
Week of February 23

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. I may from time to time add commentary, and may even criticize a decision's reasoning. Such commentary is solely my own personal opinion.. Pullman & Comley's Appellate Practice Group of which I am a member includes experienced appellate advocates in almost every area of the law. Should you have a need to consult about a potential appeal, please email me at emccreery@pullcom.com I hope the reader finds these summaries helpful. – Edward P. McCreery

Posted February 23, 2015

- SC19215 - Olszewski v. Jordan

In this case, the court reversed an earlier decision of the Appellate Court which had held that an equitable charging lien (as distinguished from a retaining lien equals the right to retain files) can automatically arise against the client's post dissolution award. In a decision which could ultimately result in sweeping changes to all attorney liens (if the legislature follows the court's shout-out for new laws), this decision holds that dissolution actions are distinguishable from general civil actions for purposes of determining whether an attorney may acquire an equitable charging lien against marital assets.

The court said all prior Connecticut cases (and almost all foreign decisions as well) have dealt with allowing the attorney to assert an automatic lien to protect their fees against newly created assets **arising from judgments in civil actions**, not marital assets which are already technically in the client's possession before the litigation. Allowing an attorney's charging lien in a marital proceeding could defeat the property and child support orders crafted by the court.

While finding that none of the Rules of Professional Conduct answered the question, the court concluded the public policy reflected in Rule 1.5(d)(1) (which prohibits contingency fees in matrimonial cases as it grants a stake in the outcome to the lawyer) dictates against allowing such liens to arise automatically. But the court

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noted 32 states regulate charging liens (which in turn often allow them in marital actions), so if properly regulated, it may not be improper. So the court called out to the State Legislature to address the whole area of when and how charging liens should be allowed, including in matrimonial cases. They then hinted that maybe the New York approach would work where notice to the parties and a blessing by the matrimonial court would make the lien acceptable.

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. Copyright 2015 Pullman & Comley, LLC. All Rights Reserved.

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