, the Appellate Court sua sponte raised the issue of whether the defendant should

be precluded from challenging the trial court's subject matter jurisdiction. Id., 197. After considering supplemental briefs on that question, the Appellate Court concluded that the defendant was precluded from raising these claims. Id., 197, 201–202. The court reasoned that a motion to revive is not the beginning of a new action, in which the defendant undoubtedly would be able to challenge the court's jurisdiction even for the first time on appeal, but, rather, a continuation of the original action. Id., 199–200. Accordingly, the court concluded that the timeliness of the defendant's challenge must be viewed in light of the original judgment. Id., 200. Considering the fact that the defendant had failed to avail himself of the opportunity to challenge the court's jurisdiction in the original proceedings, the Appellate Court concluded that the interest in finality of judgments outweighed the concerns that the defendant had raised regarding the validity of the judgment. Id., 201–202. The court further concluded that, because the practical effect of the defendant's challenge to the motion to revive was an attack on the 1994 judgment, the defendant could not challenge the trial court's subject matter jurisdiction over either the original judgment or the motion to revive. Id.

In addition, the Appellate Court rejected the defendant's challenge to the exercise of personal jurisdiction over him and his claim that the trial court's decision on the motion to revive had been made without affording him an opportunity to challenge that motion on the merits. Id., 202–208. With respect to the former, the Appellate Court concluded that the trial court had jurisdiction over the defendant when granting the motion to revive because: § 52-598 (c) is a procedural statute that may be applied retroactively; a motion filed pursuant to that subsection is not a new action that would require the trial court to obtain personal jurisdiction over the defendant independent of the jurisdiction present at judgment; and the legislature had conferred continuing jurisdiction on the court over parties to post-judgment procedures, which included § 52-598 (c). Id., 203–205. Accordingly, the Appellate Court affirmed the revived judgment. Id., 208.

Thereafter, this court granted the defendant's petition for certification to appeal, limited to the following issues: (1) "Did the Appellate Court properly determine that the trial court had subject matter jurisdiction over the plaintiff's 2009 motion to revive?"; (2) "Did the Appellate Court properly determine that . . . § 52-598 (c) is procedural in nature, and, therefore, may be applied retroactively?"; and (3) "Did the Appellate Court properly determine that the trial court had personal jurisdiction over the defendant for purposes of adjudicating the plaintiff's 2009 motion to revive?"[5] *Investment Associates* v. *Summit Associates, Inc.*, 303 Conn. 921, 922, 34 A.3d 396 (2012). Each of these issues raises questions of law over which this court exercises

plenary review. *Bateson* v. *Weddle*, 306 Conn. 1, 7, 48 A.3d 652 (2012) (standing); *Walsh* v. *Jodoin*, 283 Conn. 187, 195, 925 A.2d 1086 (2007) (retroactivity of statute and statutory construction); *New London County Mutual Ins. Co.* v. *Nantes*, 303 Conn. 737, 745, 36 A.3d 224 (2012) (personal jurisdiction). Upon such review, we answer the certified questions in the affirmative.

I

We begin with a brief explanation of the nature and effect of § 52-598 (c), which is central to our resolution of the issues in this appeal. Under the law existing at the time the original judgment was rendered in the present case and as it currently exists, a party obtaining a judgment for money damages in Connecticut has two means to enforce that judgment; it may seek an execution of the judgment or it may initiate an independent action. See General Statutes § 52-598 (a); see also 30 Am. Jur. 2d 84, Executions and Enforcement of Judgments § 47 (2005) (distinguishing between execution and action on judgment). With limited exceptions not applicable to the present case, under § 52-598 (a), a party has twenty years to execute the judgment and twenty-five years to enforce it through a separate action.

Public Act 09-215 added subsection (c) to § 52-598, which provides in relevant part: "With respect to a judgment for money damages rendered in any court of this state . . . a motion to revive such judgment may be filed with the Superior Court prior to the expiration of any applicable period of time to enforce such judgment as set forth in this section. The court may grant the motion to revive the judgment if the court finds that the applicable time period to enforce the judgment under this section has not expired. No order to revive a judgment may extend the time period to enforce a judgment beyond the applicable time period set forth in this section."

On its face and viewed in isolation, § 52-598 (c) appears to have no practical effect. Although an order granting a motion under this provision ostensibly "revive[s]" the judgment, the judgment must be presently enforceable in order to be revived and revival has no effect on the time limit to enforce the judgment.[6] Thus, for example, in the present case, under the original 1994 judgment, the plaintiff had until 2014 to execute the judgment and until 2019 to initiate an independent action to enforce the judgment. Under the 2010 revived judgment, the plaintiff is subject to those same limits.

The intended effect of the revived judgment becomes evident upon examination of P.A. 09-215 and its legislative history. Public Act 09-215 enacted House Bill No. 6248, 2009 Sess., entitled "An Act concerning the Time Limit for Enforcing a State Court Judgment in a Foreign Jurisdiction." The explanation of the bill on the floor

of the House of Representatives makes clear that the bill's purpose was to ensure that satisfaction of a valid Connecticut judgment was not avoided simply because the judgment debtor (or the debtor's assets) resided in a foreign jurisdiction having a shorter period for enforcement. See 52 H.R. Proc., Pt. 20, 2009 Sess., pp. 6387–88, remarks of Representative Gerald M. Fox III;[7] see also Conn. Joint Standing Committee Hearings, Judiciary, Pt. 20, 2009 Sess., pp. 6582–83, remarks of Representative Vincent J. Candelora; Conn. Joint Standing Committee Hearings, Judiciary, Pt. 21, 2009 Sess., pp. 6722–23, written testimony of Representative Candelora (citing example of judgment rendered in Connecticut eleven years prior that could not be enforced under South Carolina's ten year period for enforcing judgment as problem intended to be remedied by bill). Thus, the manifest purpose of revival under § 52-598 (c) is to create a new judgment for the purpose of meeting a foreign jurisdiction's time limits for enforcement.

As one court explained: "The object of the proceeding is not to obtain a new judgment for a debt, but to enable the judgment creditor to enforce by execution the judgment he has already obtained. . . . The order to revive does no more than reinvest the plaintiff with the right to have execution of his original judgment. His cause of action against the defendant is the original judgment, not the order to revive. The order merely confers upon the plaintiff the statutory right to issue executions on the judgment after it had become dormant for that purpose. The common-law right to sue on the judgment is not enlarged or made to accrue anew by force of the order. . . . It is plain that a new lease of life is not given to that cause of action by merely affording to the plaintiff the opportunity of resorting to the cumulative and independent remedy for the enforcement of the judgment by means of executions upon it." (Citation omitted; internal quotation marks omitted.) *Second National Bank* v. *Allgood*, 234 Ala. 654, 656, 176 So. 363 (1937). Accordingly, a proceeding to revive a judgment generally is viewed as a continuation of the original action, not a new action. See, e.g., *Bank of Edwardsville* v. *Raffaelle*, 381 Ill. 486, 489, 45 N.E.2d 651 (1942); *Bahan* v. *Youngstown Sheet & Tube Co.*, 191 So. 2d 668, 670 (La. App. 1966); *State ex rel. Silverman* v. *Kirkwood*, 361 Mo. 1194, 1200, 239 S.W.2d 332 (1951); *Columbus Check Cashers, Inc.* v. *Cary*, 196 Ohio App. 3d 132, 139, 962 N.E.2d 812 (2011); *Berly* v. *Sias*, 152 Tex. 176, 181, 255 S.W.2d 505 (1953); *Duffy* v. *Hartsock*, 187 Va. 406, 415, 46 S.E.2d 570 (1948). A survey of other jurisdictions reveals that the circumstances in which a revival proceeding has been deemed a new action are those in which the revival provides a means by which the original judgment may be substantively altered, such as by the addition or deletion of parties or the assertion of new defenses other than satisfaction of

the judgment, or in which a new period of limitations attaches to the revived judgment.[8] See, e.g., *Johnson Bros. Wholesale Liquor Co.* v. *Clemmons*, 233 Kan. 405, 408, 661 P.2d 1242, cert. denied, 464 U.S. 936, 104 S. Ct. 345, 78 L. Ed. 2d 311 (1983); *Union National Bank* v. *Lamb*, 360 Mo. 81, 88–89, 227 S.W.2d 60 (1950); *Allen* v. *Wilson County Investors, LLC*, Docket No. M2002-00540-COA-R3-CV, 2003 WL 21849545, *5 (Tenn. App. August 8, 2003). Accordingly, because proceedings under § 52-598 (c) result in no substantive change to the original judgment, a point we discuss in further detail in part III A of this opinion, a motion to revive under § 52-598 (c) is effectively a continuation of the original proceeding rather than a new action.[9] With this background and premise in mind, we turn to the defendant's claims.

II

We begin with the question of whether the Appellate Court properly determined that the trial court had subject matter jurisdiction over the motion to revive. More precisely, the question is whether the Appellate Court properly determined that the defendant was precluded from attacking the trial court's jurisdiction over the motion because the challenges raised were in fact or effect collateral attacks on the original judgment. The defendant contends that the Appellate Court improperly failed to recognize that, under our case law, a judgment rendered without jurisdiction is void ab initio, not merely voidable, and that such a defect can be raised as a defense at any time, even by way of a collateral attack and especially when that judgment is being used as a source of a right. The defendant contends that his attack on the motion to revive raised such issues in that he claims that the plaintiff lacked standing to commence the action because: (1) joint ventures are not legal entities and therefore lack the capacity to bring actions in their own names; and (2) the plaintiff failed to establish that it was an *existing* joint venture at the time that it initiated the action. The defendant further asserts that, even if it was proper to preclude his challenges to the trial court's jurisdiction in connection with the 1994 judgment, he should have been permitted to challenge the trial court's jurisdiction to adjudicate the motion to revive because "there is no reason to believe that [the plaintiff] still existed in 2009," when it filed the motion. In response, the plaintiff contends that the Appellate Court properly declined to consider the defendant's claims, that lack of capacity to bring an action is not a jurisdictional defect in any event, and, even if it is, that joint ventures are legal entities that can bring an action.

For purposes of clarity, we characterize the defendant's claims in three parts: (1) whether joint ventures are legal entities capable of bringing an action—a claim that pertains equally to the original and revived judg-

ments; (2) whether the plaintiff was in existence at the time the original action was commenced; and (3) assuming the plaintiff was then in existence, whether it continued in existence as a joint venture when the motion to revive was filed. With respect to the first two claims, the defendant acknowledges that these defenses to the motion to revive are "collateral challenge[s] to [the] judgment . . . ." For the reasons set forth subsequently in this opinion, we agree with the Appellate Court's conclusion that the defendant is not entitled to review of those claims on the merits. Insofar, however, as the third claim neither directly, nor in effect, attacks the original judgment, we conclude that the defendant is not precluded from raising such a challenge, but that his claim fails on the merits.

We begin with the two claims that undoubtedly are collateral attacks on the original judgment. In precluding the defendant's claims, the Appellate Court relied on principles first articulated by this court in *Vogel* v. *Vogel*, 178 Conn. 358, 422 A.2d 271 (1979), and reiterated in several later cases. In *Vogel*, the plaintiff had challenged a finding of contempt arising out of his noncompliance with the trial court's order in a judgment rendered approximately twenty years earlier, claiming that, under this court's case law construing the applicable statute, the trial court properly could not have issued such an order under the facts of the case. Id., 361–64. In rejecting that challenge, this court concluded: "The plaintiff's collateral attack upon the validity of the 1959 judgment is framed as a challenge to the subject matter jurisdiction of the court which, as we have consistently recognized, can be raised at any time . . . and the lack thereof cannot be waived. . . . As we have only recently observed, however, [t]he modern law of civil procedure suggests that even litigation about subject matter jurisdiction should take into account the importance of the principle of the finality of judgments, particularly when the parties have had a full opportunity originally to contest the jurisdiction of the adjudicatory tribunal. . . . Under this rationale, at least where the lack of jurisdiction is not entirely obvious, the critical considerations are whether the complaining party had the opportunity to litigate the question of jurisdiction in the original action, and, if he did have such an opportunity, whether there are strong policy reasons for giving him a second opportunity to do so." (Citations omitted; internal quotation marks omitted.) Id., 362–63, citing, inter alia, F. James & G. Hazard, Civil Procedure (2d Ed. 1977) § 13.16, pp. 695–97; Restatement (Second), Judgments § 15 (Tentative Draft No. 5 1978).

While we continue to agree with the vitality of this rule,[10] two factors give us pause as to whether this rule should strictly apply in the context of proceedings to revive an earlier judgment. Numerous jurisdictions provide for revival of judgments and recognize principles limiting collateral attacks on judgments, yet none of

them have broadly extended the Restatement (Second) rule to revival proceedings. Rather, these jurisdictions, without exception, appear to permit jurisdictional attacks on the original judgment to be raised in proceedings to revive the judgment, at least to the extent that the judgment can be demonstrated to be void on its face. See 46 Am. Jur. 2d 715, Judgments § 415 (2006) ("It is clear that errors or irregularities in obtaining the judgment, which do not render it void, may not be set up as a defense. Ordinarily, however, it is proper to urge, in defense of a proceeding for the revival of a judgment, that the judgment is void for want of jurisdiction of either the parties or of the subject matter." [Footnotes omitted.]); 50 C.J.S., Judgments § 861 (2009) (noting that, in revival proceeding, "defenses may be successfully advanced, including . . . incapacity of [the] plaintiff to maintain the proceeding" [footnotes omitted]); see, e.g., *Tingwall* v. *King Hill Irrigation District*, 66 Idaho 76, 82, 155 P.2d 605 (1945) (in revival proceeding in which debtor sought to attack original judgment, "[a] judgment, although obtained by extrinsic fraud, cannot be collaterally attacked unless such invalidity appears on the face of the judgment"); *Romero* v. *Sunseri*, 359 So. 2d 305, 307 (La. App.) ("in a suit for revival of judgment, no defense short of absolute nullity of the original judgment can be raised"), cert. denied, 362 So. 2d 579 (La. 1978); *Arthur* v. *Garcia*, 78 N.M. 381, 383, 431 P.2d 759 (1967) (concluding that collateral attack in revival proceeding on original judgment not permitted unless lack of jurisdiction affirmatively appears in record); *Rindfleisch* v. *AFT, Inc.*, Docket No. 84551, 2005 WL 110443, *2 (Ohio App. January 20, 2005) (claim preclusion inapplicable to challenge to court's subject matter jurisdiction over motion to revive judgment if jurisdiction had not previously been determined).

In addition, as we previously explained, the sole purpose of § 52-598 (c) is to advance the enforcement of Connecticut judgments in foreign jurisdictions. Foreign jurisdictions constitutionally are bound to give full faith and credit to Connecticut judgments, but only insofar as such judgments are *valid*. See *Baker* v. *General Motors Corp.*, 522 U.S. 222, 233, 118 S. Ct. 657, 139 L. Ed. 2d 580 (1998) ("Regarding judgments . . . the full faith and credit obligation is exacting. A final judgment in one [s]tate, if rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment, qualifies for recognition throughout the land."); see also *Durham* v. *Dept. of Human Services/Child Support Enforcement Unit*, 322 Ark. 789, 793, 912 S.W.2d 412 (1995) (applying this principle in revival proceeding); *Weaver* v. *Boggs*, 38 Md. 255, 260–61 (1873) (same); *Yorkshire West Capital, Inc.* v. *Rodman*, 149 P.3d 1088, 1092 (Okla. App. 2006) (same); *Carter* v. *Carter*, 232 Va. 166, 169, 349 S.E.2d 95 (1986) (same). Accordingly, when a judgment creditor seeks

to enforce a Connecticut judgment in a foreign jurisdiction, that jurisdiction will consider jurisdictional challenges to the validity of the judgment. See *Law Firm of Paul L. Erickson, P.A.* v. *Boykin*, 383 S.C. 497, 504–505, 681 S.E.2d 575 (2009). Although the foreign jurisdiction will apply Connecticut law in making that determination; see *Roche* v. *McDonald*, 275 U.S. 449, 453, 48 S. Ct. 142, 72 L. Ed. 365 (1928); *Law Firm of Paul L. Erickson, P.A.* v. *Boykin*, supra, 500 n.2; there is reason to question whether that jurisdiction will treat the judgment as presumptively valid if it is invalid on its face under our laws pertaining to jurisdiction but shielded from such an attack under our law regarding jurisprudential considerations. In any event, that foreign jurisdiction also would be limited to deciding the matter on the record as it exists.

Limiting collateral attacks to those that can be established by the record has support in our case law. In *In re Shamika F.*, 256 Conn. 383, 406–407, 773 A.2d 347 (2001), this court noted: "The reason for the rule against collateral attack is well stated in these words: The law aims to invest judicial transactions with the utmost permanency consistent with justice. . . . Public policy requires that a term be put to litigation and that judgments, as solemn records upon which valuable rights rest, should not lightly be disturbed or overthrown. . . . [T]he law has established appropriate proceedings to which a judgment party may always resort when he deems himself wronged by the court's decision. . . . If he omits or neglects to test the soundness of the judgment by these or other direct methods available for that purpose, he is in no position to urge its defective or erroneous character when it is pleaded or produced in evidence against him in subsequent proceedings. *Unless it is entirely invalid and that fact is disclosed by an inspection of the record itself the judgment is invulnerable to indirect assaults upon it.*" (Emphasis added; internal quotation marks omitted.) Accord *Reiner, Reiner & Bendett, P.C.* v. *Cadle Co.*, 278 Conn. 92, 99 n.7, 897 A.2d 58 (2006) ("[a]lthough we generally require that collateral attacks be supported by facts apparent from the record, we have eschewed the application of that rule when a nonresident defendant collaterally challenges the personal jurisdiction of the court rendering judgment"); *Vogel* v. *Vogel*, supra, 178 Conn. 362 (exception to bar on collateral attack when lack of jurisdiction is "entirely obvious"); see also *R.C. Equity Group, LLC* v. *Zoning Commission*, 285 Conn. 240, 248, 939 A.2d 1122 (2008) (motion to dismiss attacks jurisdiction of court and "tests, inter alia, whether, on the face of the record, the court is without jurisdiction" [internal quotation marks omitted]).

We need not, however, conclusively resolve this question in the present case. Even if we were to assume, arguendo, that the defendant is entitled to review of his claims if he can demonstrate that prevailing on those

claims would render the original judgment void on its face, his claims do not meet this standard. As the following discussion illustrates, the defendant cannot establish that he is entitled to a judgment of dismissal *on the record as it exists*.

We begin with the defendant's first claim, that joint ventures are not legal entities. We agree that this claim implicates a substantial question of subject matter jurisdiction. See 59 Am. Jur. 2d 460, Parties § 22 (2012) ("[A] proper party plaintiff is essential to confer jurisdiction on the court. As a general matter, there are three classes of legal entities with the inherent power to sue and be sued: [1] natural persons; [2] an artificial person; and [3] such quasi-artificial persons as the law recognizes as being capable to sue. Only a party that actually or legally exists may bring a lawsuit. There must be some ascertainable persons, natural or artificial, to whom judgments may be awarded, and no suit can be lawfully prosecuted except in the name of such person." [Footnotes omitted.]). Nonetheless, even if the defendant were correct that joint ventures lack such capacity, a question of first impression in this state, the plaintiff would be entitled to an opportunity to demonstrate that it also is a partnership, an entity that, as the defendant recognizes, is capable of bringing an action in its own name[11] and universally recognized as sharing substantial similarities with a joint venture. See, e.g., *Doe* v. *Yale University*, 252 Conn. 641, 673–74, 748 A.2d 834 (2000). Well established authority recognizes that the two types of entities are not mutually exclusive.[12] There is nothing in the record in the present case that would be inconsistent with such a finding. Indeed, the plaintiff claimed at oral argument before this court that it is a partnership and merely had referred to itself as a joint venture in the complaint as a matter of convenience, an assertion for which there is some support in the record.[13] Therefore, the defendant's claim, even if successful, would not require a judgment of dismissal, but instead a remand for an evidentiary hearing. See *Seymour* v. *Region One Board of Education*, 261 Conn. 475, 489–92, 803 A.2d 318 (2002); *Connecticut Associated Builders & Contractors* v. *Hartford*, 251 Conn. 169, 181–82, 740 A.2d 813 (1999). Accordingly, this claim could not conclusively demonstrate that the judgment is void ab initio on its face.

Turning to the defendant's second claim, that the plaintiff failed to demonstrate that it was in existence at the time that it filed the complaint, this assertion is squarely contradicted by the record. The defendant relies *solely* on the plaintiff's use of the past tense in the following allegation in the 1991 complaint: "At all times herein, the plaintiff . . . was a joint venture equally owned by R. S. S. McKosky and Alton W. Seavey, Jr., having its usual place of business in the town of North Branford . . . ." Not only does the defendant adopt an unduly cramped construction of this allegation

in contravention to the rule that we read pleadings liberally in support of jurisdiction; see *Federal Deposit Ins. Corp.* v. *Peabody, N.E., Inc.*, 239 Conn. 93, 99, 680 A.2d 1321 (1996); *Kelly* v. *Albertsen*, 114 Conn. App. 600, 605–606, 970 A.2d 787 (2009); he also overlooks allegations in the complaint and other evidence in the record that indicate that the plaintiff was in existence during the original proceedings.[14]

Accordingly, with respect to the aforementioned claims, neither would require a judgment of dismissal because the judgment is not void on its face in light of the record. Therefore, even if we were inclined to permit collateral attacks in the context of motions to revive, the defendant would not be entitled to do so in the present case.

A different lens is required, however, with respect to the defendant's third claim that, even if we were to presume that the plaintiff was in existence when it commenced the action in 1991 and when it obtained judgment in its favor in 1994, there is no basis to believe that it still was in existence in 2009 when it filed the motion to revive. This claim cannot be characterized as a collateral attack on the original judgment, either directly or in effect. Even if the defendant were to prevail on this claim, the original judgment would retain its validity, leaving the defendant subject to liability on the full amount of the debt. Therefore, the principles enunciated in *Vogel* have no application to this claim.

The defendant, however, cannot prevail on this claim. The defendant is correct that the plaintiff did not allege any facts in its motion to revive relating to its status as a joint venture. Nonetheless, the defendant has provided no authority to support the proposition that, after having pleaded sufficient facts to establish itself as an existing joint venture in the initial pleading, the plaintiff was required to replead facts in its motion to revive to demonstrate that it retained the status previously established. As we continue to underscore, a proceeding to revive a judgment is a continuation of the original action. Moreover, the defendant made no offer of proof of any evidence that would call into question the plaintiff's existence when it filed the motion to revive.

Although we recognize that joint ventures are formed for a limited purpose rather than as an ongoing enterprise; see *Dolan* v. *Dolan*, 107 Conn. 342, 349, 140 A. 745 (1928) ("a partnership is formed for the purpose of carrying on a general business of one sort or another, and a joint adventure is more commonly limited to a single transaction or course of transactions"); the general rule is that a joint venture continues until its purpose is fulfilled or rendered impracticable unless the parties expressly agree otherwise. See *Lauth Indiana Resort & Casino, LLC* v. *Lost River Development, LLC*, 889 N.E.2d 915, 919–20 (Ind. App. 2008) ("The parties further agree that this case presents an issue of first

impression in Indiana regarding precisely when a joint venture terminates in those cases where the joint venture agreement itself contains no specific termination date. Although research has revealed no Indiana case which has addressed this issue, there does seem to be a consensus among our sister states and in federal jurisdictions with regard to this issue. Specifically, the generally accepted law of joint ventures is that '[a] joint venture without a termination date remains in force until its purpose is accomplished or that purpose becomes impracticable.' *Scandinavian Airlines* [*System*] *Denmark-Norway-Sweden* v. *McDonald's Corp.*, 129 F.3d 971, 973 [7th Cir. 1997]; see also 48A C.J.S. Joint Ventures § 15 [2004] [stating that . . . general rule is that . . . joint venture remains in place unless its primary purpose or contingency has become impracticable or impossible to accomplish]."). In the proceedings culminating in the 1994 judgment, the defendant never challenged the plaintiff's ownership of the debt or its right, as a joint venture, to collect on the debt. Because we have no basis to question that the *prosecution* of the original action to recover the debt was within the scope of the joint venture's purpose, we see no reason why the *collection* of the judgment would not also presumptively fall within that scope, in the absence of evidence that the joint venturers had agreed otherwise. Cf. General Statutes § 33-884 (a) ("[a] dissolved corporation continues its corporate existence but may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including: [1] [c]ollecting its assets . . . and [5] doing every other act necessary to wind up and liquidate its business and affairs"); General Statutes § 34-373 (a) ("[A] partnership continues after dissolution only for the purpose of winding up its business. The partnership is terminated when the winding up of its business is completed."); 60 Am. Jur. 2d 111, Partnership § 198 (1972) ("Both under the Uniform Act *and at common law* it is recognized that after dissolution, the partnership continues only for the purpose of winding up the partnership affairs. . . . *Included in the winding up or liquidation of partnership affairs are* the performance of existing contracts, *the collection of debts or claims due the firm*, and the payment of firm debts." [Emphasis added; footnotes omitted.]). Surely a colorable basis to conclude otherwise is not manifested on the record before us.[15] Therefore, we conclude, albeit for slightly different reasons than the Appellate Court, that the trial court had subject matter jurisdiction to adjudicate the motion to revive.

III

We next turn to the certified questions relating to the trial court's personal jurisdiction over the defendant in the revival proceeding. The defendant challenges the Appellate Court's conclusion that § 52-598 (c) provided a basis for such jurisdiction on two grounds: first, that the statute cannot be applied retroactively to revive the

1994 judgment; and second, that the statute does not fall within the postjudgment procedures over which the trial court is statutorily authorized to retain continuing personal jurisdiction of parties thereto. We disagree with both claims.

A

The defendant has marshaled numerous arguments in support of his claim that § 52-598 (c) cannot be applied retroactively.[16] Broadly characterized, the defendant contends that the legislature has manifested such an intention by virtue of the October, 2009 effective date of the statute and legislatively imposed rules of construction. He further contends that § 52-598 (c) is substantive, not procedural, because it creates a right, namely, "a right for a judgment creditor to obtain a new judgment date in order to create a right of recovery for Connecticut judgments in foreign [jurisdictions]." We disagree with the defendant's characterization of this provision and find none of his other arguments ultimately persuasive.

In considering the question of whether a statute may be applied retroactively, we are governed by certain well settled principles, under which our ultimate focus is "the intent of the legislature in enacting the statute." (Internal quotation marks omitted.) *D'Eramo* v. *Smith*, 273 Conn. 610, 620, 872 A.2d 408 (2005). Because all public acts not specifying an effective date automatically are assigned to "take effect on the first day of October following the session of the General Assembly at which they are passed"; General Statutes § 2-32; we never have ascribed particular significance to such dates in ascertaining the legislature's intent. Rather, "[o]ur point of departure is General Statutes § 55-3, which states: No provision of the general statutes, not previously contained in the statutes of the state, which imposes any new obligation on any person or corporation, shall be construed to have retrospective effect. . . . [W]e have uniformly interpreted § 55-3 as a rule of presumed legislative intent that statutes affecting substantive rights shall apply prospectively only. . . . The rule is rooted in the notion that it would be unfair to impose a substantive amendment that changes the grounds upon which an action may be maintained on parties who have already transacted or who are already committed to litigation. . . . In civil cases, however, unless considerations of good sense and justice dictate otherwise, it is presumed that procedural statutes will be applied retrospectively. . . . While there is no precise definition of either [substantive or procedural law], it is generally agreed that a substantive law creates, defines and regulates rights while a procedural law prescribes the methods of enforcing such rights or obtaining redress." (Citations omitted; footnote omitted; internal quotation marks omitted.) *D'Eramo* v. *Smith*, supra, 620–21. "Procedural statutes . . . there-

fore leave the preexisting scheme intact." (Internal quotation marks omitted.) Id., 621. "[A]lthough we have presumed that procedural or remedial statutes are intended to apply retroactively absent a clear expression of legislative intent to the contrary . . . a statute which, in form, provides but a change in remedy but actually brings about changes in substantive rights is not subject to retroactive application." (Internal quotation marks omitted.) Id.

Several facts indicate that § 52-598 (c) is not substantive. Reviving the judgment imposes no obligations on the defendant that did not exist under the original judgment—the amount of the judgment, the party to whom the defendant owes that obligation and the period for enforcing the judgment all remain the same. The plaintiff cannot assert new claims or change the terms of the existing judgment. The defendant retains his defense to an execution or action on the judgment that previously existed, namely, satisfaction of the judgment.

Moreover, although the purpose of the revived judgment is to ensure that a Connecticut judgment creditor will not be deprived of the ability to execute the judgment in a foreign jurisdiction having a shorter period for enforcement than Connecticut, § 52-598 (c) obviously does not alter the foreign jurisdiction's law with respect to the period of enforcement. Even if we were to view the revived judgment as *effectively* extending the period to execute the judgment in a foreign jurisdiction, we are not persuaded that this effect renders § 52-598 (c) substantive. See *Fanton* v. *Middlebrook*, 50 Conn. 44, 45 (1882) ("[A] statute [of limitations] does not extinguish the debt. It merely deprives the creditor of a right of action to recover the debt."). Authority from other jurisdictions retroactively applying statutes extending the period for executing a judgment lends support to this conclusion.[17] See, e.g., *Angeli* v. *Lischetti*, 58 Cal. 2d 474, 475–76, 374 P.2d 813, 24 Cal. Rptr. 845 (1962); *Balfe* v. *Rumsey & Sikemeier Co.*, 55 Colo. 97, 103, 133 P. 417 (1913); *Lahman* v. *Hastings*, 74 S.D. 431, 433, 54 N.W.2d 166 (1952); *State* v. *Morgan*, 107 Wn. App. 153, 159, 26 P.3d 965 (2001).

In sum, § 52-598 (c) does not create, define or regulate a right. Rather, it bears the hallmarks of a procedural statute, leaving the preexisting scheme intact and prescribing a method of enforcing rights or obtaining redress. Considerations of good sense and justice do not militate against retroactive application. The defendant incurred obligations under a valid judgment. Revival of that judgment neither assigns "a quality or effect to acts or conduct which they did not have or did not contemplate when they were performed"; (internal quotation marks omitted) *In re Daniel H.*, 237 Conn. 364, 373, 678 A.2d 462 (1996); nor upsets "any settled rights or reliance interests." *State* v. *Skakel*, 276 Conn. 633, 685, 888 A.2d 985, cert. denied, 549 U.S. 1030, 127 S. Ct.

578, 166 L. Ed. 2d 428 (2006). Accordingly, the Appellate Court properly determined that § 52-598 (c) applies retroactively.

B

We therefore consider whether the trial court has personal jurisdiction over the defendant under § 52-598 (c). We begin by noting that the defendant's position that personal jurisdiction in the original action is not a proper basis on which to maintain jurisdiction in the revival proceeding is largely premised on his presumption that a motion to revive under § 52-598 (c) constitutes a new action. As we previously have indicated in part I of this opinion, we agree with the authority from other jurisdictions holding to the contrary. In addition, the defendant points to the legislature's failure to amend chapter 906 of the General Statutes, which authorizes the trial court to retain jurisdiction over parties to postjudgment procedures, to refer to motions to revive. He contends that this omission demonstrates that the plaintiff must establish the trial court's personal jurisdiction over the defendant in § 52-598 (c) proceedings independent of the original judgment. We disagree.

General Statutes § 52-350d (a) provides in relevant part: "For the purposes of postjudgment procedures, the Superior Court shall have jurisdiction over all parties of record in an action until satisfaction of the judgment or, if sooner, until the statute limiting execution has run . . . ." General Statutes § 52-350a (15) further provides: " 'Postjudgment procedure' means any procedure commenced after rendition of a money judgment, seeking or otherwise involving a discovery procedure, a placing of a lien on property, a modification or discharge of a lien, a property execution under section 52-356a, a turnover order, an installment payment order, a wage execution, a modification of a wage execution, a compliance order, a protective order or a determination of exemption rights."

In our view, proceedings under § 52-598 (c) fall squarely within these provisions. A motion to revive is a procedure commenced after rendition of a money judgment. The granting of such a motion permits the plaintiff to seek the various forms of relief enumerated in § 52-350a (15). Therefore, the procedure is one "involving," rather than seeking, such relief. Accordingly, the Appellate Court properly concluded that the trial court had personal jurisdiction over the defendant for purposes of adjudicating the motion to revive.

The judgment of the Appellate Court is affirmed.

In this opinion the other justices concurred.

[1] General Statutes § 52-598 provides: "(a) No execution to enforce a judgment for money damages rendered in any court of this state may be issued after the expiration of twenty years from the date the judgment was entered and no action based upon such a judgment may be instituted after the expiration of twenty-five years from the date the judgment was entered, except that there shall be no time limitation on the issuance of such execu-

tion or the institution of such action if the judgment was rendered in an action to recover damages for personal injury caused by sexual assault where the party legally at fault for such injury was convicted of a violation of section 53a-70 or 53a-70a.

"(b) No execution to enforce a judgment for money damages rendered in a small claims session may be issued after the expiration of ten years from the date the judgment was entered, and no action based upon any such judgment may be instituted after the expiration of fifteen years from the date the judgment was entered.

"(c) With respect to a judgment for money damages rendered in any court of this state, including, but not limited to, a small claims session, a motion to revive such judgment may be filed with the Superior Court prior to the expiration of any applicable period of time to enforce such judgment as set forth in this section. The court may grant the motion to revive the judgment if the court finds that the applicable time period to enforce the judgment under this section has not expired. No order to revive a judgment may extend the time period to enforce a judgment beyond the applicable time period set forth in this section."

[2] The two other defendants named in both the complaint in the original action and the motion to revive, Summit Associates, Inc., and Ned B. Wilson, did not participate in the trial court proceeding to revive the judgment or this certified appeal. Therefore, for convenience, we refer to Lancia as the defendant.

[3] Michael R. Caporale, Jr., the plaintiff's counsel in the 1994 judgment in the present case, submitted a written statement to the Judiciary Committee in support of the bill eventually enacted and codified as § 52-598 (c), indicating that Summit, Wilson and the defendant lacked assets to satisfy the judgment at the time it was rendered. Conn. Joint Standing Committee Hearings, Judiciary, Pt. 21, 2009 Sess., p. 6724. He further stated that the plaintiff did not ascertain the defendant's whereabouts in South Carolina until eleven years after that judgment had been rendered. Id.

[4] Two subsequent Superior Court decisions have reached a contrary conclusion, relying on case law from other jurisdictions holding that the personal jurisdiction established in the original judgment was a sufficient basis on which to maintain jurisdiction over the defendant for purposes of a proceeding to revive a judgment. See *SCR Joint Venture, L.P.* v. *Schwartz*, Superior Court, judicial district of Hartford, Docket No. CV-11-6025633-S (November 14, 2012) (*Domnarski, J.*) (54 Conn. L. Rptr. 914) (denying motion to dismiss); *Stingle* v. *Tuller*, Superior Court, judicial district of Hartford, Docket No. CV-08-5022299-S (April 15, 2009) (*Prescott, J.*) (47 Conn. L. Rptr. 585) (same). The plaintiff in the present case did not appeal from the judgment of dismissal, and the present appeal does not require us to resolve this split of authority.

[5] Although we certified the first and second issues in reverse order, we begin with the question of subject matter jurisdiction before turning to the two issues related to personal jurisdiction, as did the Appellate Court. See *Investment Associates* v. *Summit Associates, Inc.*, supra, 132 Conn. App. 196, 202.

[6] In this regard, § 52-598 (c) differs from the revival (or renewal) of judgments in other jurisdictions. Although many other jurisdictions have common-law or statutory mechanisms to revive a judgment, such mechanisms are utilized in these jurisdictions when a judgment has or will become "dormant" due to a rebuttable presumption that arises after a prescribed period of time that the judgment has been satisfied. See 46 Am. Jur. 2d 698, Judgments § 391 (2006) ("[t]he general rule is that a judgment, to be revived, must be dormant; if a judgment is not dormant, revivor is not necessary"). If not revived within the prescribed period, a conclusive presumption arises that the judgment has been satisfied. See, e.g., *McLendon* v. *Hepburn*, 876 So. 2d 479, 486 (Ala. Civ. App. 2003) (judgment rendered dormant after ten years; conclusive presumption of satisfaction after twenty years); *Johnson Bros. Wholesale Liquor Co.* v. *Clemmons*, 233 Kan. 405, 409, 661 P.2d 1242 (judgment presumed satisfied after ten years), cert. denied, 464 U.S. 936, 104 S. Ct. 345, 78 L. Ed. 2d 311 (1983); *In re Stoddard*, 248 B.R. 111, 116–17 (Bankr. N.D. Ohio 2000) (discussing presumption). In some jurisdictions, revival of the judgment extends the ultimate period for enforcing the judgment. See, e.g., *Mundaca Financial Services, LLC* v. *Casella*, 210 N.C. App. 491, 711 S.E.2d 207 (2011); *McCoy* v. *Knobler*, 260 S.W.3d 179, 183–84 (Tex. App. 2008).

[7] Representative Fox explained the purpose of the bill as follows: "Under current law, in the [s]tate of Connecticut when one obtains a judgment in

Superior Court, they can obtain an execution on that judgment for up to [twenty] years in a [S]uperior [C]ourt case and up to ten years in a small claims case. Mr. Speaker, however, what happens oftentimes is that one may attempt to enforce this judgment in a foreign jurisdiction in a different state, essentially, and sometimes those states have different rules. And what this bill will do is enable the person who receives the judgment, who obtains the judgment, to revive that judgment in order to enforce it in a foreign jurisdiction. And essentially what would happen is the person who has the judgment would go back into court and get a revival of the judgment which would enable the judgment to then be enforced in a foreign jurisdiction. There's nothing in this bill that would enable the . . . possessor of the judgment to enforce that judgment beyond the time limit that Connecticut currently has." 52 H.R. Proc., supra, pp. 6387–88; see also Conn. Joint Standing Committee Hearings, Judiciary, Pt. 21, 2009 Sess., p. 6723, written testimony of Representative Vincent J. Candelora ("[a] [m]otion of [r]evival basically serves to restart the clock for collection in a foreign jurisdiction").

[8] Whether the revived judgment is deemed a continuation of the original judgment or a new judgment may affect whether the foreign jurisdiction will consider Connecticut's revived judgment to be the operative judgment for purposes of that jurisdiction's time limit for enforcement. See *Smith* v. *RJH of Florida, Inc.*, 520 F. Supp. 2d 838, 841–43 (S.D. Miss. 2007) (explaining reasoning and authority on both sides of this question).

[9] The defendant's argument to the contrary is predicated on the view that the plaintiff "sought the same substantive relief that it sought through the 2007 lawsuit." We note that the defendant's position is contrary to that of every jurisdiction that has considered this question.

[10] The defendant argues that this rule is in tension with two principles. The first is that, "[i]f a court has never acquired jurisdiction over a defendant or the subject matter . . . any judgment ultimately entered is void and subject to vacation or collateral attack." (Internal quotation marks omitted.) *Angiolillo* v. *Buckmiller*, 102 Conn. App. 697, 713, 927 A.2d 312, cert. denied, 284 Conn. 927, 934 A.2d 243 (2007); accord *Feuerman* v. *Feuerman*, 62 Conn. App. 332, 337, 771 A.2d 230 (2001) ("[u]nless a litigant can show an absence of subject matter jurisdiction that makes the prior judgment of a tribunal entirely invalid, he or she [is limited to] resort[ing] to direct proceedings [i.e., an appeal] to correct perceived wrongs in the tribunal's conclusive decision" [internal quotation marks omitted]); *Davenport* v. *Quinn*, 53 Conn. App. 282, 293, 730 A.2d 1184 (1999) ("[A] provision of a judgment that exceeds the jurisdiction of a court is necessarily void and cannot be remedied merely by the lapse of time. Such a judgment is void ab initio and is subject to both direct and collateral attack. . . . If a court has never acquired jurisdiction over a defendant or the subject matter . . . any judgment ultimately entered is void and subject to vacation or collateral attack." [Internal quotation marks omitted.]). The second is that "[n]o principle is more universal than that the judgment of a court without jurisdiction is a nullity. . . . Such a judgment, whenever and wherever declared upon as a source of right, may always be challenged. . . . *Bicio* v. *Brewer*, 92 Conn. App. 158, 165–67, 884 A.2d 12 (2005)." (Internal quotation marks omitted.) *Angiolillo* v. *Buckmiller*, supra, 713. We disagree. As we explain subsequently in this opinion, if the defendant may prevail on a collateral attack of a void judgment when such invalidity is evident on the face of the record, this line of cases would be consistent with the rule articulated in *Vogel*.

[11] See General Statutes § 34-313 ("[a] partnership is an entity distinct from its partners"); General Statutes § 34-328 (a) ("[a] partnership may sue and be sued in the name of the partnership"). Our legislature enacted the Uniform Partnership Act (1994) (act) in 1995, and made the act effective on July 1, 1997. See Public Acts 1995, No. 95-341, §§ 1, 58; General Statutes § 34-300 et seq. The act's recognition of partnerships as distinct entities from their partners "comport[ed] with recent Connecticut case law involving partnership definition." 38 H.R. Proc., Pt. 20, 1995 Sess., p. 7169, remarks of Representative James W. Abrams.

[12] See National Conference of Commissioners on Uniform State Laws, Uniform Partnership Act (1997) § 202, comment, p. 31, available at http://www.uniformlaws.org/shared/docs/partnership/upa_final_97.pdf (last visited August 5, 2013) (copy contained in the file of this case in the Supreme Court clerk's office) ("Relationships that are called 'joint ventures' are partnerships if they otherwise fit the definition of a partnership. An association is not classified as a partnership, however, simply because it is called a 'joint venture.' "); see also *In re Webb*, 474 B.R. 891, 893–94 (Bankr. E.D. Ark. 2012) ("Notwithstanding the similarity between partnerships and joint

ventures, the courts do not treat a joint venture as in all respects identical with a partnership, as they are separate and distinct legal relationships. A joint venture is generally a less formal relationship than a partnership. Also, a joint venture is not a legal entity separate from the participants in the venture as a partnership is, unless, of course, the attributes of the joint venture are such that the venture is in actuality a partnership. . . . In other words, a joint venture is not necessarily a separate entity with a separate legal existence; it is a relationship between two parties which or may not amount to a partnership under partnership law." [Citations omitted; internal quotation marks omitted.]), aff'd sub nom. *Bank of England* v. *Rice*, Docket No. 4:12-cv-578 (DPM), 2013 U.S. Dist. LEXIS 14531 (E.D. Ark. February 4, 2013); *Century Bank of Lee County* v. *Gillespy*, 399 So. 2d 1109, 1110 (Fla. App. 1981) ("[w]e hold that, regardless of whatever attributes a joint venture may have which, for other purposes, distinguish it from a traditional partnership, if a 'joint venture' in fact meets the definition of a statutory partnership . . . it is a partnership for the purpose of acquiring, holding and conveying title to real property in the name of the joint venture [partnership] as an entity separate from its members as provided in . . . Florida [s]tatutes"); *Accolades Apartments, L.P.* v. *Fulton County*, 274 Ga. 28, 29–30, 549 S.E.2d 348 (2001) ("The conflict can be resolved by recognizing that [the plaintiff] primarily relied on the concept that a joint venture is not a legal entity separate from those parties that compose it. . . . While that concept is correct, it is an incomplete statement of the relevant law. In fact, a joint venture can be a separate legal entity, if the attributes of the joint venture are such that the venture is in actuality a partnership. . . . Whether a joint venture is actually a partnership is a question of fact and depends on the rights and responsibilities assumed by the joint venturers. . . . This is so even if the documents controlling the arrangement expressly state that no partnership is formed." [Citations omitted; internal quotation marks omitted.]).

[13] McKosky, one of the two joint venturers named in the complaint as an equal "owne[r]" of the plaintiff, filed an affidavit in which he referred to himself as the "[m]anaging [p]artner" of the plaintiff. In the defendant's revised special defense, he repeatedly referred to McKosky as the plaintiff's "general partner" or "partner." See General Statutes § 34-301 (12) (" '[p]artnership' means an association of two or more persons to carry on as coowners a business for profit formed under section 34-314, predecessor law or comparable law of another jurisdiction, and includes for all purposes of the laws of this state a registered limited liability partnership"); General Statutes § 34-314 (a) ("[e]xcept as otherwise provided in subsection [b] of this section, the association of two or more persons to carry on as coowners a business for profit forms a partnership, whether or not the persons intend to form a partnership").

[14] The complaint similarly referred to Summit, the named defendant in the case: "At all times herein, [Summit] . . . was a corporation organized under the laws of the state of Connecticut, having its usual place of business in the town of North Branford . . . ." The complaint thereafter referred to events occurring from 1988 through 1990, and further alleged in the present tense that the "[p]laintiff *is* the owner and holder of the note . . . ." (Emphasis added.) In addition, in an affidavit filed by the plaintiff in March, 1991, McKosky attested that the plaintiff "is" a joint venture and "is" the holder of the note. In affidavits filed in February, 1991, and May, 1994, McKosky referred to his present ownership stake in the plaintiff. Therefore, in the absence of any evidence to the contrary, had the defendant moved to dismiss for lack of jurisdiction on the ground that the plaintiff was not an existing joint venture, the trial court, reading the pleadings in favor of jurisdiction, undoubtedly would have concluded that the plaintiff sufficiently had established that it was in existence as a joint venture at the time that it filed the complaint and at all earlier relevant periods.

[15] We express no views on what procedures might have been available to the defendant to ascertain facts relevant to this matter had he raised this claim before the trial court in response to the filing to the plaintiff's motion to revive. Irrespective of whatever such measures may be available in such proceedings, however, it is clear that the defendant had ample opportunity in the original proceedings to conduct discovery and examine witnesses to ascertain the plaintiff's purpose and any other relevant terms of its existence.

[16] Specifically, the defendant contends: (1) the legislature manifested an unambiguous intention for prospective application in the statute's effective date of October 1, 2009, which is supported by the legislative history to the public act; (2) the legislature generally has directed in General Statutes § 1-1 (u) that "[t]he passage or repeal of an act shall not affect any action then

pending"; (3) the statute creates a new substantive right; (4) even if this court were to view the provision of a new judgment date as akin to an extension of a statute of limitations, it would fall within the rule that an amendment extending a statute of limitations cannot be applied in a case in which the original statute of limitations has expired; (5) retroactive application would violate the defendant's due process rights by subjecting him to a new action without requiring the court to obtain personal jurisdiction over him; (6) P.A. 09-215 is not clarifying legislation; and (7) construing § 52-598 (c) as procedural would violate the separation of powers doctrine because that doctrine limits the legislature to the creation of substantive rights and the courts to the creation of procedural rules.

We address the first, third, fourth and fifth claims hereinafter in this opinion. With respect to the remaining claims, we reject them for the following reasons. The defendant's reliance on § 1-1 (u) lacks any explanation of how § 52-598 (c) could have affected an "action then pending" in the present case when the provision was enacted after the 1994 judgment became final and before the motion to revive was filed. Moreover, our case law indicates that § 1-1 (u) generally has been treated as a reflection of the presumption against retroactive application of laws making substantive changes and the considerations of good sense and justice that may bar retroactive application of procedural statutes. See, e.g., *Moore* v. *McNamara*, 201 Conn. 16, 25, 513 A.2d 660 (1986); *Jones Destruction, Inc.* v. *Upjohn*, 161 Conn. 191, 197, 286 A.2d 308 (1971); *Jablon* v. *Town Planning & Zoning Commission*, 157 Conn. 434, 444, 254 A.2d 914 (1969); *Reese* v. *Reese*, 136 Conn. 191, 194–95, 70 A.2d 123 (1949). With respect to the defendant's due process claim, in part I of this opinion we rejected the fundamental premise on which this claim is based, a point that we address further in connection with the defendant's other arguments in this part of the opinion. With respect to the defendant's claim that P.A. 09-215 is not clarifying legislation, we agree and therefore do not rely on that status as a basis to apply the statute retroactively. With respect to the defendant's separation of powers argument, we direct the defendant's attention to authority recognizing that statutorily created court procedures will pass constitutional muster as long as the legislature does not interfere with the performance of our judicial functions. See, e.g., *Bartholomew* v. *Schweizer*, 217 Conn. 671, 676, 587 A.2d 1014 (1991); see also *State* v. *Diaz*, 226 Conn. 514, 558, 628 A.2d 567 (1993) (*Berdon, J.*, dissenting).

[17] These cases indicate that retroactive application is proper if the period for enforcing the underlying judgment has not yet expired. In this regard, we note that the defendant asserts in his brief to this court that § 52-598 (c) is not akin to a statute of limitations, but, "even if the statute were viewed as related to a statute of limitations, a statute that would modify an *expired* statute of limitations cannot be applied retroactively. See *State* v. *Skakel*, 276 Conn. 633, 670 [888 A.2d 985, cert. denied, 549 U.S. 1030, 127 S. Ct. 578, 166 L. Ed. 2d 428 (2006)]; *State* v. *Crowell*, 228 Conn. 393, 398–99 [636 A.2d 804] (1994). Accordingly . . . because [§ 52-598 (c)] was adopted five years after the ten year statute of limitations in South Carolina had expired, it should not have been afforded retroactive application to this case." (Emphasis in original.) Our review of the record reveals that the defendant never raised this argument in briefing to the trial court or Appellate Court. The first reference to this argument appears in a letter filed by the defendant's counsel in the Appellate Court on the day of oral argument in that court, alerting that court to the possibility that this issue may come up at oral argument. The Appellate Court did not address this issue in its decision, and the defendant did not seek reargument to obtain a consideration of that issue. In addition to belatedly raising this issue, the defendant has failed to analyze how the principle cited in *Skakel* and *Crowell* applies in a case in which the issuing jurisdiction's enforcement period has not changed and the underlying judgment still is in effect. See *Angeli* v. *Lischetti*, 58 Cal. 2d 474, 475–76, 374 P.2d 813, 24 Cal. Rptr. 845 (1962) (application of amendment extending period for execution proper after prior period for execution had expired but while underlying judgment still was enforceable). Therefore, we decline to address this issue. See *Commissioner of Correction* v. *Coleman*, 303 Conn. 800, 832, 38 A.3d 84 (2012) (declining to review issue where "in addition to the fact that the defendant belatedly has raised this claim, he has failed to adequately brief it"); *State* v. *Duhan*, 194 Conn. 347, 354–55, 481 A.2d 48 (1984) (failure to raise issue before Appellate Court is ground to deny review in this court).