
Week of February 20, 2017

April 13, 2017

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 22, 2017

Supreme Court Advance Release Opinions:

- SC19661 - [ARS Investors II 2012-1 HVB, LLC v. Crystal, LLC](#)

Owner recorded an unapproved subdivision map of its commercial property into three lots and then granted a mortgage to a lender on two of the lots. When the owner later defaulted on the mortgage, the lender started a foreclosure. The owner asserted as a defense that the court could not allow a foreclosure based upon an invalid legal description absent the mortgagee first having sought reformation of the mortgage. The Supreme Court disagreed and noted that merely because a subdivision is illegal does not mean someone cannot grant a mortgage upon a portion of the land. The municipality is not thereafter bound to recognize the illegal map just because of the mortgage, or even its later foreclosure. Further the Validating Act specifically protects mortgages granted upon illegal subdivision lots. The Court distinguished this case from the Elfire/Redding case where the town was trying to foreclose on an assessed tax based lot that in turn was based upon an allegedly wrong map. There the town would be giving recognition to a wrong legal description and further there was no similar safety net like the Validating Act that would apply.

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- SC19574 - [CCT Communications, Inc. v. Zone Telecom, Inc.](#)

Trial Court properly awarded damages to the defendant who had procured long distance service from the plaintiff when the plaintiff in turn violated its underlying purchase agreement with the provider and service was cut off. The Trial Court appropriately limited those damages however to the total amount paid in the contract by the defendant pursuant to the *limitation of damages clause*. In this case that amounted to > \$600,000. Of that \$600k, it was appropriate for the Trial Court to have included a \$200k credit on the defendant's account offered for prior service problems. Next this decision held that the Trial Court could also award ~\$1,000,000 in legal fees to the defendant, notwithstanding the damage limitation clause, because the contract also contained a *prevailing party attorney fee clause*.

Appellate Court Advance Release Opinions:

Plaintiff claimed the defendant's tiny dog Boo Boo attacked her two pit bulls and one German Shepard's feet as she was walking them and as they "defended themselves" by going after Boo Boo and tearing it apart, she was pulled to the ground by the leashes and sustained personal injuries. The jury returned a verdict for the defendants – owners of Boo Boo. On appeal the Plaintiff claimed it was error for the Trial Court to have allowed the introduction of photographs of the mangled Boo Boo. No it wasn't – appeal dismissed.

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. © 2017 Pullman & Comley, LLC. All Rights Reserved.

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.