Cumulative Table of Cases Connecticut Appellate Reports Volume 173

(Replaces Prior Cumulative Table)

American First Federal, Inc. v. Gordon. Breach of contract; breach of business loan agreement; attorney's fees; postjudgment interest; whether trial court erred by concluding that nonparty bank assigned its rights under loan to plaintiff; whether plaintiff's complaint was insufficient to plead theory that assignment of loan was effectuated in any way other than by asset sale agreement; whether absence of bill of sale, issuance of which was mandated by contract between assignor and assignee, precluded determination that assignment occurred; whether trial court abused its discretion by awarding lesser amount of attorney's fees than plaintiff sought on basis that amount sought was unreasonable; whether trial court erred in its award of attorney's fees because it did not cite specific instances of duplication in its memorandum of decision; whether trial court erred in its calculation of postjudgment interest by determining that postjudgment interest rate should apply only to unpaid principal of loan, and not to total amount of judgment.	573
Bank of America, National Assn. v. La Mesa. Foreclosure; claim that notice of rescission filed pursuant to Truth in Lending Act (15 U.S.C. § 1601 et seq.) divested trial court of subject matter jurisdiction; whether notice of rescission had no legal effect where notice was filed nearly ten years after consummation of loan; whether defendant was entitled to assert right of rescission as affirmative defense.	32
Barjon v. Commissioner of Correction (Memorandum Decision). Bauer v. Bauer. Dissolution of marriage; postdissolution proceedings; motion for modification of alimony obligation; motion for contempt for nonpayment of alimony; claim that trial court improperly determined that defendant's failure to pay court-ordered alimony was not wilful; claim that trial court failed to conclude that defendant's conduct was culpable when considering motion for modification; claim that trial court failed to admit evidence relative to statutory (§ 46b-82) criteria governing court's ability to award alimony.	906 595
Bloch v. Law Offices of Neil Crane, LLC (Memorandum Decision)	901 730
Bruno v. Commissioner of Correction (Memorandum Decision)	902 797
Burnell v. Chorches Probate appeal; whether trial court properly granted defendant's motion to dismiss; whether probate appeal was untimely pursuant to statute (§ 45a-186 [a]) providing that appeal must be filed within thirty days of when probate order mailed; claim that plaintiffs had not received sufficient notice of probate hearing; whether appeal was timely filed within twelve month appeal period provided by statute (§ 45a-187 [a]) pertaining to probate appeals when appealing party had no	788

notice of probate hearing and was not present at hearing; claim that probate appeal was saved by statute (§ 52-593a) providing that cause of action shall not be lost if process is personally delivered to state marshal within time allowed to bring action.	
Carter v. Klein (Memorandum Decision)	904
Chicago Title Ins. Co. v. Accurate Title Searches, Inc	463
are awarded as element of compensatory damages, fall within contemplation of American rule.	
Daria M. v. Andrew L. (Memorandum Decision)	906
Demeusy v . Canton (Memorandum Decision)	905
Doe v. Rackliffe	389
Sexual assault; whether trial court abused discretion in denying motion for continued use of pseudonyms; whether trial court properly determined that plaintiffs did not meet burden of demonstrating substantial privacy interests in maintaining anonymity that outweighed public's interest in knowing plaintiffs' names, as required under applicable rule of practice (§ 11-20A [h]); whether minor victims	
of sexual assault have strong privacy interests in having allegations and sur- rounding circumstances concealed from public scrutiny; whether procedures that rules of practice provide permit automatic approval of use of pseudonyms by party or parties involved.	
Dowling v. Commissioner of Correction (Memorandum Decision)	905
Evans v. Tiger Claw, Inc	409
to pay wages to which plaintiff was otherwise entitled.	
Fitzpatrick v. U.S. Bank National Assn. Petition for discharge of mortgage; motion to strike; whether statutory (§ 49-13) language requiring undisturbed possession of property for six years after expiration of time limited in mortgage for full performance of conditions thereof referred to maturity date specified in mortgage or acceleration date after default.	686
Girolametti v. Michael Horton Associates, Inc.	630
Negligence; arbitration; summary judgment; res judicata; collateral estoppel; whether trial court properly granted motion for summary judgment filed by general contractor on ground that plaintiffs' claims against it were barred by res judicata because issues between them either were or could have been fully	
litigated in prior arbitration proceeding; whether trial court properly denied motions for summary judgment filed by seven other defendants that were subcontractors or sub-subcontractors to general contractor arising out of same construction project; whether privity is required for defensive use of collateral estoppel, discussed; whether plaintiffs' claims against defendant subcontractors and subsubcontractors were barred by res judicata; whether record was sufficient to review claim that plaintiffs' claims against defendant testing company, with whom plaintiffs had contracted directly to perform certain testing, were barred by collateral estoppel.	
Girolametti v . VP Buildings, Inc. (See Girolametti v . Michael Horton Associates, Inc.)	630
Haughey v . Commissioner of Correction	559
Habeas corpus; claim that habeas court abused discretion in denying petition for certification to appeal; claim that habeas court improperly concluded that petitioner was not entitled to individualized, proportionate sentencing hearing, as articulated in Miller v. Alabama (567 U.S. 460); reviewability of petitioner's claim that mandatory sentence of life imprisonment without possibility of release	

violated Connecticut constitution's prohibition against cruel and unusual pun- ishment.	
Heinonen v. Gupton	54
trust created for benefit of children; whether claim to protect allegedly fraudulent deprivation of interest of children's trust in subject premises must be brought	
	694 903
Ionescu v. Stratford (Memorandum Decision)	906 193
Johnson v. Raffy's Café I, LLC	193
claim that trial court erred in denying motion to dismiss in that plaintiff had invalid probate certificate; claim that trial court erred in denying motion to dismiss in that probate certificate did not authorize suit; claim that trial court erred in denying motion to dismiss in that defendant entitled to sovereign immunity; claim that trial court erred in denying motion to dismiss in that double	
jeopardy barred action; claim that trial court erred in denying motion to dismiss in that granting summary judgment to other defendants required court to dismiss counts against defendant; claim that trial court abused discretion in denying motion to set aside default for failure to plead in that defendant was exercising	
fifth amendment right against self-incrimination; claim that trial court abused discretion in denying motion to set aside default for failure to plead in that requiring defendant to plead while also facing criminal charges placed him under duress; claim that trial court abused discretion in denying motion to set aside	
default for failure to plead in that defendant mistakenly believed affidavit served as answer; claim that trial court erred in denying motion for new trial in that defendant was denied reasonable opportunity to appear and defend at hearing in damages; claim that trial court erred in denying motion for new trial in that	
defendant discovered new evidence and judgment was obtained through fraud. Jonas v. Playhouse Square Condominium Assn., Inc	36
	902
Defamation; negligent infliction of emotional distress; intentional infliction of emotional distress; immunity from suit; summary judgment; whether trial court properly denied defendant's motion for summary judgment; claim that defendant was entitled to common-law absolute immunity from suit, rather than qualified immunity, pursuant to statute (§ 17a-101e [b]), for statements made to Department of Children and Families and to sexual assault clinic personnel during department investigation of allegations that plaintiff sexually assaulted parties' minor child; claim that legislature in § 17a-101e (b) did not intend to abrogate	539
common-law absolute immunity; doctrine of absolute immunity, discussed; liti- gation privilege protecting statements made in judicial or quasi-judicial proceed- ings, discussed.	
	284
clous prosecution; false imprisonment; intentional infliction of emotional distress; civil rights violations; claim that trial court improperly rendered summary judgment; whether alleged actions of defendant police officers were discretionary or ministerial acts; whether probable cause barred plaintiff's common-law tort claims; whether claims against city were derivative of claims against individ-	
ual defendants. Lee v. Commissioner of Correction	379

resulted the loss of twenty-seven days of presentence confinement credit served	
$in {\it first case}; whether {\it question of prejudice was debatable among jurists of reason},$	
could have been resolved differently, or deserved encouragement to proceed further	
when petitioner's current sentences would not have been reduced by those twenty-	
seven days pursuant to presentence confinement statute (§ 18-98d) because no	
sentence was ever imposed on first charge.	
Liano v. Bridgeport (Memorandum Decision)	904
Mandable v. Planning & Zoning Commission	256
	250
Zoning appeal; statutory construction; appeal from decision of Planning and Zoning	
Commission declining to consider plaintiffs' petition to determine that defendant	
landowners filed resubdivision map in town of Westport land records and seeking	
declaratory judgment; claim that two lot line adjustment maps were improperly	
recorded in town's land records by defendant landowners because maps qualify	
as "resubdivisions," as defined by statute (§ 8-18), and thus required approval	
by defendant Planning and Zoning Commission to be valid; whether trial court	
correctly determined that maps filed by defendant landowners did not alter subdi-	
vision and were exempt from requirement of approval by commission.	
Mangiafico v. Farmington	158
Injunction; motion to dismiss; exhaustion of administrative remedies; motion for	100
summary judgment; impermissible collateral attack; whether plaintiff failed to	
exhaust administrative remedies because he failed to timely appeal to Superior	
Court, pursuant to applicable statute (§ 7-152c [g]) and Farmington Town Code	
provision (§ 91-2 [G]); claim that plaintiff not required to exhaust administra-	
tive remedies because federal civil rights actions brought in state courts do	
not require exhaustion of administrative remedies; whether statutory citation	
appeals process provided inadequate remedy at law for plaintiff's claims seeking	
declaratory and injunctive relief for unconstitutional taking of his property	
and violation of his due process rights; whether citation appeal process was	
inadequate, burdensome, and futile, as it would have required plaintiff to bring	
numerous separate citation appeals; whether trial court improperly rendered	
summary judgment on count of complaint seeking discharge of municipal blight	
liens on plaintiff's property, because trial court erroneously concluded that he	
could not collaterally attack the validity of those liens.	
Mangiafico v. Farmington	178
Petition to open municipal blight citation; ripeness; mootness; judicial estoppel;	110
claim that appeal by defendant town was moot because town did not pursue	
enforcement of citations within twelve months from expiration of final period	
for uncontested payment of fines as required by statute (§ 7-152c [d]); whether	
plaintiff's petition to open citation was ripe for adjudication; claim that town	
was judicially estopped from arguing that plaintiffs claims with respect to	
enforcement of citations at issue in present case were not ripe because town	
sought dismissal of plaintiff's claims in prior proceeding involving enforcement	
of previous citations and fines on ground that plaintiff failed to timely appeal	
prior citations as required by \S 7-152c (g).	
Mills v . Mills (Memorandum Decision)	902
Naugatuck Valley Savings & Loan v. Handsome, Inc. (Memorandum Decision)	903
Paulette v. Paulette (Memorandum Decision)	903
Pressley v. Johnson	402
Dissolution of marriage; postdissolution proceedings; motion for contempt; motion	402
to reargue; claim that trial court erred finding defendant did not owe plaintiff	
arrearage for work related child care expenses; claim that trial court erred vacat-	
ing prior order requiring weekly monetary contributions from defendant to plain-	
tiff for child care expenses.	
Rendahl v. Peluso	66
Breach of fiduciary duty; legal malpractice; whether trial court properly declined	
to accept jury's initial verdict and acted within discretion by not accepting that	
verdict and returning jury to continue deliberations to clarify initial verdict;	
whether jury's failure to award damages rendered initial verdict ambiguous as	
first presented; whether trial court could not have accepted initial verdict pursu-	
ant to applicable rule of practice (§ 16-31) until court resolved inconsistency	
and ambiguity in verdict; whether jury, after returning to continue deliberations,	
had power to change initial plaintiff's verdict to defendants' verdict on all counts;	
reviewability of claim that trial court's supplemental jury instructions were	
improper; whether plaintiff failed to adequately preserve issue for review on	
appeal by failing to take meaningful exception to court's proposed charges before	
appear og javering eo eare neoareringjar omoopteelt to obait o proposoa citalys dejois	

or after court's supplemental instructions; whether trial court abused discretion in denying motions to set aside verdict or in declining to admit certain exhibit	
offered by plaintiff; reviewability of claim not asserted at trial; whether exhibit was probative as to whether defendant breached fiduciary duty to estate under facts of case; failure to seek articulation of claim not addressed by trial court.	
Riley v. Travelers Home & Marine Ins. Co	422
Rinfret v. Porter	498
Application for custody of minor child; motion for attorney's fees; claim that trial court improperly awarded attorney's fees under bad faith exception to American rule by broadly concluding that underlying custody action was both entirely without color and taken in bad faith.	
Shook v . Bartholomew	813
Negligence; reviewability of claim that trial court improperly refused to instruct jury that it could apportion liability on basis of comparative fault as requested in proposed charge; whether defendants' written request to charge complied with applicable rules of practice (§§ 16-21 and 16-23); reviewability of claim that trial court improperly permitted plaintiff to introduce character evidence; whether objection on ground of relevance failed to preserve for appellate review claim that testimony was improper character evidence; whether trial court abused discretion in denying motion to set aside verdict.	
Shook v . Eastern Connecticut Health Network, Inc. (See Shook v . Bartholomew)	813
Sinchak v. Commissioner of Correction	352
Habeas corpus; reviewability of claim that petitioner's right to due process was violated because jury's guilty verdict was against weight of evidence; reviewability of claim that petitioner's trial counsel, appellate counsel and prior habeas counsel rendered ineffective assistance for having failed to raise weight of evidence claim; whether petitioner's trial counsel rendered ineffective assistance during closing argument to jury by failing to marshal facts in petitioner's favor; claim that petitioner's prior habeas counsel was ineffective for having failed to raise claim in prior habeas proceeding that trial counsel was ineffective during closing argument to jury for having failed to marshal facts in petitioner's favor.	302
Smith v . Commissioner of Correction (Memorandum Decision)	905
Sousa v. Sousa	755
Dissolution of marriage; motion to modify; fraud by nondisclosure; fraud on court claim; claim that trial court erroneously concluded that defendant failed to prove by clear and convincing evidence that plaintiff fraudulently misrepresented value of pension in financial affidavit; whether defendant presented clear and convincing evidence that plaintiff knew that disclosed value of subject pension was inaccurate; whether plaintiff's alleged fraud impacted defendant's decision to enter into subject stipulation; whether substantial probability that trial court would have rejected modification had court known that plaintiff had inaccurately valued plaintiff's pension in financial affidavit; claim that plaintiff committed fraud by nondisclosure by listing only value of pension contribution in financial affidavit and by failing to file corrected affidavit prior to modification of dissolution judgment.	
State v. Andino.	851
Assault in first degree; criminal possession of firearm; claim that trial court improperly found that defendant voluntarily waived rights pursuant to Miranda v. Arizona (384 U.S. 436); claim that court made contradictory factual findings;	

whether evidence was sufficient to support conviction of criminal possession of firearm; claim that corpus delicti rule required reversal of firearms conviction.	005
State v. Chankar Arson in first degree; criminal mischief in first degree; claim that police conducted custodial interrogation of defendant in violation of his constitutional rights against self-incrimination; whether trial court improperly determined that police were not required to give defendant warning pursuant to Miranda v. Arizona (384 U.S. 436); whether evidence was sufficient to support conviction of arson first degree; claim that prosecutor committed improprieties during closing argu-	227
ment to jury in violation of defendant's right to fair trial.	1.4.4
State v. Guaman Assault first degree; claim that trial court abused discretion in denying defendant's motion to withdraw guilty plea on ground that trial counsel rendered ineffective assistance by failing to advise defendant of immigration consequences of plea; claim that trial counsel was laboring under actual conflict of interest arising out of his forthcoming suspension from practice of law for four month period following plea canvass.	144
State v. Heath	625
Motion to correct illegal sentence; sexual assault in first degree; assault in first degree; claim that sentence for sexual assault in first degree was illegal because it included period or probation rather than period of special parole; claim that trial court, in granting in part motion to correct illegal sentence, improperly concluded that it was required, pursuant to statute ([Rev. to 2007] § 53a-70 [b] [3]), to resentence defendant to period of special parole for conviction of sexual assault in first degree as class B felony; claim that Supreme Court cases decided during pendency of appeal should not apply retroactively because Supreme Court's determination in those cases amounted to change in law and defendant had relied on law as it existed at time he filed motion.	020
State v. Henderson	119
Robbery in first degree; attempt to escape from custody; whether trial court properly	
denied motion to correct illegal sentence; claim that enhanced sentences as persistent dangerous felony offender, pursuant to statute ([Rev. to 1991] § 53a-40 [a]) and as persistent serious felony offender, pursuant to statute ([Rev. to 1991] § 53a-40 [b]), violated multiple punishments prohibition of double jeopardy clause and contravened intent of legislature; claim that legislature intended that § 53a-40 (a) and (b) permit application of one sentence enhancement rather than simultaneous punishment as both persistent dangerous felony offender and persistent serious felony offender; claim that certain language by Commission to Revise the Criminal Statutes (§ 53a-40, commission comment) precluded enhancement of robbery sentence under § 53a-40 (a); claim that preclusion under § 53a-40 (d) of use of certain convictions rendered simultaneously as basis for conviction as persistent felony offender was applicable to basis for conviction as persistent felony offender pursuant to § 53a-40 (a) and (b).	965
State v. Henry D	265
Attempt to commit sexual assault first degree; risk of injury to child; whether trial court abused discretion in admitting into evidence alleged victim's recorded forensic interview as prior consistent statement in its entirety; claim that prosecutor committed impropriety when he used puzzle analogy to explain concept of beyond reasonable doubt.	
State v. Jones	218
Violation of probation; mootness; whether probation violation appeal was moot because defendant failed to timely appeal from criminal conviction stemming from same conduct; claim that motion for permission to file late appeal from criminal conviction preserved live controversy; whether appeal not moot because trial court allegedly assured defendant that Alford plea would not preclude probation violation appeal; whether defendant's criminal conviction conclusively established that he engaged in criminal conduct giving rise to violation of probation.	
State v. Joseph R. B.	518
Risk of injury to child; whether evidence was sufficient to support conviction of risk of injury to child; whether jury reasonably could have found that defendant was perpetrator and that he possessed requisite general intent; whether comments of prosecutor regarding defendant's knowledge that he had used too much force when freeing child's leg from crib infringed on defendant's constitutional right to remain silent; whether jury naturally and necessarily would have understood remarks as referring to defendant's failure to testify, whether comment that	

to show why he was innocent is comment that jury would naturally and necessar- ily interpret as related to defendant's constitutional and statutory right to decline to testify.	
State v. Lewis	827
Carrying pistol without permit; criminal possession of pistol or revolver; motion to suppress evidence; unlawful search and seizure; whether defendant was seized by police officer when officer stopped patrol car nearby and called to defendant, when officer exited patrol car and approached defendant, or when officer physically touched defendant; claim that police officer's seizure was unlawful because he did not have reasonable and articulable suspicion that defendant was engaged in criminal activity; claim that police officer's patdown was unlawful because officer did not have reasonable suspicion that defendant was armed and dangerous.	021
State v. McClean	62
Motion to correct illegal sentence; reconsideration of prior decision in light of Supreme Court decision; whether trial court properly dismissed motion to correct illegal sentence on ground that it lacked jurisdiction to consider motion.	
State v. Parker (Memorandum Decision)	901
State v. Perez. Motion for return of seized property; plea agreement; claim that trial court improperty denied defendant's motion for return of seized property; claim that defendant was entitled to return of certain seized property because state failed to initiate in rem proceeding regarding property; whether state was required to initiate in rem civil proceeding; claim that defendant was entitled to return of certain seized property because it was never forfeited in accordance with applicable statute (§ 54-36a [e]); whether trial court's finding that seized items were contraband and subject to forfeiture remained law of case; claim that trial court should have granted defendant's motion because defendant never authorized defense counsel to forfeit certain seized property as part of plea negotiations. State v. Ruiz.	40 608
Motion to correct illegal sentence; sexual assault in first degree; risk of injury to child; sexual assault in fourth degree; claim that trial court, in granting in part motion to correct illegal sentence, improperly concluded that it was required, pursuant to statute ([Rev. to 2001] § 53a-70 [b] [3], as amended by Public Acts 2002, No. 02-138 § 5), to resentence defendant to period of special parole for conviction of sexual assault in first degree; claim that because requirement of special parole for persons convicted of violating § 53a-70 (b) (3) was "settled law" defendant should not be penalized for relying on established law, and that it would amount to impermissible retroactive application of law if this court were to apply Supreme Court cases decided during pendency of appeal; whether defendant's original sentence was illegal for lack of period of special parole; reviewability of claim concerning classification of charge of sexual assault in first degree as class A or class B felony.	
State v. Sinclair	1
individual involved in drug transaction was known heroin dealer. State v. Torres (Memorandum Decision)	901
State v. Williams-Bey	64
Motion to correct illegal sentence; reconsideration of prior decision in light of Supreme Court decision; whether trial court properly dismissed motion to correct illegal sentence on ground that it lacked jurisdiction to consider motion.	01
Suntech of Connecticut, Inc. v. Lawrence Brunoli, Inc.	321
Contracts; breach of contract; motion to preclude; claim that trial court abused discretion with respect to certain evidentiary rulings; whether plaintiff demonstrated that it was harmed by subject rulings; whether trial court improperly precluded certain witness from offering expert testimony; claim that trial court	

improperly denied plaintiff's motion to disclose witness as expert witness because it did not hold hearing on motion; whether trial court abused discretion by reversing prior ruling granting plaintiff's motion to preclude certain testimony with respect to named defendant's special defense of setoff; claim that trial court erred by not adopting reasoning of Massachusetts trial court decision in adjudicating plaintiff's claim that it was damaged by named defendant's delay of completion of subject construction project.	
Teixeira v. Home Depot, Inc.	594
Workers' compensation; retaliatory discharge pursuant to statute (§ 31-290a); claim that Workers' Compensation Commissioner abused discretion in denying plaintiff's request for continuance on day of trial; claim that Workers' Compensation Commissioner improperly dismissed claim because plaintiff had not met burden of proof that discharge was retaliatory for exercising rights under act.	
Theodore v. Lifeline Systems Co	291
Negligence; contracts; products liability; whether trial court properly granted motions for directed verdict and determined that plaintiff failed to present evidence sufficient to satisfy essential element of causation; whether plaintiff failed to establish unbroken sequence of events causally flowing from defendants' alleged negligent acts to decedent's death; whether evidence presented failed to establish cause of decedent's death; reviewability of claim that trial court improperly excluded certain evidence.	
Thurlow v. Hulten	694
Quiet title; easement; injunction; trespass; declaratory relief; adoption of trial court's memorandum of decision as proper statement of facts and applicable law on issues.	
Townsend v. Hardy	779
Violation of prisoner's constitutional rights; sexual harassment; prisoner's first amendment retaliation claim under 42 U.S.C. § 1983; prisoner's eighth amendment claim for protection from cruel and unusual punishment under 42 U.S.C. § 1983; whether plaintiff's claim of sexual harassment and eighth amendment claim for protection from cruel and unusual punishment failed as matter of law; whether trial court erred in rendering summary judgment in favor of defendant prison officials on plaintiff's claims relating to allegedly retaliatory conduct of defendants after plaintiff filed his complaint for sexual harassment and reported defendant correction officer's conduct to state police; elements of first amendment retaliation claim by prisoner under 42 U.S.C. 1983, set forth and discussed.	
US Bank National Assn. v. Brouillard (Memorandum Decision)	904
U.S. Bank, National Assn., Trustee v. Nelson	34
Foreclosure; whether trial court properly denied motions to open judgment of strict foreclosure and to dismiss underlying foreclosure action; whether motion to open must be heard, and not merely filed, prior to vesting of title; whether, once law day passed, title to property vested in plaintiff.	