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## Pullman Matrimonial Lawyers Convince the CT Supreme Court to Make Major Change Affecting the Finality of Judgments

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The Connecticut Supreme Court recently decided a case of critical importance in *Reinke v. Sing*, SC 19687, reversing the Appellate Court and determining that pursuant to General Statutes § 52-212a parties may agree to open a dissolution judgment and modify a property division beyond the four-month limitation. Indeed, the matter was of such significance that two *Amicus Curiae* briefs filed in support of reversal – one on behalf of the Connecticut Bar Association, authored by Pullman & Comley attorney Livia D. Barndollar, and one on behalf of the Connecticut Chapter of the American Academy of Matrimonial Lawyers, authored by Pullman & Comley attorneys Campbell D. Barrett, Jon T. Kukucka and Johanna S. Katz. The Supreme Court’s decision is consistent with the recommendations of the *amici*.

The facts of this case are as follows:

Years after the parties’ marital dissolution, the plaintiff wife filed a motion to open the judgment on the basis of fraud, claiming that the defendant husband had failed to disclose certain assets on his financial affidavit during the dissolution. The trial court granted the motion to open *by agreement of the parties* without making a finding of fraud to reassess the financial orders. Following a trial, the court found that the defendant had underreported his income and the values of certain assets. The court then issued a new decision, which modified the alimony duration and amount and the property distribution and awarded the plaintiff a portion of her attorney’s fees. The plaintiff appealed.

The Appellate Court asked the trial court to articulate whether it had found that there was no fraud. In response, the trial court stated that “the plaintiff had failed to prove fraud by clear and convincing evidence.” The Appellate Court then

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asked the parties to submit briefs on the issue of whether the trial court had subject matter jurisdiction to open the judgment in the absence of a finding of fraud. Both parties responded, arguing that the trial court had subject matter jurisdiction to consider the motion to open. Despite the parties' agreement permitting the court to do so, the Appellate Court held that in the absence of a finding or concession of fraud, the trial court lacked subject matter jurisdiction to open a dissolution judgment. In so holding, the Appellate Court relied on its decision in Forgione v. Forgione, 162 Conn. App. 1 (2015), a case that had been decided during the pendency of the appeal.

The plaintiff petitioned the Supreme Court for Certification on the issue of whether "the Appellate Court correctly determine[d] that, in the absence of a finding of fraud, the trial court lacked subject matter jurisdiction to open the parties' judgment of dissolution of their marriage." Reversing the Appellate Court, the Supreme Court focused on the distinction between subject matter jurisdiction and the court's authority to act, citing to its previous decision in Amodio v. Amodio, 247 Conn. 724, 728 (1999), which held that the court's authority to act pursuant to a statute is different from its subject matter jurisdiction.

In Reinke, the Supreme Court found that the trial court had subject matter jurisdiction pursuant to the court's plenary and general subject matter over dissolution actions and its statutory authority to assign to either spouse any part of the marital estate. The Court further found that the trial court also had the statutory authority to act under Connecticut General Statutes § 52-212a, which provides that "a civil judgment or decree rendered in the Superior Court may not be opened or set aside unless a motion to open or set aside is filed within four months following the date on which it was rendered or passed. . . . The parties may waive the provisions of this section or otherwise submit to the jurisdiction of the court." Because the parties in Reinke had submitted to the trial court's jurisdiction, this statute was satisfied notwithstanding the passage of more than four months since the entry of the judgment.

The Supreme Court's decision in this case is critical not only to family matters but to all Connecticut civil cases. Indeed, the strict dictates of the Appellate Court's decision ran afoul of Connecticut's public policy of encouraging parties to reach agreements. There are also important considerations as to why one or both of the parties would not want to admit to, or have the court make findings in regard to, fraudulent conduct. If the law in Connecticut were changed to necessitate a finding or admission of fraud in every attempt to open a judgment, as the Appellate Court's decision would have required, such finding may have severe consequences for one of the parties, especially as it concerns his or her employment.