

CONNECTICUT LAW JOURNAL



*Published in Accordance with
General Statutes Section 51-216a*

VOL. LXXVIII No. 52

June 27, 2017

304 Pages

Table of Contents

NOTE: Effective July 1, 2017, the Connecticut Law Journal will be available free of charge on the Judicial Branch website, pursuant to General Statutes § 51-216a (b). The printed version of the law journal will no longer be produced once the publication is available online. See notice on page 3C for more information.

CONNECTICUT REPORTS

Brenmor Properties, LLC v. Planning & Zoning Commission, 326 C 55	17
<i>Zoning; certification from Appellate Court; whether Appellate Court correctly concluded that trial court properly sustained plaintiff developer's administrative appeal from defendant planning and zoning commission's denial of application for affordable housing subdivision pursuant to statute (§ 8-30g); whether, in light of commission's concession regarding applicable standard of review, trial court abused its discretion by remanding matter with direction to approve plaintiff's application as presented; standard of review applicable to trial court's affordable housing remedy under § 8-30g, discussed.</i>	
Middlebury v. Connecticut Siting Council, 326 C 40	2
<i>Administrative appeal; whether trial court properly dismissed plaintiffs' appeal from decision of defendant siting council granting petition to open and modify certificate for operation of electric generating facility; whether trial court improperly determined that council adequately had considered neighborhood concerns as required by statute (§ 16-50p [c] [1]) in granting petition; statutory construction, discussed; claim that trial court improperly concluded that plaintiffs had abandoned their due process and substantial evidence claims due to inadequate briefing; whether plaintiffs' claim that trial court improperly concluded that plaintiffs had abandoned due process and substantial evidence claims due to inadequate briefing was moot because plaintiffs failed to challenge on appeal trial court's alternative conclusions rejecting those claims on merits.</i>	
O'Brien v. O'Brien, 326 C 81	43
<i>Marital dissolution; motion for contempt for plaintiff's purported violation of court's automatic orders effective during pendency of dissolution proceeding and appeal from judgment of dissolution on basis of certain stock transactions that plaintiff executed without defendant's consent or court order; certification from Appellate Court; whether Appellate Court incorrectly concluded that trial court improperly had considered, in making its financial orders, plaintiff's violations of automatic orders stemming from his decision to conduct certain stock transactions; whether court may remedy harm caused by another party's violation of court order, even without finding of contempt; claim that trial court's financial award was erroneous because it was excessive and based on improper method for valuing loss to marital estate; whether court had discretion to consider value that stocks and options would have had at time of remand trial; claim, as alternative ground for affirming Appellate Court's judgment, that plaintiff's stock transactions did not violate automatic orders because those transactions were made in usual course of business; whether trial court's conclusion that stock options plaintiff exercised were marital property subject to distribution between parties was clearly erroneous; claim, as alternative ground for affirming Appellate Court's judgment, that trial court's award of retroactive alimony was improper because it purportedly required plain-</i>	

(continued on next page)

<i>tiff to pay arrearage out his share of marital assets, thereby effectively reducing his share of property distribution.</i>	
State v. Seeley, 326 C 65	27
<i>Forgery second degree; supervisory authority over administration of justice; claim that waiver rule should be abandoned in context of bench trials; whether state presented sufficient evidence that defendant forged signature during purchase of automobile; whether state presented sufficient evidence that defendant acted with intent to deceive.</i>	
Volume 326 Cumulative Table of Cases	87

CONNECTICUT APPELLATE REPORTS

Access Agency, Inc. v. Second Consolidated Blimpie Connecticut Realty, Inc., 174 CA 218	64A
<i>Contracts; landlord and tenant; whether trial court's findings that 2000 lease agreement had expired and that defendant was not guarantor of new lease executed in 2010 were clearly erroneous; whether trial court improperly used exhibit for substantive purposes rather than for limited purpose for which it had been admitted; harmless error.</i>	
Bank of America, National Assn. v. Nino (Memorandum Decision), 174 CA 901	193A
Healey v. Haymond Law Firm, P.C., 174 CA 230	76A
<i>Unpaid wages; induced error; jury instructions; plain error doctrine; entitlement to double damages and attorney's fees pursuant to statute (§ 31-72); claim that trial court should have instructed jury on repealed version of § 31-72, pursuant to which plaintiff may recover double damages if plaintiff proved that defendant withheld wages in bad faith, instead of instructing jury that, pursuant to amended version of § 31-72, it must award plaintiff double damages for unlawfully withheld wages unless defendant establishes that it withheld wages in good faith; whether defendant induced alleged instructional error of which it complained by affirmatively requesting language it challenged on appeal; claim that trial court's alleged error in determining that amended version of § 31-72 applied retroactively was plain error.</i>	
Johnson v. Preleski, 174 CA 285.	131A
<i>Petition for new trial; statute of limitations; whether trial court properly dismissed petition as untimely; claim that action was timely pursuant to saving statute (§ 52-593a), which requires that process be personally delivered to marshal within limitation period, where there was evidence that fax of process was transmitted to marshal within limitation period, but no evidence as to when marshal came into physical possession of process to be served.</i>	
Pajor v. Administrator, Unemployment Compensation Act, 174 CA 157	3A
<i>Unemployment compensation; motion to correct; claim that appeals referee improperly dismissed plaintiff's appeal for failure to attend hearing on remand from prior appeal to Employment Security Board of Review; claim that board improperly refused to grant motion to correct seeking to correct its findings with respect</i>	

(continued on next page)

CONNECTICUT LAW JOURNAL

(USPS 5) (ISSN 87500973)

Published by the State of Connecticut in accordance with the provisions of General Statutes § 51-216a.

Commission on Official Legal Publications

Office of Production and Distribution

111 Phoenix Avenue, Enfield, Connecticut 06082-4453

Tel. (860) 741-3027, FAX (860) 745-2178

www.jud.ct.gov

RICHARD J. HEMENWAY, *Publications Director*

Published Weekly – Subscription Rates: One year—\$225.00

Syllabuses and Indices of court opinions by

MICHAEL A. GENTILE, *Acting Reporter of Judicial Decisions*

Tel. (860) 757-2250

PRESORT MARKETING PAID AT ENFIELD, CT

The deadline for material to be published in the Connecticut Law Journal is Friday at noon for publication on the Tuesday eleven days later. When a holiday falls within the eleven day period, the deadline will be noon on Thursday.

<i>to Polish language proficiency of plaintiff's attorney and whether plaintiff had misunderstood counsel's instruction regarding hearing; whether board was required to admit as true certain facts that plaintiff claimed were undisputed and material to subsequent appeal; whether trial court properly dismissed plaintiff's appeal.</i>	
Redding Life Care, LLC v. Redding, 174 CA 193.	39A
<i>Writ of error; claim that trial court improperly denied plaintiff in error's motion for protective order seeking to prohibit deposition by defendant in error; whether Connecticut law prohibits compelling unretained expert testimony; whether absolute unretained expert privilege or qualified privilege that can be overcome by demonstrating compelling need existed under Connecticut law.</i>	
State v. Joseph, 174 CA 260	106A
<i>Sexual assault first degree; risk of injury to child; whether trial court violated defendant's statutory (§ 54-82m) right to speedy trial; reviewability of claim that court violated defendant's sixth amendment right to speedy trial; unpreserved claim that court denied defendant's right to procedural due process by failing to hold hearings on pro se motions for speedy trial; waiver of claim that court improperly instructed jury about constancy of accusation testimony; whether court committed plain error when it instructed jury about constancy of accusation evidence.</i>	
State v. Patel, 174 CA 298	144A
<i>Petition for review; whether trial court improperly precluded petitioner from copying certain trial exhibits in custody of clerk's office; claim that court's orders that referenced sealing of documents and limited access to trial exhibits in custody of clerk's office were issued pursuant to rule of practice (§ 1-11C) applicable to media coverage of criminal proceedings; claim that orders that referenced sealing of documents and limited access to trial exhibits in custody of clerk's office were final and could not be challenged in petition for review; claim that court's orders that referenced sealing of documents and limited access to trial exhibits in custody of clerk's office were not subject to expedited review pursuant to statute (§ 51-164x [c]).</i>	
State v. Smith, 174 CA 172	18A
<i>Sexual assault second degree; risk of injury to child; claim that defendant's conviction violated his right to due process under Connecticut constitution because police lost potentially exculpatory evidence; whether record adequate to review defendant's claim pursuant to State v. Golding (213 Conn. 233) with respect to allegedly exculpatory evidence; claim that defendant's constitutional right against double jeopardy was violated by conviction of sexual assault second degree and risk of injury to child; whether defendant demonstrated that subject crimes constituted same offense for double jeopardy purposes under test set forth in Blockburger v. United States (284 U.S. 299).</i>	
Valley National Bank v. Marcano, 174 CA 206.	52A
<i>Breach of contract; personal guarantee of line of credit; action to enforce debt owed by defendant as personal guarantor on line of credit; claim that plaintiff did not establish standing and proper chain of title regarding ownership of promissory note originally executed and personally guaranteed by defendant to other entity; claim that plaintiff submitted insufficient evidence to accurately establish loan balance claimed owed by defendant.</i>	
Ventres v. Cais (Memorandum Decision), 174 CA 901	193A
Williams Ground Services, Inc. v. Jordan, 174 CA 247	93A
<i>Action for payment due for services rendered; whether trial court's finding that statute of limitations had been tolled by defendant's several acknowledgments of debt was clearly erroneous; whether claims concerning credibility of witnesses and weight of evidence were matters for trial court as trier of fact; claim that trial court abused discretion in admitting into evidence photocopies of invoices of defendant's monthly bills; claim that photocopies were not complete and accurate copies of originals sufficient to satisfy § 8-4 (c) of Connecticut Code of Evidence; whether plaintiff sought to admit reproductions of business records or original business records.</i>	
Volume 174 Cumulative Table of Cases	195A

NOTICES OF CONNECTICUT STATE AGENCIES

Policy and Management, Office of.	1B
Secretary of the State.	1B
Social Services, Department of	1B

MISCELLANEOUS

Notice of Online Publication of Connecticut Law Journal	3C
Notices of Attorney Discipline	1C
<i>Revised</i> Connecticut Law Journal Deadline Schedule—July through December, 2017. . .	5C

EXPLANATORY NOTES

The Connecticut Law Journal is published in punched, loose-leaf pages to facilitate the ready transfer of its contents to four specially designed ring binders available for purchase at the Commission on Official Legal Publications, 111 Phoenix Avenue, Enfield, CT 06082-4453.

One of those binders is designed for the storage of Supreme Court opinions, a second for the storage of Appellate Court opinions and a third for the storage of Superior Court memoranda of decisions. The fourth binder is designed for the storage of the balance of the contents of the Law Journal.

Updated, cumulative tables of cases for the Connecticut Reports binder, for the Connecticut Appellate Reports binder and for the Connecticut Supplement binder are provided in every edition of the Law Journal. Thus, only the most recent table for each of those binders need be retained. As each bound edition of the Connecticut Reports, of the Connecticut Appellate Reports and of the Connecticut Supplement becomes available, the loose-leaf contents of the binder for that volume may be discarded.

Please notify the Office of the Reporter of Judicial Decisions at once of any error noticed herein.

MICHAEL A. GENTILE
Acting Reporter of Judicial Decisions
Drawer N, Station A
Hartford, CT 06106
(860) 757-2250