
Week of August 25

Welcome to our Supreme and Appellate Court summaries webpage. On this page, I provide abbreviated summaries of decisions from the Connecticut appellate courts which highlight important issues and developments in Connecticut law, and provide practical practice pointers to litigants. I have been summarizing these court decisions internally for our firm for more than 10 years, and providing relevant highlights to my municipal and insurance practice clients for almost as long. It was suggested that a wider audience might appreciate brief summaries of recent rulings that condense often long and confusing decisions down to their basic elements. These summaries are limited to the civil litigation decisions based on my own particular field of practice, so you will not find distillations of the many criminal and matrimonial law decisions on this page. I may from time to time add commentary, and may even criticize a decision's reasoning. Such commentary is solely my opinion . . . and when mistakes of trial counsel are highlighted because they triggered a particular outcome, I will try to be mindful of the adage . . . "There but for the grace of God . . ." I hope the reader finds these summaries helpful. – Edward P. McCreery

Posted August 25, 2014

- SC18974 - Weaver v. McKnight

An important evidentiary ruling in this Med Mal case. After holding that an OBGY Board Certified Doctor acting as the plaintiff's expert witness should have been allowed to opine on the likely cause of a baby's death without the need to be a Pathologist, or trained in pathology, the Court went on to discuss the propriety of allowing a witness to be cross examined about a prior sanction issued by a professional organization. Here a voluntary college of medicine organization apparently sanctioned one of the expert witnesses for previously testifying falsely about a medical case. The Court noted that a witness may always be asked whether they have lied or testified falsely in a prior matter. But the answer they give must be accepted as is (except in cases of a conviction for perjury). They may not be shown outside documents to refute their answer as this violates the Rule Against Impeachment by Collateral Sources (CT Code of Evidence 4-4). Here the Court held as a matter of first impression that it is equally improper to ask the witness if they were sanctioned for their conduct by the outside agency....because merely asking the question that way implicates the hearsay findings of a 3rd party agency and opens up the risk of mini-trial over the propriety of that agency's finding where, as here, the doctor denied he testified falsely and said that organization got it wrong.

- SC18854 - State v. Krijger

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- SC19159 - Hylton v. Gunter
- SC19159 Dissent - Hylton v. Gunter

Extending its bright line rule that post-judgment requests for an award of attorney fees do not stay the time to file an appeal, the Supreme Court held today that this rule applies even when the request is part of a common law award of punitive damages, which in CT means an award of attorney fees.

The majority distinguished this rule from a **post-judgment request** for an award of **pre-judgment interest** which DOES stay the appeal period until ruled upon. They also distinguish this rule from a post-judgment hearing on the amount of statutorily authorized punitive damages which might flow from the verdict/judgment (such as for CUTPA) which also stay the appeal period until the amount of statutory punitive damages have been determined. [A footnote urges the trial judges to make all awards at once to avoid piecemeal appeals, but if not practical, reminds litigants who have to take an appeal before all issues (like attorney fees) are resolved, that they can amend their pending appeal to incorporate the newly resolved issues.]

The dissent argued that awards of attorney's fees can be a big issue and should stay the running of an appeal. The majority disagreed and equated the award of attorney fees to be no more significant than the decision of what costs should be taxed....which also does not delay the appeal period.

The facts and holdings of any case may be redacted, paraphrased or condensed for ease of reading. No summary can be an exact rendering of any decision, however, so interested readers are referred to the full decisions. The docket number of each case is a hyperlink to the Connecticut Judicial Department online slip opinion. ©2014 Pullman & Comley, LLC. All Rights Reserved.

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