
Week of February 7, 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 15, 2017

Appellate Court Advance Release Opinions:

- AC39478 - [In re Larry D.](#)
- AC38127 - [Deutsche Bank National Trust Co. v. Pardo](#)

The Court refused to set aside a judgment of strict foreclosure. It rejected an argument that the original promissory note was rendered *non-negotiable* when subsequent mortgage loan modifications increased the principal owed under the original note. Under 42a-3-106...the “promise” is rendered non-negotiable when in the document itself it makes reference to “other writings” that could impact the promise. The promise to pay IS NOT rendered “conditional” by subsequent modifications not referenced in the original (otherwise negotiable) note.

- AC37382 - [Peeler v. Commissioner of Correction](#)
- AC38194 - [Hammer v. Posta](#)

If one party claims the case to the jury list, that does not give the other party a “right” to a jury trial if they do not file their own jury claim. Here, when the plaintiff withdrew their jury claim, the defendant could not show up on the day of trial and demand a jury trial when they could not even show they had objected to the plaintiff's withdrawal of their claim. The decision also refused to overturn the court-side judgment when the

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(senior) judge mused on the record that he had not bothered to read the exhibits but assumed plaintiff's counsel accurately summarized them. Such behavior was not deemed appropriate, but was not grounds to overturn the judgment when the exhibits were extensively talked about by the witnesses on the record that the Judge obviously heard, .and the defendant did not point out any particular misreps to the trial judge by counsel.

- AC38343 - [Gordon v. Gordon](#)

(Pro Se) Ex husband sued ex-wife for conduct during the divorce for larceny, extortion and fraud. The Trial Court granted summary judgment to the defendant finding all the claims were beyond the three year tort SOL found in 52-577 after pegging the allegations to the date of the separation agreement, and the date of a restraining order, and added that the deadline is not tolled while a court filing fee waiver is pending. On appeal, this decision held that the ex-husband could not challenge the propriety of the ex-wife's summary judgment motion on the grounds the SOL defense had not been separately pled as a Special Defense because he did not raise that issue before the Trial Court.

- AC38090 - [Wood v. Wood](#)

Second marriage for the wife; third for the older husband. Wife stopped working when married. Husband retired thereafter. Wife probably colored things against her when she took 150k out of accounts before the divorce and never accounted to the court about it. Her challenge to the property and alimony awards by the Trial Court then fell on deaf ears. She challenged the husband getting all of his unexercised stock options or at least the court not using their value to award her more alimony. The Appellate Court noted these options can be used either for determining income for alimony purposes, o can be deemed property subject to distribution, but not both. Here the Trial Court chose to consider the options as property subject to the distribution mosaic. This was all part of the equitable distribution of assets. She got a car, half the house, 65% of his IRA, some alimony, (don't forget both dogs), etc. when most of his assets were acquired pre-marriage.

- AC37635 - [State v. Roberto Q.](#)
- AC37428 - [Foote v. Commissioner of Correction](#)
- AC38452 - [State v. Jumpp](#)

Supreme Court Advance Release Opinions:

- SC19667 - [Norwalk Police Union, Local 1727, Council 15, AFSCME, AFL-CIO v. Norwalk](#)

Arbitration award approving of the dismissal of a police officer who leaked to a fellow officer that he was being investigated for a sexual assault was reinstated. The trial court incorrectly set aside the arbitration decision by deciding that an interim reassignment to patrol division was punishment already and termination was a second punishment. Whether the reassignment was a punishment was a question of fact for the

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arbitrators to decide, and they concluded it was not. No CT case law has ever held that mere reassignment of an employee constitutes "punishment."

- SC19554 - [Chestnut Point Realty, LLC v. East Windsor](#)
- SC19555 - [Kettle Brook Realty, LLC v. East Windsor](#)

As previously reported, congratulations to our own Rick, Laura & Josh for winning these two. A 12-117a tax appeal is timely commenced upon service of process on the municipality – not by the filing of the appeal with the court as the appellant had argued.

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.