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## Week of September 12, 2016

*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](mailto:emccreery@pullcom.com). I hope the reader finds these summaries helpful. – Edward P. McCreery*

*Posted September 19, 2016*

### Appellate Court Advance Release Opinions:

- AC38487 - [State v. Elias V.](#)
- AC37672 - [Doe v. West Hartford](#)

The issue in this case was whether process was delivered to the marshal the day before the expiration of the three year statute of limitations so as to take advantage of the savings clause under 52-593a. The marshal signed an affidavit in opposition to the defendant's summary judgment asserting he received it the day before. But he was deposed and admitted he did not recall the receipt and only signed the affidavit because the plaintiff's (former) attorney asked him to. The marshal's affidavit was stricken as not being based upon personal knowledge. The plaintiff then produced an affidavit in opposition to summary judgment from his former attorney also stating the process was delivered to the marshal that day. Then the attorney was deposed and admitted he did not personally hand it to the marshal as that would have been the responsibility of his now-deceased office manager. So his affidavit was also stricken as not based upon personal knowledge. The Trial Court then granted summary judgment to the defendants based upon a three year statute of limitations. The Appellate Court reversed because the former attorney's deposition transcript (also submitted to the Trial Court) went on to say that although the attorney did not see the marshal come in and pick it up and did remember that day as the statute of limitations was about to expire and so he instructed his office manager to leave the process on the counter and he personally called the marshal to

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come pick it up and later spoke to the marshal after he picked it up about service issues. The decision held that testimony raised a question of fact whether process was delivered to the marshal before the statute of limitations ran out, even though in his deposition the marshal either denied or did not recall any such conversations with the former attorney.

- AC36948 - [State v. Erick L.](#)
  - AC36742, AC37544 - [State v. Robert H.](#)
  - AC36742, AC37544 Dissent - [State v. Robert H.](#)
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*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. © 2016 Pullman & Comley, LLC. All Rights Reserved.*

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The factual summary, or even the legal conclusions, of any case may be summarized, redacted, paraphrased or altered at the author's discretion for ease of reading. Accuracy of the summary cannot be guaranteed and the viewer is referred to the actual case for an exact reading. The Docket number should be a link to the full decision.