



2016 Edition

Dissolution of Marriages and Nonadversarial Dissolution of Marriages in Connecticut

A Guide to Resources in the Law Library

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If you are looking for the [Do It Yourself Divorce Guide](#), [family forms](#), or other family publications, please see the family matters frequently asked questions web page at <http://www.jud.ct.gov/faq/family.htm>.

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<http://www.jud.ct.gov/policies.htm>

Part A. Dissolution of Marriages

- "A marriage is dissolved only by (1) the death of one of the parties or (2) a decree of annulment or dissolution of marriage by a court of competent jurisdiction." [Conn. Gen. Stat. § 46b-40\(a\)](#) (2015).
- "We recognize that an annulment and a dissolution of marriage differ fundamentally. An annulment renders the marriage void ab initio [from the beginning] while a dissolution is based upon a valid marriage which terminates as of the **date of the judgment of dissolution.**" [Durham v. Miceli](#), 15 Conn. App. 96, 543 A.2d 286 (1988).
- **Merger of civil union into marriage by default.**

(a) "Two persons who are parties to a civil union established pursuant to sections 46b-38aa to 46b-38oo, inclusive, that has not been dissolved or annulled by the parties or merged into a marriage by operation of law under section 46b-38qq as of October 1, 2010, shall be deemed to be married under chapter 815e on said date and such civil union shall be merged into such marriage by operation of law on said date." [Conn. Gen. Stat. § 46b-38rr](#) (2015).
- "'Marriage' means the legal union of two persons." [Conn. Gen. Stat. § 46b-20\(4\)](#) (2015).
- **Waiver of ninety day waiting period or six months stay under section 46b-67(b).**

"If the parties attest, under oath, that they have an agreement as to all terms of the dissolution of marriage or legal separation and wish the court to enter a decree of dissolution of marriage or legal separation prior to the expiration of the time periods set forth in subsection (a) of this section, and file a motion seeking the waiver of said time periods, the court may waive the provisions of subsection (a) of this section." [Public Act No. 15-7](#), Sec. 5. (*January 2015 Reg. Sess.*) (Effective October 1, 2015).

[Form JD-FM-247](#). Motion to Waive Statutory Time Period- Divorce or Legal Separation
- **Proceeding to judgment on case management date when defendant has not appeared.**

"If the defendant has not filed an appearance by the case management date, the plaintiff may appear and proceed to judgment on the case management date without further notice to the defendant, provided the plaintiff has complied with the provisions of Section 25-30." [Conn. Practice Book Sec. 25-50\(c\)](#) (2016).
- **Certification of Waiver of Service of Process - Cases Proceeding under Section 5 of Public Act 15-7.**

[Form JD-FM-249](#).

Part B. Nonadversarial Dissolution of Marriages

- **Background:**

"More than two years ago, the Judicial Branch began to explore whether a simplified process could be created for dissolutions of marriage where the parties had agreed to the dissolution, had only been married for a short period of time, had no children, and had no real property. Research conducted at the time demonstrated that approximately half of our sister states had a process in place that permitted a simplified dissolution of marriage under certain circumstances, and this research served as a guide as we crafted this proposal."

Benefits to the Parties:

"The benefits of this bill are two-fold...even the simplest dissolution of marriage requires time, energy, and resources. It often requires the parties to miss work and come to court on more than one occasion...This bill re-shapes the process for parties who have reached an agreement. It will require parties to file a joint petition, but in most instances, nothing more. In fact, the parties may not even have to visit a courthouse at all, if they choose to file the petition electronically."

"...Parties that meet the criteria of this new process will not have to appear before a judge and will spend considerably less time in court."

[Raised S.B. No. 1029, 2015 Sess., Judiciary Committee Public Hearing, March 11, 2015, Testimony of the Honorable Elizabeth A. Bozzuto, Chief Administrative Judge for Family Matters.](#)

- "This act creates an expedited court process that allows a judge to enter a divorce decree without a hearing for certain nonadversarial divorce actions. Among other things, it:
 1. allows parties to a marriage to file a notarized joint petition to begin the divorce process if, among other things, (a) they have not been married for more than eight years, (b) they have no children or real property, (c) at least one party is a Connecticut resident, (d) the total combined net fair market value of all property owned by either party is less than \$35,000, and (e) neither party has a defined benefit pension plan;" [Summary for Public Act No. 15-7 \(January 2015 Reg. Sess.\)](#) (Effective October 1, 2015).

Part A. Dissolution of Marriages – Section 1: Grounds for Dissolution of Marriage or Legal Separation

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- **"A decree of dissolution of a marriage or a decree of legal separation shall be granted upon a finding that one of the following causes has occurred:**
 - (1) The marriage has broken down irretrievably;
 - (2) the parties have lived apart by reason of incompatibility for a continuous period of at least the eighteen months immediately prior to the service of the complaint and that there is no reasonable prospect that they will be reconciled;
 - (3) adultery;
 - (4) fraudulent contract;
 - (5) willful desertion for one year with total neglect of duty;
 - (6) **seven years' absence, during all of which period the absent party has not been heard from;**
 - (7) habitual intemperance;
 - (8) intolerable cruelty;
 - (9) sentence to imprisonment for life or the commission of any infamous crime involving a violation of conjugal duty and punishable by imprisonment for a period in excess of one year;
 - (10) legal confinement in a hospital or hospitals or other similar institution or institutions, because of mental illness, for at least an accumulated period totaling five years within the period of six years next preceding the date of **the complaint.**" [Conn. Gen. Stat. § 46b-40\(c\)](#) (2015).

Section 1.1: No Fault Grounds

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to a no fault dissolution of marriage (divorce) commenced after October 1, 1997.

DEFINITIONS:

- **No fault divorce:** "A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred: (1) the marriage has broken down irretrievably; (2) the parties have lived apart by reason of incompatibility for a continuous period of at least the eighteen months immediately prior to the service of the complaint and that there is no reasonable prospect that **they will be reconciled . . .**" [Conn. Gen. Stat. § 46b-40\(c\)](#) (2015).
- "Incompatibility of personalities is not and has never been a ground for divorce in Connecticut. Under our law, married persons are expected to accept the ordinary vicissitudes of marriage caused by unwise mating, unhappy situations, unruly tempers and common quarrels or marital **wranglings.**" [Nowak v. Nowak](#), 23 Conn. Sup. 495, 497, 185 A.2d 83 (1962).
- "The determination of whether a breakdown of a marriage is irretrievable is a question of fact to be determined by the **trial court.**" [Eversman v. Eversman](#), 4 Conn. App. 611, 614, 496 A.2d 210 (1985).
- "The absence of objective guidelines does not mean an abdication of judicial function, nor does it signal, as the defendant argues, that a court determining whether a marriage has in fact irretrievably broken down is acting **purely ministerially or is granting a divorce 'upon demand.'** It does, however, sustain the trial court's conclusion that **the defendant's decision to rearrange his business ventures after the initiation of divorce proceedings does not necessarily repair the rupture in the marital relationship that had previously occurred.**" [Joy v. Joy](#), 178 Conn. 254, 255-256, 423 A.2d 895 (1979).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- Conn. Gen. Stat. (2015).
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment
[§ 46b-51](#). Stipulation of parties and finding of irretrievable breakdown
- Conn. Practice Book (2016).
[Chapter 25. Procedure in Family Matters](#)
 - § 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
 - § 25-7. Pleadings in General; Amendments to Complaint or Application
 - § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
 - § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
 - § 25-10. —Answer to Cross Complaint
- [Brody v. Brody](#), 315 Conn. 300, 307, 105 A.3d 887 (2015). **“In a second passage, the trial court stated that ‘[t]he marriage between the parties has broken down irretrievably, in large part because of the defendant’s dishonesty, probable infidelity and his increasingly abusive behavior towards the plaintiff.’ Later, in a third passage, the trial court ‘[found] that the defendant [was] responsible for the breakdown of the marriage for conduct described herein.”**
- [Barcelo v. Barcelo](#), 158 Conn. App. 201, 205-206, 118 A.3d 657 (2015). **“Ultimately, all things considered...the cause of the breakdown of the parties’ marriage was their irreconcilable differences stemming from their respective extramarital affair(s) and their difficulty in being intimate with each other.”**
- [Embriano v. Embriano](#), Superior Court, Judicial District of Hartford at Hartford, No. FA06-4023849-S (Mar. 24, 2008) (2008 WL 962887). **“By complaint dated June 5, 2006, the plaintiff-husband commenced this action seeking a dissolution of marriage on the grounds of irretrievable breakdown and other relief. . . . The court has considered all of the factors set out in Connecticut General Statutes Sections 46b-81, 46b-82, 46b-62 and other pertinent statutes, earnings and earning capacity differentials, causes for the breakdown of the marriage and the consequences of the financial orders set forth below.”**
- [Grimm v. Grimm](#), 82 Conn. App. 41, 48, 844 A.2d 855 (2004). **“The defendant failed to demonstrate that the court improperly found that the marriage had broken down irretrievably. The record clearly demonstrates the breakdown in the parties’ marriage. The fact that the defendant claims to maintain hope for reconciliation will**

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not support a finding that there are prospects for reconciliation. The allegations raised by the plaintiff concerning the difficulties in the marriage were serious and spanned almost the entire length of the marriage. The **court was within its discretion to credit the plaintiff's** version of the facts that the pattern of litigation was the result of the defendant's **attempt to thwart the dissolution proceedings, not the plaintiff's lack of intent to end the** marriage. Accordingly, we conclude that the court did not improperly find that the marriage had broken down **irretrievably."**

- [Evans v. Taylor](#), 67 Conn. App. 108, 115, 786 A.2d 525 (2001). "On the basis of the record, we conclude that the court could reasonably have found that the defendant had failed to establish her claim of intolerable cruelty, and therefore it was not clearly erroneous for the court to reject intolerable cruelty as a ground for dissolution and instead grant the dissolution of the marriage on the ground of **irretrievable breakdown."**
- [Sweet v. Sweet](#), 190 Conn. 657, 659, 462 A.2d 1031 (1983). "Section 46b-51 allows the court to avoid specifying fault for the breakdown of the marriage and allows the parties to avoid calling friends or relatives to **testify as to the reasons for the breakdown."**
- [Eversman v. Eversman](#), 4 Conn. App. 611, 614, 496 A.2d 210 (1985). "The determination of whether a breakdown of a marriage is irretrievable is a question of fact to be determined by the trial court The fact that the defendant maintains hope for reconciliation will not support a finding that there are prospects for a reconciliation A difference, to be irreconcilable, need not necessarily be **so viewed by both parties."**
- [Posada v. Posada](#), 179 Conn. 568, 572, 427 A.2d 406 (1980). "No-fault divorce does not mean that the causes of a marital breakup are always irrelevant, but it does mean that determining cause is not crucial to the judicial **administration of matrimonial matters."**
- [Gluck v. Gluck](#), 181 Conn. 225, 227, 435 A.2d 35 (1980). "Next, the defendant asserts that General Statutes 46b-40(c), to the extent that it authorizes the dissolution of a marriage if the marriage has broken down irretrievably, is vague, nullifies the other grounds for dissolution, prevents defenses and impairs the obligation of contracts, all in violation of constitutional strictures. The vagueness issue was resolved in [Joy v. Joy](#), 178 Conn. 254, 255-56, 423 A.2d 895 (1979); what was said there need not be repeated here. The gravamen of the unparticularized claim that irretrievable breakdown nullifies the other grounds for dissolution set forth in 46b-40(c) and prevents defenses appears to be that the legislature has sanctioned divorce

on demand. This claim too was rejected in *Joy v. Joy*, supra. The notion that allowing marital dissolutions based on irretrievable breakdown impairs the obligation of contracts within the meaning of article one, § 10 of the United States constitution is bankrupt. Marriage is not a contract within the meaning of this clause of the constitution. *Maynard v. Hill*, 125 U.S. 190, 210, 8 S.Ct. 723, 31 L.Ed. 654 (1888)."

- *Joy v. Joy*, 178 Conn. 254, 256, 423 A.2d 895 (1979). "The defendant claims that 46-32(c) is unconstitutional unless this court imposes judicial standards or guidelines to limit discretionary fact-finding by the trial courts of this state. We disagree. At least since *Maynard v. Hill*, 125 U.S. 190, 210-14, 8 S.Ct. 723, 31 L.Ed. 654 (1888), it has been clear that the legislature has plenary power to determine the circumstances under which a marital relationship is created and terminated The legislature could rationally conclude that public policy requires an accommodation to the unfortunate reality that a marital relationship may terminate in fact without regard to the fault of either marital partner, and that such a relationship should therefore be dissoluble in law upon a judicial determination of irretrievable breakdown. Courts in other jurisdictions with similar statutes have unanimously upheld the constitutionality of no-fault divorce."

WEST KEY NUMBERS:

- *Divorce* #12. Causes for divorce in general.
- *Divorce* #34. Inability to live together.
- *Divorce* #36. Voluntary separation.

DIGESTS:

- [Connecticut Family Law Citations](#): *Irretrievable Breakdown*
- [West's Connecticut Digest](#): *Divorce #12. Causes for divorce in general.*

ENCYCLOPEDIAS:

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- 24 [Am. Jur. 2d](#) *Divorce and Separation* (2008).
§§ 22-24. No-Fault Grounds; Breakdown of Marriage.
§§ 25-33. Voluntary Separation.
- 27A [C.J.S.](#) *Divorce* (2005).
§§ 27-39. Grounds Not Involving, or Necessarily Affected by, Fault In General
- *Dissolution of Marriage on Statutory Ground of Incompatibility*, 19 [POF2d](#) 221(1979).

ALR INDEX:

- Divorce and Separation
 - Incompatibility
- No-Fault Divorce

TEXTS & TREATISES:

- Barry Armata and Campbell Barrett, eds., [A Practical Guide to Divorce in Connecticut](#) (2013).

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- Renee C. Bauer, [Divorce in Connecticut: The Legal Process, Your Rights, and What to Expect](#) (2014).
- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010).
 - Chapter 15. Dissolution of Marriage in General
 - § 15.2 Breakdown of marriage relationship
 - § 15.3 Constitutionality of no-fault law
 - § 15.4 Other grounds for dissolution
 - § 15.5 Separation for eighteen months
- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2015).
 - Chapter 3. Dissolution of Marriage and Legal Separation
 - § 3.05 Pleading Irretrievable Breakdown
 - § 3.06 Pleading Separation for 18 Months
- Robert M. McAnernery and Samuel V. Schoommaker III, *Connecticut's New Approach To Marriage Dissolution*, 47 [Connecticut Bar Journal](#) 375 (1973).

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

Section 1.2: Fault Grounds

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to dissolution of marriage (divorce) based upon fault grounds.

DEFINITIONS:

- **Fault grounds:** "A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred. . . (3) adultery; (4) fraudulent contract; (5) wilful desertion for one year with total neglect **of duty; (6) seven years' absence**, during all of which period the absent party has not been heard from; (7) habitual intemperance; (8) intolerable cruelty; (9) sentence to imprisonment for life or the commission of any infamous crime involving a violation of conjugal duty and punishable by imprisonment for a period in excess of one year; (10) legal confinement in a hospital or hospitals or other similar institution or institutions, because of mental illness, for at least an accumulated period totaling five years within the period of six years next preceding the **date of the complaint.**" [Conn. Gen. Stat. §46b-40\(c\)](#) (2015).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015).
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment.

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016).
[Chapter 25. Procedure in Family Matters](#)
 - § 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
 - § 25-7. Pleadings in General; Amendments to Complaint or Application
 - § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
 - § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
 - § 25-10. —Answer to Cross Complaint

CASES:

- [Turgeon v. Turgeon](#), 190 Conn. 269, 278, 460 A.2d 1260 (1983). "Although, because of their clandestine nature, adulterous acts are usually proved by circumstantial evidence . . . the circumstances must be such as to lead the guarded discretion of a reasonable and just person to the conclusion of guilt."
- [Posada v. Posada](#), 179 Conn. 568, 573, 427 A.2d 406 (1980). "In the text of the statutes, the criteria relating to the 'the causes for the . . . dissolution of marriage' is only one item in an extensive list of criteria that the trial court

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

is directed to take into account.”

- [Kinsley v. Kinsley](#), 110 Conn. 695, 695-696, 147 A. 907 (1929). “The cumulative effect of the defendant’s acts and conduct as recited in the report of the committee may well have been held to have been so cruel as to have destroyed the public and personal objects of matrimony, past rehabilitation, and rendered a continuance of the marriage relation unbearable - beyond reasonable endurance - and therefore intolerable within the meaning we have given it in the ground for divorce, ‘intolerable cruelty.’”
- [Alden v. Alden](#), 21 Conn. Sup. 301, 304, 154 A.2d 522 (1959). “The desertion for three years which constitutes a ground for divorce under our statute involves the coexistence of the following four conditions: (1) cessation from cohabitation, (2) an intention on the part of the absenting party not to resume it, (3) the absence of the other party’s consent, and (4) the absence of justification.”
- [Vendetto v. Vendetto](#), 115 Conn. 303, 305, 161 A. 392 (1932). “The plaintiff’s ground of divorce was the fraud of the defendant in entering into the marriage contract knowing her epileptic condition, and yet, in order to induce marriage, concealing the fact from the plaintiff.”

WEST KEY NUMBERS:

- *Divorce* #12-38. Grounds

DIGESTS:

- [Connecticut Family Law Citations](#): *Fault*
- [West’s Connecticut Digest](#): *Divorce II. Grounds*.

ENCYCLOPEDIAS:

- 24 [Am. Jur. 2d Divorce and Separation](#) (2008).
§§ 34-106. Fault Grounds
- 27A [C.J.S. Divorce](#) (2005).
§§ 40-65. Cruelty.
§§ 66-79. Desertion or Abandonment.
§§ 80-87. Personal Indignities.
§§ 88-100. Other Particular Grounds.

TEXTS & TREATISES:

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- Renee C. Bauer, [Divorce in Connecticut: The Legal Process, Your Rights, and What to Expect](#) (2014).
- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010).
Chapter 15. Dissolution of Marriage in General
§ 15.6 Adultery
§ 15.7. Fraudulent contract
§ 15.8. Willful desertion for one year
§ 15.9. Continuous absence for seven years

- § 15.10. Habitual intemperance
- § 15.11. Intolerable cruelty
- § 15.12. Imprisonment; life sentence or commission of infamous crime
- § 15.13. Five-year confinement for mental illness
- § 15.14. Defenses

- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2015).
Chapter 3. Dissolution of Marriage and Legal Separation

Table 1: Fault and Financial Awards

Fault and Financial Awards	
Assignment of property	<p>"As stated in Christoni v. Christoni, 156 Conn. 628, 629, 239 A.2d 533, on the issue of choosing alternative grounds for granting a divorce: 'Where more than one ground for a divorce is claimed and one alleged ground is proved, it is immaterial whether or not the additional statutory ground or grounds may also exist.' The fault of the parties in causing a marital dissolution is material, however, to the issue of an assignment of property ancillary to the marital dissolution." Hollingsworth v. Hollingsworth, 180 Conn. 212, 214 fn. 2, 429 A.2d 463 (1980).</p>
Irretrievable breakdown	<p>"The contention . . . that a determination of irretrievable breakdown precludes the court from considering the causes of the dissolution in making financial awards is erroneous." Sweet v. Sweet, 190 Conn. 657, 660, 462 A.2d 1031(1983).</p>
Factors	<p>"In the text of the statutes, the criteria relating to the 'the causes for the . . . dissolution of marriage' is only one item in an extensive list of criteria that the trial court is directed to take into account." Posada v. Posada, 179 Conn. 568, 573, 427 A.2d 406 (1980).</p>
Contribution	<p>"We disagree with the plaintiff's claim that the trial court, in making its award of alimony and its assignment of property, gave inordinate weight to the cause of the breakdown. There is no provision in the governing statutes requiring that awards of alimony be distributed equally between the parties The trial court structured the division of property in a way which returned to the defendant his contribution to the marriage." Carter v. Carter, 8 Conn. App. 356, 359, 512 A.2d 979 (1986).</p>
Misconduct	<p>"While alimony, in whatever form, or an assignment of property is not to be considered either as a reward for virtue or as a punishment for wrongdoing, a spouse whose conduct has contributed substantially to the breakdown of the marriage should not expect to receive financial kudos for his or her misconduct. Moreover, in considering the gravity of such misconduct it is entirely proper for the court to assess the impact of the errant spouse's conduct on the other spouse. Because in making its assignment of property the trial court had a reasonable basis for its disposition we see no reason for disturbing the result." Robinson v. Robinson, 187 Conn. 70, 72, 444 A.2d 234 (1982).</p>

Section 1.2a: Adultery

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to dissolution of marriage (divorce) based upon the grounds of adultery.

DEFINITIONS:

- **Adultery** “means voluntary sexual intercourse between a married person and a person other than such person’s spouse.” [Conn. Gen. Stat. § 46b-40\(f\)](#) (2015).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015)
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment.

(c) “A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred . . . (3) adultery”

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016).
[Chapter 25. Procedure in Family Matters](#)
 - § 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
 - § 25-7. Pleadings in General; Amendments to Complaint or Application
 - § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
 - § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
 - § 25-10. —Answer to Cross Complaint

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Brody v. Brody](#), 315 Conn. 300, 105 A.3d 887 (2015).
“Upon closer examination, we are unpersuaded by the defendant’s argument that the four relevant passages from the trial court’s memorandum of decision show it made a conclusive finding of infidelity which, in turn, affected its alimony award” (p. 308).

“Upon full review of the memorandum, the fleeting mentions of infidelity are eclipsed by the trial court’s flood of findings that the defendant acted dishonestly” (p. 309).
- [Brodsky v. Brodsky](#), 153 Conn. 299, 300-301, 216 A.2d 180 (1966). “Adultery, as a ground for divorce or legal separation under General Statutes §§ 46-13 or 46-29, requires proof that the other spouse has engaged in extramarital sexual relations. 27A C.J.S., Divorce, § 21; 17 Am.Jur., Divorce and Separation, § 34; see *Schilcher v. Schilcher*, 124 Conn. 445, 200 A. 351; *Torlonia v. Torlonia*, 108 Conn. 292, 302, 142 A. 843; *Dennis v. Dennis*, 68 Conn. 186, 195, 36 A. 34; *Trubee v. Trubee*, 41 Conn. 36, 40. A principal claim of error in the present case is that the plaintiff failed to prove that the defendant committed adultery with Barbara Jean Miles. Although the proof will be circumstantial in nearly every case, the plaintiff must

nonetheless prove the adulterous relationship by a fair preponderance of the evidence. *Zeiner v. Zeiner*, 120 Conn. 161, 165, 179 A. 644. The circumstances must be such as to lead the guarded discretion of a reasonable and just man to the conclusion of guilt. *Neff v. Neff*, 96 Conn. 273, 275, 114 A. 126.”

- [Charpentier v. Charpentier](#), 206 Conn. 150, 154, 536 A.2d 948 (1988). “The fact that a custodial parent normally bears the principal responsibility for raising and educating children, whose needs demand primary consideration, may well justify a division of family assets that would otherwise appear disproportionate and unfair. There is no basis whatever, therefore, for the claim raised by the defendant of discrimination because of sexual preference.”
- [Turgeon v. Turgeon](#), 190 Conn. 269, 278, 460 A.2d 1260 (1983). “Although, because of their clandestine nature, adulterous acts are usually proved by circumstantial evidence . . . the circumstances must be such as to lead the guarded discretion of a reasonable and just person to the conclusion of guilt The adulterous relationship must be established by a fair preponderance of the evidence.”
- [Neff v. Neff](#), 96 Conn. 273, 276, 114 A. 126 (1921). “in weighing the evidence of adultery, the court should exercise great care to see that it is not imposed upon through the intense interest of the parties to color the facts; it should not see evil where the circumstances may reasonably lend themselves to an innocent interpretation, nor on the other hand, should it refuse to reach that conclusion which the sound and unprejudiced judgment should lead to.”
- [Beede v. Beede](#), 186 Conn. 191, 196, 440 A.2d 283 (1982). “There is nothing in the record to support the defendant’s claim that the court acted punitively in making its award by focusing on the defendant’s adultery as the cause of the dissolution.”

WEST KEY NUMBERS:

DIGESTS:

ENCYCLOPEDIAS:

- *Divorce* #26. Adultery.
- [Connecticut Family Law Citations: Adultery](#)
- [West’s Connecticut Digest: Divorce, II. Grounds, 26. Adultery](#)
- 24 [Am. Jur. 2d Divorce and Separation](#) (2008).
Adultery
§ 56. Generally
§ 57. Requirement of intent
- 27A [C.J.S. Divorce](#) (2005).
§ 88. Adultery

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LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

- *Proof of Adultery as Grounds for Dissolution of Marriage*, 49 [POF3d](#) 277 (1998).
- Barry Armata and Campbell Barrett, eds., [A Practical Guide to Divorce in Connecticut](#) (2013).
- Renee C. Bauer, [Divorce in Connecticut: The Legal Process, Your Rights, and What to Expect](#) (2014).
- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010).
Chapter 15. Dissolution of Marriage in General
§ 15.6 Adultery
- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2015).
Chapter 3. Dissolution of Marriage and Legal Separation
§ 3.07 Defining Adultery
- Victor M. Gordon, *Adultery As A Ground For Divorce In Connecticut*, 23 [Connecticut Bar Journal](#) 315 (1949).

Section 1.2b: Fraudulent Contract

A Guide to Resources in the Law Library

SCOPE:

- Selected bibliographic resources relating to dissolution of marriage (divorce) based upon the grounds of fraudulent contract.

DEFINITIONS:

- **Fraudulent contract:** "There must be a deception in respect to some fact whose existence or nonexistence may affect in some certain way the very essence of the marriage relation, resulting in a lawful marriage which practically operates as a fraud upon the deceived spouse; and the existence or nonexistence of the fact thus concealed or misrepresented must operate, as between parties to the marriage, to prevent some essential purpose of marriage and work a practical destruction of that relation." [Gould v. Gould](#), 78 Conn. 242, 261, 61 A. 604 (1905).
- "In Connecticut, by statute . . . fraudulent contract is a ground for divorce. This ground probably embraces some situations which, at least in jurisdictions not having such a ground of divorce, could also support an action for annulment." [Perlstein v. Perlstein](#), 152 Conn. 152, 161, 204 A.2d 909 (1964).
- "All the grounds of divorce specified, except fraudulent contract, are of such a nature that they can come into existence only after the marriage. While fraudulent conduct of a certain kind will render a marriage voidable, such fraud differs from that which vitiates ordinary contracts in that the party defrauded may not at his own election avoid the marriage, but it is held to be voidable only by a decree of the court." [Davis v. Davis](#), 119 Conn. 194, 196, 175 A. 574 (1934).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015).
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment.
"A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred . . . (4) fraudulent contract"

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016).
[Chapter 25. Procedure in Family Matters](#)
 - § 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
 - § 25-7. Pleadings in General; Amendments to Complaint or Application
 - § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
 - § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
 - § 25-10. —Answer to Cross Complaint

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- Dasilva v. Dasilva, Superior Court, Judicial District of New Haven at New Haven, No. FA02-0470290-S (Apr. 21, 2003) (2003 WL 21037549). **“What amounts to ‘fraudulent contract,’ as that term is used in our divorce statute, and to that or other equivalent language, as used in the law, written or unwritten, elsewhere, to express a recognized condition justifying the annulment or dissolution of a marriage, has been much discussed, but no satisfactory and comprehensive definition applicable to all situations has been arrived at or attempted to be arrived at. *Gould v. Gould*, 78 Conn. 242 (1905).**

It is certain, however, that wherever there is a fraud on the part of one of the parties amounting to ‘a fraud in the essentialia of the marriage relation,’ or as in *Gould v. Gould*, supra, page 261-62, “whenever there is a ‘deception in respect to some fact whose existence or nonexistence may affect in some certain way the very essence of the marriage relation, resulting in a lawful marriage which practically operates as a fraud upon the deceived spouse, and the existence or nonexistence of the fact thus concealed or misrepresented must operate, as between the parties to the marriage, to prevent some essential purpose of marriage and work a practical destruction of that relation.”

- Tuccio v. Tuccio, 18 Conn. Sup. 215 (1953). “. . . if the marriage was induced by fraudulent concealment or representation of the epileptic as to his condition, it may be grounds for divorce on the statutory ground of **fraudulent contract.**”
- Gould v. Gould, 78 Conn. 242, 250, 61 A. 604 (1905). **“Such a fraud is accomplished whenever a person enters into that contract knowing that he is incapable of sexual intercourse, and yet, in order to induce marriage, designedly and deceitfully concealing that fact from the other party, who is ignorant of it and has no reason to suppose it to exist.”**
- McCurry v. McCurry, 126 Conn. 175, 177-178, 10 A.2d 365 (1939). **“The referee refused specifically to find that the defendant entered into the marriage with the concealed intent not to consummate it or to have children and found that the plaintiff had failed to prove that allegation of the complaint. The existence of such an intent would be a question of fact; and we cannot hold that no other conclusion was reasonably possible than that she had that intent when she was married.”**
- Gordon v. Gordon, 11 Conn. Sup. 302, 302 (1942). **“In order to make out fraudulent contract as a ground for divorce the facts misrepresented or concealed must be such as to go to the very essence of the marriage.”**
- Horowitz v. Horowitz, 6 Conn. Sup. 14, 16 (1938). **“The false representation of a woman that she is pregnant by**

the man who is thereby induced to marry her is not the representation of a fact which if it does not exist prevents some essential purpose of marriage and works a practical **destruction of the relationship.**"

- [Wetstine v. Wetstine](#), 114 Conn. 7, 12, 157 A. 418 (1931). "Misrepresentations by the defendant as to her age, her name, and her nationality would not furnish a sufficient basis to dissolve a consummated marriage on that ground"
- [Lyman v. Lyman](#), 90 Conn. 399, 403, 97 A. 312 (1916). "In consonance with this principle the courts are practically agreed in holding that antenuptial pregnancy by another man, if concealed by the wife from the husband, who was himself innocent of improper relations with her, is a fraud upon him justifying a divorce or annulment of the marriage, as the appropriate remedy in the jurisdiction may be."

WEST KEY NUMBERS:

- *Divorce* #18. Grounds existing at time of marriage. Fraud or duress in procuring marriage.

DIGESTS:

- [Connecticut Family Law Citations](#): *Fault*
- [West's Connecticut Digest](#): *Divorce, II. Grounds, 18. Fraud or duress in procuring marriage*

ENCYCLOPEDIAS:

- 24 [Am. Jur. 2d](#) *Divorce and Separation* (2008).
Fraud
§ 98. Generally
§ 99. Premarital unchastity
§ 100. Pregnancy at time of marriage
§ 101. —Effect of husband's guilt or knowledge
- 27A [C.J.S.](#) *Divorce* (2005).
§ 90. Duress.
§ 91. Fraud.
- Annotation, *What Constitutes Impotency As Ground For Divorce*, 65 [ALR2d](#) 776 (1959).

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- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010).
Chapter 15. Dissolution of Marriage in General
§ 15.7 Fraudulent contract
- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2015).
Chapter 3. Dissolution of Marriage and Legal Separation
§ 3.07 Defining Fraudulent Contract

Section 1.2c: Willful Desertion

A Guide to Resources in the Law Library

SCOPE:

- Selected bibliographic resources relating to dissolution of marriage (divorce) based upon the grounds of willful desertion for one year with total neglect of duty.

DEFINITIONS:

- **Willful desertion:** "the willful absenting of one party to the marriage contract from the society of the other, coupled with the intention on the part of the absenting party to live apart, in spite of the wish of the other, and not to return to cohabitation." [Casale v. Casale](#), 138 Conn. 490, 492, 86 A.2d 568 (1952).
- "The elements of a cause of action on the grounds of desertion are (1) cessation from cohabitation; (2) an intention on the part of the absenting party not to resume it; (3) the absence of the other party's consent; and (4) absence of justification." [Gannon v. Gannon](#), 130 Conn. 449, 450, 35 A.2d 204 (1943).
- "When our legislature, in 1843, adopted as grounds of divorce *a vinculo*, 'habitual intemperance' and 'intolerable cruelty,' it used these words with their ordinary meaning, but with special reference to what had been since 1639 our settled policy in respect to divorce; i.e., marriage is a life status and should never be dissolved, unless one of the parties is guilty of conduct which in itself is a practical annulling and repudiation of the marriage covenant. **Willful desertion for such a length of time as the statute says shall conclusively prove a permanent abandonment and repudiation of all marital rights and duties, had been a ground for divorce.** Following this analogy the legislature, in 1843, made grounds of divorce: intemperance so long continued that the fixed habit renders the party incapable of performing the duties of the marriage relation; and cruelty of such a nature as to be intolerable, and to render a continuance of the relation by the suffering victim impracticable." [Morehouse v. Morehouse](#), 70 Conn. 420, 426-427, 39 A. 516 (1898). [emphasis added]

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2015).
[§ 46b-40](#). Grounds for dissolution of marriage; legal separation; annulment.

(c) "A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred: . . . (5) willful desertion for one year with total neglect of duty;"

(e) "In an action for dissolution of a marriage or a legal separation on the ground of willful desertion for one year, with total neglect of duty, the furnishing of financial support shall not disprove total neglect of duty, in the absence of other evidence."

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016).
[Chapter 25. Procedure in Family Matters](#)
 - § 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
 - § 25-7. Pleadings in General; Amendments to Complaint or Application
 - § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
 - § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
 - § 25-10. —Answer to Cross Complaint

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Toth v. Toth](#), 23 Conn. Sup. 161, 178 A.2d 542 (1962). **“there is no question of the validity of the ground of constructive desertion where the facts of the same fit in with the definition of wilful desertion . . . found in Connecticut cases in construing our statute.”**
- [Schick v. Schick](#), 17 Conn. Sup. 232, 233 (1951). **“Desertion requires not only separation for the requisite period of three years but also an intent, persisting throughout that entire period, not to resume the marriage relationship. Separation alone is not the equivalent of desertion.”**
- [Baccash v. Baccash](#), 11 Conn. Sup. 387, 389 (1942). **“In order to justify a husband in leaving his wife there must be such improper conduct on her part as would defeat the essential purpose of the marriage relation or the circumstances must be such that he has good reason to believe that cohabitation cannot longer be continued with due regard to this health, or safety, or that the conditions of his marital life have become intolerable.”**
- [McCurry v. McCurry](#), 126 Conn. 175, 178, 10 A.2d 365 (1940). **“By the weight of authority refusal of marital intercourse is not in itself desertion, but becomes so only when coupled with a substantial abandonment of other marital duties.”**
- [Holden v. Holden](#), 4 Conn. Sup. 499, 499 (1937). **“The question to be answered by this memorandum is whether the fact that the defendant voluntarily contributed to his wife’s support from the time of his departure from their home to the date of the trial of this action is a bar to a decree in favor of the plaintiff wife on the ground of desertion.”**

WEST KEY NUMBERS:

- *Divorce* #37. Desertion or absence.

DIGESTS:

- [Connecticut Family Law Citations](#): *Fault*
- [West’s Connecticut Digest](#): *Divorce, II. Grounds, 37. Desertion or absence.*

ENCYCLOPEDIAS:

- 24 [Am. Jur. 2d](#) *Divorce and Separation* (2008).
Desertion and Abandonment

§§ 58-67. General Considerations
§§ 68-76. Justification for Separation: Constructive
Desertion
§§ 77-80. Offer of Reconciliation

- 27A [C.J.S. Divorce](#) (2005).
§§ 66-79. Desertion or Abandonment

ALR INDEX:

- Divorce and Separation
 - Abandonment of persons

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- Renee C. Bauer, [Divorce in Connecticut: The Legal Process, Your Rights, and What to Expect](#) (2014).
- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010).
Chapter 15. Dissolution of Marriage in General
§ 15.8 Willful desertion for one year
- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2015).
Chapter 3. Dissolution of Marriage and Legal Separation
§ 3.07 Defining Willful Desertion for One Year with Total Neglect of Duty

Table 2: Constructive Desertion

Constructive Desertion	
Connecticut Superior Court	<p>"In other jurisdictions, it is almost universally held that conduct on the part of one spouse which reasonably forces the other spouse to leave the home constitutes desertion by the first spouse as a ground for divorce, and this is generally held to be true whether the misconduct was indulged in with the specific intent of forcing the other spouse to leave the home or not." Finn v. Finn, 13 Conn. Sup. 169, 170 (1944)</p> <p>"It must therefore be concluded that in this State, as well as in other jurisdictions, constructive desertion is desertion within the meaning of that term as used in the divorce statute and that where a wife separates from her husband for adequate cause and he, for a period of three years thereafter, shows no indication of a purpose to change the course of conduct which has justified the separation, then she is entitled to a divorce on the ground of desertion." <i>Ibid.</i>, pp. 170-171.</p>
Connecticut Supreme Court	<p>"According to the rule as it has been stated in jurisdictions where it has been adopted, where a spouse intentionally brings the cohabitation to an end by misconduct which renders the continuance of marital relations so unbearable that the other leaves the family home, the former is the deserter and the latter may obtain a divorce on that ground." Lindquist v. Lindquist, 137 Conn. 165, 169, 75 A.2d 397 (1950).</p> <p>"Where the rule has been adopted, serious misconduct upon the part of the offending spouse is held essential to its application. In no event could misconduct of an offending husband be held to afford a basis for a decree on the ground of constructive desertion unless it was so improper as to defeat the essential purposes of the marriage relation or give the wife good reason to believe that cohabitation could no longer be continued with due regard to her health or safety or otherwise render continued cohabitation intolerable. <i>Ibid.</i></p>

Section 1.2d: Seven Years' Absence

A Guide to Resources in the Law Library

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015).
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment.
"A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred; . . . (6) seven years' absence, during all of which period the absent part has not been heard from; "

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016).
[Chapter 25. Procedure in Family Matters](#)
 - § 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
 - § 25-7. Pleadings in General; Amendments to Complaint or Application
 - § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
 - § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
 - § 25-10. —Answer to Cross Complaint

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Cikora v. Cikora](#), 133 Conn. 456, 457, 52 A.2d 310 (1947).
"This action for divorce was brought on two grounds: desertion, and seven years' absence, during all of which period the absent party had not been heard from."

Even where a defendant has gone to parts unknown, very likely outside the State, it may well be that publication in the place of the former marital residence is the form of notice most apt to bring the pendency of the action to his attention, because of the likelihood that there will be relatives or friends there who have means of communicating information to him directly or indirectly. The trial court was in error in striking the case from the docket on the ground that it was without jurisdiction to try the case." p. 462

WEST KEY NUMBERS: DIGESTS:

- Divorce #37. Desertion or absence.
- [Connecticut Family Law Citations](#): *Fault*
- [West's Connecticut Digest](#): *Divorce, II. Grounds, 37. Desertion or absence.*

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- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010).
Chapter 15. Dissolution of Marriage in General
§ 15.9 Continuous absence for seven years
- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2015).
Chapter 3. Dissolution of Marriage and Legal Separation
§ 3.10 **Pleading Seven Years' Absence During All of Which Absent Party Has Not Been Heard From**

Section 1.2e: Habitual Intemperance

A Guide to Resources in the Law Library

SCOPE:

- Selected bibliographic resources relating to dissolution of marriage (divorce) based upon grounds of habitual intemperance.

DEFINITIONS:

- “When our legislature, in 1843, adopted as grounds of divorce *a vinculo*, ‘**habitual intemperance**’ and ‘**intolerable cruelty,**’ it used these words with their ordinary meaning, but with special reference to what had been since 1639 our settled policy in respect to divorce; i.e., marriage is a life status and should never be dissolved, unless one of the parties is guilty of conduct which in itself is a practical annulling and repudiation of the marriage covenant. Wilful desertion for such a length of time as the statute says shall conclusively prove a permanent abandonment and repudiation of all marital rights and duties, had been a ground for divorce. Following this analogy the legislature, in 1843, made grounds of divorce: **intemperance so long continued that the fixed habit renders the party incapable of performing the duties of the marriage relation**; and cruelty of such a nature as to be intolerable, and to render a continuance of the relation by the suffering victim impracticable.” [Morehouse v. Morehouse](#), 70 Conn. 420, 426-427, 39 A. 516 (1898). [emphasis added]

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Gen. Stat. (2015).
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment.
“**A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred; . . . (7) habitual intemperance; .**”
- Conn. Practice Book (2016).
[Chapter 25. Procedure in Family Matters](#)
 - § 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
 - § 25-7. Pleadings in General; Amendments to Complaint or Application
 - § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
 - § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
 - § 25-10. —Answer to Cross Complaint

CASES:

- [Dyke v. Dyke](#), Superior Court, Judicial District of Stamford-Norwalk at Stamford, No. FA01-0187101-S (Feb. 10, 2005) (2005 WL 590465). “**Very little was offered by either party regarding the imbibing habits of the defendant in his use of alcoholic beverage. There was no claim that it interfered with his ability to work as was required by ‘habitual intemperance’ (Sec. 46b-40(c)(7)).**”
- [Welch v. Welch](#), Superior Court, Judicial District of Tolland

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

at Rockville, No. FA00-0072505-S (May 17, 2002) (2002 WL 1332028). **"The case law regarding what facts the court must find in order to conclude that a divorce should be granted on the grounds of habitual intemperance are sparse. However, in *Dennis v. Dennis*, 68 Conn. 186, 192-194 (1896), the court held that in order to establish habitual intemperance as a grounds for a divorce, it must be established that the habit' was so gross or so long continued as to produce suffering or want in the family. Excessive indulgence in alcohol is not sufficient."**

- *Fagan v. Fagan*, 131 Conn. 688, 689, 42 A.2d 41 (1945). **"A detailed rehearsal of the marital difficulties of these parties would serve no useful purpose. The trial court concluded that the plaintiff was both intolerably cruel and habitually intemperate to the point that the public and personal objects of matrimony have been destroyed beyond rehabilitation, and that the custody of the minor child of the marriage should be awarded to the defendant."**
- *Wilhelm v. Wilhelm*, 13 Conn. Sup. 270, 271 (1945). **"He also frequently indulged to excess in alcoholic liquor. This indulgence, however, was not such as to cause any want to the family or suffering, except as it was reflected in the intolerable cruelty. For that reason his habitual intemperance was not such as to provide a ground for divorce independently of the intolerable cruelty."**
- *Hickey v. Hickey*, 8 Conn. Sup. 445, 446 (1940). **"In order to constitute it a ground for divorce, habitual intemperance must be such that it produces at some substantial suffering and does material harm to the marriage relationship."**
- *Purcell v. Purcell*, 101 Conn. 422, 425, 126 A. 353 (1924). **"The subordinate facts found as to intoxication, as set forth in the statement of facts, do not disclose that the defendant's use of intoxicants was so gross as to produce want or suffering in the family, either objective or subjective, to a degree which could not reasonably be borne, or which disqualified the defendant from attending to his business; under these circumstances, the conclusion that the subordinate facts did not establish habitual intemperance, cannot be held to be illegal or illogical."**
- *Dennis v. Dennis*, 68 Conn. 186, 192, 36 A. 34 (1896). **"Habitual intemperance as a cause for which a divorce might be granted, was first named in this State by a statute enacted in 1843, where it was coupled with intolerable cruelty. Precisely what constitutes intemperance within the meaning of that statute, it is not easy to easy to define. It may however be safely assumed that the purpose of the Act was not primarily to promote temperance or to reform the offender, but to preserve the peace, comfort, safety, happiness and prosperity, of the non-offending party, and of the family of which they are together the members and parents."**

WEST KEY NUMBERS:

- *Divorce* #22. Habitual drunkenness.
- *Divorce* #27 (15). Cruelty. Habitual drunkenness or use of opiates or narcotics as cruelty.

DIGESTS:

- [Connecticut Family Law Citations](#): *Fault*
- [West's Connecticut Digest](#): *Divorce, II. Grounds, 22. Habitual drunkenness.*

ENCYCLOPEDIAS:

- 24 [Am. Jur. 2d](#) *Divorce and Separation* (2008).
§§ 83-86. Habitual Drunkenness or Drug Addition
- 27A [C.J.S.](#) *Divorce* (2005).
§ 85. Personal Indignities. Particular Acts, Conduct, and Conditions as Personal Indignities. Drunkenness and use of drugs
§ 97. Other Particular Grounds. Personal Infirmities. Habitual drunkenness

ALR INDEX:

- Divorce and Separation
 - Alcoholics and alcoholism
 - Habitual intemperance

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- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010).
Chapter 15. Dissolution of Marriage in General
§ 15.10 Habitual intemperance
- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2015).
Chapter 3. Dissolution of Marriage and Legal Separation
§ 3.11 Pleading Habitual Intemperance

Section 1.2f: Intolerable Cruelty

A Guide to Resources in the Law Library

SCOPE:

- Selected bibliographic resources relating to dissolution of marriage (divorce) based upon the grounds of intolerable cruelty.

DEFINITIONS:

- **Intolerable cruelty** “The term ‘intolerable cruelty’ as used in our statute involves two distinct elements, and the acts which are claimed to constitute it must be, either **singly or in combination, not only cruel but intolerable.**” Swist v. Swist, 107 Conn. 484, 489 (1928).
- Nowak v. Nowak, 23 Conn. Sup. 495, 497, 185 A.2d 83 (1962). “**Incompatibility of personalities is not and has never been a ground for divorce in Connecticut. Under our law, married persons are expected to accept the ordinary vicissitudes of marriage caused by unwise mating, unhappy situations, unruly tempers and common quarrels or marital wranglings. To constitute intolerable cruelty, the consequences must be serious.**”
- “When our legislature, in 1843, adopted as grounds of divorce *a vinculo*, ‘habitual intemperance’ and ‘**intolerable cruelty,**’ it used these words with their ordinary meaning, but with special reference to what had been since 1639 our settled policy in respect to divorce; i.e., marriage is a life status and should never be dissolved, unless one of the parties is guilty of conduct which in itself is a practical annulling and repudiation of the marriage covenant. Willful desertion for such a length of time as the statute says shall conclusively prove a permanent abandonment and repudiation of all marital rights and duties, had been a ground for divorce. Following this analogy the legislature, in 1843, made grounds of divorce: intemperance so long continued that the fixed habit renders the party incapable of performing the duties of the marriage relation; and **cruelty of such a nature as to be intolerable, and to render a continuance of the relation by the suffering victim impracticable.**” Morehouse v. Morehouse, 70 Conn. 420, 426-427, 39 A. 516 (1898). [emphasis added]

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015).
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment.

“A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred; . . .(8) intolerable cruelty;”

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016).
[Chapter 25. Procedure in Family Matters](#)
§ 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
§ 25-7. Pleadings in General; Amendments to Complaint

- or Application
- § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
- § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
- § 25-10. —Answer to Cross Complaint

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Evans v. Taylor](#), 67 Conn. App. 108, 115, 786 A.2d 525 (2001). **“In its memorandum of decision, the court noted, on the basis of the testimony of the parties, that the marriage of the parties was troubled from the start and that each party believed that he or she was mistreated by the other. It also noted that although the defendant claimed that the plaintiff’s treatment of her over the course of their seven year marriage was intolerable, she tolerated it by not moving from the marital home until her husband filed an action for dissolution, despite the fact that she had the financial means to do so. Finally, the court noted that some of the difficulties in what was a stormy marriage, arose from the verbal abuse by the defendant toward the plaintiff. On the basis of those observations, the court stated that the defendant failed to prove her claim of intolerable cruelty.”**
- [Garrison v. Garrison](#), 190 Conn. 173, 180-181, 460 A.2d 945 (1983). **“The trial court’s finding that the behavior of the defendant constituted a continuing course of conduct is clearly supported by the record. In cases like the one before us, it would be archaic and absurd to hold that the plaintiff was under an obligation to be beaten more often in order to establish a continuing course of conduct. The facts found indicate that the defendant’s attitude toward the plaintiff had become indifferent and uncaring for months before the striking incidents. He was at times openly hostile and cruel, as when he confronted the plaintiff with his own adultery. He had struck her twice, for no apparent reason. In this atmosphere, a person in the plaintiff’s position could reasonably believe that the physical abuse would either continue or escalate. It would thereafter be reasonable to consider that the continuation of the marital relationship would be unbearable. The trial court did not err, but reasonably concluded that the defendant’s actions constituted intolerable cruelty.”**
- [Richards v. Richards](#), 153 Conn. 407, 409, 216 A.2d 822 (1966). **“Whether intolerable cruelty exists or not in a particular case is ordinarily a conclusion of fact for the trier to draw. Where not so drawn, it is only in exceptionally aggravated cases, where the mere statement of the evidential facts demonstrates the intolerable character of the defendant’s alleged cruelty, that this court is warranted in treating that fact as established.”**
- [Bloomfield v. Bloomfield](#), 144 Conn. 568, 568-69, 135 A.2d 736 (1957). **“There must be not only proof of acts of cruelty on the part of the defendant but also proof that in their cumulative effect upon the plaintiff they are**

intolerable in the sense of rendering the continuance of marital relation unbearable.”

- Nowak v. Nowak, 23 Conn. Sup. 495, 498. 185 A.2d 83 (1962). “Our courts have never adopted the policy, which some jurisdictions have followed, ‘of comparative guilt.’”
- Vanguilder v. Vanguilder, 100 Conn. 1, 3, 122 A. 719 (1923). “It is enough to repeat that, as the phrase imports, intolerable cruelty has a subjective as well as an objective significance. There must not only be proof of acts of cruelty has on the part of the defendant, but proof that in their cumulative effect upon the plaintiff they are intolerable in the sense of rendering the continuance of the marital relation unbearable by him.”

WEST KEY NUMBERS:

- *Divorce* #27. Cruelty.

DIGESTS:

- [Connecticut Family Law Citations: Cruelty](#)
- [West’s Connecticut Digest: Divorce, II. Grounds, 27. Cruelty](#)

ENCYCLOPEDIAS:

- 24 [Am. Jur. 2d Divorce and Separation](#) (2008). §§ 34-55. Cruelty
- 27 [C.J.S. Divorce](#) (2005). §§ 40-48. Cruelty. In General

ALR INDEX:

- Divorce and Separation
 - Cruelty

TEXTS & TREATISES:

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010). Chapter 15. Dissolution of Marriage in General § 15.11 Intolerable cruelty
- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2015). Chapter 3. Dissolution of Marriage and Legal Separation § 3.12 Defining Intolerable Cruelty
- Victor M. Gordon, *Intolerable Cruelty As A Ground For Divorce In Connecticut*, 21 [Connecticut Bar Journal](#) 64 (1947).

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

Section 1.2g: Imprisonment / Infamous Crime

A Guide to Resources in the Law Library

SCOPE:

- Selected bibliographic resources relating to dissolution of marriage (divorce) based upon grounds of sentence to imprisonment for life or the commission of any infamous crime involving a violation of conjugal duty and punishable by imprisonment for a period in excess of one year.

DEFINITIONS:

- “. . . the three essentials to a divorce upon this ground are: (1) the commission by the defendant of an infamous crime, (2) involving a violation of conjugal duty, and (3) **punishable by imprisonment in the state prison.**” Swanson v. Swanson, 128 Conn. 128, 129, 20 A.2d 617 (1941).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2015).
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment.

“A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred; . . . (9) sentence to imprisonment for life or the commission of any infamous crime involving a violation of conjugal duty and punishable by imprisonment for a period in excess of one year;”

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016).
[Chapter 25. Procedure in Family Matters](#)
 - § 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
 - § 25-7. Pleadings in General; Amendments to Complaint or Application
 - § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
 - § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
 - § 25-10. —Answer to Cross Complaint

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- Cugini v. Cugini, 13 Conn. App. 632, 636, 538 A.2d 1060 (1988). **“The defendant also claims an abuse of discretion by the trial court in permitting an amendment to the complaint to allege as an additional ground for dissolution that he had been convicted of an infamous crime. This is one of the grounds upon which dissolution may be sought; General Statutes 46b-40(c)(9); and, in any event, it was not the ground upon which dissolution was granted in this case.”**
- Sweet v. Sweet, 21 Conn. Sup. 198, 202, 151 A.2d 350 (1957). **“From the broad range of the crime as above described, it is apparent that while there might be acts which would violate the statute and at the same time be a violation of conjugal duty, it is, nevertheless, equally true that there might be many violations of the statute which would not amount to a violation of conjugal duty. In fact,**

acts which might impair the morals of a child as alleged in the information here involved would not necessarily be acts in violation of conjugal duty.”

- [Donovan v. Donovan](#), 14 Conn. Sup. 429, 430 (1947). “. . . the conviction of an indecent assault upon a minor female is conviction of an infamous crime involving breaching of conjugal duty.”
- [Swanson v. Swanson](#), 128 Conn. 128, 130-131, 20 A.2d 617 (1941). “It is our conclusion that the defendant’s conviction of assault with intent to commit rape established the commission by him of an infamous crime involving a violation of conjugal duty and punishable by imprisonment in the state prison”

WEST KEY NUMBER:

ENCYCLOPEDIAS:

- *Divorce* #24. Personal infirmities and conditions arising after marriage. Conviction and imprisonment for crime.
- 24 [Am. Jur. 2d Divorce and Separation](#) (2008).
§ 33. Necessity of Voluntariness. Effect of imprisonment
§§ 81-82. Conviction of Crime
- 27A [C.J.S. Divorce](#) § 61 (2005).
§89. Conviction of crime

TEXTS & TREATISES:

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- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010).
Chapter 15. Dissolution of Marriage in General
§ 15.12 Imprisonment; life sentence or commission of infamous crime
- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2015).
Chapter 3. Dissolution of Marriage and Legal Separation
§ 3.13 Defining Life Imprisonment or Commission of an Infamous Crime

Section 1.2h: Confinement / Mental Illness

A Guide to Resources in the Law Library

SCOPE:

- Selected bibliographic resources relating to dissolution of marriage (divorce) based upon grounds of legal confinement in a hospital or hospitals or other similar institution or institutions, because of mental illness, for at least an accumulated period totaling five years within the period of six years next preceding the date of the complaint.

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2015).
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment.

"A decree of dissolution of a marriage . . . shall be granted upon a finding that one of the following causes has occurred; . . . (10) legal confinement in a hospital or hospitals or other similar institution or institutions, because of mental illness, for at least an accumulated period totaling five years within the period of six years next preceding the date of the complaint."

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016).
[Chapter 25. Procedure in Family Matters](#)
 - § 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
 - § 25-7. Pleadings in General; Amendments to Complaint or Application
 - § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
 - § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
 - § 25-10. —Answer to Cross Complaint

CASES:

- [Parker v. Parker](#), 16 Conn. Sup. 128, 130 (1949). "There has been no actual confinement of the defendant for five years prior to February 13, 1948, when the action was commenced."

WEST KEY NUMBERS:

- *Divorce* #23. Personal infirmities and conditions arising after marriage. Insanity or other mental incompetency.

ENCYCLOPEDIAS:

- 24 [Am. Jur. 2d](#) *Divorce and Separation* (2008).
§§ 102-106. Insanity or Mental Incapacity
- 27A [C.J.S.](#) *Divorce* (2005).
§ 100. Insanity or other mental incompetency

TEXTS & TREATISES:

- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010).
Chapter 15. Dissolution of Marriage in General
§ 15.13 Five-Year confinement for mental illness

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2015).
 - Chapter 3. Dissolution of Marriage and Legal Separation
 - § 3.13 Pleading Legal Confinement in a Hospital Because of Mental Illness, for at Least Five Years

Section 1.3: Multiple Grounds

A Guide to Resources in the Law Library

SCOPE:

- Selected bibliographic resources relating to dissolution of marriage (divorce) based upon multiple grounds.

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015).
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation; annulment.

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016).
[Chapter 25. Procedure in Family Matters](#)
 - § 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
 - § 25-7. Pleadings in General; Amendments to Complaint or Application
 - § 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
 - § 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
 - § 25-10. —Answer to Cross Complaint

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Sweet v. Sweet](#), 190 Conn. 657, 660, 462 A.2d 1031 (1983).
“The contention . . . that a determination of irretrievable breakdown precludes the court from considering the causes of the dissolution in making financial awards is erroneous.”
- [Gluck v. Gluck](#), 181 Conn. 225, 227, 435 A.2d 35 (1980).
“Next, the defendant asserts that General Statutes 46b-40 (c), to the extent that it authorizes the dissolution of a marriage if the marriage has broken down irretrievably . . . nullifies the other grounds for dissolution The gravamen of the unparticularized claim that irretrievable breakdown nullifies the other grounds for dissolution set forth in 46b-40 (c) and prevents defenses appears to be that the legislature has sanctioned divorce on demand. This claim too was rejected in *Joy v. Joy*”
- [Joy v. Joy](#), 178 Conn. 254, 255-256, 423 A.2d 895 (1979).
“The absence of objective guidelines does not mean an abdication of judicial function, nor does it signal, as the defendant argues, that a court determining whether a marriage has in fact irretrievably broken down is acting purely ministerially or is granting a divorce ‘upon demand.’ It does, however, sustain the trial court’s conclusion that the defendant’s decision to rearrange his business ventures after the initiation of divorce proceedings does not necessarily repair the rupture in the marital relationship that had previously occurred.”
- [Edge v. Commissioner Of Welfare](#), 34 Conn. Sup. 284, 286, 388 A.2d 1193 (1978). “ . . . although fault need not be

established in dissolution of marriage actions, fault can still be an element to be raised in dissolution actions for purposes of establishing the support obligation of either spouse to the other.”

- Christoni v. Christoni, 156 Conn. 628, 629, 239 A.2d 533 (1968). “Where more than one ground for a divorce is claimed and one alleged ground is proved, it is immaterial whether or not the additional statutory ground or grounds may also exist.”

WEST KEY NUMBERS:

- *Divorce* # 12-38. Grounds.

DIGESTS:

- [Connecticut Family Law Citations](#): *Fault*

TEXTS & TREATISES:

- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010).
Chapter 15. Dissolution of marriage in general
§ 15.4. Other grounds for dissolution
§ 15.14. Defenses

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

Section 1.4: Defenses

A Guide to Resources in the Law Library

SCOPE:

- Selected bibliographic resources relating to defenses to grounds for dissolution of marriage (divorce).

DEFINITIONS:

- "The defenses of recrimination and condonation have been abolished." [Venuti v. Venuti](#), 185 Conn. 156, 157, 440 A.2d 878 (1981).
- **Condonation:** " the principle relied upon means only that an aggrieved spouse actually forgives and forgets." [Toolan v. Toolan](#), 15 Conn. Sup. 277, 277 (1948).
- **Recrimination** "is generally defined as a rule or doctrine which precludes one spouse from obtaining a divorce from the other, where the spouse seeking the divorce has himself or herself been guilty of conduct which would entitle the opposite spouse to a divorce." [Courson v. Courson](#), 117 A.2d 850, 851, 208 Md. 171 (1955).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015).
[§ 46b-40\(c\)](#). Grounds for dissolution of marriage; legal separation;
[§ 46b-52](#). Recrimination and condonation abolished.
"The defenses of recrimination and condonation to any action for dissolution of marriage or legal separation are abolished."

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016).
[Chapter 25. Procedure in Family Matters](#)

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Dervin v. Dervin](#), 27 Conn. Sup. 459, 462 (1968). "That a person having property is incapable of managing his affairs and has a conservator appointed to do so in their behalf does not warrant a finding or interpretation in and of itself that such person is insane. What was said in the Dochelli [v. Dochelli] case, supra, [125 Conn. 468,] 470, applies with even greater force: 'This does not connote insanity in the narrower sense and will not avail as a defense.'"

WEST KEY NUMBERS:

- *Divorce* # 38.5–56. Defenses.
- *Divorce* # 57–65. Proceedings.

DIGESTS:

- [ALR Digest](#): Defenses §§ 38.5-56.
- [West's Connecticut Digest](#): *Divorce, III. Defenses*.

ENCYCLOPEDIAS:

- 24 [Am. Jur. 2d](#) *Divorce and Separation* (2008).
§§ 107-169. Defenses
- 27A [C.J.S.](#) *Divorce* (2005).
§§ 101-141. Defenses; Circumstances Precluding Divorce

ALR INDEX:

- Divorce and Separation
- Defenses

TEXTS & TREATISES:

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- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010).
Chapter 15 Dissolution of marriage in general
§ 15.2. Breakdown of marriage relationship
§ 15.14. Defenses
- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2015).
Chapter 3. Dissolution of Marriage and Legal Separation
§ 3.15 Asserting Defenses to Ground for Dissolution

Section 2: Procedures

A Guide to Resources in the Law Library

SCOPE:

- Selected bibliographic resources relating to procedures in a dissolution of marriage (divorce) commenced after October 1, 1997

DEFINITIONS:

- **Jurisdiction:** "The Superior Court shall have exclusive jurisdiction of all complaints seeking a decree of annulment, dissolution of a marriage or legal separation." [Conn. Gen. Stat. § 46b-42](#) (2015).

PUBLIC ACTS:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- **Waiver of ninety day waiting period or six months stay under section 46b-67(b).**

"If the parties attest, under oath, that they have an agreement as to all terms of the dissolution of marriage or legal separation and wish the court to enter a decree of dissolution of marriage or legal separation prior to the expiration of the time periods set forth in subsection (a) of this section, and file a motion seeking the waiver of said time periods, the court may waive the provisions of subsection (a) of this section." [Public Act No. 15-7](#), Sec. 5. (*January 2015 Reg. Sess.*) (Effective October 1, 2015).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat (2015).
[Chapter 815j. Dissolution of Marriage, Legal Separation and Annulment](#)
 - § 46b-44. Residency requirement.
 - § 46b-45. Service and filing of complaint.
 - § 46b-46. Notice to nonresident party. Jurisdiction over nonresident for alimony and support.
 - § 46b-53. Conciliation procedures; privileged communications.
 - [§ 46b-67](#). Waiting period. Effect of decree. (2016 Supplement)

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016).
[Chapter 25. Procedure in Family Matters](#)
 - § 25-2. Complaint for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
 - § 25-3. Action for Custody of Minor Children
 - § 25-5. Automatic Orders upon Service of Complaint or Application
 - § 25-11. Order of Pleadings
 - § 25-27. Motion for Contempt
 - § 25-28. Order of Notice
 - § 25-30. [Sworn] Statements to be filed
 - § 25-49. Definitions [Uncontested, Limited Contested and Contested Matters]
 - § 25-50. Case Management
 - § 25-51. When Motion for Default for Failure to Appear Does Not Apply

§ 25-52. Failure to Appear for Scheduled Disposition
§ 25-57. Affidavit concerning Children
§ 25-58. Reports of Dissolution of Marriage or Civil Union

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [O'Brien v. O'Brien](#), 161 Conn. App. 575, 577, 128 A.3d 595 (2015). "The dispositive issue raised by the plaintiff in the present appeal is whether, after remand, the court improperly skewed its equitable distribution of marital assets in favor of the defendant in the ground that the **plaintiff has engaged in certain financial transactions,...that violated the automatic orders applicable in all marital dissolution actions**, See Practice Book § 25-5. Even if we assume without deciding that the court correctly found that **the plaintiff's financial transactions amounted to technical violations of the automatic orders**, we conclude that in the absence of some additional finding by the court that the **plaintiff's actions were contumacious or were conducted with an intent to hide or to dissipate marital assets, the court improperly 'took into account' the plaintiff's financial transactions and, for that reason, reduced the plaintiff's share of the property distribution**. Accordingly, we reverse the judgment of the trial court and remand the matter for a new hearing on all financial orders."
- [Barcelo v. Barcelo](#), 158 Conn. App. 201, 204, 118 A.3d 657 (2015). "We reverse all of the court's financial orders in the judgment of dissolution...on the basis of our conclusion that the court erred by (1) ordering the defendant, by way of a supplemental child support order, to pay the plaintiff 15 percent of his future bonus income, (2) failing to provide notice to the parties, prior to rendering its judgment of dissolution, that it would not reserve jurisdiction to enter postsecondary educational support orders for the parties' minor children, and (3) ordering the parties to submit to arbitration to resolve any future disputes over distribution of their personal property."
- [Keller v. Keller](#), 158 Conn. App. 538, 119 A.3d 1213 (2015). "In this marital dissolution action, the plaintiff... appeals from an order of contempt entered against her by the trial court in the course of the proceedings dissolving her marriage to the defendant..." (539).

"The court found the plaintiff in contempt both for failing to provide the defendant with her new address, and failing to give the defendant sufficient details and contact information for a trip that she took with the children to California." (542).
- [Parotta v. Parotta](#), 119 Conn. App. 472, 475, 482-483, 988 A.2d 383 (2010). "...the court,..., heard argument on the defendant's motion to transfer and, treating it as a motion for modification of the automatic orders, ordered the sum of the \$100,000 to be wired from a brokerage account in the defendant's name directly to the account of his criminal defense attorney, to be used for legal fees and expert

witness fees in conjunction with the pending criminal charges....Finally, the court indicated that the \$100,000 sum would be considered a draw against the defendant's share of the equitable distribution of property at the time of the final hearing in the dissolution action....We believe that the automatic orders in marital dissolution judgments are most akin to temporary injunctions on the basis that they represent a temporary restraint on the use of or alienation of one's assets pending full adjudication on conjunction with a final hearing....As in the case of a temporary injunction, the purpose of the automatic orders in marital dissolution cases is simply to maintain the status quo while the action is pending. And, as a permanent injunction typically encompasses the relief sought or granted by the temporary injunction, a dissolution judgment similarly assigns, to one party or the other, the property that was subject to the injunctive effect of the automatic orders..."

- Chambers v. Stewart, Superior Court, Judicial District of Stamford-Norwalk at Stamford, No. CV09-5012130-S, (Jan. 20, 2012) (3 Conn. L. Rptr. 315) (2012 WL 432552). "Plaintiff has a three-count complaint which alleges that two mortgages which the defendant holds on the plaintiff's home are invalid because they violate the automatic orders (hereafter "orders") which were entered at the commencement of the dissolution action between the plaintiff and his former spouse and were in effect at the time the mortgages were given...There is nothing in either the Rule (Rule 25-5) or in Form JD-FM-158 which expressly imposes a duty on third parties to take notice of or abide by the prohibitions contained in the rule. It is undeniable that the Judges of the Superior Court could easily have added language to the rule to indicate that the automatic order was indeed intended to be binding on third parties. *Provencher v. Enfield*, 284 Conn. at 785, *supra*. In fact, a contrary intention appears from the fact that that the rule making authority has chosen the remedy of a contempt proceeding as a means of enforcement and have said so in bold upper case letters. Thus, it is fair to infer that the automatic order was designed for no other purpose than to control the conduct of the parties during the pendency of the action."

FORMS:

Official Judicial Branch forms are frequently updated. Please visit the [Official Court Webforms page](#) for the current forms.

- Court Forms
 - [Family Forms](#) (Official)
 - [Filing for a Divorce with Children](#)
 - [Filing for a Divorce without Children](#)
 - [JD-FM-247](#). Motion to Waive Statutory Time Period- Divorce or Legal Separation
 - [JD-FM-249](#). Certification of Waiver of Service of Process- Cases Proceeding Under Section 5 of Public Act 15-7
 - [JDP-FM-179](#). Do-it-Yourself Divorce Guide.

- [JDP-FM-179S](#). Do-it-Yourself Divorce Guide (Spanish).
- Mary Ellen Wynn, [Handbook of Family Forms for the Connecticut Lawyer](#) (1991).
- Amy Calvo MacNamara et al., eds., [Library of Connecticut Family Law Forms](#), (2014).

WEST KEY NUMBERS:

- *Divorce* # 57–150.1. Proceedings.

DIGESTS:

- [Connecticut Family Law Citations](#): *Practice and Procedure*
- [West’s Connecticut Digest](#): *Divorce, IV. Proceedings*

ENCYCLOPEDIAS:

- 24 [Am. Jur. 2d Divorce and Separation](#) (2008).
§§ 170-356. Practice and Procedure
- 27A [C.J.S. Divorce](#) (2005).
§§ 142-458. Proceedings, Trial, and Judgments

TEXTS & TREATISES:

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- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010).
Chapter 16. Jurisdiction
Chapter 17. Parties
Chapter 18. Process
Chapter 19. Pleadings
- [State of Connecticut Judicial Branch. Do-It Yourself Divorce Guide. JDP-FM-179 and JDP-FM-179S](#) (Spanish). Rev. 9-12.
- Barbara Kahn Stark et al., [Friendly Divorce Guidebook for Connecticut: Planning, Negotiating and Filing Your Divorce](#) (2003).
Chapter 6. Getting divorced: procedures and paperwork.
- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2015).
Chapter 3. Dissolution of Marriage and Legal Separation
Chapter 4. Pretrial Pleadings and Discovery

Section 2.1: Jurisdiction

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to the residency requirement for:

- filing a complaint for dissolution of marriage
- issuing a decree dissolving a marriage

SEE ALSO:

- [§ 3.2. Motion to dismiss](#)

DEFINITIONS:

- **Jurisdiction:** "is the power in a court to hear and determine the cause of action presented to it. Jurisdiction must exist in three particulars: the subject matter of the case, the parties, and the process." [Brown v. Cato](#), 147 Conn. 418, 422, 162 A.2d 175 (1960).
- **Domicil:** "To constitute domicil, the residence at the place chosen for the domicil must be actual, and to the fact of residence there must be added the intention of remaining permanently; and that place is the domicil of the person in which he has voluntarily fixed his habitation, not for mere temporary or special purpose, but with present intention of making it his home, unless something which is uncertain or unexpected shall happen to induce him to adopt some other permanent home." [Mills v. Mills](#), 119 Conn. 612, 617, 179 A. 5 (1935).
- **Residence:** "while domicile is essential to 'final judgment' residence alone provides jurisdiction for filing a dissolution complaint." [Sauter v. Sauter](#), 4 Conn. App. 581, 582, 495 A.2d 1116 (1985).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2015).
[§ 46b-44](#). Residency requirement.
 - (a) A complaint for dissolution of a marriage or for legal separation may be filed at any time after either party has established residence in this state.
 - (b) Temporary relief pursuant to the complaint may be granted in accordance with sections 46b-56 and 46b-83 at any time after either party has established residence in this state.
 - (c) A decree dissolving a marriage or granting a legal separation may be entered if: (1) One of the parties to the marriage has been a resident of this state for at least the twelve months next preceding the date of the filing of the complaint or next preceding the date of the decree; or (2) one of the parties was domiciled in this state at the time of the marriage and returned to this state with the intention of permanently remaining before the filing of the complaint; or (3) the cause for the dissolution of the marriage arose after either party moved into this state.

(d) For the purposes of this section, any person who has served or is serving with the armed forces, as defined by section 27-103, or the merchant marine, and who was a resident of this state at the time of his or her entry shall be deemed to have continuously resided in this state during the time he or she has served or is serving with the armed forces or merchant marine.

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Altraide v. Altraide](#), 153 Conn. App. 327, 101 A.3d 317 (2014). The defendant also argues that the court lacked jurisdiction over this case because a prior divorce action had been filed in Nigeria. The test for jurisdiction over marital actions is domicile. *Litvaitis v. Litvaitis*, 162 Conn. 540, 545, 295 A.2d 519 (1972). The record confirms, based on the testimony of the plaintiff and the defendant, that both parties were residents of Connecticut for twelve months prior to the filing of the complaint. Jurisdiction in this state is therefore proper.
- [Juma v. Aomo](#), 143 Conn. App. 51, 68 A.3d 148 (2013).
" **To constitute domicil, the residence at the place chosen for the domicil must be actual, and to the fact of residence there must be added the intention of remaining permanently; and that place is the domicil of the person in which he has voluntarily fixed his habitation, not for a mere temporary or special purpose, but with the present intention of making it his home....** *Rice v. Rice*, 134 Conn. 440, 445-46, 58 A.2d 523 (1948), aff'd, 336 U.S. 674, 69 S.Ct. 751, 93 L.Ed. 957 (1949)... **Moreover, '[a] person may have ... only one domicil at any one time.'** *Smith v. Smith*, 174 Conn. 434, 439, 389 A.2d 756 (1978). '[A] former domicil persists until a new one is acquired.... Therefore proof of the acquisition of a new domicil of choice is not complete without evidence of an **abandonment of the old.**' ..."
- [Jungnelius v. Jungnelius](#), 133 Conn. App. 250, 255, 258-259, 35 A.3d 359 (2012). **"B. Residency Requirement to Establish Subject Matter Jurisdiction...our Supreme Court precedent only requires the plaintiff to establish that for the twelve months before the date the complaint was filed ...that either she or the defendant were domiciled in Connecticut with substantially continuous residence....Our Supreme Court discussed the elements of domicile in *Adame v. Adame*, 154 Conn. 389, 225 A2d. 188 (1966). In that case, the court wrote: "The requisites of domicile are actual residence coupled with the intention of permanently remaining...The intention is a fact which must be found by the court....and the intention must be to make a home at the moment, not to make a home in the future. We discussed the concept of domicile at length in *McDonald v. Hartford Trust Co.*, 104 Conn 169, 132 A. 902 (1926), where we noted that a domicile once acquired continues until another is established and that the law does not permit one to abandon, nor recognize an abandonment of,**

a domicile until another has been established. ""

- [W. v. W.](#), 256 Conn. 657, 666, 779 A.2d 716 (2001). "Furthermore, even if it is the biological father who has been located at the address discovered by the plaintiff, this court does not have jurisdiction over him. He lives in Massachusetts. It is not alleged that he has ever been in Connecticut, that he has ever been married to the plaintiff, that he knows he is the father of the child, or that he has been served with any notice of these proceedings. As a result, this court cannot bring this individual before us pursuant to General Statutes §§ 46b-44 and 46b-46 in order to resolve the issue of support. Therefore, we conclude that the trial court did not abuse its discretion in applying the doctrine of equitable estoppel in this case."
- [Charles v. Charles](#), 243 Conn. 255, 256, 701 A.2d 650 (1997). "The sole issue on appeal is whether the Superior Court has subject matter jurisdiction, pursuant to General Statutes § 46b-44 (c)(1), over a dissolution of marriage action brought by an individual who is not a resident of Connecticut against a member of the Mashantucket Pequot Indian Tribe (tribe) who resides on the tribe's reservation in Ledyard. We answer this question in the affirmative."
- [Sauter v. Sauter](#), 4 Conn. App. 581, 584-585, 495 A.2d 1116 (1985). "The pendency of an action in one state is not a ground for abatement of a later action in another state In the interests of judicial economy, a court may, in the exercise of its discretion, order that the second action be stayed during the pendency of the first action, even though the actions are pending in different jurisdictions."
- [Taylor v. Taylor](#), 168 Conn. 619, 620-621, 362 A.2d 795 (1975). "the burden of proving an allegation of lack of jurisdiction . . . falls upon the party making that claim . . ."
- [Hames v. Hames](#), 163 Conn. 588, 595, 316 A.2d 379 (1972). "Obviously, even if canon law should deny the authority of the state to dissolve a marriage, religious doctrine could not nullify the decrees of our courts. U.S. Const., amend. 1, 14."

WEST KEY NUMBERS:

- *Divorce* # 57-65. Jurisdiction.

DIGESTS:

- [Connecticut Family Law Citations](#): *Jurisdiction; Jurisdiction of Court*
- [West's Connecticut Digest](#): *Divorce, IV. Proceedings. (A) Jurisdiction.*

ENCYCLOPEDIAS:

- 24 [Am. Jur. 2d](#) *Divorce and Separation* (2008). §§ 170-196. Jurisdiction
- 27A [C.J.S.](#) *Divorce* (2005).

ALR INDEX:

TEXTS & TREATISES:

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LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

- Divorce and Separation
 - Jurisdiction
 - Residence or domicile
- ALI [Restatement of the Law Conflict of Laws, 2d](#)
 - Chapter 3. Judicial jurisdiction
 - Topic 3. Jurisdiction over status
 - Title B. Jurisdiction for divorce
- Barry Armata and Campbell Barrett, eds., [A Practical Guide to Divorce in Connecticut](#) (2013).
- 2 Renee Bevacqua Bollier and Susan V. Busby, [Stephenson's Connecticut Civil Procedure](#) (3rd ed. 2002).
 - Chapter 20. Family law procedures
 - § 243. Exclusive jurisdiction of superior court; Venue
 - § 244. Jurisdiction required for dissolution; Domicile
 - § 245. Residence requirements
 - § 246. Exceptions to residence requirements
- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010).
 - Chapter 16. Jurisdiction.
- Barbara Kahn Stark et al., [Friendly Divorce Guidebook for Connecticut: Planning, Negotiating and Filing Your Divorce](#) (2003).
 - Chapter 6. Getting divorced: procedures and paperwork.
- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2014).
 - Chapter 2. Jurisdiction
- Frank S. Berall, *Domicile, Residence and Citizenship*, 82 [Connecticut Bar Journal](#) 249 (2008).

Table 3: Domicile

Domicile	
Leaving	<p>“When the parties left this State with the intention of never returning, their domicile in Connecticut was not thereby changed. The former domicile persists until a new one is acquired. Mills v. Mills, 119 Conn. 612, 617-618, 617, 179 A. 5 (1935).</p>
Abandonment	<p>“The law does not permit one to abandon, nor recognize an abandonment of a domicile until another has been established.” McDonald v. Hartford Trust Co., 104 Conn. 169, 177, 132 A. 902 (1926).</p>
Compared to address	<p>“An ‘address’ is not domicile, and a person may have simultaneously two or more residence addresses but only one domicile at any one time.” Taylor v. Taylor, 168 Conn. 619, 620-621, 362 A.2d 795 (1975).</p>

Section 2.2: Process

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic sources relating to the procedures for service of process in an action for dissolution of marriage.

DEFINITIONS:

- **Process:** "shall be a writ of summons or attachment, describing the parties, the court to which it is returnable and the time and place of appearance, and shall be accompanied by the plaintiff's complaint." [Conn. Practice Book § 8-1\(a\)\(2016\)](#) .
- **Manner of service:** "Except as otherwise provided, process in any civil action shall be served by leaving a true and attested copy of it, including the declaration or complaint, with the defendant, or at his usual place of abode, in this state." [Conn. Gen. Stat. § 52-57\(a\) \(2015\)](#).
- **Usual place of abode:** "It is clear that one's 'usual place of abode' is in the place where he would most likely have knowledge of service of process Its chief purpose is to ensure actual notice to the defendant that the action is pending The usual place of abode is generally considered to be the place where the person is living at the time of service It is not necessarily his domicile . . . and a person may have more than one usual place of abode In the final analysis, the determination of one's usual place of abode is a question of fact and the court may consider various circumstances." [Plonski v. Halloran](#), 36 Conn. Sup. 335, 335-336, 420 A.2d 117 (1980).
- **Long arm statute (domestic relations):** [Conn. Gen. Stat. § 46b-46 \(2015\)](#).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015).
 - [§ 46b-45\(a\)](#). Service and filing of complaint.
 - [§ 46b-46](#). Notice to nonresident party.
 - [§ 52-46](#). Time for service.
 - [§ 52-48](#). Return day of process.
 - [§ 52-50](#). Persons to whom process shall be directed.
 - [§ 52-54](#). Service of summons.
 - [§ 52-57](#). Manner of service upon individuals,...
 - [§ 52-123](#). Circumstantial defects not to abate pleadings.

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016).
 - [Chapter 8. Commencement of action](#)
 - § 8-1. Process
 - § 8-2. Waiver of Court Fees and Costs
 - [Chapter 10. Pleadings](#)
 - § 10-12. Service of Pleadings and Other Papers; Responsibility of Counsel or Pro Se Party; Documents and Persons to be Served
 - § 10-13. —Method of Service

- § 10-14. —Proof of Service
- § 10-15 —Numerous Defendants
- § 10-16. —Several parties represented by one attorney
- § 10-17. —Service by Indifferent Person

[Chapter 11. Motions, Requests, Orders of Notice, and Short Calendar](#)

- § 11-4. Applications for Orders of Notice
- § 11-5. Subsequent Orders of Notice; Continuance
- § 11-6. Notice by Publication
- § 11-7. Attestation; Publication; Proof of Compliance
- § 11-8. Orders of Notice Directed Outside of the United States of America

[Chapter 25. Procedure in Family Matters](#)

- § 25-5. Automatic Orders upon Service of Complaint or Application
- § 25.23. Motions, Requests, Orders of Notice, and Short Calendar
- § 25-28. Order of Notice

FORMS:

Official Judicial Branch forms are frequently updated. Please visit the [Official Court Webforms page](#) for the current forms.

- Court Forms
 - [Family Forms](#) (Official)
 - [Filing for a Divorce with Children](#)
 - [Filing for a Divorce without Children](#)
 - [JDP-FM-179](#). Do-it-Yourself Divorce Guide.
 - [JDP-FM-179S](#). Do-it-Yourself Divorce Guide (Spanish).
- Amy Calvo MacNamara et al., eds., [Library of Connecticut Family Law Forms](#), (2014).
 - Chapter 1. Initial Pleadings
- [Coppola v. Coppola](#), 243 Conn. 657, 666-667, 707 A.2d 281 (1998). **"Allowing an amendment of the return date under the circumstances of the present case does not render § 52-46a meaningless. A return date may be amended but it still must comply with the time limitations set forth in § 52-48 (b). Section 52-48 (b) requires that "[a]ll process shall be made returnable not later than two months after the date of the process" Section 52-48 (b), therefore, with its two month limit, circumscribes the extent to which a return date may be amended."**
- [Cato v. Cato](#), 226 Conn. 1, 9, 626 A.2d 734 (1993). **"We conclude that in a case such as this, where service of process can be accomplished by the most reliable means - that is, in-hand service of process by a process server in accordance with 52-57a - an order of notice is not required pursuant to 46b-46."**
- [Babouder v. Abdennur](#), 41 Conn. Sup. 258, 259, 262, 566 A2d 457(1989). **"In Connecticut, as in other states, the court will not exercise jurisdiction in a civil case which is based upon service of process on a defendant who has been decoyed, enticed or induced to come within the court's jurisdiction by any false representation, deceitful contrivance or wrongful device for which the plaintiff is**

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

responsible This rule does not apply, however, when the defendant enters the state on his own, even if the plaintiff and his agents then engage in trickery to make **service of process.**"

- [Gluck v. Gluck](#), 181 Conn. 225, 435 A.2d 35 (1980). "In particular, she [the defendant] claims that abode service is constitutionally deficient within the context of a dissolution proceeding. We disagree."
- [Smith v. Smith](#), 150 Conn. 15, 183 A.2d 848 (1962). "Abode service is only a step removed from manual service and serves the same dual function of conferring jurisdiction and giving notice."

WEST KEY NUMBERS:

- *Process* #1 et seq.

DIGESTS:

- [Connecticut Family Law Citations](#): *Practice and Procedure; Service of Process*
- [West's Connecticut Digest](#): *Divorce, IV. Proceedings (C) Time for proceeding. (E) Process or notice.*

ENCYCLOPEDIAS:

- 24 [Am. Jur. 2d](#) *Divorce and Separation* (2008).
§ 173. Service and notice requirements
- 27A [C.J.S.](#) *Divorce* (2005).
§§ 178-194. Process, Notice, and Appearance
- 72 [C.J.S.](#) *Process* (2005).

ALR INDEX:

- Divorce and Separation
 - Process and service of process and papers.

TEXTS & TREATISES:

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- 2 Renee Bevacqua Bollier and Susan V. Busby, [Stephenson's Connecticut Civil Procedure](#) (3rd ed. 2002).
Chapter 20. Family law procedures
§ 248. Service of process
- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010).
Chapter 18. Process
- Barbara Kahn Stark et al [Friendly Divorce Guidebook for Connecticut: Planning, Negotiating and Filing Your Divorce](#) (2003).
Chapter 6. Getting divorced: procedures and paperwork.
- [State of Connecticut Judicial Branch. Do-It Yourself Divorce Guide](#). [JDP-FM-179](#) and [JDP-FM-179S](#) (Spanish). Rev. 9-12.
- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2015).
Chapter 2. Jurisdiction
Part IV. Effectuating Service of Process

Section 2.3: Parties

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to proper or necessary parties to an action for dissolution of marriage in Connecticut and third party intervention

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2015).
Chapter 815j. Dissolution of Marriage, Legal Separation and Annulment
[§ 46b-43.](#) Capacity of minor to prosecute or defend.
[§ 46b-54.](#) Counsel for minor children. Duties.
[§ 46b-55.](#) Attorney General as party. Paternity establishment.
[§ 46b-57.](#) Third party intervention re custody of minor children. Preference of child.

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016).
[Chapter 9. Parties](#)
 - § 9-1. Continuance for Absent or Nonresident Defendant
 - § 9-3. Joinder of Parties and Actions; Interested Persons as Plaintiffs
 - § 9-4. — Joinder of Plaintiffs in One Action
 - § 9-5. — Consolidation of Actions
 - § 9-10. — Orders to Ensure Adequate Representation
 - § 9-18. Addition or Substitution of Parties; Additional Parties Summoned in by Court
 - § 9-19. — Nonjoinder and Misjoinder of Parties
 - § 9-22. — Motion to Cite in New Parties
 - § 9-24. Change of Name by Minor Children[Chapter 10. Pleadings](#)
 - § 10-12. Service of the Pleadings and Other Papers; Responsibility of Counsel or Pro Se Party; Documents and Persons to Be Served
 - § 10-13. — Method of Service
 - § 10-14. — Proof of Service
 - § 10-15. — Numerous Defendants
 - § 10-16. — Several parties Represented by One Attorney
 - § 10-17. — Service by Indifferent Person

CASES:

- [Luster v. Luster](#), 128 Conn. App. 259, 270, 273-275, 17 A.3d 1068 (2011). "In determining whether the conservators in this case have the authority to maintain a dissolution action on behalf of the defendant, we are mindful of the importance of the right of access to our courts, a right shared by all people, including those declared legally incompetent....General Statutes § 45a-650 (k) very clearly states: "[a] conserved person shall retain *all rights and authority* not expressly assigned to a conservator." (Emphasis added.) Additionally, although a conserved person retains all of his or her unassigned rights and authority; see General Statutes § 45a-650(k); there

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has been created a common law rule that a conserved person, like a minor, does not have the legal capacity to bring a civil action in his or her own name, but must do so through a properly appointed representative, except in **limited circumstances....Given...that an action for dissolution of marriage is a civil action, combined with the conserved person's retention of *all rights and authority* not specifically assigned , we conclude that a conservator may bring a civil action for dissolution of marriage on behalf of the conserved person."**

- [Manndorf v. Dax](#), 13 Conn. App. 282, 287, 535 A.2d 1324 (1988). "Although interested in the defendant's marriage to the husband, the plaintiff, as a nonparty to that marriage, had no right to maintain an action for its annulment."
- [Derderian v. Derderian](#), 3 Conn. App. 522, 526-527, 490 A.2d 1008 (1985). "Other jurisdictions have upheld judgments in dissolution of marriage actions which potentially disturb the interests of those not parties to a dissolution action by construing the judgments as determinative of the right, title and interest in the property of the husband and wife, assuming that the property is an asset of the marital estate."
- [Salvio v. Salvio](#), 186 Conn. 311, 441 A.2d 190 (1982). "Since [the children] Gerald and Deborah had acquired no legal interest in the funds on deposit, they were not necessary parties for the purpose of establishing the trial court's jurisdiction over those accounts."
- [Derderian v. Derderian](#), 3 Conn. App. 522, 490 A.2d 1008 cert. den. 196 Conn. 810, 495 A.2d 279. "In the present action, a precise, underlying debt of the brother to the defendant [his sister] had been determined in the second dissolution of marriage action. That debt was the award of the marital home to the defendant. Since there was an established debt at the time of the present partition action, the brother was not an indispensable party in the action."
- [Manter v. Manter](#), 185 Conn. 502, 504-505, 441 A.2d 146 (1981). "Seeking custody or visitation rights, Allan Coombs moved on February 13, 1979, to intervene in the divorce action of *Manter v. Manter* under General Statutes 46b-57, which permits interested third parties to intervene in custody controversies before the Superior Court. At a preliminary hearing the trial court on April 2 granted Coombs standing for the expressly limited purpose of a visitation study by the family relations office. By supplemental order dated October 1, 1979, the court denied the motion to intervene on the dual grounds that no present dispute was then before the court and no facts were presented to qualify Coombs as an interested party under 46b-57. Coombs now appeals from that denial of his motion to intervene."
- [Sands v. Sands](#), 188 Conn. 98, 105-106, 448 A.2d 822

(1982) cert. den. 459 U.S. 1148, 103 S. Ct. 792, 74 L.Ed.2d 997. "The trial court could not ignore the fact that the state had a definite and imminent interest in this matter. Under these circumstances, the trial court clearly acted within its discretion in awarding \$1 per year alimony in order to protect a valid state interest."

- [Vanderlip v. Vanderlip](#), 1 Conn. App. 158, 159, 468 A.2d 1253 (1984). "In this case, we cannot believe that the defendant was harmed by the refusal of the court to permit a continuance. On the day following the order to proceed immediately to trial, the defendant appeared. The usual order of trial was revamped in her favor. She was present at all relevant times. Under these circumstances, we are not persuaded that the trial court abused its discretion."

WEST KEY NUMBER:

- *Divorce* # 70-75. Parties.

DIGESTS:

- [ALR Digest](#): *Divorce* § 70-75. Parties.
- [Connecticut Family Law Citations](#): *Parties to actions*
- [West's Connecticut Digest](#): *Divorce. IV. Proceedings, (D) Parties.*

ENCYCLOPEDIAS:

- 24 [Am. Jur. 2d](#) *Divorce and Separation* (2008). §§ 197-215. Parties
- 27A [C.J.S.](#) *Divorce* (2005). §§ 170-177. Parties. In General

ALR INDEX:

- Divorce and Separation
- Third persons

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- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010). Chapter 17. Parties
- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2015). Chapter 2. Jurisdiction Part VI. Determining the Parties to Dissolution, Paternity and Custody Actions

Section 3: Pleadings

A Guide to Resources in the Library

Order of Pleadings

[Conn. Practice Book § 25-11](#) (2016).

The order of pleadings shall be:

- (1) **the plaintiff's complaint;**
- (2) **the defendant's motion to dismiss the complaint;**
- (3) **the defendant's motion to strike the complaint or claims for relief;**
- (4) **the defendant's answer, cross complaint and claims for relief;**
- (5) **the plaintiff's motion to strike the defendant's answer, cross complaint, or claims for relief;**
- (6) **the plaintiff's answer.**

Section 3.1: Complaint

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic sources relating to complaints for dissolution of marriage in Connecticut.

DEFINITIONS:

- "The paramount role of a court when considering domestic relations cases is one of a 'court of equity.' The **court's equity powers** are essential to its ability to fashion the appropriate relief in domestic relations cases." [LaBow v. LaBow](#), 13 Conn. App. 330, 351, 537 A.2d 157 (1988) [emphasis added].
- "The power to act equitably is the keystone to the court's ability to fashion relief in the infinite variety of circumstances which arise out of the dissolution of a marriage. Without this wide discretion and broad equitable power, the courts in some cases might be unable fairly to **resolve the parties' dispute, i.e., Where the sole asset of the parties is their residence to which both have contributed. Equity certainly does not contemplate such a result . . . Equity jurisdiction once obtained will be retained for the purpose of administering complete relief.**" [Pasquariello v. Pasquariello](#), 168 Conn. 579, 585, 362 A.2d 835 (1975).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2015).
 - [§ 46b-40](#). Grounds for dissolution of marriage; legal separation, annulment.
 - [§ 46b-44](#). Residency requirement.
 - [§ 46b-45](#). Service and filing of complaint.
 - [§ 46b-45a](#). Allegation of pregnancy in pleadings. Disagreement as to paternity. Hearing.
 - [§ 46b-46](#). Notice to nonresident party; jurisdiction over nonresident party for alimony and support.
 - [§ 46b-47](#). Complaint for dissolution of marriage on ground of confinement for mental illness; procedure.
 - [§ 46b-48](#). Dissolution of marriage or annulment upon conviction of crime against chastity; procedure.
 - [§ 52-45a](#). Commencement of civil actions. Contents and signature of process.
 - [§ 52-54](#). Service of summons.
 - [§ 52-57](#). Manner of service upon individuals, municipalities, corporations, partnerships and voluntary associations.

FORMS:

Official Judicial Branch forms are frequently updated. Please visit the [Official Court Webforms page](#) for the current forms.

- Court Form [JD-FM-159](#). Divorce Complaint (Dissolution of Marriage)
- Amy Calvo MacNamara et al., eds., [Library of Connecticut Family Law Forms](#), (2014).
 - Chapter 1. Initial Pleadings, Complaint
- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010)
 - § 19.5. Complaint - Form

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

CASES:

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- Conn. Practice Book (2016).
[Chapter 8. Commencement of Action](#)
§ 8-1. Process
[Chapter 25. Procedure in Family Matters](#)
§ 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
§ 25-7. Pleadings in General; Amendments to Complaint or Application
§ 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union
§ 25-23. Motions, Requests, Orders of Notice and Short Calendar
- [Vanderlip v. Vanderlip](#), 1 Conn. App. 158, 160, 468 A.2d 1253 (1984). “The unanswered complaint claimed only a dissolution of the marriage. The defendant filed no claims for relief. The case was, however, presented to and tried by the court on the contested issues of support, alimony and property division. See *Falker v. Samperi*, 190 Conn. 412, 427, 461 A.2d 681 (1983). Because of this procedure, we need not consider any of the questions raised in *Tsopanides v. Tsopanides*, 181 Conn. 248, 435 A.2d 34 (1980). Compare *LaCroix v. LaCroix*, 189 Conn. 685, 457 A.2d 1076 (1983).”
- [LaCroix v. LaCroix](#), 189 Conn. 685, 687-688, 457 A.2d 1076 (1983) “On appeal, the plaintiff’s sole claim is that the trial court was without jurisdiction to award alimony or any part of the proceeds of the sale of real property to the defendant on the basis of the cross complaint. He asserts that General Statutes § 46b-67 mandates a twenty-day waiting period after the filing of a cross complaint in a dissolution proceeding before any action may be taken on that cross complaint. He therefore claims that the alimony and property awards are void, because those issues were not raised in his complaint and could not be considered under the cross complaint without violating § 46b-67. We agree that § 46b-67 by its clear language forbids the consideration of a cross complaint until twenty days after it is filed and, therefore, the court could not make awards **based on the defendant’s cross complaint. We cannot** agree, however, that the trial court lacked jurisdiction to **make the challenged awards. We find no error.**”
- [Winick v. Winick](#), 153 Conn. 294, 299, 216 A.2d 185 (1965). “The plaintiff was entitled to notice of, and an opportunity to be heard on, any application by the defendant for modification of the judgment. Accordingly, it was error for the court to modify the judgment on an oral motion and without notice to the plaintiff either specially or, in the usual practice, by the filing with the clerk of a motion as provided by § 381 [now § 17-46] of the Practice Book with service on counsel for the plaintiff as provided by § 80(2) [now § 90-1].”
- *Marriage* #57-58.

WEST KEY

NUMBERS:

- *Divorce* # 88-95. Pleading.
- *Husband and Wife* #285 et seq.

ENCYCLOPEDIAS:

- 24 [Am. Jur. 2d](#) *Divorce and Separation* (2008).
§§ 216-237. Petition or Complaint
- 27A [C.J.S.](#) *Divorce* (2005).
§§ 153-164. Domicile or Residence of Parties
§§ 217-244. Pleading

TEXTS & TREATISES:

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- 2 Renee Bevacqua Bollier and Susan V. Busby, [Stephenson's Connecticut Civil Procedure](#) (3rd ed. 2002).
Chapter 20. Family law procedures
§ 250. Pleadings in dissolution actions
b. The complaint
- [Dupont on Connecticut Civil Practice](#) (2015).
Chapter 25. Procedure in Family Matters, General Provisions
§ 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment
- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010).
Chapter 19. Pleadings
- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2015).
Chapter 3. Dissolution of Marriage and Legal Separation
Part III. Preparing the Complaint and Cross Complaint
- Cynthia C. George and Barbara M. Schelenger, *Family Law Jurisdiction*, 64 [Connecticut Bar Journal](#) 455 (1990).
- Prof. Max Rubenstein, *Domicile or Jurisdictional Basis of Divorce Decrees*, 23 [Connecticut Bar Journal](#) 280 (1949).
- Francis X. Hennessy, *Jurisdiction - Notice in Matrimonial Matters*, 58 [Connecticut Bar Journal](#) 213 (1984).

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

Section 3.2: Motion to Dismiss

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic references relating to the motion to dismiss in a dissolution of marriage proceeding in Connecticut

DEFINITIONS:

- **"When a motion to dismiss is filed questioning subject matter jurisdiction it must be disposed of before there can be other proceedings."** *Babouder v. Abdennur*, 41 Conn. Sup. 258, 259, 566 A2d 457 (1989).
- **"Jurisdiction must exist in three particulars: the subject matter of the case, the parties, and the process."** *Ibid.*, p.259
- **"The pendency of a prior action between the same parties** is a ground for dismissal for the second action, for reasons of justice and equity and for the further reason that it is duplicative and therefore vexatious This rule does not apply, however, where the purposes of the two actions and the issues to be determined in them are **different.**" *Ibid.*, p.263 [emphasis added].

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016).
[Chapter 25. Procedure in Family Matters](#)
 - § 25-12. Motion to Dismiss
 - § 25-13. — Grounds on Motion to Dismiss
 - § 25-14. — Waiver and Subject Matter Jurisdiction
 - § 25-15. — Further Pleading by Defendant

FORMS:

- Amy Calvo MacNamara et al., eds., [Library of Connecticut Family Law Forms](#), (2014).
Chapter 5. Motions, Motion to Dismiss (Form 5-001)
- 2 [Conn. Practice Book](#) (1997).
Form 106.1. Motion to dismiss

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Narayan v. Narayan](#), 305 Conn. 394, 402-403, (2012).
"[T]he Superior Court...may exercise jurisdiction over a person only if that person has been properly served with process, has consented to the jurisdiction of the court or has waived any objection to the court's exercise of personal jurisdiction." (Internal quotation marks omitted.) *Kim v. Magnotta*, 249 Conn. 94, 101-102, 733 A.2d 809 (1999)."
... "[T]he filing of an appearance on behalf of a party, in and of itself, does not waive that party's personal jurisdiction claims. Nevertheless, '[a]ny defendant, wishing to contest the court's jurisdiction, may do so even after having entered a general appearance, but must do so by filing a motion to dismiss within thirty days of the filing of the appearance....' Practice Book § 10-30. The rule specifically and unambiguously provides that any claim of lack of jurisdiction over the person as a result of an insufficiency of service of process is waived unless it is raised by a motion to dismiss filed within thirty days in the

sequence required by Practice Book § 10-6, formerly [Practice Book (1978-97)] § 112. Thus, thirty-one days after the filing of an appearance or the failure to adhere to the requisite sequence, a party is deemed to have submitted to the jurisdiction of the court. Any claim of **insufficiency of process is waived if not sooner raised.**" *Pitchell v. Hartford*, 247 Conn. 422, 432-33, 722 A2d 797 (1999).

- [Spilke v. Spilke](#), Superior Court, Judicial District of New Haven at New Haven, No. FA00-0440636-S (March 15, 2002) (2002 WL 521313). **"The defendant has moved to dismiss this action for dissolution of marriage on the grounds that he had previously obtained an annulment of the marriage in an Israeli judgment which, he asserts, is entitled to recognition under the doctrine of comity."**
- [Panganiban v. Panganiban](#), 54 Conn. App. 634, 638, 736 A.2d 190 (1999). **"We conclude that the trial court properly denied the motion to dismiss because the defendant did have sufficient contact with Connecticut and the exercise of jurisdiction in this case does not offend the traditional notions of fair play and substantial justice."**
- [Babouder v. Abdennur](#), 41 Conn. Sup. 258, 259, 566 A2d 457 (1989). **"The defendant has filed a motion to dismiss the complaint on five grounds: (1) personal service upon the defendant was accomplished by trick, fraud or artifice; (2) the plaintiff is not a resident of Connecticut now or when this action was commenced, and therefore has no standing to bring or to maintain this action under General Statutes § 46b-44; (3) there is pending in the Family Court, Patriarchy of Catholics, in Beirut, Lebanon, a prior claim commenced by the plaintiff claiming similar relief; (4) the plaintiff failed to file a custody statement as required by General Statutes § 46b-99; (5) the plaintiff allegedly violated the clean hands doctrine by her unauthorized removal of the parties' minor children from Lebanon in violation of a court order, by the method she used to serve the complaint on the defendant, and by her misrepresentation as to her residence." *The motion to dismiss was denied. See Table 7, below.***
- [Rummel v. Rummel](#), 33 Conn. App. 214, 219, 635 A2d 295 (1993). **"The parties herein agree that by going forward on this trial without an answer having been filed, the defendant waived any defect regarding jurisdiction over the person that may have existed."**

WEST KEY NUMBERS:

- *Divorce* #138-139.5. Dismissal.
- *Divorce* #57-65. Jurisdiction.

DIGESTS:

- [West's Connecticut Digest](#): *Divorce, IV. Proceedings (K) Dismissal*

ENCYCLOPEDIAS:

- 24 [Am. Jur. 2d](#) *Divorce and Separation* (2008). § 250. Motion to dismiss

**TEXTS &
TREATISES:**

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- 27A [C.J.S. Divorce](#) (2005).
§§ 309-319. Dismissal or Discontinuance
- 2 Renee Bevacqua Bollier and Susan V. Busby, [Stephenson's Connecticut Civil Procedure](#) (3rd ed. 2002).
Chapter 20. Family law procedures
§ 250. Pleadings in dissolution actions
c. Pleading by defendant
- Jeanine M. Dumont, [Pleadings and Pretrial Practice](#) (1998).
Chapter VII. Motion to Dismiss
- [Dupont on Connecticut Civil Practice](#) (2015).
Chapter 10. Pleadings
B.7. Dilatory Motions and Requests; Motions to Dismiss or Strike and Request to Revise.
- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010).
§ 18.12. Defects in process
§ 19.11. Other responsive pleadings
- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2015).
Chapter 4. Pretrial Pleadings and Discovery
§ 4.09. Preparing a Motion to Dismiss

Table 4: Badouder v. Abdennur

Badouder v. Abdennur 41 Conn. Sup. 258, 566 A2d 457 (1989)	
(1) personal service upon the defendant was accomplished by trick, fraud or artifice.	<p>"In Connecticut, as in other states, the court will not exercise jurisdiction in a civil case which is based upon service of process on a defendant who has been decoyed, enticed or induced to come within the court's jurisdiction by any false representation, deceitful contrivance or wrongful device for which the plaintiff is responsible This rule does not, however, when the defendant enters the state on his own, even if the plaintiff and his agents then engage in trickery to make service of process." <i>Ibid.</i>, p. 262.</p>
(2) the plaintiff is not a resident of Connecticut now or when this action was commenced, and therefore has no standing to bring or to maintain this action under C.G.S. § 46b-44	<p>"The plaintiff in the present case sufficiently meets the residency requirement in § 46b-44 (a). This court, therefore, has subject matter jurisdiction." <i>Ibid.</i>, p. 267</p>
(3) there is pending in the Family Court, Patriarchy of Catholics, in Beirut, Lebanon, a prior claim commenced by the plaintiff claiming similar relief;	<p>"The rule that the pendency of a prior action between the same parties and to the same ends is grounds for dismissal has efficacy only where the actions are pending in the same jurisdiction. The pendency of an action in one state is not a ground for abatement of a later action in another state." Sauter v. Sauter, 4 Conn. App. 581, 584, 495 A2d 1116 (1985).</p>
(4) the plaintiff failed to file a custody statement as required by General Statutes § 46b-99.	<p>". . . failure to file such a statement is not a jurisdictional defect and there is jurisdiction, at least, for the purposes of a dissolution of the marriage." <i>Ibid.</i>, p. 261</p>
(5) the plaintiff allegedly violated the clean hands doctrine by her unauthorized removal of the parties' minor children from Lebanon in violation of a court order, by the method she used to serve the complaint on the defendant, and by her misrepresentation as to her residence.	<p>"The clean hands doctrine cannot be raised on a motion to dismiss." <i>Ibid.</i>, p. 261</p>

Section 3.3: Motion to Strike

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic references relating to the motion to strike in a dissolution of marriage or legal separation proceeding in Connecticut

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016).
[Chapter 25. Procedure in Family Matters](#)
 - § 25-16. Motion to Strike; In General
 - § 25-17. —Date of Hearing
 - § 25-18. —Reasons
 - § 25-19. —Memorandum of Law
 - § 25-20. —When Memorandum of Decision Required
 - § 25-21. —Substitute Pleading; Judgment
 - § 25-22. —Stricken Pleading Part of Another Cause or Defense

FORMS:

- 2 [Conn. Practice Book](#) (1997).
Form 106.2. Motion to strike

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [LaBow v. LaBow](#), 69 Conn. App. 760, 764, 796 A.2d 592 (2002). "Ronald LaBow [defendant] filed a motion to strike the petition for failure to state a claim for which relief can be granted, pursuant to Practice Book § 10-39. In ruling on the motion to strike, the court, Moran, J., sua sponte considered whether the court had subject matter jurisdiction over the petition for a new trial. Relying on *Summerville v. Warden*, 229 Conn. 397, 426, 641 A.2d 1356 (1994), the court concluded that the statute of limitations, General Statutes § 52-582, barred the petition for a new trial and that the court therefore lacked subject matter jurisdiction. The court dismissed the petition, and Myrna LaBow appealed."
- [Gibson v. Gibson](#), 34 Conn. App. 139, 140, 640 A.2d 145 (1994). "The plaintiff in this dissolution of marriage action has filed a motion to strike the issue of postjudgment counsel fees from the defendant's brief. The dispositive issue is whether this court's January 27, 1994 dismissal of the defendant's amended appeal, which raised the issue of counsel fees, precludes the defendant from addressing this same issue in his brief on the main appeal."

WEST KEY NUMBERS:

- *Divorce* #88-108. Pleading.

TEXTS & TREATISES:

- 2 Renee Bevacqua Bollier and Susan V. Busby, [Stephenson's Connecticut Civil Procedure](#) (3rd ed. 2002).
Chapter 20. Family law procedures
§ 250. Pleadings in dissolution actions
c. Pleading by defendant
- Jeanine M. Dumont, [Pleadings and Pretrial Practice](#) (1998).
Chapter X. Motion to Strike

- [Dupont on Connecticut Civil Practice](#) (2015).
Chapter 10. Pleadings
B.7. Dilatory Motions and Requests; Motions to Dismiss or Strike and Request to Revise.
- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010).
§ 19.11. Other responsive pleadings
- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2015).
Chapter 4. Pretrial Pleadings and Discovery
§ 4.10. Preparing a Motion to Strike

Section 3.4: Answer/Cross Complaint

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic sources relating to answers and/or cross complaints in dissolution of marriage proceedings in Connecticut

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015).
[§ 46b-41](#). Complaint includes cross-complaints or cross actions.
“Whenever the word “**complaint**” is used in this chapter or section 46b-1 or 51-348a, it shall include cross-complaints or cross actions where appropriate.”

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016).
[Chapter 25. Procedure in Family Matters](#)
§ 25-9. —Answer, Cross Complaint, Claims for Relief by Defendant
§ 25-10. —Answer to Cross Complaint

FORMS:

Official Judicial Branch forms are frequently updated. Please visit the [Official Court Webforms page](#) for the current forms.

- Court Forms
[JD-FM-159](#). Divorce Complaint (Dissolution of Marriage)
[JD-FM-160](#). Dissolution Answer
- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010)
§ 19.10. Answer and Cross Complaint—Form
- Amy Calvo MacNamara et al., eds., [Library of Connecticut Family Law Forms](#), (2014).
Chapter 1. Initial Pleadings, Answer and Cross-Complaint

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Ferri v. Powell-Ferri](#), 317 Conn. 223, 224, 116 A.3d 297 (2015). “**This appeal arises** from a dissolution action, dissolving the marriage of the named defendant, Nancy Powell-Ferri, and the defendant, Paul John Ferri, Jr. (Ferri). The dispositive issue in this appeal is whether the trial court properly rendered summary judgment in favor of Ferri on the cross complaint filed by Powell-Ferri on the ground that it failed to plead a legally sufficient cause of action. Specifically, Powell-**Ferri’s cross** complaint alleged that Ferri had breached his duty to preserve marital assets during the pendency of their marital dissolution action by failing to take any affirmative steps to contest the decanting of certain assets from a trust by the plaintiffs, Michael Ferri and Anthony Medaglia, who were then serving as trustees. We conclude that this state does not require a party to a dissolution action to take affirmative **steps to recover marital assets taken by a third party...**”
- [Viveros v. Viveros](#), Superior Court, Judicial District of Stamford-Norwalk at Stamford, No. FA03-0193290-S (Apr. 8, 2004) (2004 WL 886907). “**On December 19, 2003 the**

plaintiff filed a request for leave to amend complaint. No objection was filed and the amended complaint is deemed filed by consent of the defendant. The amended complaint alleges adultery as the sole ground for dissolution. It is one of the many causes recited in § 46b-40(c), Conn. Gen. Statutes upon a finding that it occurred. In this case the plaintiff has not proven her allegation of adultery occurring prior to the irretrievable breakdown, *Venuti v. Venuti*, 185 Conn. 156, 158, 440 A.2d 878 (1991). The defendant filed a cross complaint alleging that the marriage has broken down irretrievably. The plaintiff filed an answer admitting the allegation. The Court concludes that the marriage had broken down irretrievably by December 2002.”

- [Rummel v. Rummel](#), 33 Conn. App. 214, 218-219, 635 A2d 295 (1993) “The parties herein agree that by going forward on this trial without an answer having been filed, the defendant waived any defect regarding jurisdiction over the person that may have existed.”
- [LaCroix v. LaCroix](#), 189 Conn. 685, 687-688, 457 A.2d 1076 (1983) “On appeal, the plaintiff’s sole claim is that the trial court was without jurisdiction to award alimony or any part of the proceeds of the sale of real property to the defendant on the basis of the cross complaint. He asserts that General Statutes 46b-67 mandates a twenty-day waiting period after the filing of a cross complaint in a dissolution proceeding before any action may be taken on that cross complaint. He therefore claims that the alimony and property awards are void, because those issues were not raised in his complaint and could not be considered under the cross complaint without violating 46b-67. We agree that 46b-67 by its clear language forbids the consideration of a cross complaint until twenty days after it is filed and, therefore, the court could not make awards based on the defendant’s cross complaint. We cannot agree, however, that the trial court lacked jurisdiction to make the challenged awards. We find no error.”

ENCYCLOPEDIAS:

- 24 [Am. Jur. 2d Divorce and Separation](#) (2008).
§§ 238-245. Response or Answer
§§ 246-249. Cross-Petition, Cross-Complaint, Cross-Bill, or Counterclaim
- 27A [C.J.S. Divorce](#) (2005).
§§ 230-233. Answer
§§ 234-235. Cross action or Counterclaim

TEXTS & TREATISES:

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- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010).
Chapter 19. Pleadings
§ 19.9. Answer, cross-complaint, and claims for relief by defendant
§ 19.10. Answer and Cross Complaint—Form
- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2015).

Chapter 3. Dissolution of Marriage and Legal Separation

§ 3.19. Filing Appearances and Limited Appearances

§ 3.20. Filing the Answer and Cross-Complaint

- 2 Renee Bevacqua Bollier and Susan V. Busby,
[Stephenson's Connecticut Civil Procedure](#) (3rd ed. 2002).
Chapter 20. Family law procedures
§ 247. Domicile and residence in cross-complaints
§ 250. Pleadings in dissolution actions
c. Pleading by defendant
- [Dupont on Connecticut Civil Practice](#) (2015-2016).
Chapter 25. Procedure in Family Matters, General
Provisions
§ 25-9. Answer, Cross Complaint, Claims for Relief
by Defendant.

Section 3.5: Amendment to Complaint

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic sources relating to amendment of a complaint or cross-complaint

DEFINITIONS:

- **Allowance of amendment:** "Much depends upon the particular circumstances of each case. The factors to be considered include unreasonable delay, fairness to the opposing parties, and negligence of the party offering the amendment." [Antonofsky v. Goldberg](#), 144 Conn. 594, 597, 136 A.2d 338 (1957).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2015).
[§ 46b-47](#). Waiting period. Effect of decree.

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- Conn. Practice Book (2016).
[Chapter 10. Pleadings](#)
§ 10-59. Amendments; Amendment as of Right by Plaintiff
§ 10-60. —Amendment by Consent, Order of Judicial Authority, or Failure to Object
§ 10-61. —Pleading after Amendment
[Chapter 25. Procedure in Family Matters](#)
§ 25-2. Complaints for dissolution of marriage or Civil Union, Legal Separation, or Annulment
§ 25-3. Action for Custody of Minor Child
§ 25-4. Action for Visitation of Minor child
§ 25-7. Pleadings in General; Amendments to Complaint or Application
§ 25-8. —Amendment; New Ground for Dissolution of Marriage or Civil Union

FORMS:

- Amy Calvo MacNamara et al., eds., [Library of Connecticut Family Law Forms](#), (2014).
Chapter 1. Initial Pleadings, Answer and Cross-Complaint
Form 1-006 Request to Amend Complaint
Form 1-007 Request for Leave to Amend Complaint and to cite in Third Party Defendants

CASES:

- [Viveros v. Viveros](#), Superior Court, Judicial District of Stamford-Norwalk at Stamford, No. FA03-0193290-S (Apr. 8, 2004) (2004 WL 886907). "On December 19, 2003 the plaintiff filed a request for leave to amend complaint. No objection was filed and the amended complaint is deemed filed by consent of the defendant. The amended complaint alleges adultery as the sole ground for dissolution. It is one of the many causes recited in § 46b-40(c), Conn. Gen. Statutes upon a finding that it occurred. In this case the plaintiff has not proven her allegation of adultery occurring prior to the irretrievable breakdown, *Venuti v. Venuti*, 185 Conn. 156, 158, 440 A.2d 878 (1991). The defendant filed

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a cross complaint alleging that the marriage has broken down irretrievably. The plaintiff filed an answer admitting the allegation. The Court concludes that the marriage had **broken down irretrievably by December 2002.**"

- [Welch v. Welch](#), Superior Court, Judicial District of Tolland at Rockville, No. FA00-0072505-S (May 17, 2002) (2002 WL 1332028). **"Here the defendant did not seek leave to amend her cross-complaint until after the trial. The plaintiff objects to the allowance of the amendment because it raises a new cause of action not previously alleged. In exercising its discretion in determining whether the court should allow the amendment, the court is guided by the considerations referred to in *Antonofsky* . . . Lastly, it is not fair to the plaintiff to allow the amendment where he has not been put on notice of it and where its necessity, if any, is caused by the defendant's own failure to prove the grounds alleged in her cross-complaint. The request for leave to amend the cross-complaint is denied."**
- [Cugini v. Cugini](#), 13 Conn. App. 632, 636, 538 A.2d 1060 (1988). **"The defendant also claims an abuse of discretion by the trial court in permitting an amendment to the complaint to allege as an additional ground for dissolution that he had been convicted of an infamous crime. This is one of the grounds upon which dissolution may be sought; General Statutes 46b-40(c)(9); and, in any event, it was not the ground upon which dissolution was granted in this case."**
- [Rodearmel v. Rodearmel](#), 173 Conn. 273, 274, 377 A.2d 260 (1977). **"On the appeal, the defendant briefed six claims of error. Four of these are addressed to discretionary rulings of the court in granting the plaintiff permission to amend his complaint to add a new claim for relief, in assigning the defendant's interest in the marital residence to the plaintiff, in not awarding a greater amount of alimony and in not awarding to the defendant additional counsel fees. We find no error in any of these rulings as to each of which the trial court has broad discretion."**
- [Kilpatrick v. Kilpatrick](#), 144 Conn. 738, 739, 131 A2d 645 (1974). **"The only other claim advanced by the defendant upon which we wish to comment is that at the time of trial the court permitted the plaintiff to amend her prayers for relief by adding a request for alimony. The record fails to show that the defendant raised at trial any claim of law in this regard. But if it is assumed that he did so, the amendment was within the discretion of the court and we find nothing to indicate that its discretion was abused."**
- [Kelsall v. Kelsall](#), 139 Conn. 163, 165, 90 A.2d.878 (1952). **"An amendment to a complaint relates back to the institution of the action for some purposes; . . . but when it sets up a new and different cause of action it speaks as of the date when it is filed To be valid, it must state a cause of action which exists at that time. A cause of action**

must arise from a single group of facts Acts amounting to intolerable cruelty and acts amounting to desertion do not constitute a single group of facts. They are separate and distinct. An amendment to a complaint for divorce on the ground of intolerable cruelty which sets up desertion in a new count is the statement of a new **cause of action.**"

WEST KEY NUMBERS:

- Divorce #104. Amended and Supplemental Pleadings.

ENCYCLOPEDIAS:

- 27A [C.J.S. Divorce](#) (2005).
§ 239-241. Amended and Supplemental Pleadings
- 24 [Am. Jur. 2d Divorce and Separation](#) (2008).
§ 234-237. Amendment; Supplemental Pleadings

DIGESTS:

- [West's Connecticut Digest: Divorce, IV. Proceedings, \(I\) Pleading. 104. Amended and supplemental pleadings.](#)

TEXTS & TREATISES:

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- Jeanine M. Dumont, [Pleadings and Pretrial Practice](#) (1998).
Chapter VII. Amendments to Pleadings
- [Dupont on Connecticut Civil Practice](#) (2015).
Chapter 25. Procedure in Family Matters, General Provisions
§ 25-8. Amendment; new Ground For Dissolution of Marriage or Civil Union.
- 7 Arnold H. Rutkin and Kathleen A. Hogan, [Connecticut Practice, Family Law and Practice with Forms](#) (2010).
§ 19.13. Amendment of Pleadings
- Louise Truax, ed., [LexisNexis Practice Guide: Connecticut Family Law](#) (2015).
Chapter 3. Dissolution of Marriage and Legal Separation
§ 3.21. Amending the Complaint or Cross Complaint

Table 5: Default in Family Matters

Default in Family Matters	
Failure to file an Appearance	<p>"If, in any case involving a dissolution of marriage or civil union, legal separation, or annulment, the defendant has not filed an appearance by the case management date, the plaintiff may proceed to judgment on the case management date without further notice to such defendant. Section 17-20 concerning motions for default shall not apply to such cases." Conn. Practice Book § 25-51(a) (2016) [emphasis added].</p>
	<p>"If the defendant files an appearance by the case management date, the presiding judge or a designee shall determine which track the case shall take pursuant to Section 25-50." Conn. Practice Book § 25-51(b) (2016).</p>
Failure to appear for scheduled disposition	<p>"If a party fails to appear in person or by counsel for a scheduled disposition, the opposing party may introduce evidence and the case may proceed to judgment without further notice to such party who failed to appear." Conn. Practice Book § 25-52 (2016).</p>
See also:	<ul style="list-style-type: none"> • 7 Arnold H. Rutkin and Kathleen A. Hogan, Connecticut Practice, Family Law and Practice with Forms (2010). Chapter 24. Trial; Procedural Aspects § 24.12. Default • 2 Renee Bevacqua Bollier and Susan V. Busby, Stephenson's Connecticut Civil Procedure (3rd ed. 2002). Chapter 20. Family law procedures § 258. Limited contested and contested trials d. Proceeding without the defendant

Part B. Nonadversarial Dissolution of Marriage

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to nonadversarial dissolutions of marriage.

DEFINITIONS:

- **Effect of Decree of Dissolution of Marriage:** "The decree of dissolution of marriage shall give the parties the status of **unmarried persons and they may marry again.**" [Public Act No. 15-7](#), Sec. 3 (Effective October 1, 2015).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2016 Supplement).
 - [§ 46b-44a](#). Filing of joint petition for nonadversarial dissolution of marriage. Procedure.
 - [§ 46b-44b](#). Revocation of joint petition for nonadversarial dissolution of marriage. Effect.
 - [§ 46b-44c](#). Disposition of nonadversarial dissolution of marriage; entry of decree of dissolution of marriage.
 - [§ 46b-44d](#). Nonadversarial dissolution of marriage. Appearance of parties required; exceptions.

PUBLIC ACT:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- [Public Act No. 15-7](#), Secs. 1-5. (*January 2015 Reg. Sess.*) (Effective October 1, 2015). An Act Concerning a Nonadversarial Dissolution of Marriage
 - § 1. Commencement, requirements, forms
 - § 2. Revocation
 - § 3. Disposition date
 - § 4. Determination of a fair and equitable settlement agreement and its effect
 - § 5. Repeal of Gen. Stat. § 46b-67

LEGISLATIVE:

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each **report's** publication. Current law may be different from what is discussed in the reports.

- [Raised Senate Bill No. 1029: Bill Status](#)
- [Summary for Public Act No. 15-7](#)
- [Office of Legislative Research Bill Analysis, Senate Bill 1029, An Act Concerning a Nonadversarial Dissolution of Marriage](#)
- [Judiciary Committee Joint Favorable Report, Senate Bill 1029](#)
- [Raised Senate Bill No. 1029 Public Hearing Testimony](#)

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted [online](#).

- [Conn Practice Book](#) (2016).
 - § 25-5. Automatic Orders upon Service of Complaint or Application
 - § 25-30. Statements to be Filed
 - §§ 3-1 thru 3-5. Appearances

FORMS:

- [Joint Petition- Nonadversarial Divorce \(Dissolution of Marriage\) JD-FM-242](#)
- [Notice of Automatic Court Orders JD-FM-158](#)

Official Judicial Branch forms are frequently updated. Please visit the [Official Court Webforms page](#) for the current forms.

- [Financial Affidavit JD-FM-006 SHORT](#)
- [Help Text for Financial Affidavit JD-FM-006 SHORT](#)
- [Appearance JD-CL-12](#)
- [Agreement- Nonadversarial Divorce \(Dissolution of Marriage\) JD-FM-243](#)
- [Certification of Public Assistance JD-FM-175](#) (Required only if you, your spouse, or your child has received public assistance)

Table 6: Excerpts from the Public Hearing Testimony of Connecticut Public Act 15-7

<p>The Connecticut General Assembly</p> <p>Judiciary Committee Public Hearing</p> <p>Wednesday, March 11, 2015</p>	
<p>Testimony of the Honorable Elizabeth A. Bozzuto, Chief Administrative Judge for Family Matters Connecticut Judicial Branch</p>	
<p><u>Background:</u></p>	<p>“More than two years ago, the Judicial Branch began to explore whether a simplified process could be created for dissolutions of marriage where the parties had agreed to the dissolution, had only been married for a short period of time, had no children, and had no real property. Research conducted at the time demonstrated that approximately half of our sister states had a process in place that permitted a simplified dissolution of marriage under certain circumstances, and this research served as a guide as we crafted this proposal.”</p>
<p><u>Benefits to the Parties:</u></p>	<p>“The benefits of this bill are two-fold...even the simplest dissolution of marriage requires time, energy, and resources. It often requires the parties to miss work and come to court on more than one occasion...This bill re-shapes the process for parties who have reached an agreement. It will require parties to file a joint petition, but in most instances, nothing more. In fact, the parties may not even have to visit a courthouse at all, if they choose to file the petition electronically.”</p> <p>“...Parties that meet the criteria of this new process will not have to appear before a judge and will spend considerably less time in court.”</p>
<p><u>Benefits to the Court:</u></p>	<p>“In addition to providing this category of litigants with an expeditious and efficient alternative to the dissolution process, the Court, and its staff, also receives an ancillary benefit. Permitting cases to proceed in a simplified manner means that more time and attention can be paid to cases with more significant issues in dispute. This goes well beyond merely more time being available on a judge’s docket; in fact, it would allow court staff—Clerks, Court Service Center employees, and Family Relation Counselors—to spend more time assisting parties with more complicated issues achieve resolution.”</p>

Testimony of Attorney Shirley M. Pripstein
Greater Hartford Legal Aid, Inc.

Recommended Amendments:

"I am submitting this testimony on behalf of the Greater Hartford Legal Aid, New Haven Legal Assistance Association, and Connecticut Legal services We represent indigent persons in the family courts throughout the State of Connecticut."

"Teachers, policemen, firemen, and state employees all have pension plans, as do employees of Pratt-Whitney, The Aetna, The Hartford, and other large employers in our state. A pension plan is a valuable asset that is frequently overlooked by parties because it is not currently available cash, but since 1983 pension plans have been divisible by Qualified Domestic Relations Order. In legal aid cases, pension plans are often the only or the most valuable asset. The bill should be amended by **adding 'neither party has a pension plan' to the list of criteria** that must be met before the parties can obtain a non-adversarial divorce."

"Another concern is that the bill does not require the appearance of both parties at the courthouse at some point in time in order for their identity to be verified...there should be some requirement for identification of the parties prior to the entry of a divorce decree to prevent fraud."

Testimony of Louise R. Zito, President
Connecticut Council for Non-Adversarial Dissolution of Marriage

Joint Petition:

"The Connecticut Council for Non-Adversarial Divorce strongly supports the concept of a joint petition for those people desirous of obtaining a dissolution of marriage in a non-adversarial manner. Our members are highly trained professionals who have seen the negative impact of requiring one spouse to sue the other for divorce."

Restrictions:

"Our concern with Senate Bill 1029 are with the restrictions set forth in section (b), in particular (b)(2)(3)(4)(5) and (6). Under these restrictions very few married couples would be eligible to file a joint petition. The majority of the divorces that our members mediate or collaborate would not be affected by this Bill."

"...These dissolutions are carried out without court intervention except for the review of the Agreement on the day of the uncontested dissolution. Why would some of our clients be allowed to file joint petitions and others not?"

"Our clients do not understand why one of them has to sue the other. The words 'Plaintiff' and Defendant' are loaded terms for those trying to divorce in a peaceable, dignified manner and who do not want their children harmed by litigation."

<p>Testimony of Attorney Lisa J. Cappalli</p>	
	<p>"I support and agree with the testimony submitted by Louise R. Zito, as President of The Connecticut Council for Non-Adversarial Divorce, an organization of which I have been a proud member for many years. My support and agreement is based upon my experience working with hundreds of divorcing clients as mediator, consulting attorney or collaborative attorney."</p>
<p>Joan Kloth-Zanard Author, Guardian Ad Litem, Recovery Support Specialist, Activity Based Intelligence & LC</p>	
	<p>"So to start a non-adversarial dissolution of marriage would greatly reduce the toxicity of divorce cases. But this without this, it then extends even further into the custodial and other issues."</p>