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2023 Edition

Alienation of Affection Suits in Connecticut

A Guide to Resources in the Law Library

This guide is no longer being updated on a regular basis. It is made available for the historical significance in the development of the law.

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The online versions are for informational purposes only.

References to online legal research databases refer to in-library use of these databases. Remote access is not available.

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Introduction

A Guide to Resources in the Law Library

- **“Alienation of affections and breach of promise actions abolished.** No action may be brought upon any cause arising from alienation of affections or from breach of a promise to marry.” Conn. Gen. Stat. § [52-572b](#) (2023).
- “This is a tort based upon willful and malicious interference with the marriage relation by a third party, without justification or excuse. The title of the action is alienation of affections. By definition, it includes and embraces mental anguish, loss of social position, disgrace, humiliation and embarrassment, as well as actual pecuniary loss due to destruction or disruption of marriage relationship and the loss of **financial support, if any.**” (Emphasis added.) [Donnell v. Donnell](#), 415 S.W.2d 127, 132 (Tenn. 1967).
- “At common law, a plaintiff could bring a variety of damages actions arising in the context of romantic relationships. These included causes of action for alienation of affections, criminal conversation, seduction, and breach of promise to marry. Only a spouse could bring an action for alienation of affections or criminal conversation; the former tort action provided redress against a third party who won the love of the plaintiff's spouse, while the latter involved sexual intercourse with the plaintiff's spouse. [Lombardi v. Bockholt](#), 167 Conn. 392, 355 A.2d 270, 271 (suit against third party for criminal conversation and alienation of affections based upon defendant's extramarital affair with plaintiff's wife), [Bouchard v. Sundberg](#), 80 Conn. App. 180, 834 A.2d 744, 752 n. 13 ('The common-law traditional heart balm tort of alienation of affections is a cause of action against a third party adult who “steals” the affection of the plaintiff's spouse.').” [Brown v. Strum](#), 350 F.Supp.2d 346; 2004 U.S. Dist. LEXIS 25680.
- Heart Balm Act. “The distaste for alienation of affection and breach of promise suits which has inspired in recent years the enactment of laws **abolishing such ‘heart balm’ litigation has stemmed largely from publicized abuses of these common-law remedies as instruments of fraud and extortion.**” [Tarquinio v. Pelletier](#), 28 Conn. Supp. 487, 488, 266 A.2d 410 (1970).

Section 1: Spousal Alienation of Affection

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to alienation of affection suits in Connecticut

DEFINITION: • **"Alienation of affections and breach of promise actions abolished.** No action may be brought upon any cause arising from alienation of affections or from breach of a promise to marry." Conn. Gen. Stat. § [52-572b](#) (2023).

- Heart Balm Act. "The distaste for alienation of affection and breach of promise suits which has inspired in recent years the **enactment of laws abolishing such 'heart balm' litigation has stemmed largely from publicized abuses of these common-law remedies as instruments of fraud and extortion.**" [Tarquinio v. Pelletier](#), 28 Conn. Supp. 487, 488, 266 A.2d 410 (1970).
- **"Only a spouse could bring an action** for alienation of affections or criminal conversation; the former tort action provided redress against a third party who won the love of the plaintiff's spouse, while the latter involved sexual **intercourse with the plaintiff's spouse.**" [Brown v. Strum](#), 350 F. Supp. 2d 346 (2004) (2004 U.S. Dist. LEXIS 25680).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2023)
Chapter 925. Statutory rights of action and defenses
§ [52-572b](#). Alienation of affections and breach of promise actions abolished.

HISTORY:

- P.A. 67-275 (Reg. Sess.)
"No action shall be brought upon any cause arising after October 1, 1967 from alienation of affection or from breach of a promise to marry."
- P.A. 82-160, section 238 (Reg. Sess.)

CASES:

Once you have identified useful cases, it is important to update them to ensure they are still good law. You can [contact your local law librarian](#) to learn about updating cases.

- [Dufault v. Mastrocola](#), Superior Court, Judicial District of Hartford-New Britain, No. CV 94 0543343 (Mar. 1, 1996) (1996 WL 166471).
- [Tarquinio v. Pelletier](#), 28 Conn. Supp. 487, 266 A.2d 410 (1970).

DIGESTS:

- West Key Numbers: *Husband and Wife* 322 - 337; *Marriage & Cohabitation*, VI. *Torts* 1101-1116

ENCYCLOPEDIAS:

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

Online databases are available for in-library use. Remote access is not available.

- 99 *ALR 5th* 445, *Action For Intentional Infliction Of Emotion Distress Against Paramours*, by Marjorie A. Shields Thomson West, 2002.
- 41 *C.J.S. Husband and Wife*, Thomson West, 2014 (Also available on Westlaw).
 - V. Right of Action
 - C. Husband or Wife or Both Against Third Party
 - 3. Alienation of Affections
 - § 251. Generally. Alienation of affections and criminal conversation
 - § 252. Abolition of action
 - § 253. Generally. Elements of cause of action
 - § 254. Existence of marital relationship
 - § 255. Intent
 - § 256. Motive
 - § 257. **Necessity that defendant's acts be the cause of the alienation**
 - § 258. Generally. Damages
 - § 259. Punitive damages
 - 41 *Am. Jur. 2d Husband and Wife*, Thomson West, 2015 (Also available on Westlaw).
 - XII. Right of Action by Husband or Wife or Both
 - B. Alienation of Affections and Criminal Conversation
 - §§ 220-235. Alienation of Affections and Criminal Conversation, in General
 - 54 *Am. Jur. Proof of Facts 3d* 135, *Proof of Alienation of Affections*, Thomson West, 1999 (Also available on Westlaw).

FORMS:

- 14 *Am. Jur. Pleading and Practice*, Husband and Wife (2013).
 - VIII. Alienation of Affections and Criminal Conversation
 - § 117 Introductory Comments
 - § 118 Checklist – Drafting complaint, petition, or declaration in action for alienation of affections
 - §§ 120-125 Complaint, petition declaration – For alienation of affections of spouse

TEXTS & TREATISES:

- 8 *Connecticut Practice: Family Law and Practice with Forms 3d*, by Arnold H. Rutkin et al., 2010, Thomson West with 2022-2023 supplement, (also available on Westlaw).
 - Chapter 43. Enforcement of custody and visitation orders.
 - § 43.12. Tort claims
- *Connecticut Law of Torts 4th*, by Douglass S. Wright et al., 2018, with 2021 supplement, Atlantic Law Book Company.
 - § 80. Actions by husband or wife
 - § 172g. Alienation of affections and loss of consortium

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- *Domestic Torts: Family Violence, Conflict and Sexual Abuse* Rev. ed., 2005, with 2016 supplement, Thomson West.
 § 7.2 Spousal alienation of affection
- *Damages in Tort Actions*, by Marilyn Kroll Minzer, et al., 2023, Lexis Matthew Bender (also available on Lexis).
 Chapter 11. Third Party Interference with Familial Relationships
 § 11.05. Alienation of Affections and Criminal Conversation
 § 11.05[4]. Spousal Action for Alienation of Affection
- *2 Harper, James, & Gray on Torts 3d*, by Fowler V. Harper, et al., 2006, with 2020 supplement, Aspen Publishers, Inc.
 § 8.3. Alienation of affections of spouse and criminal conversation
- *7 American Law of Torts*, by Stuart M. Speiser, et al., 1990, with 2023 supplement, Thomson West (also available on Westlaw).
 Chapter 22. Interference with, and Torts to, Familial Relations
 B. Husband and Wife
 §22.2 Alienation of Affection
 §22.3 Causation
 §22.4 Alienation of Affections – Burden of proof; Sufficiency of evidence; damages
 §22.5 Statutory Abolition
 §22.6 Defenses
- *Domestic Torts: Civil Lawsuits Arising from Criminal Conduct with Family Relationships, 2d*, by R. Keith Perkins, 2023, Thomson West (also available on Westlaw).
 Chapter 8 Interference with Family Relationships
 I. Common Law Causes of Action
 A. Heart Balm Offenses
 §8:1 Introduction
 §8:2 Current Status of Heart Balm Offenses – Permitted Jurisdictions
 §8:3 Four Primary Heart Balm Causes of Action
 B. Alienation of Spouse's Affection
 §8:4 Civil Cause of Action
 §8:5 Elements
 §8:6 Cases

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

- H. Hunter Bruton, *The Questionable Constitutionality of Curtailing Cuckolding: Alienation of Affection and Criminal Conversation Torts*, 65 Duke Law Journal 755 (2016).
- Laura Belleau, *The Fiftieth Anniversary of American Academy of Matrimonial Lawyers: Article: Farewell to Heart Balm Doctrines and the Tender Years Presumption, Hello to the*

Genderless Family, 24 Journal of American Academy of Matrimonial Law 365 (2012).

- Sharlene A. McEvoy, *Heart Balm Redux: Should the Cause of Action for Alienation of Affection be Revisited as a Remedy for Economic Loss*, 23 North East Journal of Legal Studies 50 (2010).
- Jamie Heard, *The National Trend of Abolishing Actions for the Alienation of Spouses Affection and Mississippi's Refusal to Follow Suit*, 2 Mississippi College Law Review 28 (2009).
- David M. Cotter, *Heart Balm Torts*, 27 Family Advocate 14 (2004-2005).
- Jill Jones, *Fanning an Old Flame: Alienation of Affections and Criminal Conversation Revisited*, 26 Pepperdine Law Review 61 (1999).
- Marilyn Paula Seichter, *Alienation Of Affection: Gone But Not Forgotten*, 10 Family Advocate 23 (1987). Special issue: on Fault

Table 1: Spousal Alienation of Affections in Other States

Spousal Alienation of Affection Actions Abolished	
Massachusetts	Mass. Gen. Laws Ann. Chapter 207 § 47B
New York	Civil Rights Law Article 8
Lists of States Abolishing	
Statutory and Case Law	<p><i>Damages in Tort Actions</i>, by Marilyn Kroll Minzer, et al., 2023, Lexis Matthew Bender (also available on Lexis). §11.05 [4][c].</p> <p>See Chart 11-5 <i>Multi-Jurisdictional Survey of Abolition of Cause of Action For Alienation of Affections by State</i></p>
<p>Each of our law libraries own the Connecticut treatises cited. You can contact us or visit our catalog to determine which of our law libraries own the other treatises cited or to search for more treatises.</p> <p>References to online databases refer to in-library use of these databases. Remote access is not available.</p>	

Table 2: Brown v. Strum

<p style="text-align: center;"><u>Brown v. Strum</u> 350 F. Supp. 2d 346 (2004)</p>	
Choice of Law	<p>A federal court sitting in diversity must apply the choice of law rules of the state in which it sits. Klaxon Co. v. Stentor Co., 313 U.S. 487, 496 (1941). Therefore Connecticut's choice of law rules must be applied in this diversity case. "The threshold choice of law question in Connecticut, as it is elsewhere, is whether there is an outcome determinative conflict between the applicable laws of the states with a potential interest in the case. If not, there is no need to perform a choice of law analysis, and the law common to the jurisdictions should be applied." <i>Lumbermens Mut. Cas. Co. v. Dillon Co.</i>, 9 Fed. Appx. 81, 83 (2d Cir. 2001) (citing <i>Haymond v. Statewide Grievance Comm.</i>, 723 A.2d 821, 826 (Conn. Super.Ct. 1997), aff'd 247 Conn. 426, 723 A.2d 808).</p> <p>The outcome-determinative legal issue in this case is whether there exists a cause of action for seduction or breach of promise to marry. Connecticut and New York laws are identical in this regard.</p> <p>As discussed infra, § III.B., both jurisdictions have abolished a cause of action for breach of promise to marry. Conn. Gen. Stat. §52-572b, N.Y. Civ. Rights L. § 80-a. New York also abolished by statute a woman's common law cause of action for seduction, N.Y. Civ. Rights L. § 80-a, while Connecticut never allowed it in the first place. Thus there is no need to perform a choice of law analysis, and the rules common to both Connecticut and New York will be applied.</p>
Emotional Distress and Fraud	<p>Courts of both states have held that a plaintiff may not circumvent the statutory prohibition on heart balm actions by recharacterizing them as emotional distress or fraud claims. To determine whether a plaintiff has a bona fide claim or is simply using an emotional distress claim to evade the anti-heart balm statute, courts look to the underlying factual allegations of the complaint. For example, in Sanders v. Rosen, 605 N.Y.S. 2d 805, 811 (N.Y. Sup. Ct. 1993), the plaintiff sued her former divorce attorney, alleging that he induced her to begin a romantic relationship soon after her divorce, talked about getting married, wrote a will for the plaintiff with himself as beneficiary, but then terminated the relationship and demanded that the plaintiff move out of his apartment. Id. at 807. The court found that the complaint had "the earmarks of the earlier actions for seduction or breach of promise to marry, i.e., entering into and breaking off a sexual relationship by means of allegedly false promises." Id. at 811. Although the plaintiff had characterized her claim as infliction of emotional distress, the court found that the</p>

	<p>allegations "fall into the category of fall-out from heartbreak," and therefore were not cognizable in the New York courts. <i>Id.</i> at 812.</p> <p>Similarly, Connecticut courts "in determining whether an action is barred by §57-572b,...consider the underlying conduct alleged in the plaintiff's complaint." <i>Bouchard v. Sundberg</i>, 80 Conn. App. 180, 834 A.2d 744, 756. They will not hear claims of emotional distress that "flowed from" a heart balm claim. <i>Id.</i> at 754. The plaintiff in <i>Bouchard</i>, for example, attempted to bring a claim for emotional distress based upon his ex-wife's alleged attempts to alienate his children from him after a divorce. Because Connecticut had barred damages actions for alienation of affection, the plaintiff's claim was not cognizable even when framed as a claim for infliction of emotional distress. <i>Id.</i> In reaching this conclusion, the court examined the factual basis for the plaintiff's claim, which included the ex-wife encouraging the children not to communicate with him, and stated that any action "stemming from the alienation activities" would be barred by statute. <i>Id.</i></p>
Fraud Claims	<p>In <i>Tuck v. Tuck</i>, 14 N.Y.2d 341, 345 (N.Y. 1964) "An innocent woman who is deceived into contracting a void marriage and who thereafter cohabits with her putative spouse in the performance of her supposed conjugal obligations is entitled to recover damages in an action for deceit, and it matters not whether the marriage is void because bigamous or void for the reason that the ceremony leading to it was a sham."</p> <p>The Connecticut Supreme Court has made clear that an action for fraud may not be maintained as a method of circumventing §52-572b (2011). <i>Piccininni v. Hajus</i>, 180 Conn. 369, 429 A.2d at 888. A fraud action relating to a promise to marry only may be maintained in Connecticut for "restitution of specific property or money transferred in reliance on various false and fraudulent representations, apart from any promise to marry, as to their intended use." <i>Id.</i> at 888-89. Thus, a plaintiff was permitted to maintain an action where he sued to recover money spent renovating the defendant's house in reliance on defendant's promise that she would marry him and allow him to move in with her. <i>Id.</i> However, the Supreme Court carefully distinguished an action to regain property from one "to recover for the breach [of a promise to marry] itself." <i>Id.</i> at 889.</p>
<p>Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can contact your local law librarian to learn about the tools available to you to update cases.</p>	

Section 2: Criminal Conversation

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to the tort of criminal conversation in Connecticut

DEFINITION:

- **"Criminal conversation action abolished.** No action may be brought upon any cause arising from criminal conversation." Conn. Gen. Stat. § [52-572f](#) (2023).
- Criminal Conversation: "means adulterous relations between the defendant and the spouse of the plaintiff To sustain the action, plaintiff must establish (1) the marriage between the spouses, and (2) sexual intercourse between the defendant and the spouse during coverture." [Russo v. Sutton](#), 422 S.E.2d 750, 752 (S.C. 1992).

- "Only a spouse could bring an action for alienation of affections or criminal conversation; the former tort action provided redress against a third party who won the love of the plaintiff's spouse, while the latter involved sexual intercourse with the plaintiff's spouse." [Brown v. Strum](#), 350 F.Supp.2d 346; 2004 U.S. Dist. LEXIS 25680.

STATUTES:

- Conn. Gen. Stat. (2023)
[§ 52-572f](#). Criminal conversation action abolished.

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

HISTORY:

- P.A. 71-177 (Reg. Sess.)
"No action shall be brought upon any cause arising after October, 1, 1971, from criminal conversation." Approved May 17, 1971.
- P.A. 82-160, section 239 (Reg. Sess.)

CASES:

- [Hunt v. Beaudoin](#), Superior Court, Judicial District of Hartford-New Britain at Hartford, No. CV94-0544174 (Sep. 3, 1997) (1997 WL 568037). "Count one directed against Samuels has been characterized by Plaintiff as interference with marital contract but is best described as sounding in the common law actions of alienation of affections and criminal conversation, both of which have been abolished in Connecticut by statute. In accordance with [Baldwin v. Harmony Builders, Inc.](#), 31 Conn. App. 242 (1993), nominal damage of One Dollar (\$1) is found against Keith Samuels." [Dufault v. Mastrocola](#), Superior Court, Judicial District of Hartford-New Britain at Hartford, No. CV 94 0543343 (Mar.

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

1, 1996) (1996 WL 166471). "Based on the language noted above, the plaintiff is alleging common law causes of action for negligence, intentional infliction of emotional distress, negligent infliction of emotional distress, breach of fiduciary duty, breach of a contractual obligation to a third-party beneficiary, and breach of an implied contract. Accordingly, the court finds that Mastrocola's motion to strike Counts One through Four of the plaintiff's complaint and Schiffer's motion to strike Counts Five through Seven of the plaintiff's complaint, on the ground that the torts of alienation of affections and criminal conversation have been abolished in **Connecticut, are denied.**"

- [Tarquinio v. Pelletier](#), 28 Conn. Supp. 487, 266 A.2d 410 (1970).

DIGESTS:

- West Key Numbers: *Husband and Wife* 340 - 354; *Marriage & Cohabitation, Torts* 1121-1129

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- 41 *C.J.S. Husband and Wife*, Thomson West, 2014 (Also available on Westlaw).
 - V. Right of Action
 - C. Husband or Wife or Both Against Third Party
 - 4. Criminal Conversation
 - § 260. Generally
 - § 261. Abolition of action
 - § 262. Damages
 - § 263. Distinguished from Alienation of Affections
- 41 *Am. Jur. 2d Husband and Wife*, Thomson West, 2015 (Also available on Westlaw).
 - XII. Right of Action by Husband or Wife or Both
 - B. Alienation of Affections and Criminal Conversation
 - §§ 220-235. Alienation of Affections and Criminal Conversation, in General
- 19 *ALR2d* 471, *Elements Of Causation In Alienation Of Affections Action*, by W.R. Habeeb Thomson West, 1951.
- 31 *ALR2d* 713, *Punitive Or Exemplary Damages In Action By Spouse For Alienation Of Affections, Criminal Conversation*, by L.C. Warden Thomson West, 1953.
- 36 *ALR2d* 548, *Excessiveness or inadequacy for damages for Alienation Of Affections, Criminal Conversation, or Seduction*, by W.E Shipley, Thomson West, 1954.

- 46 ALR2d 1086, *What Statute Of Limitations Governs An Action For Alienation Of Affections Or Criminal Conversation*, by L.S. Tellier, Thomson West, 1956.
- 70 COA 2d 625, *Causes of Action for Alienation of Affections and Criminal Conversation*, Thompson West, 2015.

FORMS:

14 Am. Jur. Pleading and Practice, Husband and Wife, Thomson West, 2013. (Also available on Westlaw).

VIII. Alienation of Affections and Criminal Conversation

§ 119 Checklist – Drafting complaint, petition, or declaration in action for criminal conversation

§§ 127-130 Complaint, petition declaration – For criminal conversation with spouse

TEXTS & TREATISES:

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- *Connecticut Law of Torts 4th*, by Douglass S. Wright et al., 2018, with 2021 supplement, Atlantic Law Book Company.
§ 80. Actions by husband or wife
- *Domestic Torts: Family Violence, Conflict and Sexual Abuse* Rev. ed, 2005, with 2016 supplement, Thomson West.
§ 7:6 Criminal conversation
- *Damages in Tort Actions*, by Marilyn Kroll Minzer, et al., 2023, Lexis Matthew Bender (also available on Lexis).
§ 11.05[1]. Understanding Alienation of Affections and Criminal Conversation
§ 11.05[2]. Distinctions Between Alienation of Affections and Criminal Conversation
§ 11.05[3]. Criminal Conversation – development, proof and abolition
- *The Law of Torts 2d*, by Dan B. Dobbs, et al., 2011, with 2023 supplement, Thomson West (also available on Westlaw).
Chapter 47 Interference with Family Relationships
§602. Husband and wife: alienation of affections and criminal conversation
- *7 American Law of Torts*, by Stuart M. Speiser, et al., 2011, with 2023 supplement, Thomson West (also available on Westlaw).
Chapter 22 Interference with, and Torts to, Familial Relations
B. Husband and Wife - §22.7 Criminal conversation

LAW REVIEWS:

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- H. Hunter Bruton, *The Questionable Constitutionality of Curtailing Cuckolding: Alienation of Affection and Criminal-Conversation Torts*, 65 Duke Law Journal 755 (2016).
- Jill Jones, *Fanning an Old Flame: Alienation of Affections and Criminal Conversation Revisited*, 26 Pepperdine Law Review 61 (1999).

Table 3: Criminal Conversation in Other States

Criminal Conversation Actions Abolished	
Massachusetts	Mass. Gen. Laws Ann. Chapter 207 § 47B
New York	N.Y. Civil Rights Law § 80-a
Rhode Island	R.I. Gen. Laws § 9-1-42
Lists of States Abolishing	
Statutory and Case Law	<p><i>Damages in Tort Actions</i>, by Marilyn Kroll Minzer, et al., 2022, Lexis Mathew Bender (also available on Lexis). §11.05 [2][D].</p> <p style="text-align: center;">See Chart 11-5 <i>Multi-Jurisdictional Survey of Abolition of Cause of Action For Criminal Conversation by State</i></p>
Statutory	<p><i>26 Personal Injury Actions, Defenses and Damages</i>, by Louis R. Frumer and Melvin I. Friedman, ed., 2023, Lexis Mathew Bender (also available on Lexis). § 130A.02[5][b]</p> <p style="text-align: center;">See footnote 82</p>
Case Law	<p><i>26 Personal Injury Actions, Defenses and Damages</i>, by Louis R. Frumer and Melvin I. Friedman, ed., 2023, Lexis Mathew Bender (also available on Lexis). § 130A.02[5][b]</p> <p style="text-align: center;">See footnote 83</p>
<p>Each of our law libraries own the Connecticut treatises cited. You can contact us or visit our catalog to determine which of our law libraries own the other treatises cited or to search for more treatises.</p> <p>References to online databases refer to in-library use of these databases. Remote access is not available.</p>	

Section 3: Alienation of Affection of Parent or Child

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to tort actions for alienation of affections of a child or parent

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- Toledo v. St. Vincent's Medical Center, Superior Court, Judicial District of Fairfield at Bridgeport, CV206092597S (April 12, 2021) (2021 WL 1792363). "Loss of consortium, although a separate cause of action, is not truly independent, but rather derivative and inextricably attached to the claim of the injured spouse." Izzo v. Colonial Penn Ins. Co., 203 Conn. 305, 312 (1987). In the current case, Rebollo's loss of consortium claims are derivative of Danielle Toledo's negligence claims on behalf of Daniel Toledo. This court finds that the loss of consortium claim brought by Rebollo is valid as derivative of Danielle Toledo's negligence claims on behalf of Daniel Toledo."
- John Doe et al. v. Regional School District No. 19 Board of Education et al., Superior Court, Judicial District of Tolland at Rockville, CV1905012667S (March 12, 2020) (2020 WL 1893416). 'This case involves alleged actions taken by school officials that negatively impacted the relationship between the plaintiffs and their then teen-aged daughter. The parent-child relationship is a protected relationship. The Supreme Court counsels that it has been 'made plain beyond the need for multiple citation that a parent's desire for and right to the companionship, care, custody, and management of his or her children is an important interest that undeniably warrants deference and, absent a powerful countervailing interest, protection.' (Internal quotation marks omitted.) Lassiter v. Department of Social Servs., 452 U.S. 18, 27, 101 S. Ct. 2153, 68 L. Ed. 2d 640 (1981); accord Roth v. Weston, 259 Conn. 202, 228-29, 789 A.2d 431 (2002). Connecticut, however, does not recognize a cause of action for alienation of affections between parent and child. . . Placing a more common label, such as negligent or intentional infliction of emotional distress, on a cause of action that, in substance, constitutes such a claim does not circumvent the proscription against such claims.'

"At the heart of the plaintiffs' claims is the suffering they allegedly experienced as a result of the loss of their relationship with their daughter. The defendants maintain that there is no legal duty imposed upon them that makes them responsible for this harm. To the extent that the complaint attempts to state a cause of action for alienation of

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to

affections, the court agrees. Cf. General Statutes § 52-572b (abolishing cause of action for alienation of affections); *Zamstein v. Marvasti*, *supra*, 240 Conn. 566 (plaintiff's claim for alienation of affections of his children fails); *Bouchard v. Sundberg*, *supra*, 80 Conn. App. 193-94 (plaintiff's claim that defendants alienated his children's affections from him cannot be recognized); 3 Restatement (Second), Torts § 699 (1977).... ('[o]ne who, without more, alienates from its parent the affections of a child, whether a minor or of full age, is not liable to the child's parent'). The plaintiffs' efforts to circumvent the proscription against such a cause of action by characterizing their claims in terms of the nature of their injury (emotional distress) rather than the nature of the conduct in question, is unavailing. . .

Connecticut does recognize a cause of action for custodial interference, as distinguished from interference with parental rights or alienation of affections. See *Marshak v. Marshak*, 226 Conn. 652, 665, 628 A.2d 964 (1993), overruled in part by *State v. Vakilzaden*, 251 Conn. 656, 742 A.2d 767 (1999); 3 Restatement (Second), Torts § 700 (1977). That cause of action, however, requires an extralegal taking of custody."

"The plaintiffs' claims and the harm they allege they have suffered are not actionable under Connecticut law, which does not recognize a cause of action for alienation of affections between parent and child and does not permit claims of educational malpractice."

- [Bouchard v. Sundberg](#), 80 Conn. App. 180, 194 (2003). "Therefore, because the legislature has abolished claims for alienation of affections and our Supreme Court in *Zamstein* [*Zamstein v. Marvasti*, 240 Conn. 549, 565, 692 A.2d 781 (1997)] precluded a parent from bringing an alienation claim on the basis of a loss of a child's affections, as a matter of law, we cannot recognize the claim."
- [Mendillo v. Board of Education of Town of East Haddam](#), 246 Conn. 456, 481, 717 A.2d 1177 (1998). "More specifically related to the present case, we have held that a minor child has no cause of action for alienation of his parent's affections by a third party; Overruled in part by *Campos v. Coleman* ...
- [Campos v. Coleman](#), 319 Conn 36, 123 A3d 854 (2015). "In [Mendillo v. Board of Education](#), 246 Conn. 456, 461, 495-96, 717 A.2d 1177 (1998), this court declined to recognize a derivative cause of action for loss of parental consortium by a minor child. The primary issue presented by this case is

whether we should overrule this holding in Mendillo. We conclude that we should." (p. 37-38)

"Upon reconsideration of the relevant considerations, including the five factors that this court found determinative in Mendillo, we now agree with the concurring and dissenting opinion in Mendillo that the public policy factors favoring recognition of a cause of action for loss of parental consortium outweigh those factors disfavoring recognition. More specifically, we agree that the unique emotional attachment between parents and children, the importance of ensuring the continuity of the critically important services that parents provide to their children, society's interest in the continued development of children as contributing members of society, and the public policies in favor of compensating innocent parties and deterring wrongdoing provide compelling reasons to recognize such a cause of action." (p. 43)

DIGESTS:

- West Key Number: *Child Custody* 968; *Marriage and Cohabitation* 1104-1116; *Parent and Child* 324, 354
- **Dowling's Digest:** *Parent and Child* §1

ENCYCLOPEDIAS:

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

Online databases are available for in-library use. Remote access is not available.

- 67A *C.J.S. Parent and Child*, Thomson West, 2023 (Also available on Westlaw).
 - § 331. Action by parent for interference with custodial relationship, generally
 - § 332. Nature and elements of cause of action for interference with custodial relationship
 - § 334. Evidence in action for interference with custodial relationship
 - § 335. Trial and recovery of damages in action for custodial interference
 - § 336. Action by child for enticing away or harboring parent
- 59 *Am. Jur. 2d Parent and Child*, Thomson West, 2012 (Also available on Westlaw).
 - § 117. Tort action between parents, generally; alienation of child's affections
 - § 119. Tort action by child against third party for loss of support or consortium
- 110 *ALR 5th* 371, *Intentional Infliction Of Distress In Marital Context*, by George L. Blum, Thompson West, 2003.
- 99 *ALR 5th* 445, *Action For Intentional Infliction Of Emotion Distress Against Paramours*, by Marjorie A. Shields Thomson West, 2002.
- 40 *ALR 4th* 106, *Liability of Religious Association for Damages for Intentionally Tortious Conduct in Recruitment, Indoctrination, Or Related Activity*, by Thomson West, 1985.

- 60 ALR 3d 931, *Right of Child Or Parent to Recover for Alienation of Other's Affection*, by Jeffrey F. Ghent, Thomson West, 1974.
- 32 ALR 2d 1005, *Alienation of Child's Affection As Affecting Custody Award*, by R.H. Hursh, Thomson West, 1953.
- 8 *Connecticut Practice: Family Law and Practice with Forms* 3d, by Arnold H. Rutkin et al., 2010, Thomson West with 2022-2023 supplement (also available on Westlaw).

TEXTS & TREATISES:

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- *The Law of Torts* 2d, by Dan B. Dobbs, et al., 2011, with 2023 supplement, Thomson West (also available on Westlaw).

Chapter 43. Enforcement of custody and visitation orders.
§ 43.12. Tort claims
- *Domestic Torts: Civil Lawsuits Arising from Criminal Conduct with Family Relationships*, 2d, by R. Keith Perkins, 2023, Thomson West (also available on Westlaw).

Chapter 47 Interference with Family Relationships
§604. Alienation of a parent's or child's affections
- *Domestic Torts: Family Violence, Conflict and Sexual Abuse* Rev. ed, 2005, with 2016 supplement, Thomson West

Chapter 7 Heart Balm Offences and Other Torts Involving Family Relations
§§ 7.13-7. 14 Alienation of Affections of Parent or Child
§ 7:18.50 Negligent Infliction of Emotional Distress
§ 7:19.50 Loss of Consortium in Parent-Child Relationship

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#)

- H. Hunter Bruton, *The Questionable Constitutionality of Curtailing Cuckolding: Alienation of Affection and Criminal Conversation Torts*, 65 *Duke Law Journal* 755 (2016).
- Bruce L. Beverly, *A Remedy to Fit the Crime: A Call for Recognition of the Unreasonable Rejection of a Parent by a Child as Tortious Conduct*, 15 *Journal of Family Studies* 153 (2013).
- Laura Belleau, *The Fiftieth Anniversary of American Academy of Matrimonial Lawyers: Article: Farewell to Heart Balm Doctrines and the Tender Years Presumption, Hello to the Genderless Family*, 24 *Journal of American Academy of Matrimonial Law* 365 (2012).

- *Sandi S. Varnadoa, Inappropriate Parental Influence: A New App for Tort Law and Ungraded Relief for Alienated Parents*, 61 DePaul Law Review 113 (2011).
- Sharlene A. McEvoy, *Heart Balm Redux: Should the Cause of Action for Alienation of Affection be Revisited as a Remedy for Economic Loss*, 23 Northeast Journal of Legal Studies 50 (2010).
- Linda L. Berger, *Lies Between Mommy and Daddy: The Case for Recognizing Spousal Emotional Distress Claims Based on Domestic Deceit that Interferes with Parent-Child Relationships*, 33 Loyola of Los Angeles Law Review 449 (2000).

Table 4: Intentional Infliction of Emotional Distress

Intentional Infliction of Emotional Distress	
Officially Reported Cases	
<u>Bouchard v. Sundberg</u> , 80 Conn. App. 180, 198-199, 834 A.2d 744 (2003).	<p>"It is clear from the facts alleged in the amended complaint itself that the plaintiff was attempting to recast his claim for alienation of affections as a claim for intentional infliction of emotional distress. In particular, our reading of paragraph seven of the third count persuades us to conclude that this is nothing more than a claim for alienation of affections. As the legislature has abolished that cause of action, the court properly granted the defendants' motion to strike the third and fourth counts of the amended complaint." (Emphasis added.)</p>
<u>Whelan v. Whelan</u> , 41 Conn. Supp. 519, 521, 588 A.2d 251 (1991).	<p>"The tort of intentional infliction of emotional distress was recognized by the Connecticut Supreme Court in <u>Petyan v. Ellis</u>, 200 Conn. 243, 253, 510 A.2d 1337 (1986)."</p>
<u>Gilman v. Gilman</u> , 46 Conn. Supp. 21, 736 A.2d 199 (1999)	<p>"To prevail upon a claim for emotional distress, a plaintiff must establish the following elements: '(1) that the [defendant] intended to inflict emotional distress or that he knew or should have known that emotional distress was the likely result of his conduct; (2) that the conduct was extreme and outrageous; (3) that the defendant's conduct was the cause of the plaintiff's distress; and (4) that the emotional distress sustained by the plaintiff was severe.' (Emphasis added; internal quotation marks omitted.) Id. [<u>Petyan v. Ellis</u>, 200 Conn. 243, 253, 510 A.2d 1337 (1986)]." (Emphasis added.) (p. 22)</p>
	<p>"The court finds that the aforementioned factors are sufficient to submit to a jury the question of whether the plaintiff's distress was severe.</p> <p>As to the named defendant's claims as to the other elements, the court finds that there are genuine issues of material fact as to whether the named defendant intended to inflict emotional distress and whether the named defendant's conduct caused the plaintiff's emotional distress." (p. 24)</p>
<p>Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can <u>contact your local law librarian</u> to learn about the tools available to you to update cases.</p>	

Unreported Connecticut Cases	
<u>Pantaleo v. Pantaleo</u> , Superior Court, Judicial District of New Haven, No. CV 90-0294250 (Apr. 30, 1993) (1993 WL 148680) (1993 Conn. Super. LEXIS 1110).	"The issue before this court is whether an attorney who is prosecuting an action against his wife for vexatious litigation, malicious prosecution, libel, slander, and negligent and intentional infliction of emotional distress should be allowed to represent himself pro se when they continue to live as husband and wife."
Secondary Sources	
ALR Annotation	<i>110 ALR 5th 371, Intentional Infliction Of Distress In Marital Context</i> , by George L. Blum, Thompson West, 2003

Table 5: Campos v. Coleman

<p style="text-align: center;"><u>Campos v. Coleman</u></p> <p style="text-align: center;">319 Conn. 36, 123 A3d 854 (2015)</p>	
Issue	<p>"In <u>Mendillo v. Board of Education of Town of East Haddam</u>, 246 Conn. 456, 461, 495-96, 717 A.2d 1177 (1998), this court declined to recognize a derivative cause of action for loss of parental consortium by a minor child. The primary issue presented by this case is whether we should overrule this holding in Mendillo. We conclude that we should." (p. 38)</p> <p>"We agree with the Campos children that we should recognize a cause of action by a minor child for loss of parental consortium resulting from an injury to a parent, subject to certain limitations." (p. 38)</p>
Derivative cause of action for parental consortium	<p>"In <u>Mendillo</u>, a majority of this court ultimately declined to recognize a minor child's claim for loss of parental consortium resulting from a tortfeasor's conduct. At the outset of our analysis of this issue in <u>Mendillo</u>, however, we candidly acknowledged that "many of [the arguments in support of recognizing such a claim] have considerable appeal . . ." Id., 480. In particular, we recognized that a minor child who, by virtue of a tortfeasor's conduct, has been deprived of the love and companionship of a parent 'has suffered a genuine injury, and a serious one.' (p. 40)</p>
Reasoning in <u>Mendillo v. Board of Education of Town of East Haddam</u>	<p>"...we ultimately declined to recognize a cause of action for parental consortium, "primarily on the basis of: [1] the fact that recognition of the cause of action would require arbitrary limitations; [2] the additional economic burden that recognition would impose on the general public; [3] the uncertainty that recognition would yield significant social benefits; [4] the substantial risk of double recovery; and [5] the weight of judicial authority." (p. 43)</p>
Reconsideration of <u>Mendillo</u>	<p>"Upon reconsideration of the relevant considerations, including the five factors that this court found determinative in <u>Mendillo</u>, we now agree with the concurring and dissenting opinion in <u>Mendillo</u> that the public policy factors favoring recognition of a cause of action for loss of parental consortium outweigh those factors disfavoring recognition. More specifically, we agree that the unique emotional attachment between parents and children, the importance of ensuring the continuity of the critically important services that parents provide to their children, society's interest in the continued development of children as contributing members of society, and the public policies in favor of compensating innocent parties and deterring wrongdoing provide compelling reasons to recognize such a cause of action. With respect to the countervailing policy considerations on which we relied in <u>Mendillo</u>, we now</p>

	are persuaded for the following reasons that our concerns were overstated." (p. 43)
Five factors considered:	
1) Arbitrary Limitations	"Although we acknowledge that strong emotional attachments frequently arise in all of these relationships, we do not agree that the relationships 'present equally strong claims of loss of consortium' as those arising from the relationship between a minor child and a parent. <i>Id.</i> , 485." (p. 44)
2) Undue Societal Costs	"Although a monetary award may be a poor substitute for the loss of a parent's society and companionship, it is the only workable way that our legal system has found to ease the injured party's tragic loss. <i>Theama v. City of Kenosha</i> , supra, 117 Wis. 2d 523; " (p. 48)
3) Benefits to Society	"We further note that, if no compensation is available, the harm caused by the loss of parental consortium may not be limited to the child and may have wider societal implications. See <i>Mendillo v. Board of Education</i> , supra, 511 (Berdon, J., concurring in part and dissenting in part) ('development of a child's character, disposition, and abilities [has] a corresponding impact on society ' [internal quotation marks omitted]). We acknowledge that recognizing this cause of action will impose societal costs, as does the recognition of virtually any cause of action, but we now believe that the benefits of recognizing a cause of action for loss of parental consortium are not conjectural and outweigh the costs." (p. 48)
4) Risk of Double Recovery	"Similarly, parental consortium consists of both a parent's services to his or her children, such as cooking, driving or housekeeping, as well as such intangibles as the parent's 'love, care, companionship and guidance . . . ' (Internal quotation marks omitted.) <i>Mendillo v. Board of Education</i> , supra, 478. To prevent double recovery under this approach, it would be sufficient to require the parent's claim and the child's claim to be joined in the same proceeding and to require the trial court to instruct the jury that damages for loss of the injured parent's services are recoverable only by the minor child pursuant to the child's loss of parental consortium claim. " (p.50)
5) Weight of Judicial Authority	"Only five jurisdictions, including this state, have declined to recognize loss of parental consortium claims arising from either an injury to or the death of a parent. Thus, courts in other jurisdictions are divided on the question of whether to recognize a cause of action for loss of parental consortium arising from an injury to the parent, with only a small majority—twenty-six out of fifty—declining to do so, whereas a large majority of states have adopted such a cause of action

	<p>arising out of the death of a parent, thereby recognizing that 'children have a legal entitlement to their parent's society.' <i>Williams v. Hook</i>, 1990 OK 136, 804 P.2d 1131, 1137 (Okla. 1990) ("[i]n enacting [a wrongful death statute providing for damages for loss of parental consortium], the [l]egislature has acknowledged that children have a legal entitlement to their parent's society" [footnote omitted]). Accordingly, we no longer can conclude that the weight of authority supports our holding in <i>Mendillo</i>, much less that it does so overwhelmingly." (p. 56)</p>
Ruling	<p>"Because we no longer agree with this court's weighing of the relevant public policy factors in <i>Mendillo</i>, we now overrule our holding in that case and conclude that we should recognize a cause of action for loss of parental consortium. To decide otherwise would be inconsistent with the 'the fundamental policy purposes of the tort compensation system—compensation of innocent parties, shifting the loss to responsible parties or distributing it among appropriate entities, and deterrence of wrongful conduct' <i>Mendillo v. Board of Education</i>, supra, 246 Conn. 482." (p. 57)</p>
Restrictions on Claims	<p>Consistent with the foregoing analysis, however, we impose the following restrictions on loss of parental consortium claims. First, loss of parental consortium claims must be joined with the parent's negligence claim whenever possible, and the jury must be instructed that only the child raising the claim can recover the pecuniary value of the parent's services. Cf. <i>Hopson v. St. Mary's Hospital</i>, supra, 176 Conn. 494 (loss of spousal consortium claim should be joined in one action with injured spouse's claim and tried before single trier of fact to minimize possibility of inconsistent verdicts). Second, and relatedly, because a loss of parental consortium action 'is derivative of the injured [parent's] cause of action, the consortium claim would be barred when the [action] brought by the injured [parent] has been terminated by settlement or by an adverse judgment on the merits.' Id. Third, a loss of parental consortium claim may be raised only by a person who was a minor on the date that the parent was injured, and damages may be awarded only for the period between the date of the parent's injury and the date that the child reaches the age of majority." (p. 57)</p>
Liability Limits	<p>The defendants also contend that, if we recognize a cause of action for loss of parental consortium, we should limit liability to damages arising from injury to the parent during the parent's life and thereby preclude damages arising from the parent's death. For the reasons set forth in our decision in <i>Ladd v. Douglas</i>, 203 Conn. 187, 523 A.2d 1301 (1987), we agree with the restriction advocated by the defendants." (p. 58)</p>

	<p>"Our reasoning in Ladd applies equally to loss of parental consortium claims. We therefore conclude that loss of parental consortium claims are limited to claims resulting from a parent's injury during the parent's life." (p. 59)</p>
Damages	<p>"The defendants also contend that, if we recognize a cause of action for loss of parental consortium, we should limit liability to damages arising from injury to the parent during the parent's life and thereby preclude damages arising from the parent's death. For the reasons set forth in our decision in <i>Ladd v. Douglas</i>, 203 Conn. 187, 523 A.2d 1301 (1987), we agree with the restriction advocated by the defendants." (p. 58)</p> <p>"In addition to adopting the foregoing limitations on liability, the fact finder necessarily must consider whether the parent's injuries were insignificant or serious, and whether they were temporary or permanent. We decline, however, to impose the limitation adopted by a number of courts that damages are recoverable only when the parent has suffered a 'serious, permanent and disabling mental or physical injury' that is 'so overwhelming and severe that it causes the parent-child relationship to be destroyed or [to be] nearly destroyed.' <i>Keele v. St. Vincent Hosp. & Health Care</i>, 258 Mont. 158, 162, 852 P.2d 574 (1993); accord <i>Villareal v. Dept. of Transportation</i>, supra, 160 Ariz. 480. Rather, 'the severity of the injury to the parent and its actual effect [on] the parent-child relationship . . . the nature of the child's relationship with the parent, the child's emotional and physical characteristics, and whether other consortium giving relationships are available to the child'; <i>Reagan v. Vaughn</i>, supra, 804 S.W.2d 467; are factors to be considered by the fact finder on a case-by-case basis in determining the amount of damages." (p. 60)</p>
Applicability	<p>"... see also <i>Marone v. Waterbury</i>, supra, 11 n.10 (presumption of retroactivity of judicial decisions is limited to 'pending cases' because application of judicial decision to case in which no appeal is pending and trial court would be required to open and modify judgment would violate principles of res judicata and collateral estoppel). We therefore conclude that our holding recognizing a cause of action for loss of parental consortium applies to the present case and to other pending cases. No action for loss of parental consortium will be allowed, however, when a parent's 'claim for . . . injuries has been concluded by judgment or settlement or the running of [the] limitations [period] prior to the [issuance] of this opinion ... <i>Hopson v. St. Mary's Hospital</i>, supra, 496." (p. 64)</p>