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DEPARTMENTS

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An Interview with Chief Justice Mullins and His Vision of Judicial Independence

By JAMES T. (TIM) SHEARIN

Hon. Raheem L. Mullins was confirmed by the General Assembly as the Chief Justice of the Connecticut Supreme Court on January 28, 2025. Prior to that, he served as a Justice of the Supreme Court, as an Appellate Court Judge from 2014 to 2017 and as a Superior Court Judge from 2012 to 2014. He began his career as a law clerk to the Honorable Frederick L. Brown of the Massachusetts Appellate Court and then moved to Connecticut where he was a prosecutor in the Appellate Bureau of the Division of Criminal Justice and as an assistant attorney general in the Child Protection Division.

I had the opportunity to sit with Justice Mullins and explore a wide variety of topics that provides insight into who he is as a person, judge and now the head of the Judicial Branch. The summary of our interview is below.

What inspired you to become a lawyer? Frankly, I had no interest in becoming a lawyer my entire life. It was not until I was in my junior year at Clark University that I watched an episode of *Law & Order*. I became intrigued. I grabbed an LSAT prep book, did some practice exams, and decided then and there I would become a lawyer as my career. I later told that story to one of my law school professors. She told me I should come up with a better one. I have not. That is the truth on how I started my career.

Who has shaped your personal and professional life? My parents were a huge influence on me, my father in particular. Neither of my parents went to college. In fact, no one in my family had ever gone to college. My father was an electrician and worked at Pratt & Whitney for fifty years, and when he wasn't there, he was helping out neighbors with their electrical needs. I admired his work ethic and the fact that he was always there for me no matter how busy he was. His father was never around so he was made it up as he went along. He was an incredible man and an incredible father, and I have tried to be the same type of father to my children.

As for my professional career, Justice Lubbie Harper has had a profound influence on me. When I was a lawyer and appeared before him in the Appellate Court, he was incredibly tough. I had concluded he just did not like me, which caused me to prepare, and then prepare more, and then still prepare more. He made me a better lawyer. After I became a judge, we became very close. I have always admired him for not only what he accomplished as a judge, but as importantly, who he was as a person. He came from a humble background and never forgot who he was. To this day he still is very involved in improving New Haven and helping those who need it.

Do you have a judicial philosophy? I do not subscribe to any particular philosophy such as being an originalist or textualist. When I am pressed, I answer that I try to show judicial restraint. In my decisions, I try to address the particular issue facing the court based upon the facts that are presented and the controlling law, while appreciating how my ruling will affect the bar and the public. I try not to overwrite or decide issues that are before me. I believe judges get in trouble when they try to write a broad statement of the law and then find that the facts change; the broad statement suddenly does not look as good.

Is there a particular case that stands out in your mind as reflecting that judicial restraint? I recall a case when I was in the Appellate Court, *In re Henrry*, which involved a young man who had fled Honduras because of violence. His mother had filed petitions requesting removal of the child's father as guardian and replacing her boyfriend and special juvenile immigration status. She sought emergency relief so the Petitioner could be heard before the child turned eighteen. The peti-

***James T. (Tim) Shearin** is the CBA's 101st president. Attorney Shearin is the immediate past chairman of Pullman & Comley LLC. He has wide-ranging experience in federal and state courts at both the trial and appellate levels, and before arbitration and mediation panels. He represents clients in a wide variety of litigation matters.*

tions were denied by the Probate Court. The mother then appealed to the juvenile court. The young man turned eighteen years old before the court had decided the petitions. Then existing Supreme Court precedent said that the juvenile court had no jurisdiction once a person reached the age of eighteen and therefore the petitions were denied at the trial court level. It came before a panel of the Appellate Court. We struggled because we knew that affirming the decision would likely return the young man to the violence he fled in Honduras. Nevertheless, as the Appellate Court, we had little choice given existing precedence. The majority of the panel affirmed the decision, even though personally, we didn't like it. The mother and young man filed a petition for certiorari to the Supreme Court, which they accepted, and then reversed our decision holding that the precedence we relied on was not controlling and concluded the petitioner should not be held accountable for the delays in the judicial process they experienced.

Had you been on the Supreme Court, would you have ruled the same way as it did? Maybe—I am not 100% sure, but I would have thought about it differently. While I believe that stare decisis is important and precedence should not be lightly overturned, sitting on the Supreme Court allows us to have a little more freedom than appellate or trial court judges as to how a case should be decided. I certainly would have looked at the case with that different lens.

What do you know now as an Appellate judge you wish you knew as a Superior Court judge? Superior Court judges often worry about whether they will get reversed. Having been an Appellate Court judge and now a justice of the Supreme Court, I have come to understand that sometimes it just boils down to different judges viewing an issue differently. It does not mean that the Superior Court judge made a mistake. At the Supreme Court, we just happen to have the last word. If I were telling the Superior Court judges anything, I would tell them to decide cases based upon what the law dictates and not worry about what an appellate court might do.

As Chief Justice you represent the Judicial Branch, what are your priorities? First and foremost, technology. We recently refurbished the old Appellate Court to allow for the digital presentation of evidence. It is very impressive. Our hope is to have a digitally equipped courtroom in every judicial district. We are also working to make sure we have Wi-Fi in each of the courthouses. Second, as importantly, I also want to focus on access to justice. Third, I want to reinvigorate our staff and have people understand the importance of what we do. I think the rule of law is under attack and they should understand how important it is, and we are, to society.

Let me explore that last point further. How do you define the rule of law and how do you, as head of the third branch of government in Connecticut, make sure it is paramount in everything the branch does? At base, the rule of law is our system of checks and balances, the laws we live by. It is one of the founding principles of our country. When we started this country, one of the things we were dead set against was the notion that the "king wins." "You're going to do this and there is no arguing against it; there's no appeal." Our founders had a real problem with that. The judiciary is the counter-majoritarian branch. It is a check to make sure that no branch becomes too powerful. It is vitally important to our governmental system, to the fabric of our country and to who we are. The more that is attacked, the more we attack the very ideas of our country. Unfortunately, not everyone fully appreciates this nor how damaging ignoring the rule of law and our system's checks and balances will be to those things we hold dear in this country; it's what sets us apart. Part of the problem is education. It is important to me as leader of the Branch to make sure people understand this. We have a civics program where are judges and lawyers visit schools, usually the sixth grade, to speak about the rule of law and why it is important. We need to do more to get out into the community and make sure everyone appreciates the importance that the Judicial Branch plays in society. I speak frequently to people about why it is important to serve on jury duty so they know how the court process works. We also have to address the prevalence of social media. It is a great thing but often disseminates misinformation. For that reason, it is important to me to be at the forefront of educating people in what we do, including the people we serve. I want those who interact with the court to feel like they have been heard and their case has resolved timely and they have been treated fairly. That interaction will help people's perception of the Judicial Branch and the rule of law. People need to understand that the court system is theirs and we need to make sure that their interaction with it is positive.

One of the things you just mentioned was misinformation. Chief Justice Roberts devoted much of his 2024 Report on the Federal Judiciary to the importance of judicial independence and pointed to four threats to judicial independence: 1) violence; 2) intimidation through unjustified attacks on the court by public officials; 3) disinformation in the form of distorted explanations of the factual and legal basis for decisions; and 4) the threatened and actual defiance of judgments. Do you share his concerns? I do. They all worry me. The last one worries me in a sort of existential way because the stock and trade and the power of the Judicial Branch is the respect it holds in society; it is its integrity. It does not have an army. We say this is what the law is and people abide by it. I believe they abide by it because of the respect and integrity the judges and Judicial Branch have. If we start disobeying or advocating disobeying court orders then we will erode the foundation of the system of government that we have. Judges need to understand that their decisions might not be popular. That is the point of the Judicial Branch. As I said, we are the counter-majoritarian branch. That does not mean we should editorialize or be political in our rulings. We should not do so because that is where people lose respect for us. But it does mean we should do what the law dictates even if others might not like it.

One of the things that Chief Justice Roberts said, and you have alluded to in your comments, is judges cannot be political; they are constrained, as you mentioned, in making broad pronouncements. But

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CBA Young Lawyers Section hosts The Current State of Diversity, Equity, and Inclusion

Over 60 Connecticut Bar Association (CBA) members gathered at Café Fiore in Cromwell on February 27 for the Young Lawyers Section (YLS) Diversity Dinner, The Current State of Diversity, Equity, and Inclusion. The event featured a panel discussion moderated by Cromwell Mayor James Demetriades. Panelists included Sharon Brown, Diversity, Equity, and Inclusion partner at Barclay Damon, and State Representative Jack Fazzino of Connecticut's District 83. The discussion explored the challenges of navigating DEI programs and initiatives, particularly in light of new executive orders from the U.S. government.

The evening began with CBA LGBT Section Chair and YLS Executive Committee Diversity Director Jenna Cutler introducing the panel. Mayor Demetriades opened the discussion by asking each panelist to define Diversity, Equity, and Inclusion (DEI). Representative Fazzino explained, "People think that D, E, and I are all the same thing. I see them as three very different things for a common goal that's rooted in fairness and making sure the very best people are doing the jobs they should be doing." Attorney Brown expanded on this idea, emphasizing that diversity means "acknowledging and valuing the difference among different people," while equity involves "meeting people where they are and giving them the tools they need to succeed." She further highlighted the importance of inclusion, stating that it's about ensuring people not only feel included but also have a true sense of belonging.

(L to R) Sharon Brown and State Representative Jack Fazzino

(L to R) YLS Secretary Jermaine A. Brookshire, Jr.; YLS Chair Vianca T. Malick; YLS Chair-elect Paige Vaillancourt; and YLS ABA District Representative Alison J. Toumekian

As the panel discussion continued, Mayor Demetriades asked Attorney Brown about the impact of the November presidential election on DEI efforts. Attorney Brown shared that, even before the election, her firm had discussed the legality of DEI initiatives following the U.S. Supreme Court's decision to bar the use of affirmative action in college admissions. She clarified that DEI initiatives were not illegal before the ruling, nor are they now. She further noted that law firms are currently in a period of uncertainty as they await further clarification on how the current administration's executive orders will be enforced.

Representative Fazzino addressed how the Connecticut State Legislature is responding to recent federal executive orders, explaining that efforts are underway to use state funds to cover some of the losses in federal funding for nonprofits focused on racial and LGBTQ+ justice issues. The panelists and moderator also encouraged attendees to support DEI initiatives by getting involved in local government boards and committees. Mayor Demetriades emphasized, "Your voice is your impact."

Following the discussion, the panelists took questions and comments from attendees, with several CBA members expressing support for using their voices to advocate in defense of DEI at local and state levels. ■

(L to R) State Representative Jack Fazzino, Sharon Brown, Mayor James Demetriades

CBA Leaders, the presenters, and event attendees gathered for a photo following the dinner.

Governor Lamont Announces
Numerous Judicial Nominations, Including
Eleven CBA Members

On January 27, Governor Ned Lamont announced several Connecticut judicial nominations, including Connecticut Appellate Court Chief Judge William H. Bright, Jr. for the vacant associate justice seat on the Connecticut Supreme Court and Connecticut Superior Court Judge Robin L. Wilson for a seat on the Connecticut Appellate Court.

Chief Judge Bright has served on the appellate court since 2017 and as its chief judge since 2020. Prior to his appointment to the appellate court, he served as the chief administrative judge for the Civil Division and as the administrative and presiding judge for the Tolland/Rockville Judicial District. Before being appointed as a judge, he served as the managing partner of McCarter & English's Hartford law office and was a shareholder and board member of Cummings & Lockwood LLC.

Judge Wilson is currently assigned to the Waterbury Complex Litigation Docket. She previously served in the Civil Division of the New Haven Judicial District. Prior to being appointed to the superior court, she served as an administrative law judge on the Workers' Compensation Commission and was an assistant attorney general in the Connecticut Office of the Attorney General.

Seven of Governor Lamont's 13 superior court nominations, made on January 27 to fill vacancies in the Connecticut Superior Court Bench, are current CBA members.

Tracie C. Brown is the chief operating officer for the Connecticut Department of Motor Vehicles. She previously served as the assistant legal director for the Connecticut Department of Correction and as a principal attorney and commission counsel for the Connecticut Freedom of Information Commission.

Michael C. D'Agostino is a partner at Morgan Lewis and Bockius's Hartford office and previously served the 91st Assembly District of Hamden in the Connecticut House of Representatives. He is a member of the CBA Federal Practice Section.

Diana M. Gomez is an assistant public defender in the Ansonia-Milford Judicial District, specializing in criminal defense of indigent defendants. She has worked in the Connecticut Division of Public Defender Services for the past eleven years. She is a member of the CBA Criminal Justice Section.

Kevin C. Kelly is the owner of Kevin Kelly and Associates in Stratford, where his practice focuses on elder law, estate planning, probate administration and litigation, and municipal law. He previously worked in the Connecticut Department of Social Services and represented Connecticut's 21st Senatorial District in the Connecticut State Senate.

Kevin C. Shea is a partner with Clendenen and Shea LLC in New Haven. He has practiced at the firm for the past 24 years, engaging in a broad range of civil litigation. Attorney Shea is a member of the CBA Federal Practice Section.

Latonia C. Williams is a partner at Shipman and Goodwin LLC, where she practices within a range of commercial litigation matters in state and federal courts. She also serves on the State of Connecticut Judicial Branch Client Security Fund Committee, the board of directors for Statewide Legal Services of Connecticut, Inc., and as her firm's hiring chair. She is a member of the CBA Commercial Law and Bankruptcy Section.

Yonatan Zamir is a staff attorney at New Haven Legal Assistance Association, where he focuses on housing law and eviction prevention. He also co-teaches the Reentry Clinic at Yale Law School, supervising students in serving clients facing barriers to reentry in areas such as housing and employment, as well as in assisting those clients' seeking pardons or criminal conviction erasure. He is a member of the CBA Consumer Law Section.

Benedict R. Daigle was nominated by the governor to the position of family support magistrate. Attorney Daigle serves as an assistant public defender, legislative/family magistrate for the Connecticut Division of Public Defender Services. He previously held roles with the City of Hartford, the Connecticut Association for Community Action, and other government and nonprofit entities. He holds several roles within the CBA, including as a member of the Board of Governors and House of Delegates; co-chair of the Legal Aid and Public Defense Committee; and a member of the Government and Public Sector Committee, Standing Committee on Professional Ethics, and the Family Law Section.

Governor Lamont also nominated three Connecticut Bar Association members to positions as workers' compensation administrative law judges

Michael L. Anderson is a trial lawyer with Anderson Trial Lawyers in Norwich, where he represents injured workers in the Workers' Compensation Commission and those seriously injured due to the negligence of others. He currently serves as chairman of the

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Register at ctbar.org/CLE

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Professional Discipline Digest

VOLUME 33 NUMBER 4 | By JOHN Q. GALE

Agreed Disposition for probable cause finding of violation of Rules 1.5(a), 1.5(b), 1.15(e), 8.1(2) and 8.4(4). Attorney ordered to take 3 hours of in-person CLE in legal ethics within 9 months in addition to annual CLE requirements and pay complainant $500 restitution within 30 days. *Clark v. Jeffrey Olgi*n, #22-0204.

Reprimand issued *by agreement* for probable cause finding of violation of Rules 1.3 and 1.5(a). *Quarles v. Tamarah Evanko Gay*, #22-0557.

Agreed Disposition for probable cause finding of violation of Rules 1.1, 1.3, 1.4(a)(2), 1.4(3), 1.4(4), 1.5(a) and 8.4(4). Attorney ordered to take 3 hours of in-person CLE in legal ethics within 9 months in addition to annual CLE requirements. *Reeve v. John J. Radshaw, III*, #23-0102.

Presentment ordered for violation of Rules 1.15(e), 8.1(2) and 8.4(4) where attorney in immigration matter failed to refund unused $1760 filing fee collected, failed to comply with Disciplinary Counsel's request for IOLTA records, and failed to complete application for which he was retained. *Baskaya v. Syed Zaid Hassan*, #22-0345.

Presentment ordered for violation of Rules 1.15, 1.15(e), 8.1(2), 8.4(3) and 8.4(4) where attorney, with prior disciplinary history, acting as escrow agent accepted payment from Complainant buyer for sheds he knew were not being delivered, utilized his IOLTA account for non-client funds, and then transmitted funds to shed seller, and failed to comply with Disciplinary Counsel's request for IOLTA records. *Kenol v. James J. Schultz*, #22-0623.

Reprimand issued *by agreement* for violation of Rules 1.15 and 8.4(3) for failing to safeguard funds and misrepresentation to the grievance authorities that his IOLTA account was the subject of fraudulent transfers. Attorney agrees to retain services of an accountant/bookkeeper and agrees to a IOLTA audit of the past two years and a two year audit of two IOLTA accounts and quarterly audits of both for the next year. *Slack v. Burton S. Yaffie*, #22-0640.

Presentment ordered for violation of Rules 1.3 and 1.4 where attorney, with prior disciplinary history, upon being suspended for nine months, failed to respond to a then-existing client's more than a dozen requests for information and failed to apprise the client of her suspension and the need for the client to seek other representation. *White v. Alisha Carrie Mathers*, #23-0150.

Agreed Disposition for probable cause finding of violation of Rule 1.15(b). Attorney ordered to open an IOLTA account within 30 days, to not allow her husband access to said account, submit to quarterly audits of said account for 2 years, and take 2 hours of in-person CLE in IOLTA account management within 9 months in addition to annual CLE requirements. *New Haven J.D. Grievance Panel v. Sarah Ann Cohen*, #23-0187.

Agreed Disposition for probable cause finding of violation of Rules 1.7(a)(2), 1.7(a)(4), 1.9(a) and 1.9(c)(1) – conflicts with current and past clients. Attorney ordered to take 3 hours of in-person CLE in legal ethics within 9 months in addition to annual CLE requirements. *Paris v. Eric R. Brown*, #22-0414.

Reprimand issued *by agreement* for probable cause finding of violation of Rules 3.1 and 8.4(4) in that he filed a lawsuit that had no basis and violated cease and desist orders issued by the Town of Stratford. Attorney ordered to take 3 hours of in-person CLE in legal ethics within 9 months in addition to annual CLE requirements. *MacLeod v. Daniel Henry Kryzanski*, #21-0406

Prepared by CBA Professional Discipline Committee members from public information records, this digest summarizes decisions by the Statewide Grievance Committee resulting in disciplinary action taken against an attorney as a result of violations of the Rules of Professional Conduct. The reported cases cite the specific rule violations to heighten the awareness of lawyers' acts or omissions that lead to disciplinary action.

Presentments to the superior court are de novo proceedings, which may result in dismissal of the presentment by the court or the imposition of discipline, including reprimand, suspension for a period of time, disbarment, or such other discipline the court deems appropriate.

A complete reprint of each decision may be obtained by visiting jud.ct.gov/sgc-decisions. Questions may be directed to editor-in-chief, Attorney John Q. Gale, at jgale@jqglaw.com.

Reprimand issued by agreement for probable cause finding of violation of Rules 1.1, 1.3, 1.4(a)(2), 1.4(a)(3), 1.4(a)(4), 1.4(a)(5)(b), 1.16(a)(2), 1.16(d), 3.2 and 3.4(4). Attorney ordered to take 3 hours of in-person CLE in legal ethics within 9 months in addition to annual CLE requirements. *Vaccaro v. Paul Thomas Edwards*, #22-0193

Presentment ordered for violation of Rules 1.5, 8.1(2), 8.4(3) and 8.4(4) and Practice Book §2-32(a)(1) where attorney in lemon law matter charged and sought to collect a fee contrary to the fee agreement, failed to respond to grievance complaint, and failed to attend two hearings scheduled in this matter. *Imundo v. Kathryn Rose Sylvester*, #22-0493.

Practice Book Changes for 2025

By FREDERIC S. URY, LIVIA BARNDOLLAR, AND THOMAS LAMBERT

On June 14, 2024, the judges of the superior court adopted amendments to the practice book which became effective on January 1, 2025. The following article is a summary of some of the changes to the Connecticut Practice Book.

The Connecticut Parentage Act

Many of the changes in the Family Law and Juvenile sections of the Practice Book were made to make those sections compliant with the Connecticut Parentage Act which was signed into law in May 2021 by Governor Lamont. The Parentage Act ensures that all families are recognized and protected including those children with unmarried, same-sex or nonbiological parents. The statutory changes can be found at Connecticut General Statutes §§ 46b-450 to 46b-553.

Amendments to the General Provisions of the Superior Court Rules

Sec. 1-4. Family Division: This section was amended to include parentage actions which complies with the requirements of the Parentage Act.

Sec. 2-1. County Court Designations Concerning Bar Admission Process: Revisions in this section change the name of the Judicial District of Fairfield to the Judicial District of Bridgeport and the Judicial District of Litchfield at Litchfield to Judicial District of Litchfield at Torrington.

Sec. 2-13A. Military Spouse Temporary Licensing: This section was modified to add United States Space Force to those branches of United States armed forces.

Sec. 2-27A. Minimum Continuing Legal Education: The changes to this section allow an attorney to satisfy up to two hours of the required hours of continuing legal education by serving as a judge or coach for a high school or undergraduate mock trial or moot court competition if it meets certain requirements.

Sec. 3-10. Motion to Withdraw Appearance: The changes to this section require the attorney filing a motion for permission to withdraw their appearance to inform the party for whom the attorney has appeared information as to whether the hearing will be conducted in person or remotely. If the hearing is held remotely, the attorney must provide the party with any information necessary to access the hearing remotely. If the hearing has not been scheduled at the time that the attorney files and serves the motion and notice, the attorney shall serve the party with a revised notice that provides information about whether the hearing will be conducted in person or remotely.

Sec. 8-1. Process: The one change is this section was made to comply with the Parentage Act and changes the word in (c) to be adjudicate "parentage" versus "paternity."

Sec. 10-13. Method of Service: The changes to this section provide that: (1) electronic delivery of a copy to a self-represented party must be consented to in writing by the self-represented par-




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ty; and (2) an attorney or self-represented party who files a document electronically with the court must serve it electronically on any self-represented party who consented in writing to electronic filing and all attorneys who are not exempt from e-filing. The changes also require that any attorney who is not exempt from e-filing is required to accept electronic delivery.

Sec. 13-29. Place of Deposition: The main change to this section provides that the parties, and where applicable the non-party deponent, may agree to the place of the deposition or examination that is different than provided for in the rule.

Sec. 13-30. Deposition Procedure: The primary change in this section allows for remote oath taking and for the court reporter to be physically remote to the witness provided such officer can see, hear and clearly identify the participant to whom the oath is to be administered. Subdivision (2) of subsection (g) was eliminated for consistency concerning the exchanging of exhibits. Since exhibits are not required to be exchanged in advance of in-person deposition, that same procedure should apply to remote depositions.

Sec. 13-32. Agreements regarding Discovery and Deposition Procedure: This section removes the requirement of a written stipulation and replaces it with the allowing the parties to agree, as where and how depositions are going to be taken and modifying the procedures for other methods of discovery.

Amendments to the Family Rules

Many of the family Practice Book rule changes conform the Practice Book to the now officially adopted Pathways program and the modification of the methodology used to shepherd cases through the family courts.

Sec. 25-1. Definitions Applicable to Proceedings on Family Matters: Removal of the word "paternity," replaced by the word "parentage" in the definition of "family matters" aligns the scope of family matters with the Connecticut Parentage Act. Subsection (b) has been added so that the rules applicable to family matters requiring the scheduling of a motion or "other matter" on a short calendar, are satisfied by scheduling the motion or other matter for a case date, motion docket or other court event, as long as related time periods specified in the rule are followed.

Sec. 25-3. Action for Custody of Minor Child: While previously the application, order and affidavit regarding an action for custody of a minor child other than in actions for dissolutions, legal separation or annulment, was to be served not less than twelve days before the date of a hearing, this rule change indicates that it shall be served not less than twelve days before a hearing *or other event*, which shall not be more than thirty-five days from the filing of the application. The commentary to the rule change states that the purpose of this change is to recognize that a disputed custody action is often not ready for a hearing on its first court assignment. The addition of "or other event" is to permit the court to assign appropriate events and not run afoul of the rules.

Sec. 25-4. Action for Visitation of Minor Child: This section makes the same changes as **Sec. 24-3,** above. The impetus for

Image credit: Alex Gandara/i Stock/Getty Images Plus

changing from thirty to thirty-five days for the court to schedule an appropriate court event, is that it is a precise five-week period that will now be operative.

Sec. 25-26. Modification of Custody, Alimony or Support: In addition to the same changes made to **Sec. 25-3** and **Sec. 25-4**, this section also adds "or other court event" recognizing as in the other referenced changes above, that the motion for modification is not always "ripe" for hearing when first set down.

Sec. 25-5. Automatic Orders upon Service of Complaint or Application: This section has been revised to remove the case management date. While there is a reference in the commentary to timing being the reason behind the change, the rise of the resolution plan date under Pathways is inconsistent with the case management program that preceded it.

Sec. 25-17. Date for Hearing and Sec. 25-23. Motions, Requests and Orders of Notice: These sections regarding dates for hearing and Short Calendar have been revised to delete the reference to Short Calendar, which as family practitioners know, is not conducted as it was prior to the institution of the Pathways program. A reference to short calendar remains in **Sec. 25-26 (g). Modification of Custody, Alimony or Support** which appears to be an oversight.

Sec. 25-30. Statements to Be Filed: This section changes the time within which a financial affidavit must be filed from five days before the hearing date to five business days before the hearing. At section (b), the time within which proposed orders should be served on each appearing party, but *not* the court when a judicial pretrial, special masters or alternative dispute resolution




session is to take place, has been changed from ten calendar days to five business days. Further, unless the matter is uncontested or the defendant has not appeared, the time within which written proposed orders should be filed with the court and served on each appearing party is revised to be five (5) business days before the hearing or trial instead of ten (10) days.

Sec. 25-34. Procedure for Short Calendar: This section has been repealed.

Sec. 25-34A. Scheduling of Motions: Subsec. (a) provides that a pendente lite motion—unless scheduled pursuant to subsec. (c) of the Rule—is automatically scheduled for the next case date held in the action (**Sec. 25-50A**) or if no future case dates are to be held, for the time of trial. Further scheduling possibilities are addressed in subsec. (c) of this Rule. Subsec. (a) further requires each party to provide to the other party *and* to file, at least five *business* days before a case date, a notice listing the party's pending motions the party wishes to purse at the case date in the order of priority that the party wishes motions to be heard. If a party fails to file the list as required or files a motion less than five business days before the case date, the motion(s) will not be heard unless the court allows the motion(s) to be heard because the interests of justice would be served by hearing them and the nonmoving party will be caused no substantial prejudice.

Subsec. (b) of new Rule 25-34A dictates that each Judicial District hold a regular pendente lite motion docket at least once each month. Subsec. (b) allows the judicial authority discretion in determining whether to place the motion on the calendar, unlike in the pre-Pathways days when motions appeared on the Short Calendar and could be marked ready as a matter of right. If an appearing party requests that a motion be placed on the motion docket and that request is granted, this subsection provides that oral argument or the presentation of evidence shall be allowed.

Subsec. (c) lays out the procedure for scheduling pendente lite motions, other than Chapter 13 motions. A party may request that a motion be placed on the motion docket, orally when the parties are before a judge or by filing a Caseflow Request (JD-FM-292) and using the appropriate portion of the form to do so. The Rule provides that a party is entitled to request that a motion be placed on a motion docket before a resolution plan date.

Section (c)(3) lays out factors the court may consider in acting on a request to place a motion on the motion docket and subsec. (c)(4) allows the court to set a date certain for matters that will require more than one hour of court time. Absent the granting of a timely request for a continuance, the withdrawal of the motion, or an agreement on the motion in advance, parties are required to appear and proceed to hearing on the assigned motion docket.

The court is permitted also to assign any other motion for hearing on the motion docket. Subsec. (c)(6). Oral argument and evidence are allowed on Chapter 13 and other nonarguable motions at the court's discretion. The procedure for objecting to such an assignment is set out in subsec. The court may consider the same factors as are set forth in subsection (c) for the placement of arguable motions on a docket and may assign the motions on a case date, motion docket or other determined date. Failure to appear and present argument on the date set constitutes a waiver of the right to argue, absent ruling by the court otherwise or unless the parties appeared on the date set and entered into an agreement for a scheduling order and a date certain for hearing that was approved and ordered by the court.

Post-judgment motions that "do not relate to emergency ex parte relief" will be assigned a resolution plan date and if an additional post-judgment motion is filed in the same case before the resolution plan date is held, it will be scheduled for the same resolution plan date. If an additional post-judgment motion is filed in the same case after the resolution plan date is held but before the court hearing date on the original motion, the subsequent motion shall be scheduled for the same hearing date as the original motion. The section ends with the statement that "Nothing in this subsection shall preclude the court from issuing an order on the resolution plan date."

Sec. 25-49. Definitions: This section revises the definition of Parenting Disputes" to reference "parentage" instead of "paternity."

Sec. 25-50. Case Management: This section is repealed and replaced with **Sec. 25-50A. Case Management under Pathways:**

This Section begins: The Pathways approach shall be followed and shall include: Subsection (a) provides that a resolution plan date shall be assigned in dissolution of marriage or civil union, legal separation and annulment cases and that it shall be assigned no less than 30 and no more than 60 days from the return date. In custody and visitation cases, it shall be set in accordance with the relevant **Sec. 25-3** and **Sec. 25-4** and in all cases shall include a meeting with a family relations counselor to identify how likely the parties are to reach an agreement on any disputed issues, on what issues the parties agree and the resources that are needed to resolve the case. The family relations counselor will recommend an action plan for the case, including assignment to one of three tracks, A, B, or C in relationship to the level of anticipated necessary court time and resources. Failure to appear on the resolution plan date or to follow the requirements related to the resolution plan date, may result in sanctions or the entry of a nonsuit, default or dismissal. The court shall make a scheduling order on the day of the resolution plan date that may include but is not limited to the assignment of a track, future court dates and future




required steps that the parties must take between court dates.

Subsection (e) states in a Track B or Track C case, the scheduling order may include but is not limited to one or more of the following: (1) one or more case dates, for consideration of issues to be addressed before the final trial date; (2) assignment of motions to a motion docket; (3) a pretrial date; (4) a trial date; and (5) a discovery schedule. Should the parties not follow the scheduling order, the court may impose sanctions or dismiss the case. The court may enter temporary orders on the resolution plan date or on any pending pleading if the parties' consent or the judicial authority decides to do so.

Subsec. (b) of this Rule requires parties except in cases "seeking only visitation," to file sworn financial affidavits on or before the resolution date.

Subsec. (c) discusses the procedure for obtaining a judgment if the defendant does not appear, and subsec. (d) provides for the method for an uncontested matter to proceed to judgment.

Subsec. (f) provides the pretrial procedure, details what the parties must exchange with each other at least five business days before the scheduled pretrial and "submit" simultaneously to the "authority presiding over the pretrial." This section at (3) states what must be included in a financial affidavit and at (4) states that if there are minor children that the parties must complete an agreed upon child support guidelines worksheet, or separate worksheets, if they cannot agree. The parties must be prepared to provide any supporting documentation needed at the pretrial. The commentary to this section states that the Rule aligns with the statutory Pathways provisions referred to in the Rule.

Sec. 25-51. When Motion for Default for Failure to Appear Does Not Apply and Sec. 25-53. Reference of Family Matters: These sections remove defunct terms and at Sec. 25-51 adds in a reference to Sec. 25-50A and Connecticut General Statutes § 46b-67.

Sec. 25-68. Right to Counsel in State Initiated Parentage Actions: This section removes the word "paternity" and replaces it with "parentage" and conforms the verbiage of this section to conform with the provisions of the Parentage Act.

Amendments to the Family Support Magistrate Rules

Sec. 25a-8. Order of Notice: The revision to this section complies with the requirements of the Parentage Act, Public Acts 2021, no. 21-15 by changing the wording in the statute from "paternity" to "parentage."

Sec. 25a-17. Motion to Open Judgment of Parentage (Paternity) by Acknowledgement: The revisions to this section comply with the requirements of the Parentage Act. The word "paternity" has been replaced by the word "parentage." Section (d) of this section adds that "If the judicial authority determines that the moving party has met the burden of proof, the acknowledgment of parentage shall be set aside only if the judicial authority determines that doing so is in the best interest of the child, based on the relevant factors set forth in General Statutes Section 46b-475."

Amendments to the Juvenile Rules

Sec. 26-1. Definitions Applicable to Proceedings on Juvenile Matters: The revisions to this section conform to the provisions of the Parentage Act. The changes to this section add several definitional terms that are related to delinquency matters in juvenile court. Definitions of the terms: "youth," "alleged genetic parent," "Clinical Consultation," "Clinical Coordinator," "Forensic Clinical Assessment," "Parent" and "Person presumed to be the parent pursuant to General Statutes Section 46b-488 (a) (3)" have been added.

Sec. 26-2. Persons in Attendance at Hearings: The change to this section add victims' next of kin as well as the victim when discussing who can attend hearings in accordance with C.G.S. § 46b-122 (b).

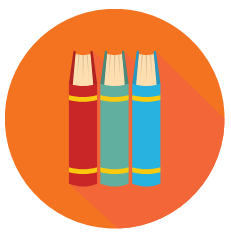
The following sections all added the word "youth" after the word "child" to be consistent with other sections of the Practice Book.

Sec. 27-1A. - Referrals for Nonjudicial Handling of Delinquency Complaints; **Sec. 27-4.** - Additional Offenses and Misconduct; **Sec. 27-4A.** - Ineligibility for Nonjudicial Handling or Diversion of Delinquency Complaint; **Sec. 27-5.** - Initial Interview for Delinquency Nonjudicial Handling Eligibility; **Sec. 27-6.** - Denial of Responsibility; **Sec. 27-7.** - Written Statement of Responsibility; **Sec. 27-8A.** - Nonjudicial Supervision - Delinquency; **Sec. 29-1.** - Contents of Delinquency Petitions or Informations; **Sec. 30-3.** - Advisement of Rights; **Sec. 30-4.** - Notice to Parents by Juvenile Residential Center Personnel; **Sec. 30-5.** - Detention Time Limitations; **Sec. 30-6.** - Basis for Detention; **Sec. 30-7.** - Place of Detention Hearings; **Sec. 30-8.** - Initial Order for Detention; Waiver of Hearing; **Sec. 30-10.** - Orders of a Judicial Authority after Initial Detention Hearing; **Sec. 30-11.** - Detention after Dispositional Hearing; **Sec. 30-12.** - Where Presence of a Detained Child or Youth May Be by Means of an Interactive Audio Device; **Sec. 30a-6.** - Statement on Behalf of Victim; **Sec. 31a-5.** - Motion for Judgment of Acquittal; **Sec. 31a-5.** - Motion for Judgment of Acquittal; **Sec. 31a-11**. - Motion for New Trial; **Sec. 31a-13.** - Take into Custody Order.

Sec. 30a-1. Initial Plea Hearing: Section (b)(5) has been added to ensure that the judicial authority advises the child or youth that he or she has the right to appeal any final decision made by the court.

Sec. 30a-5. Dispositional Hearing: The changes to this section are made to be consistent with other sections of the Practice Book. The main change to this section incorporates the requirements of C.G.S. § 46b-140(g). Section (c) has been added which sets forth that






the court must review a predispositional study and service memorandum prior to entering a dispositional order of probation with placement in a secure or staff secure facility. The section also outlines the findings that the court must make prior to entering such an order. In addition, subsection (d) has been added that the child or youth may remain in a residential facility for up to eighteen months depending on the child's or youth's progress in treatment.

Sec. 31a-14. Physical and Mental Examinations: Clinical coordinator was added to the list of professionals identified who may perform physical and/or mental examinations. Subsection (c) requires that a written assessment or evaluation for the need for hospitalization and evaluation be completed by a clinical coordinator and provided to the court before an order can enter for the child or youth's placement.

Sec. 32a-1. Right to Counsel and To Remain Silent: This section was modified to include the additional language from C.G.S. § 46b-488 (a)(3) to include the person presumed to be the parent or a person named as the alleged genetic parent of the child or youth.

Sec. 33a-2. Service of Summons, Petitions and Ex Parte Orders: This section was amended to comply with the Parentage Act to require that service of a summons, or petitions for termination of parental rights shall also be served on alleged genetic parents and persons presumed to be the parent pursuant to C.G.S. § 46b-488.

Sec. 33a-3. Venue: This section was revised to conform to the provisions of the Parentage Act, to replace the word "mother" with "birth parent."

Sec. 33a-4. Identity of Alleged Genetic Parent Unknown: Location of Respondent, Person Presumed To Be the Parent Pursuant to General Statutes § 46b-488 (a) (3) or Alleged Genetic Parent Unknown: This section was revised to conform to the language and requirements of the Parentage Act by adding the provision "person presumed to be the parent pursuant to General Statutes Section 46b-488 (a) (3) and the alleged genetic parent" in places where notice must be given.

Sec. 33a-6. Order of Temporary Custody; Ex Parte Orders and Orders to Appear: This section has been revised to conform to the provisions of the Parentage Act by adding language that includes persons presumed to be the parent or the alleged genetic parent.

Sec. 33a-7. Preliminary Order of Temporary Custody or First Hearing; Actions by Judicial Authority: This section adds language that conforms to the Parentage Act by including the language, "the person presumed to be the parent pursuant to General Statutes Section 46b-488 (a) (3) and persons named as the alleged genetic parent." There is also a new provision which provides that the clerk shall send the original acknowledgement of parentage or a certified copy of any judgement adjudicating parentage to the Department of Public Health for filing in the parentage registry.

The following sections of the Practice Book added the word "youth" after the word "child" to be consistent with other sections of the Practice Book.

Sec. 34a-9. Motion to Dismiss; **Sec. 34a-13.** Further Pleading by Respondent or Child or Youth; **Sec. 34a-14.** Response to Summary of Facts; **Sec. 34a-23.** Motion for Emergency Relief.

Sec. 35a-4. Motions to Intervene: This section was modified by adding the word "law" to those persons related to the child or youth by blood, marriage or law.

Sec. 35a-8. Burden of Proceeding: This section was revised to conform to the provisions of the Parentage Act by adding the following language: "(b) If a parent, guardian, person presumed to be the parent pursuant to Connecticut General Statutes § 46b-488 (a) (3) or a person named as the alleged genetic parent."

The following sections were modified to add the word "youth" after "child" to make them consistent with other sections of the Practice Book.

Sec. 35a-12. - Protective Supervision- Conditions, Modification and Termination; **Sec. 35a-12A.** - Motions for Transfer of Guardianship; **Sec. 35a-14.** - Motions for Review of Permanency Plan; **Sec. 35a-14A.** - Revocation of Commitment; **Sec. 35a-18.** - Opening Default; **Sec. 35a-19.** -Transfer from Probate Court of Petitions for Removal of Parent as Guardian or Termination of Parental Rights; **Sec. 35a-22.** - Where Presence of Person May Be by Means of an Interactive Audiovisual Device; **Sec. 35a-23.** – Child's or Youth's Hearsay Statement; Residual Exception.

Amendment to the Criminal Rules

Sec. 40-13B. Notice by Prosecuting Authority of Intention To Use Prior Uncharged Sexual Misconduct Involving a Person Other Than the Victim in Sexual Assault Cases: This new rule requires the state to provide detailed pretrial notice of its intent to introduce evidence of prior uncharged sexual misconduct, bringing Connecticut into alignment with the federal rules and several states that allow such evidence. ■

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You Left Connecticut (or Never Came) and Think You're Not a Connecticut Resident?

The State's Long Arm for Estate Tax Purposes and Other Unpleasant Tax Surprises

By BETH BRUNALLI AND LUKE TASHJIAN

In our increasingly mobile society, individuals frequently change their residence by relocating to a new state or owning residences in multiple states, but an individual's residence does not necessarily dictate in what state the individual is a resident for tax purposes. The determination of which state an individual is a resident of has significant implications for state taxation, including where and how an individual is taxed.

Under the Connecticut statutes, an income tax is imposed on the taxable income of each *resident* of Connecticut,[1] a gift tax is imposed on taxable gifts made by *residents* of Connecticut,[2] and an estate tax is imposed on the taxable estate of each person who was a *resident* of Connecticut at the time of the person's death.[3] The Connecticut estate, gift, and income taxes all examine if a person is a resident of Connecticut, however, there is no uniform residency test. The most frequently considered distinction among the residency tests is that whereas a subjective domicile-based test is applied for income, estate and gift tax purposes, an additional statutory residence test is only applied for income tax purposes. Yet, the recent case of *Estate of Anderson v. Commissioner of Revenue Services*[4] highlights that differences among the tests as to burden of proof may be more significant.

Due to the variation among the residency tests for Connecticut tax purposes, an individual may no longer be a Connecticut resident for income tax purposes, but be presumed a Connecticut resident for estate tax purposes. Moreover, an individual who is no longer a Connecticut resident for income tax purposes may incur unanticipated or accelerated Connecticut income tax liabilities. Yet the cost of challenging a residency determination can be considerable not only because of the accrual of interest, but also because of the risk of an award of attorney's fees against a taxpayer in Connecticut.

Domiciled-Based Residency Tests for Income, Estate and Gift Tax Purposes

Common among the residency tests for Connecticut estate, gift and income taxes is the examination of the person's domicile. For estate and gift tax purposes, a similar test is used to determine if a person is a resident and, in both instances, the test examines domicile.[5] Similar to the domiciled-based residency test for estate and gift tax purposes, there is a domiciled-based residency test for income tax purposes. However, for income tax purposes, there is a second residency test, which is the statutory resident test, that is used to determine if a non-domiciliary of Connecticut will still be treated as a resident of Connecticut for income tax purposes.

Domicile is a common law concept. The establishment of a domicile requires two elements, which are (i) an actual residence in a place and (ii) the intention to make that place a permanent home to which the individual intends to return whenever absent.[6] A person can only have one domicile and importantly, once established, a person's domicile cannot change until a new domicile is established.[7]

The subjective nature of one's domicile makes the determination of domicile a fact specific inquiry. Similar subjective factors are examined under the domicile test for income,[8] estate,[9] and gift[10] tax purposes. The income tax regulations set forth a non-exclusive list of subjective factors, and in *Estate of Anderson*, the court applied these factors to an estate tax determination. Prior to itemizing the factors, the regulations espouse the following general principles:

> "Declarations [of domicile] shall be given due weight, but they shall not be conclusive if they are contradicted by actual conduct. The fact that an individual registers and votes in one place is important but not necessarily conclusive, especially if the facts indicate that he or she did this merely to escape taxation in some other place… If a person has multiple homes, then the length of time customarily spent at each home is important, but is not necessarily conclusive."[11] Spouses generally have the same domicile.[12] Intention to make a place one's home is a question of fact.[13] To establish a change of domicile a party must (x) voluntarily abandon his or her existing domicile and (y) voluntarily establish a new residence in and permanently reside in a new state."[14]

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Following these general principles, the income regulations set forth the following non-exclusive list of twenty-eight subjective factors:

"(A) location of domicile for prior years;
(B) where the individual votes or is registered to vote…;
(C) status as a student;
(D) location of employment;
(E) classification of employment as temporary or permanent;
(F) location of newly acquired living quarters, whether owned or rented;
(G) present status of former living quarters, i.e., whether it was sold, offered for sale, rented or available for rent to another;
(H) whether a Connecticut veteran's exemption for real or personal property tax has been claimed;
(I) ownership of other real property;
(J) jurisdiction in which a valid driver's license was issued and type of license;
(K) jurisdiction from which any professional licenses were issued;
(L) location of the individual's union membership;
(M) jurisdiction from which any motor vehicle registration was issued and the actual physical location of the vehicles;
(N) whether resident or nonresident fishing or hunting licenses were purchased;
(O) whether an income tax return has been filed, as a resident or nonresident, with Connecticut or another jurisdiction;
(P) whether the individual has fulfilled the tax obligations required of a resident;
(Q) location of any bank accounts, especially…the most active checking account;
(R) location of other transactions with financial institutions, including rental of a safe deposit box;
(S) location of the place of worship at which the individual is a member;
(T) location of business relationships and the place where business is transacted;
(U) location of social, fraternal or athletic organizations or clubs, or a lodge or country club, in which the individual is a member;
(V) address where mail is received;
(W) percentage of time (excluding hours of employment) that the individual is physically present in Connecticut and the percentage of time (excluding hours of employment) that the individual is physically present in each jurisdiction other than Connecticut;
(X) location of jurisdiction from which unemployment compensation benefits are received;
(Y) location of schools at which the individual or the individual's immediate family attend classes, and whether resident or nonresident tuition was charged;
(Z) statements made to any insurance company concerning the individual's residence, on which the insurance is based;
(AA) location of most professional contacts of the individual and his or her immediate family (e.g., physicians, attorneys); and
(BB) location where pets are licensed."[15]

None of these factors are alone determinative, but the Department of Revenue Services applies a weighting schedule to these

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factors and the court in *Estate of Anderson* also applied a weighting. Under these weighting schedules less weight is afforded to one-time administrative elections and greater weight is afforded to the following factors:

(A) status of current and former residence and whether owned or rented;
(B) the amount of time spent in each state; and
(C) the location of:
    a. domicile in prior years,
    b. items that are near and dear,
    c. family members and
    d. social connections.

Time spent in Connecticut is not determinative, but Connecticut domicile cases have heavily weighted the state in which an individual spends the most time. In *Estate of Anderson*,[16] in holding that the decedent was a Connecticut domiciliary for estate tax purposes, the court very heavily weighted that the decedent spent more time in Connecticut than any other state, despite the majority of his time being spent outside Connecticut in Florida and Arizona.[17] The court noted that the "consistent, long-term decision to spend more time in Connecticut than any other state" is a strong indication of domicile when the decedent maintained equal personal, social, and property connections to both Connecticut and Florida.[18] The court afforded little weight to one-time administrative elections, such as obtaining a driver's license, registering to vote, or filing a homestead declaration.

The Connecticut courts have correspondingly held a decedent to have changed his domicile from Connecticut when, despite having continued connections to Connecticut, the majority of the decedent's time was spent in a single state outside Connecticut. In *Estate of Krause v. Commissioner*,[19] the decedent maintained a Connecticut business and owned a residence in Connecticut, to which he frequently told people he would return. However, his estranged wife lived in the Connecticut residence and during the four years preceding his death, the decedent lived at his sister's house in Arizona and did not return to Connecticut. The court held that the decedent changed his domicile from Connecticut to Arizona. Similarly, the decedent in *Commissioner v. Estate of Nemeth*[20] was held to have changed his domicile to Florida where he spent about 7 months annually. One-time administrative type changes as well as the location of his professional advisors also favored Florida, but the decedent still had personal, property and business connections to Connecticut. The decedent and his wife, after selling their Connecticut residence and purchasing a Florida residence, initially rented a Connecticut apartment and subsequently purchased a Connecticut condominium, where the decedent spent about 5 months annually. The decedent's family remained in Connecticut, and the decedent remained an owner of a Connecticut business, although he transferred its operations to his son.

Based upon case law, although the factor of time spent in Connecticut is not alone determinative, someone seeking to assert the establishment of a domicile outside of Connecticut should spend less time in Connecticut than the state in which the person asserts he or she is domiciled.

Exceptions to the Domicile-Based Residency Test for Income Tax Purposes Only

Under the domiciled-based residency tests for estate, gift and income tax purposes, a person is a resident of Connecticut if he or she is determined to be domiciled in Connecticut. However, for income tax purposes, there are two exceptions under which a person is not a Connecticut resident even though he is determined to be domiciled in Connecticut.

The first exception is the 30-day rule exception. Under the 30-day rule exception, a person will not be considered a resident in Connecticut if (i) the person did not maintain a permanent place of abode in Connecticut for the entire year, (ii) maintained a permanent place of abode outside of Connecticut for the entire tax year, and (iii) spent no more than 30-days, in aggregate, in Connecticut during the tax year.[21]

The second exception is the 548-day rule exception. Under the 548-day rule exception, a person will not be considered a resident of Connecticut if (i) the person is present in a foreign country or countries for 450 days during a 548-day period, (ii) during such 548-day period, the person neither is present in Connecticut for more than 90 days, nor maintains a permanent place of abode in Connecticut at which the person's spouse (unless legally separated) or minor children are present for more than 90 days, and (iii) during the nonresident portion of the taxable year in which the 548-day period begins as well as the nonresident portion of the taxable year in which the 548-day period ends, the person is not present in Connecticut for more than the number of days that bear the same ratio to 90 as the number of days such portion of the taxable year bears to 548.[22]

Statutory Residence Test for Income Tax Purposes Only

The 30-day rule exception and the 548-day rule exception are both unique to the domicile-based residency test for income tax purposes, but the most distinguishable feature of the residency test for income tax purposes is the application of the statutory resident test to individuals not domiciled in Connecticut. Under the statutory resident test, a person who is not domiciled in Connecticut will be deemed a statutory resident for income tax purposes and be subject to Connecticut income taxes if he or she (i) maintains a permanent place of abode in Connecticut and (ii) is in Connecticut more than 183 days.[23] For the purpose of day counting, a part-day counts as a whole day, unless the person is in Connecticut solely in transit to a location outside of Connecticut.[24] An individual who is not domiciled in Connecticut, but who maintains a permanent place of abode in Connecticut, must maintain records to establish that he or she was not in Connecticut more than 183 days.[25]

A "permanent place of abode" is an owned or leased dwelling place that is permanently maintained by an individual. "A permanent place of abode shall not generally include, during the term of a lease, a dwelling place owned by an individual who leases it to others, not related to the owner or his or her spouse … for a period of at least one year…"[26] Seasonal homes, camps, cottages, barracks, motel rooms, or other structures that do not contain facilities normally found in a dwelling, such as for cooking and bathing, are not generally considered permanent places of abode.[27]

Connecticut's Long Arm: Significance of the Burden of Proof and Standard of Proof in Estate Tax Residency Determinations

The statutory resident test is the most frequently considered distinction among the residency tests for Connecticut income, estate and gift tax purposes, but perhaps of greater significance are differences among the residency tests with respect to burden of proof as indicated by the court in *Estate of Anderson*. Given the fact-in-

tensive and subjective nature of the domicile-based residency test, which party bears the burden of proof can be a decisive factor.

The burden of proving a change of domicile is generally on the party asserting the change both in neighboring states[28] and also in Connecticut for income tax purposes.[29] With respect to Connecticut income tax, the regulations expressly state that "[t]he burden is upon an individual asserting a change of domicile to show that the necessary intention existed."[30] In contrast, in the *Estate of Anderson* decision, despite a finding of fact that the decedent's Connecticut domicile ended during his lifetime, the burden of proof did not shift to Commissioner for estate tax purposes.

In the *Estate of Anderson*, the Court held that the decedent's estate did not prove by clear and convincing evidence that the decedent was not a domiciliary at his death. Underpinning the court's decision was an absolute burden of proof placed upon the decedent's estate to establish the decedent was not domiciled in Connecticut. Despite finding that the decedent's "Connecticut domicile ended in approximately 1972 when [the decedent] sold his Connecticut home, moved to Tennessee to pursue his business interests, and did so without the apparent intention of returning to Connecticut,"[31] the Court did not shift the burden of proof to the Commissioner. The Court's reasoning was based on the specific language of Conn. Gen. Stat. § 12-391(d)(c) which provides "… a tax is imposed upon the transfer of each person who at the time of death was a resident of this state" and the specific language of Conn. Gen. Stat. § 12-391(h)(1) which provides that "[f]or the purposes of this chapter, each decedent shall be presumed to have died a resident of this state. The burden of proof in an estate tax proceeding shall be upon any decedent's estate claiming exemption by reason of the decedent's alleged nonresidency." Interpreted as a non-shifting burden of proof, it was irrelevant that the decedent's estate established that the decedent had become a non-domiciliary of Connecticut prior to death and that generally under Connecticut law, a person's domicile once established cannot change until a new domicile is established.

In addition to this statutory presumption of residency, the burden upon the decedent's estate is further heightened by the required standard of proof. Based on the Connecticut Supreme Court's decision in *Leonard v. Commissioner*,[32] a taxpayer challenging a deficiency assessment must present clear and convincing evidence that the assessment is incorrect.[33] Clear and convincing proof is a "demanding standard denoting a degree of belief that lies between the belief that is required to find the truth or existence of the fact in issue in an ordinary civil action and the belief that is required to find guilt in a criminal prosecution... The burden is sustained if evidence induces in the mind of the trier a reasonable belief that the facts asserted are highly probably true, that the probability that they are true or exist is substantially greater than the probability that they are false or do not exist."[34]

The burden of proof for estate tax purposes has significant implications. Every decedent in the world, even those who are no longer Connecticut residents for income tax purposes and those who never set foot in Connecticut, are presumed to be a resident of Connecticut for estate tax purposes and consequently, have a Connecticut estate tax return filing obligation, with the absolute burden on the executor of each estate to establish that the decedent was not, in fact, domiciled in Connecticut by clear and convincing evidence.[35] Moreover, if the decedent was a beneficiary of a QTIP trust and the executor is unable to prove that the decedent was not domiciled in Connecticut by clear and convincing evidence, then the assets remaining in the QTIP trust will be included in the decedent's gross estate for Connecticut estate tax purposes, even if the predeceased spouse was not a domiciliary of Connecticut. This is because the "gross estate" for Connecticut estate tax purposes "means the gross estate, for federal estate tax purposes"[36] which, in the case of a surviving spouse for whom a QTIP trust was established, includes the assets of the QTIP trust.[37]

Another implication of presumption of residency and the burden of proof in Connecticut estate tax residency determinations is the increased potential for dual taxation. Since the determination of an individual's domicile is a question of fact and since the laws and precedent among the states may differ, two or more states may conclude that a decedent is a domiciliary of their state.[38] The risk is an especially large risk for estate tax purposes because Connecticut, unlike the common law or the laws of neighboring states which place the burden on the party claiming a change of domicile, presumes every person dies a resident of Connecticut. The United States Supreme Court has found that it is not unconstitutional for two or more states to conclude that an individual is a domiciliary for state tax purposes.[39]

Unanticipated or Accelerated Connecticut Income Taxation for Ex-Residents of Connecticut

An individual who is no longer a Connecticut resident for income tax purposes may be surprised to incur unanticipated or accelerated Connecticut income tax liabilities in three situations.

The first situation involves the acceleration of Connecticut income tax on installment payments. It is common for an individual who built a small business in Connecticut during the individual's career to sell the business via an installment sale upon retirement. A subsequent change of residency from Connecticut to another state would require the individual to report as Connecticut source income, in the year of the residency change, any amounts that are being reported under the installment sale method for federal income tax purposes.[40] In lieu of accelerating the future installment payments, the individual can post a bond or provide the Connecticut Department of Revenue Services ("CT DRS") with other security for the payment of the taxes that would otherwise be due.[41] The failure to post a bond, whether due to inability or lack of awareness, will accelerate the payment of state income taxes on income not yet received (and which may never be received).

The second situation is the risk of an income tax assessment after the expiration of the statutory refund period when an individual does not file a Form CT-8822 with the CT DRS for not only the initial move out of Connecticut, but also subsequent moves. The general refund period in Connecticut to file a claim for a refund

is limited to three years after the due date of the overpaid taxes (e.g., for an income tax return, the general refund period is three years from the original due date, or if an extension is filed, the earlier of the actual filing date or the extended due date).[42] Importantly, if taxes are paid late, the refund period is still three years after the due date, not the actual payment (or levy) date. In addition, the period during which a taxpayer may file a refund claim for closed audits, examinations, investigations or reexaminations is six months after the examination results became final. [43] These dates are particularly important because the Connecticut refund statute only considers the filing date. In contrast, the federal refund statute and those of all neighboring states, like Massachusetts,[44] New York,[45] and Rhode Island,[46] examine both the filing and payment dates.

The CT DRS is only required to mail a notice of deficiency to the address most recently reported by the taxpayer, either on a Form CT-8822 or the last filed tax return.[47] Actual receipt of notice by the taxpayeris irrelevant. When a taxpayer moves from Connecticut, the CT DRS may send the taxpayer notices inquiring into the failure to file a tax return and if the taxpayer never receives or responds to the notices, the CT DRS will then file a substitute return.[48] Once this assessment becomes final and the appeal period has lapsed, the CT DRS will levy the taxpayer's accounts. This is often the first time the taxpayer learns of the assessment, yet it is often after the refund period expired because, unlike all neighboring states and at the federal level, Connecticut considers only the return's due date and not also the payment (or levy) date.

The third situation in which an individual may trigger unanticipated Connecticut income tax after changing his or her residency from Connecticut relates to the exercise of non-qualified employee stock options. When an individual receives non-qualified employee stock options the receipt of the options is not generally included in the employee's federal adjusted gross income nor is the value of the stock at the time of vesting.[49] When the option is exercised the employee has ordinary income equal to the difference between the fair market value of the stock and the option price.[50] A taxpayer's federal adjusted gross income is the taxpayer's Connecticut adjusted gross income.[51] However, if the individual receives non-qualified options for services rendered in Connecticut and subsequently becomes domiciled in another state, the amount subject to Connecticut income tax is not the difference between the exercise price and fair market value at the time of the domicile change, but rather, all appreciation, even appreciation from periods subsequent to the change of domicile.[52]

Attorney's Fee Awards

The Internal Revenue Code[53] and the laws of neighboring states, like New York[54] and Rhode Island,[55] seek to ensure that all taxpayers can have access to judicial review by providing that a taxpayer who prevails in a suit challenging a tax deficiency can be awarded reasonable attorney's fees, whereas the taxing authority is not awarded attorney's fees if it prevails. In contrast, in Connecticut "if [a tax] … appeal has been taken without probable cause, the court may charge double or triple costs, as the case demands, and

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upon all such appeals which may be denied, costs may be taxed against the appellant at the discretion of the court but no costs shall be taxed against the state.[56]

The ease with which taxpayers can relocate outside of Connecticut belies the challenges of changing Connecticut residency for tax purposes, especially estate tax purposes, and other tax surprises. ■

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NOTES

1 Conn. Gen. Stat. §§ 12-700(a); 12-701; *see also* Conn. Gen. Stat. §§ 12-711 12-712 (regarding the income taxation of non-residents on Connecticut source income).

2 Conn. Gen. Sat. § 12-643(3).

3 Conn. Gen. Stat. §§ 12-391(d)(1)(e); 12-391(e)(2).

4 Conn. Docket No. HHB-CV22-6070572-S, 2024 WL 4540712 (Conn. Super. Ct. Oct. 15, 2024).

5 The gift tax statute, section 12-643 of the Connecticut General Statutes, like the estate tax statute, section 12-391 of the Connecticut General Statutes, does not contain a definition of a resident. As a result, the same domicile analysis that would apply for an estate tax residency determination should also apply for gift tax residency determinations. *Compare* Conn. Gen. Stat. § 12-391(h)(1) *with* Conn. Gen. Stat. § 12-642.

6 *Foss v. Foss*, 105 Conn. 502, 136 A. 98, 99-100 (Conn. 1927); *Rice v. Rice*, 134 Conn. 440, 445-46 (1948); *Amen v. Comm'r Revenue Servs.*, 2005 Ct. Sup. 6472, 6478 (Conn. Super. Ct. Apr. 14, 2005); *Krause v. Comm'r*, 1996 WL 488916 *3 (1996)

7 *Rice v. Rice*, 134 Conn. 440, 445-46 (1948); *Amen v. Comm'r Revenue Servs.*, 2005 Ct. Sup. 6472, 6478 (Conn. Super. Ct. Apr. 14, 2005).

8 Conn. Agencies Regs 12-701(a)(1)-1(d).

9 *Estate of Anderson v. Comm'r Revenue Servs.*, Conn. Docket No. HHB-CV22-6070572-S, 2024 WL 4540712 *5 (Conn. Super. Ct. October 15, 2024). This decision is currently being appealed.

10 See footnote 8 preceding.

11 Conn. Agencies Regs. § 12-701(a)(1)-1(d)(4).

12 Conn. Agencies Regs. § 12-701(a)(1)-1(d)(5).

13 *Foss v. Foss*, 105 Conn. 502, 505 (1927).

14 *Rice v. Rice*, 134 Conn. 440, 445-446 (1948); *McDonald v. Hartford Trust Co.*, 104 Conn. 169 (1926).

15 Conn. Agencies Regs. § 12-701(a)(1)-1(d)(8).

16 *Estate of Anderson v. Comm'r Revenue Servs.*, 2024 WL 4540712, Docket No. HHB-CV-22-6070572-S (Conn. Super. Ct. Oct. 15, 2024).

17 *Id*. The decedent regularly spent about 5.5 months in Connecticut, 3.5 months in Florida and 3 months in Arizona.

18 *Id*. The court found the decedent maintained equal personal, social and property connections in Florida.

19 *Comm'r Revenue Servs. v. Estate of Krause*, 1996 WL 488916, No. CV 940536196 (Conn. Super. Ct. Jul. 25. 1996).

20 *Comm'r Revenue Servs. v. Estate of Nemeth*, 1991 WL 28073, No. 299349 (Conn. Super. Ct. Jan. 29, 1991).

21 Conn. Gen. Stat. § 12-701(a)(1)(A)(i).

22 Conn. Agencies Reg. § 12-701(a)(1)(A)(ii).

23 Conn. Gen. Stat. § 12-701(a)(1)(B).

24 Conn. Agencies Regs. § 12-701(a)(1)-1(b).

25 Conn. Agencies Regs. § 12-701(a)(1)-1(c).

26 Conn. Agencies Regs. § 12-701(a)(1)-1(e).

27 Conn. Agencies Regs. § 12-701(a)(1)-1(e).

28 *See In re Bodfish v. Gallman*, 378 NYS2d 138 (N.Y. App. Div. Jan. 22, 1976) (burden of proof for estate tax purposes is on the party alleging a change of domicile); *In re Ingle v. Tax Appeals Tribunal of Dep't of Taxation & Fin.*, 973 N.Y.S.2d 877 (N.Y. App. Div. Oct. 31, 2013) (burden of proof for income tax purposes is on the party alleging a change of domicile); Nonresident Audit Guidelines, State of New York – Department of Taxation and Finance, page 12 (June 2014) (stating that the state bears the burden of proof to show that an individual who was previously a non-domiciliary of New York changed his domicile to New York); *Horvitz v. Comm'r.*, 60 Mass. App. Ct. 1103, 2003 WL 22764593 *2 (Mass. App. Ct. 2003); *Horvitz v. Comm'r.*, 51 Mass. App. Ct 386, 393-94 (Mass. App. Ct. Apr. 24, 2001).

29 Conn. Agencies Regs. § 12-701(a)(1)-1(d)(2); *Amen v. Comm'r Revenue Servs.*, 2005 WL 1089985, No CV020515337 (Conn. Super. Ct. Apr. 14, 2005).

30 *Id*.

31 *Estate of Anderson v. Comm'r Revenue Servs.*, Conn. Docket No. HHB-CV22-6070572-S, 2024 WL 4540712 *5 (Conn. Super. Ct. Oct. 15, 2024).

32 264 Conn. 286, 302 (2003).

33 *See also Rizzuto v. Comm'r Revenue Servs.*, 2007 WL 831166 *3 (Conn. Super. Ct. Feb. 28, 2007). This clear and convincing standard is in contrast to the preponderance of the evidence standard in neighboring states such as Rhode Island and Massachusetts. *See DeBlois v. Clark*, 764 A.2d 727, 730 (R.I. 2001); *Horvitz v. Comm'r.*, 60 Mass. App. Ct 11103, 2003 WL 22764593 *2 (Mass. App. Ct. 2003).

34 *Notopoulos v. Statewide Grievance Comm'n*, 277 Conn. 218, 226, (2006) (Internal quotation marks omitted.)

35 Section 12-392(b)(3)(j) of the Connecticut General Statutes provides "A tax return shall be filed, in the case of every decedent who dies on or after January 1, 2023, and at the time of death was (i) a resident of this state, or (ii) a nonresident of this state having real property in this state or tangible personal property having an actual situs in this state." The General Instructions for Form C-3 UGE, State of Connecticut Domicile Declaration, provide, "Generally, whenever a decedent is claimed to be a nonresident of Connecticut, the fiduciary of the decedent's estate must file Form C-3 UGE, State of Connecticut Domicile Declaration." The presumption that every decedent globally died a resident of Connecticut requires that for those persons who are in-fact non-residents to not have a filing obligation they must all file a Form C-3 UGE. It appears that the presumption in 12-391(h)(2) should include the following additional italicized language, "For purposes of this chapter each decedent *who owns Connecticut situs real or tangible property* is presumed to be a Connecticut resident."

36 *Estate of Brooks v. Sullivan*, 2015 WL 2458188 *3 (Conn. Super. Ct. April 29, 2015).

37 *Id*.; I.R.C. §2044(a).

38 *See, e.g., Dorrance's Estate*, 163 A. 303 (PA 1932), *cert. denied*, 287 U.S. 660 (1932).

39 *See Cory v. White*, 457 U.S. 85 (1982) (holding with respect to state estate tax).

40 Conn. Agencies Regs. § 12-717(c)(1)-1(a).

41 *See* Form CT-12-717A and Form CT-12-717B.

42 Conn. Gen. Stat. § 12-372; Conn. Agencies Regs. § 12-8732(a)-1(a).

43 Conn. Gen. Stat. § 12-39W.

44 Mass. Gen. Laws. Ch. 62c, § 36.

45 N.Y. Tax Law § 687(a).

46 R.I. Gen. Laws § 44-30-87.

47 Conn. Gen. Stat. § 12-728(b); Conn. Agencies Regs. § 12-728(b)-1.

48 Conn. Gen. Stat. § 12-735(b); Conn. Agencies Regs. 12-735(b)-1(a)(1).

49 I.R.C. § 83(e)(3).

50 Treas. Reg. § 1.83-7(a); *Comm'r v. Lo Bue*, 351 US 243, 249 (1956).

51 Conn. Gen. Stat. § 12-701(19).

52 *Allen v. Comm'r*, 324 Conn. 292, 313 (2016).

53 26 U.S.C. § 7430.

54 N.Y. Tax Law § 3030.

55 West's General Laws of Rhode Island Annotated § 42-92-1.

56 Conn. Gen. Stat. § 12-730.

CUTPA's Statutory Per Se Violations

By ROBERT M. LANGER, JOHN T. MORGAN, AND DAVID L. BELT

As a service to the members of the Connecticut Bar, Thomson Reuters and the authors of Langer, Morgan, Belt, *Connecticut Unfair Trade Practices, Business Torts and Antitrust, Volume 12 of the Connecticut Practices Series*, have provided the CBA with permission to reprint Appendix E of the 2024-25 edition of the treatise in *CT Lawyer* magazine.

CUTPA has become, since its adoption in 1973, Connecticut's most utilized consumer protection and business litigation statute. Moreover, CUTPA has the largest body of unfairness caselaw of any state in the country. Utilization of the statutes identified in Appendix E often substantially reduces what a plaintiff must prove. This is in contrast to CUTPA's generic methodology applicable most specifically to unfairness, which can be quite complex.

Appendix E identifies 102 separate Connecticut statutes that the Connecticut General Assembly has deemed per se violations of the Connecticut Unfair Trade Practices Act ("CUTPA"), i.e., if one violates the underlying statute, such conduct also violates CUTPA. Several of these statutes are well-known and often utilized, e.g., the Home Improvement Act, the Lemon Law, and the Home Solicitation Sales Act. However, the majority of the statutes listed in Appendix E are far less well-known, and thus utilized sparingly, if at all.

Thomson Reuters and the authors hope that you find this information of value. For more information about this publication, please visit Connecticut Unfair Trade Practices, Bus... | Legal Solutions.[1]

Appendix E. Statutes That Expressly Incorporate CUTPA by Reference

1.	Conn.Gen.Stat. § 4-28m(d)	Tobacco Products
2.	Conn.Gen.Stat. § 12-326b(c)	Cigarette Sales Below Cost
3.	Conn.Gen.Stat. § 12-572b(2)	Off-Track Betting
4.	Conn.Gen.Stat. § 14-15b(e), as amended by 2024 P.A. 24-21, § 2(e)	Motor Vehicle Rental Contracts
5.	Conn.Gen.Stat. § 14-16c(f)	Sale of Totalled and Salvaged Motor Vehicles
6.	Conn.Gen.Stat. § 14-106b(d)	Odometer Tampering
7.	Conn.Gen.Stat. § 14-106d(d)	Fake Air Bags For Motor Vehicles
8.	Conn.Gen.Stat. § 14-332a(c)(3)	Gasoline Surcharges
9.	Conn.Gen.Stat. § 16-245o(i)	Restrictions on Use of Customer Information by Electric Companies for Marketing Purposes
10.	Conn.Gen.Stat. § 16-245s(c)	Switching Electric Suppliers
11.	Conn.Gen.Stat. § 16-247s(h)	Cellular Mobile Telephone Directories and Customer Inquiries and Complaints Regarding Cellular Mobile Telephone Service
12.	Conn.Gen.Stat. § 16-247u(i)	Confidentiality of Telephone Records
13.	Conn.Gen.Stat. § 16-256i(d)(2)	Unauthorized Switching of Telecommunications Carriers
14.	Conn. Gen. Stat. § 16a-15(h)	Posting of Gas Prices
15.	Conn.Gen.Stat. § 16a-21(k)	Heating Fuel
16.	Conn.Gen.Stat. § 16a-22k(d)	Heating Fuel
17.	Conn.Gen.Stat. § 16a-23(c)	Distribution of Gasoline by Refiners
18.	Conn.Gen.Stat. § 16a-23a	Sale of Anthracite
19.	Conn.Gen.Stat. § 16a-23r	Heating Fuel
20.	Conn. Gen. Stat. § 17a-716(c)	Sober Living Homes
21.	Conn. Gen. Stat. § 19a-508c(k)(4)	Hospital and Health System Facility Fees
22.	Conn. Gen. Stat. § 19a-639f(i)	Cost and Market Reviews of Hospital Transfers
23.	Conn. Gen. Stat. § 19a-904d(c) and (e)	Health Information Blocking and Electronic Health
24.	Conn.Gen.Stat. § 19a-907b(b)	Conversion Therapy
25.	Conn.Gen.Stat. § 20-7f(b) and (c)	Health Care Provider Unfair Billing Practices
26.	Conn.Gen.Stat. § 20-124a	Dental Referral Services
27.	Conn.Gen.Stat. § 20-150(e)	Sale of Cosmetic Contact Lenses

28.	Conn.Gen.Stat. § 20-341(f)	Enforcement of Certain Professional and Occupational Licensing and Registration Laws
29.	Conn.Gen.Stat. § 20-341y	Mechanical Contractors
30.	Conn.Gen.Stat. § 20-417g	New Home Construction Contractors
31.	Conn.Gen.Stat. § 20-427(c)	Home Improvement Contractors
32.	Conn.Gen.Stat. § 20-457(b)	Community Association Managers
33.	Conn. Gen. Stat. § 20-633a(d)	Protected Health Information
34.	Conn. Gen. Stat. § 20-691(k)	Registration of Locksmiths
35.	Conn.Gen.Stat. § 21-35h(b)	Closing-Out Sales
36.	Conn.Gen.Stat. § 21-83e(b)	Mobile Manufactured Homes and Home Parks
37.	Conn.Gen.Stat. § 21a-222(b)	Health Club Act
38.	Conn. Gen. Stat. § 21a-343(c)	Failure to Permit Entry or Inspection by State Under State Child Protection Act
39.	Conn.Gen.Stat. § 21a-404	Home Food Service Plan Sales Act
40.	Conn. Gen. Stat. § 21a-420c(c), as amended by 2024 P.A. 24-76, § 8(c)	Restrictions on the Sale of Cannabis
41.	Conn. Gen. Stat. § 21a-421bb(f)	Advertising of Cannabis
42.	Conn.Gen.Stat. § 22-61m(s)	Advertising of Hemp
43.	Conn. Gen. Stat. § 30-39(f)	Liquor Permitting False Statements
44.	Conn.Gen.Stat. § 30-64b	Unfair Pricing of Alcoholic Liquor
45.	Conn.Gen.Stat. § 33-1335	White Collar Crime Enforcement and Corporate Fraud Accountability
46.	Conn. Gen. Stat. § 36a-267(c)	Reverse Mortgages
47.	Conn.Gen.Stat. § 36a-498(g)(2)	Mortgage Trigger Leads
48.	Conn. Gen. Stat. § 36a-498h(b)	Lead Generators of Residential Mortgage Loans
49.	Conn.Gen.Stat. § 36a-589	Check Cashing Services
50.	Conn.Gen.Stat. § 36a-700(f)	Credit Clinics
51.	Conn.Gen.Stat. § 36a-701b(j)	Requiring Consumer Credit Bureaus to Offer Security Freezes
52.	Conn.Gen.Stat. § 38a-193(c)(3)	Health Care Centers and Insolvency Protection
53.	Conn.Gen.Stat. § 38a-355(b)	Notice Concerning Used Auto Parts
54.	Conn. Gen. Stat. § 38a-398(d)(2)	Travel Insurance
55.	Conn. Gen. Stat. § 38a-477cc	Pharmacy Contracts
56.	Conn.Gen.Stat. § 42-103k	Apartment Listing Services
57.	Conn. Gen. Stat. § 42-103kk(a); Conn. Gen. Stat. § 42-103tt(a); Conn. Gen. Stat. § 42-103ww(d).	Time Shares
58.	Conn.Gen.Stat. § 42-110q(b)	Service Contract Agreements
59.	Conn.Gen.Stat. § 42-110v	Repair of Consumer Goods
60.	Conn.Gen.Stat. § 42-110aa(e)	Refund and Exchange Policies
61.	Conn.Gen.Stat. § 42-115r	Tire Striping
62.	Conn.Gen.Stat. § 42-115t(b)	Cash Register Readouts
63.	Conn.Gen.Stat. § 42-115u(b)	Unfair Sales Practices
64.	Conn.Gen.Stat. § 42-125bb	Consumer Layaway Plans
65.	Conn.Gen.Stat. § 42-126b(c)	Unsolicited Sending of Goods
66.	Conn.Gen.Stat. § 42-126c	Disclosures to Conduct a Mail Order Business
67.	Conn.Gen.Stat. § 42-133i(c)	Notice of Expiration of Magazine Subscriptions
68.	Conn.Gen.Stat. § 42-133ff(f)	Surcharge Based on Payment Method
69.	Conn.Gen.Stat. § 42-141(b)	Home Solicitation Sales Act
70.	Conn.Gen.Stat. § 42-184	Lemon Law II
71.	Conn.Gen.Stat. § 42-206	Funeral Service Contract
72.	Conn.Gen.Stat. § 42-210(e)	Gray Market Merchandise

Image credit: kampee patisena/Getty Images

73.	Conn.Gen.Stat. § 42-217(a)	Rain Checks
74.	Conn.Gen.Stat. § 42-227(h)	Automobile Manufacturers' Warranty Adjustment Programs
75.	Conn.Gen.Stat. § 42-230	Retail Prices During an Emergency (Profiteering)
76.	Conn.Gen.Stat. § 42-232(c)	Supply or Energy Emergencies
77.	Conn. Gen. Stat. § 42-234a(c)	Abnormal Market Disruptions
78.	Conn. Gen. Stat. § 42-235(f)	Price Gouging
79.	Conn.Gen.Stat. § 42-234b(c)	Petroleum Products Gross Earning Tax
80.	Conn.Gen.Stat. § 42-251(a)	Consumer Rent-To-Own Agreements
81.	Conn.Gen.Stat. § 42-283	Diet Programs
82.	Conn.Gen.Stat. § 42-288(b)	Telemarketing
83.	Conn.Gen.Stat. § 42-288a(k)	Unsolicited Telephonic Sales Calls
84.	Conn. Gen. Stat. § 42-289(d)	Terminating Telecommunications Providers
85.	Conn.Gen.Stat. § 42-300	Sweepstakes
86.	Conn.Gen.Stat. § 42-311	Buying Clubs
87.	Conn.Gen.Stat. § 42-322	Social Referral (Dating) Services
88.	Conn.Gen.Stat. § 42-360(c)	Dry Cleaning Price Information
89.	Conn.Gen.Stat. § 42-370(d)	Prepaid Calling Cards
90.	Conn.Gen.Stat. § 42-371(g)	Consumer Discount Cards
91.	Conn. Gen. Stat. § 42-525(e)	Online Privacy, Data and Safety Protections
92.	Conn. Gen. Stat. § 42-528(d)	Online Privacy, Data and Safety Protections
93.	Conn. Gen. Stat. § 42-529e(a)	Online Privacy, Data and Safety Protections [Enforced Solely by CT Attorney General]
94.	Conn.Gen.Stat. § 47-6b(c)	Conveyance of Interests in Real Property to Land Trusts and Other Nonprofit Land-Holding Organizations
95.	Conn.Gen.Stat. § 48-30(b)	Acquisitions of Private Property by Eminent Domain
96.	Conn. Gen. Stat. § 53-289d(e)	Sales of Entertainment Event Tickets on the Secondary Market
97.	Conn. Gen. Stat. § 53-289e	Automated Ticket Purchasing Software
98.	Conn. Gen. Stat. § 54-142e(e)	Erasure of Criminal History Records
99.	2024 P.A. 24-76, § 27(n)	Infused Beverages (with THC)
100.	2024 P.A. 24-76, § 28(e)	Restrictions on Sale of Infused Beverages
101.	2024 P.A. 24-101, § 2(c)	Unfair Real Estate Listing Agreements
102.	2024 P.A. 24-111, §§ 37(d) & 38(a)	Fictitious Trade Names

The statutes listed below each expressly state that if a person violates CUTPA, such violation may constitute the basis for certain actions by the Commissioner of Consumer Protection.

1.	Conn. Gen. Stat. § 16-245(g)	Licensure of Electrical Suppliers
2.	Conn.Gen.Stat. § 20-417c	Suspension or Revocation of a New Home Construction Contractor's Certificate of Registration
3.	Conn.Gen.Stat. § 20-426	Suspension or Revocation of Home Improvement Contractor's Certificate of Registration
4.	Conn.Gen.Stat. § 21-35l	Suspension or Revocation of Closing-Out Sales License
5.	Conn.Gen.Stat. § 21-35m(c)	Suspension or Revocation of Closing-Out Sale Promoter's Registration
6.	Conn.Gen.Stat. § 21a-226(l)	Connecticut Health Club Guaranty Fund

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NOTE

1 https://store.legal.thomsonreuters.com/law-products/Practice-Materials/Connecticut-Unfair-Trade-Practices-Business-Torts-and-Antitrust-2024-2025-ed-Vol-12-Connecticut-Practice-Series/p/107065847

Connecticut Bar Association Hosts Free In-Person Wellness Summit During National Lawyer Well-Being Week

By JOAN REED WILSON AND SARA BONAIUTO

In celebration of National Lawyer Well-Being Week, the Connecticut Bar Association (CBA) is proud to announce a **Free In-Person Well-Being Summit** for its members. The event will take place on **Wednesday, May 7**, at the new **CBA headquarters in Meriden**.

The Well-Being Summit is designed to promote the holistic well-being of legal professionals, addressing the unique challenges and stressors faced within the profession. Attendees will have the opportunity to engage in interactive workshops, hear from wellness experts, and connect with peers in an environment focused on health, mindfulness, and balance.

The Importance of Well-Being in the Legal Profession

The legal profession is notorious for its demanding workload, high levels of stress, and often overwhelming expectations. Many attorneys struggle to maintain a work-life balance, leading to burnout, anxiety, and even substance abuse. According to studies, lawyers experience depression at rates nearly four times higher than the general population, making mental health and wellness initiatives crucial for the long-term sustainability of legal professionals.

Beyond personal health, lawyer well-being is essential for maintaining ethical responsibilities and ensuring the effective delivery of legal services. High stress and burnout can lead to diminished cognitive function, impaired decision-making, and a decline in client advocacy. Lawyers who prioritize their mental and physical well-being are better equipped to handle the complexities of their cases, communicate effectively, and manage high-stakes legal matters with greater clarity and resilience.

Recognizing these challenges, the CBA is committed to fostering a culture of wellness that supports both the personal and professional lives of its members. This Well-Being Summit is an opportunity for legal professionals to take a step back from their busy schedules and focus on their overall well-being.

Event Highlights:

- **Presentations:** Inspiring talks from renowned wellness experts on achieving sustainable work-life balance.
- **Interactive Workshops:** Practical sessions covering stress management, mindfulness techniques, and physical wellness strategies.
- **Networking Opportunities:** Connect with fellow members of the Connecticut legal community in a relaxed, supportive setting.
- **Refreshments and Wellness Activities:** Enjoy healthy snacks and guided meditation sessions.

The event is **free for CBA members**, but space is limited, so early registration is encouraged.

Event Details:

- **What**: CBA Well-Being Summit
- **When:** Wednesday, May 7, 2025
- **Where:** Connecticut Bar Association Headquarters, Meriden, CT

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Potential Impact of Recent Executive Orders to Nonprofit and Legal Aid Organizations

By DAN A. BRODY AND SAT NAM KHALSA

Nonprofits, including providers of legal aid services, are among the many types of organizations facing actual and potential impacts from executive orders recently issued by the Trump administration, including, but not limited to, orders targeting immigration services and diversity, equity, and inclusion (DEI) policies and practices. When legal aid providers face obstacles and cannot help as many individuals, the need for pro bono services increases.

Immigration Executive Orders

The "Protecting the American People Against Invasion" Executive Order describes a wide-ranging set of initiatives aimed at advancing the administration's immigration-related policies. Of note, the order directs the Attorney General and Secretary of Homeland Security to "[i]mmediately review and, if appropriate, audit all contracts, grants, or other agreements providing Federal funding to non-governmental organizations supporting or providing services, either directly or indirectly" to undocumented immigrants. The order further directs those officials to "[p]ause distribution of all further funds pursuant to such agreements pending the results of the review" and to "[t]erminate all such agreements determined to be in violation of law or to be sources of waste, fraud, or abuse…." The order also states that funds previously distributed can be clawed back if deemed to be appropriate given the policy aims of the order.

The "Ending Taxpayer Subsidization of Open Borders" Executive Order directs the head of each Executive Branch department or agency to "ensure, consistent with applicable law, that Federal payments to States and localities do not, by design or effect, facilitate the subsidization or promotion of illegal immigration, or abet so-called 'sanctuary' policies that seek to shield illegal aliens from deportation."

To the extent nonprofits and legal aid providers rely on federal grant funds to serve immigrant populations, their operations face potential impacts from the funding freezes that the orders attempt to impose. Although these orders face legal scrutiny and potential challenges to their implementation, they demonstrate the administration's intention to target programs that provide services to nondocumented immigrants.

Diversity, Equity, and Inclusion Executive Order

The "Ending Illegal Discrimination and Restoring Merit-Based Opportunity" Executive Order has significant implications for DEI practices across both private and nonprofit sectors, including legal aid organizations. The order was issued within the broader context of the U.S. Supreme Court's 2023 decision in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, which struck down race conscious higher education admissions decisions. This order does not prohibit private organizations from having DEI policies and the order does not create new anti-discrimination law. Instead, it directs Executive Branch officials to recommend enforcement strategies for ending "illegal" DEI, including litigation and regulatory action, and identifying potential enforcement targets, among other things. Notably, the order has been challenged and, in *National Association of Diversity Officers in Higher Education, et al. v. Trump*, a federal

district court in Maryland issued a preliminary injunction blocking enforcement of certain aspects of the order. At the time of writing, the injunction is on appeal to the Fifth Circuit, complicating the analysis and potential impacts of the order.

Significantly, while the order is directed toward the Executive Branch and its agencies, it represents a call to action for private parties to bring similar legal actions against organizations for "illegal" DEI practices. Lawsuits were filed in the wake of *Students for Fair Admissions, Inc*. and several organizations already have filed a complaint with the Equal Employment Opportunity Commission (EEOC) against the American Bar Association (ABA) over its DEI programs. Nonprofit and legal aid organizations may become the target of litigation initiated by the government or private parties based on DEI practices conducted in the course of their operations and the communities served. To minimize that potential, nonprofits and legal aid organizations may consider taking some of the following steps: (i) reviewing their public facing materials, communications, and protocols to ensure their mission and policy statements and outgoing communications take into account the potential for increased regulatory scrutiny with respect to DEI policies and initiatives; (ii) reviewing organizational policies and initiatives that incorporate DEI-related principles and goals and evaluate whether any such policies or initiatives could be viewed as noncompliant under existing federal, state, or local anti-discrimination law (with particular emphasis on policies or practices that may appear to prefer or exclude individuals based on demographic characteristics); (iii) developing protocols for responding to governmental inquiries or investigations; and (iv) continuing to monitor guidance from federal, state, and local government as it relates to anti-DEI enforcement.

While the legal and regulatory landscape will continue to evolve, especially in the wake of *National Association of Diversity Officers in Higher Education*, and much remains to be seen, nonprofits and legal aid organizations should be conscious of the potential impact executive orders and related enforcement priorities of the administration have on their policies and activities. And, if the resources of legal aid organizations are cut or tied up responding to executive orders, there may be more unmet legal need and opportunities for volunteerism. ■

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The New Normal

By VIANCA T. MALICK

Vianca T. Malick *is chair of the CBA Young Lawyers Section for the 2024-2025 bar year. She is an Assistant Attorney General in the Infrastructure and Economic Development Section of the Connecticut Office of the Attorney General where she primarily handles defensive litigation on behalf of several state agencies.*

When we think of starting a family, we often only really think about the three trimesters of pregnancy. However, there are other parts of the parenting process. The time after birth when your baby is adjusting to life on the outside, known as the "fourth trimester," and the time when new mothers return to work, known as the "fifth trimester."[1]

> The 'fifth trimester'? It's the time when new mothers, just months after delivery, are going back to work but often before they feel emotionally and physically ready to return . . . . [It's] the first few months back at work, whether women return after a week or after six months of leave, whether they work in blue collar or white collar professions, whether they have paid leave, or are like the majority of Americans who work at companies that don't offer any paid leave.[2]

My husband and I welcomed our first child back in July. As I neared the end of my maternity leave, I had mixed feelings. Part of me was excited. Our daughter would be starting daycare, so her care and development would no longer be mainly my responsibility. I was ready to put my brain to work, "lawyer" again, and return to a former sense of self.

Another part of me felt guilty. Before having our daughter, I had certain expectations of what my maternity leave would look like. I knew it would be difficult. I expected to not get much sleep and for things like showers and hot meals to be a luxury. What I did not expect was a baby that refused to nap, even as a newborn, or the added job of having to exclusively pump, which ate up multiple hours a day between the physical pumping, storing of the milk, cleaning of all the parts, etc. I felt like I needed a vacation after my maternity leave, but felt guilty that I was looking forward to the break daycare would give my husband and me.

Despite my mixed feelings, I felt ready. A large part of that was due to the fact that I had six months of maternity leave and, while unpaid, we were able to maneuver our finances to cover my missing income for that length of time. Over the last two years many of my friends had welcomed their first children and many of them did not have the luxury we had of having more than a few months of maternity leave. Many had to put their little ones in daycare around three months old. As I saw our six month old daughter start, I could not imagine her starting any earlier. At three months, your child is still not very independent, only just received their first round of vaccinations, and is likely going through a sleep regression. Not to mention—they are so little! However, placing a child in daycare as young as six weeks old is a reality for many parents in the United States.

The United States is the only industrialized nation with no national paid maternity leave.[3] The federal Family and Medical Leave Act allows parents to take up to twelve (12) week of unpaid leave upon the birth of a child.[4] However, the national average takes only about ten (10) weeks[5] with approximately one in fourteen workers who qualify forgoing their leave entirely because they cannot afford to take unpaid leave.[6] "Nearly half of workers (46 percent) are not even guaranteed unpaid, job-protected leave through the Family and Medical Leave Act."[7] "This federal policy failure leaves more than 100 million people—80 percent of U.S. workers—without paid time off after the birth or adoption of a child."[8]

Regardless of the length of your maternity leave, the "fifth trimester" will be a

challenge. However, there are plenty of resources out there to help ease the transition. Below is some advice I have found useful as I entered my fifth trimester.

1. Take your time. "Resist taking your emotional temperature during your first few weeks back on the job. Returning to work after parental leave is a process."[9] It will take time to establish a new "normal" and regain your balance with the added duties of being both an attorney and a parent.

2. Embrace your career. Returning to work can provide fulfilment beyond motherhood.[10] Enjoy the time to yourself returning to work may provide. Personally, I liked getting out of the house in nice clothes again and drinking a hot cup of coffee.

3. Seek support from others.[11] Whether it is childcare support from family and friends to give you a break or seeking advice from other parents at work. There is no shame in seeking help.

4. Be flexible with yourself and your expectations. Understand adjustments will need to be made along the way as you figure out your new "normal."[12] ■

NOTES

1 Kelly Wallace, *The "Fifth Trimester": When New Moms Return to Work*, CNN (Apr. 6, 2017), https://www.cnn.com/2017/04/06/health/fifth-trimester-working-mom-resources-parenting/index.html.

2 *Id*.

3 *Id*.; *see also, Maternity Leave in the U.S. vs. Other Countries: A Deep Dive on Global Standards*, The Lactation Network (Jan. 3, 2025), https://lactationnetwork.com/blog/maternity-leave-in-the-us-vs-other-countries/ (citing Sarah Combs, *Paid Leave Is Essential For Healthy Moms and Babies*, Nat'l Partnership For Women & Families (May 2021), https://nationalpartnership.org/report/paid-leave-is-essential-for/).

4 *Maternity Leave in the U.S. vs. Other Countries: A Deep Dive on Global Standards*, The Lactation Network (Jan. 3, 2025), https://lactationnetwork.com/blog/maternity-leave-in-the-us-vs-other-countries/.

5 *Id*.

6 Sarah Combs, *Paid Leave Is Essential For Healthy Moms and Babies*, Nat'l Partnership For Women & Families (May 2021), https://nationalpartnership.org/report/paid-leave-is-essential-for/.

7 *Id*.

8 *Id*.

9 Rebecca Knight, *How to Return to Work After Taking Parental Leave*, Harvard Business Review (August 2, 2019), https://hbr.org/2019/08/how-to-return-to-work-after-taking-parental-leave.

10 *See generally*, Rachel Spink, Returning From Maternity Leave as a Lawyer – A Guide, LinkedIn (Oct. 30, 2024), https://www.linkedin.com/pulse/returning-from-maternity-leave-lawyer-guide-rachel-spink-s08fe.

11 *See* Rebecca Knight, *How to Return to Work After Taking Parental Leave*, Harvard Business Review (August 2, 2019), https://hbr.org/2019/08/how-to-return-to-work-after-taking-parental-leave.

12 *See id*.

President's Message *Continued from page 5*

some would say that hampers the ability of the third branch of government to flex the muscle that the Constitution gives it. Is there a role for the bar to play in helping the Branch defend its independence by taking those decisions and perhaps adding the "editorialization" the court has not done? Absolutely. In my view, I think that is one of the roles of the bar. They can and have an ability to speak in a way that we do not, and I think the bar is viewed by the public as, I won't say aligned with judges, but as part of that club, that system. Lawyers understand what decisions say and what they do not say in a way that sometimes journalists reporting on a case or a lay person reading it does not understand. So, I may read a story about a case, and say, "Let me see what happened there," and then conclude that is not quite what happened. Lawyers have the ability to set the record straight and, in a sense, advocate. I think that does strengthen or help strengthen the rule of law because lawyers are a party of upholding the rule of law.

How do you unwind? It used to be golf, but I do not find much time to do that anymore. My youngest son is ten years old, and he just discovered basketball. So, if we are not playing outdoors when the weather permits, we are playing Nerf basketball in the house. I also played soccer in college, have coached my daughter's team, and enjoy playing with her. Between the two of them and the rest of my family, I stay pretty busy and enjoy every minute of it. ■

Wellness *Continued from page 31*

To register and view the full event schedule, go to ctbar.org/Well-BeingSummit.

A Call to Action for the Legal Community

The legal field has long emphasized success, productivity, and client service, often at the expense of personal well-being. However, studies show that lawyers who prioritize their mental and physical health perform better in their roles, demonstrate improved decision-making abilities, and experience greater job satisfaction. Additionally, firms and organizations that invest in well-being initiatives benefit from increased retention, higher morale, and enhanced workplace culture.

The CBA encourages all legal professionals to take proactive steps toward their own wellness, recognizing that a balanced, healthy lawyer is an asset to clients, colleagues, and the justice system as a whole. This summit provides a crucial opportunity to learn strategies for reducing stress, fostering resilience, and achieving a fulfilling career in law without sacrificing well-being.

Join us in prioritizing well-being and celebrating a healthier, more balanced legal community! ■

Joan Reed Wilson *is the managing partner of RWC, LLC, Attorneys and Counselors at Law, where she practices estate planning, elder law, probate, and real estate closings. She holds a Certificate in Applied Positive Psychology from Penn and is a Certified Adult Chair® Coach.*

Sara Bonaiuto *is an associate at Shipman & Goodwin LLP, where she is a member of the firm's Commercial Finance and Business and Corporate practice groups and the Cannabis Industry Team. Her practice is focused on assisting businesses and individuals with equity and debt financings, term and revolving credit facilities, entity formations, mergers and acquisitions, construction financing, real estate joint ventures and general contract matters.*

News & Events *Continued from page 8*

Town of North Stonington Board of Finance. He is a member of the CBA Workers' Compensation Section.

Christine M. Conley is an attorney with McGann Bartlett and Brown LLC, where she represents employers and municipalities in defending work-related injuries. She previously served the 40th Assembly District of Groton and New London in the Connecticut House of Representatives. She is a Connecticut board certified workers' compensation specialist and a member of the CBA Workers' Compensation Section.

Colette Griffin is a partner with Strunk Dodge Aiken Zovas LLC and serves on the workers' compensation legal advisory and medical advisory committees. She is a member and past chair of both the CBA Workers' Compensation and Animal Law Sections and is also a member of the Women in the Law Section.

Governor Lamont also nominated attorneys David G. Bothwell, Jesse Giddings, Donald R. Green, Kaitlin A. Halloran, Angeline Ioannou, and Daniel Shapiro to the Connecticut superior court as well as Attorney LeAnn Neal for the position of family support magistrate.

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