A GUIDE TO BASIC CONNECTICUT LAW

HASSETT & DONNELLY
ATTORNEYS AT LAW
INTRODUCTION

Hassett & Donnelly’s *A Guide to Basic Connecticut Law* is designed to be a concise reference source for issues of Connecticut law that arise in insurance defense and coverage cases.

The summaries provided for each of the topics covered in this material are meant to provide a beginning point and should be utilized with other reference materials to ensure a complete and accurate analysis with respect to a particular case. The summaries are not meant to set forth a complete legal analysis of the topics addressed in the *Guide*. Given the varying complexity of cases and the ever-changing interpretation of the law, Hassett & Donnelly’s *A Guide to Basic Connecticut Law* should not be interpreted as definitive legal advice.

In the event that you require additional information or assistance with respect to any issue, whether or not it is addressed in Hassett & Donnelly’s *A Guide to Basic Connecticut Law*, please feel free to contact us at (860) 247-0644.

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*This publication, *A Guide to Basic Connecticut Law*, is intended as a service to Hassett & Donnelly, P.C.’s clients, but may be considered advertising under the Connecticut Rules of Professional Conduct.*
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CONNECTICUT LAW

A. CIVIL PROCEDURE

1. State Court System. The Connecticut Court System is divided into three separate levels: the Superior Court, the Appellate Court, and the Supreme Court. The Superior Court is the court of general jurisdiction; General Statutes § 51-164s; and is divided into thirteen (13) judicial districts: Ansonia-Milford, Danbury, Fairfield, Hartford, Litchfield, Middlesex, New Britain, New Haven, New London, Stamford-Norwalk, Tolland, Waterbury and Windham. The Superior Court hears all legal controversies except those over which the Probate Court has exclusive jurisdiction. Id. Probate Court matters, however, may be appealed to the Superior Court. General Statutes § 45a-186. The Superior Court is divided into four divisions: civil, criminal, family, and juvenile. Practice Book § 1-3.

The Appellate Court is the state’s intermediate appellate court and reviews decisions made in the Superior Court to determine if errors of law have been made. There are nine Judges of the Appellate Court that generally sit in panels of three. General Statutes § 51-197c (a). The Supreme Court is the state’s highest court. There are seven Justices of the Supreme Court that typically sit en banc, but also may sit in panels of five or six. General Statutes §§ 51-198 (a) and 51-207. The Appellate Court also occasionally sits en banc. Practice Book § 70-7. Appeals are first brought to the Appellate Court, although certain appeals are brought directly to the Supreme Court, including appeals from decisions of the Superior Court finding a state statute unconstitutional or convictions for capital felonies. General Statutes §§ 51-197a (a) and 51-199 (b). The Supreme Court may transfer any appeal in the Appellate Court to itself or transfer any matter from itself to the Appellate Court, except for any matter brought under its original jurisdiction. General Statutes § 51-199 (c).

The Small Claims Court has jurisdiction to hear cases in which the damages cannot exceed five thousand dollars ($5,000) including attorney’s fees but exclusive of court fees and costs. Practice Book § 24-2. Judgments and decisions in Small Claims Court are final, meaning that they cannot be appealed. Practice Book § 24-28. However, the Court can, upon motion, open any judgment that was entered due to lack of notice or on default within four (4) months from when judgment entered. Practice Book § 24-31. A party can file a motion to transfer a case to the regular docket (Superior Court) prior to the answer date. The motion to transfer will be granted if it contains an affidavit stating that a good defense exists to the claim and setting forth with specificity the nature of the defense or stating that the case has been properly claimed for a trial by jury. Practice Book § 24-21. Whenever a plaintiff prevails in a Small Claims matter which was transferred to the regular docket in the Superior Court on the motion of the defendant, the Court may allow the plaintiff his costs, together with reasonable attorney’s fees to be taxed by the Court. General Statutes § 52-251a.
2. **Commencement of an Action.** A civil action is considered commenced by service of process of the writ of summons or attachment describing the parties, the court to which it is returnable with the return date, and the date and place for filing an appearance. General Statutes § 52-45a. The writ shall be accompanied by the plaintiff’s complaint. *Id.* Process in civil actions may be made returnable on any Tuesday in any month not later than two (2) months after the date of process. General Statutes § 52-48. Process in civil actions returnable to the Superior Court shall be returned to the clerk of such court at least twenty (20) days before the return date. General Statutes § 52-46a. An appearance for a party in a civil case should be filed on or before the second day following the return date. Practice Book § 3-2.

3. **Service of Process.** Service of process is governed by General Statutes § 52-57. Thereunder, process shall be served by leaving a true and attested copy, including the declaration or complaint, with the defendant or at his usual place of abode in the state. General Statutes § 52-57 (a). In actions against a private corporation, service of process shall be made upon any one of enumerated officers or employees set forth under § 52-57 (c), including the president, vice president or secretary, or upon any director resident in the state, or the person in charge of the business of the corporation, or upon any person who is at the time of service in charge of the office of the corporation in the town in which its principal office or place of business is located. In actions against a private corporation established under the laws of any other state, any foreign country or the United States, service of process may be made upon any of the aforesaid officers or agents, or upon the agent of the corporation appointed pursuant to General Statutes § 33-922. *Id.* For certain causes of action involving a non-resident individual, or foreign partnership or voluntary association service of process may be made upon the Secretary of the State by leaving with or at the office of the Secretary of the State, at least twelve (12) days before the return day of such process, a true and attested copy thereof, and by sending to the defendant at the defendant’s last-known address, by registered or certified mail, postage prepaid, return receipt requested, a like true and attested copy with an endorsement thereon of the service upon the Secretary of the State. General Statutes § 52-59b.

4. **Order of Pleadings, Waiver, and Timing.** Pleadings shall be filed in the following order: (1) plaintiff’s complaint; (2) defendant’s motion to dismiss the plaintiff’s complaint; (3) defendant’s request to revise the plaintiff’s complaint; (4) defendant’s motion to strike all or a portion of the plaintiff’s complaint; (5) defendant’s answer including any special defenses to the plaintiff’s complaint; (6) plaintiff’s request to revise the defendant’s answer; (7) plaintiff’s motion to strike the defendant’s answer; and (8) plaintiff’s reply to defendant’s special defenses. Practice Book § 10-6. Generally, unless otherwise provided, the filing of any pleading out of order waives the right to file any pleading that precedes it. Practice Book § 10-7. Pleadings shall advance within thirty (30) days of the return date set forth in the plaintiff’s complaint and within consecutive thirty (30) day periods thereafter. Practice Book § 10-8.

5. **Motion to Dismiss.** The first responsive pleading to the plaintiff’s complaint may be a motion to dismiss used to assert (1) lack of jurisdiction over the subject matter, (2)
lack of jurisdiction over the person, (3) improper venue, (4) insufficiency of process, and (5) insufficiency of service of process. Practice Book § 10-30 (a). A motion to dismiss shall be filed within thirty (30) days of filing an appearance. Practice Book § 10-30 (b). A motion to dismiss shall be filed with a supporting memorandum of law and, where appropriate, with supporting affidavits as to facts not apparent on the record. Practice Book § 10-30 (c). Any claim that may be set forth in a motion to dismiss, except lack of jurisdiction over the subject matter, is waived if not filed in the order provided in Practice Book § 10-6 and within thirty (30) days of filing an appearance. Practice Book §§ 10-32 and 10-33. Whenever it is found that the court lacks jurisdiction over the subject matter, the judicial authority shall dismiss the action. Practice Book § 10-33.

6. **Request to Revise.** A subsequent responsive pleading may be used by either the plaintiff or the defendant to obtain (1) a more complete or particular statement of the allegations of an adverse party’s pleadings, (2) the deletion of any immaterial or otherwise improper information, (3) the separation of two or more causes of action improperly combined into one count or two or more grounds of defense improperly combined into one defense into separate counts or defenses, respectively, or (4) any other appropriate correction. Practice Book § 10-35. Any such request shall set forth the portion of the pleading sought to be revised, the requested revision, and the reason for such request. Practice Book § 10-36. Any request shall be filed with the clerk of the court in which the action is pending and deemed to have been automatically granted unless an objection is filed by the opposing party within thirty (30) days. Practice Book § 10-37.

7. **Motion to Strike.** A motion to strike shall be used whenever any party wishes to contest: (1) the legal sufficiency of the allegations of any complaint, counterclaim, or cross claim, or of any one or more counts thereof, (2) the legal sufficiency of any prayer for relief, (3) the legal sufficiency because of the absence of any necessary party, or, pursuant to Practice Book § 17-56 (b), failure to join or give notice to any interested party, (4) the joining of two or more causes of action that cannot be joined in one complaint, and (5) the legal sufficiency of any answer. Practice Book § 10-39 (a). An adverse party shall have thirty (30) days to file an opposition to the motion to strike. Practice Book § 10-40 (a). If the motion to strike is granted, the adverse party shall have fifteen (15) days to re-plead and remedy any legal insufficiencies, provided that if the granting of a motion to strike is as to an entire complaint, counterclaim or cross claim and the adverse party does not re-plead, the judicial authority may, upon motion, enter judgment against said adverse party. Practice Book § 10-44.

8. **Answer to Complaint and Special Defenses.** The defendant shall specifically deny any allegations of the complaint as the defendant intends to controvert except that if the defendant intends to deny all allegations, the defendant may deny the allegations generally. Practice Book § 10-46. Facts consistent with the plaintiff’s allegations that demonstrate that the plaintiff has no cause of action must be specially alleged as defenses. Practice Book § 10-50. Such special defenses include accord and satisfaction, arbitration and award, coverture, duress, fraud, illegality not apparent on
the face of the pleadings, infancy, that the defendant was *non compos mentis*,
payment (even though nonpayment may be alleged), release, the statute of limitations,
and *res judicata*, while a simple denial may be made for statute of frauds, or title in
a third person to what the plaintiff sues upon or alleges to be the plaintiff’s own.
Practice Book § 10-50.

9. **Jury Trials.** A party seeking a trial by jury must pay the statutory jury claim fee.
   General Statutes § 52-258. Claims seeking equitable relief are not eligible for a trial

10. **Prejudgment Remedies.** Consideration of prejudgment remedies is controlled by
    General Statutes § 52-278a, et seq. A prejudgment remedy shall be granted upon a
    showing of probable cause that judgment in the amount requested will be rendered.
    General Statutes § 52-278d. Generally, a defendant shall have the right to appear and
    be heard before any prejudgment remedy is rendered. *Id.* Under certain
    circumstances, namely with proof of fraud or deceit by the defendant, a hearing is not
    required. See General Statutes § 52-278e.

11. **Motion for Default for Failure to Appear or Plead/Judgment.** A motion for default
    may be filed if a party fails to file an appearance within the second day following the
    return day or has failed to plead pursuant to Practice Book § 10-8. Practice Book §§
    17-20 and 17-32. The motion shall be acted upon by the clerk not less than seven (7)
    days from the filing of the motion. Practice Book §§ 17-20 and 17-32. If the party
    defaulted for failure to appear files the requisite appearance before judgment has been
    rendered then the default shall be set aside. Practice Book § 17-20 (d). If the a party
    defaulted for failure to plead files the requisite pleading before judgment, the default
    shall be set aside unless a claim for a hearing in damages or a motion for judgment
    has been filed, then the default may only be set aside by the judicial authority.
    Practice Book § 17-32 (b). In order for judgment to be rendered upon a default for
    failure to appear, the plaintiff must comply with Practice Book § 9-1, regarding
    continuances for absent or nonresident defendants, and Practice Book § 17-21,
    regarding affidavits attesting that such defendant is not in military service within the
    meaning of the Servicemembers Civil Relief Act, 50 U.S.C.App. § 501, et seq.

12. **Third Party Practice.**

    a. **Joinder and Impleader.** Interested parties may join as party plaintiffs. General
       Statutes § 52-101. Likewise, interested parties may join as parties with interests
       adverse to the plaintiff or as necessary parties. General Statutes § 52-102.
       Complaints for impleading a third party defendant are governed by General
       Statutes § 52-102a. A defendant in any civil action may file a motion to serve a
       writ, summons and complaint upon a person not a party to the action who is or
       may be liable to him for all or part of a plaintiff’s claim against him. General
       Statutes § 52-102a (a). The plaintiff may, within twenty (20) days of the third
       party defendant’s appearance, assert any claims against such third party defendant
arising out of the transaction or occurrence that is the subject of the original complaint. General Statutes § 52-102a (c).

b. **Apportionment Complaints.** Complaints for apportionment of liability are governed exclusively by General Statutes § 52-102b. A defendant in any negligence action may serve a writ, summons and complaint upon a person not a party to the action who is or may be liable for a proportionate share of the plaintiff’s damages seeking an apportionment of liability. General Statutes § 52-102b (a). Any such writ, summons and complaint, shall be served within one hundred twenty (120) days of the return date specified in the plaintiff’s original complaint and be served on all parties to the original action before the return date specified in the apportionment complaint. *Id.* The plaintiff in the original action may, within sixty (60) days of the return date set forth in the apportionment complaint, assert any claim against the apportionment defendant arising out of the transaction or occurrence that is the subject matter of the original complaint. General Statutes § 52-102b (d). The same rules would apply to a plaintiff seeking an apportionment of liability on a counterclaim. General Statutes § 52-102b (e).

13. **Counterclaims and Cross Claims.** Any defendant may file counterclaims against any plaintiff and cross claims against any codefendant provided that such claim or claims arise out of the transaction or one of the transactions that is the subject of the plaintiff’s complaint. Practice Book § 10-10. Such counterclaims or cross claims may be used by any defendant for the purpose of establishing liability to such defendant for the plaintiff’s claims thereto. *Id.*

14. **Amendments to Pleadings.** The plaintiff may amend any defect, mistake, or informality in the writ, complaint, or petition and insert new counts in the complaint, which might have been originally inserted therein, without costs, during the first thirty (30) days after the return day. Practice Book § 10-59. A party may otherwise amend his or her pleadings (1) by order of the judicial authority, (2) by written consent of the adverse party, or (3) by filing request for leave to file such amendment, without objection from any adverse party within fifteen (15) days from the filing of the request. Practice Book § 10-60.

15. **Limitations of Actions.** Statutes of limitation bar rights of action unless commenced within a specified period of time after the cause of action accrues, which is considered from the time of injury or discovery of injury, while statutes of repose terminate any right of action after a specific time has elapsed regardless of injury. *Baxter v. Sturm Ruger & Co.*, 230 Conn. 335, 341 (1994).

   a. **Common Statutes of Limitation and Statutes of Repose.**

      i. **Tort:** In general, no action founded upon a tort shall be brought but within three (3) years from the act or omission complained of by the plaintiff. General Statutes § 52-577. Nevertheless, this limitations period is subject to more specific provisions, namely, the following provisions considering

ii. **Negligence**: No action for negligence shall be brought but within two (2) years from the date that the injury is first sustained or discovered except that no action shall be brought but within three (3) years of the act or omission causing such injuries. General Statutes § 52-584. Section 52-584 “imposes two specific time requirements on plaintiffs. The first requirement, referred to as the discovery portion . . . requires a plaintiff to bring an action within two years from the date when the injury is first sustained or discovered or in the exercise of reasonable care should have been discovered. . . . The second provides that in no event shall a plaintiff bring an action more than three years from the date of the act or omission complained of.” Rosato, 82 Conn. App. at 401–402 (emphasis in original, internal quotation marks omitted). Under the continuous course of conduct doctrine, however, the statute is tolled if a breach of a duty continues after the initial or original wrongful conduct. See generally Watts v. Chittenden, 301 Conn. 575, 583–85 (2011); but see Grey v. Stamford Health System, Inc., 282 Conn. 745 (2007) (continuous treatment doctrine not applicable unless plaintiff reasonably expected continuous treatment for a particular condition). The continuous course of conduct doctrine applies only to the statute of repose only and does not implicate the requirement to abide by the two (2) year statute of limitation. Rosato, 82 Conn. App. at 405–406.

iii. **Improvements to Real Property**: No action to recover damages for any deficiency in the design, planning, contract administration, supervision, observation of construction, construction of, or land surveying in connection with, an improvement to real property shall be brought against any architect, professional engineer or land surveyor but within seven (7) years from the date after substantial completion of the project. General Statutes § 52-584a (a). Section 52-584a (a) operates as a statute of limitations as opposed to a statute of repose for actions described therein, and controls over other limitations periods such as the shorter period prescribed for negligence. See Grigerik v. Sharpe, 247 Conn. 293, 304–305 (1998). Any action for an injury or wrongful death occurring during the seventh year may be brought within one (1) year from the date of the injury provided no action shall be brought more than eight (8) years after substantial completion of the project. General Statutes § 52-584a (b).

iv. **Wrongful Death**: A wrongful death action must be brought within two (2) years from the date of death except that no action shall be brought more than five (5) years from the date of the act or omission leading to such cause of action. General Statutes § 52-555.

v. **Decedent’s Estate**: In general, no action shall be brought against such decedent’s estate but within two (2) years from the date of death or within
the applicable statute of limitations controlling such claim, whichever occurs earlier. General Statutes § 45a-375 (c). If any person against whom a claim exists dies within thirty (30) days from the running of the statute of limitation controlling the claim, a period of thirty (30) days from the appointment of a fiduciary for the estate shall be allowed in which to present the claim. General Statutes § 45a-375 (a). Furthermore, any statute of limitation period shall be suspended during which time a claim is being presented to the estate, provided that a claim is timely filed under General Statutes § 45a-363. General Statutes § 45a-375 (b). If the claim arose after the death of the decedent, no action shall be brought against such decedent’s estate but within two (2) years from the date the claim arose or within the applicable statute of limitations controlling such claim, whichever occurs earlier. General Statutes § 45a-375 (d).

vi. Medical Malpractice: The statute of limitation for negligence causes of action considered under subsection (ii) above likewise controls actions for medical malpractice. *Rosato*, 82 Conn. App. at 401–402. Under the continuous course of treatment doctrine, however, the statute does not begin to run until the course of treatment giving rise to the injuries is terminated. *See generally Blanchette*, 229 Conn. at 256, *but see Grey*, 282 Conn. at 745.

vii. Legal Malpractice: In general, the three (3) year statute of limitation founded upon a tort under General Statutes § 52-577 controls actions for legal malpractice. *Sanborn v. Greenwald*, 39 Conn. App. 289, 301-302 (1995). Under the continuous representation doctrine, the statute of limitations is tolled in a legal malpractice action during the course of an attorney’s representation of his or her client. *Rosenfield v. Rogen, Nassau, Caplan, Lassman & Hirtle, LLC*, 69 Conn. App. 151, 165–166 (2002). “For the continuous representation doctrine to apply to a legal malpractice action and to operate to toll the statute of limitations, the client must show that (1) the attorney continued to represent him and (2) the representation related to the same transaction or subject matter as the allegedly negligent acts.” *Id.* at 166.

viii. Contract Actions: No action to recover on a contract shall be brought but within six (6) years from the date the action accrues. General Statutes § 52-576 (a). Any person legally incapable of bringing such action when it accrues shall otherwise have three (3) years to bring the action after becoming legally capable to do so. General Statutes § 52-576 (b). An action for a breach of a contract for sale shall not be brought but within four (4) years from the date the action accrues. General Statutes § 42a-2-725.

x. **Claims against the State:** Generally, the statute of limitations for claims against the state is controlled by the specific statutory provisions abrogating the state’s sovereign immunity, such as the highway defect statute, which dictates that no such action shall be brought against the state for a highway defect except within two (2) years. General Statutes § 13a-144. To the extent that authorization to sue the state is granted by the claims commissioner under General Statutes § 4-160, no such action shall be brought but within one (1) year from the date such authorization to sue is granted. General Statutes § 4-160 (d). Certain statutory provisions which abrogate the common law immunity also require that a notice of claim be filed within a certain time soon after the incident. For example, the highway defect statute requires that a notice of claim be filed within ninety (90) days of the occurrence. General Statutes § 13a-144.

b. **Limitations Doctrines and Provisions.**

i. **Tolling.** There is a tolling of the statute of limitations in contract actions due to mental incompetency under General Statutes § 52-576 (b), but there is no tolling of the statute of limitations in negligence actions due to such mental incompetency because of the omission of such a provision in General Statutes § 52-584. *Kirwan v. State*, 168 Conn. 498, 501–502 (1975).

ii. **The Savings Statute.** If any action that is timely filed but nevertheless failed to be tried on its merits due to, among other things, insufficient service or want of jurisdiction, then the plaintiff may commence a suit within one (1) year “after the determination of the original action or after the reversal of the judgment.” General Statutes § 52-592 (a). Any action commenced against an executor or administrator must be commenced within six (6) months after the determination of the original action. General Statutes § 52-592 (b). The time in which a case is on appeal shall be excluded from the determination of either the one (1) year or six (6) month time periods set forth under subsections (a) and (b), respectively. General Statutes § 52-592 (c).

iii. **Relation Back Doctrine.** Under the relation back doctrine, an amendment to a complaint may relate back to defeat any statute of limitation defense under certain circumstances. *Sherman v. Ronco*, 294 Conn. 548, 555 (2010). Generally, “[a] party properly may amplify or expand what has already been alleged in support of a cause of action, provided the identity of the cause of action remains substantially the same. . . . If a new cause of action is alleged in an amended complaint, however, it will [speak] as of the date when it was filed. . . . A cause of action is that single group of facts which is claimed to have brought about an unlawful injury to the plaintiff and which entitles the plaintiff to relief. . . . A change in, or an addition to, a ground of negligence or an act of negligence arising out of the single group of facts which was originally claimed to have brought about the unlawful injury to the plaintiff does not change the cause of action.” *Id.*
iv. **Modification of Limitation Period by Contract.** Generally, parties are free to enter into contracts modifying the limitations period regarding a particular claim. Statutes, in certain circumstances, may restrict the parties’ ability to do so, however. See, e.g., General Statutes § 38a-336 (g) (restricting insurance company’s ability to limit the time to bring an action to less than three (3) years). Our Supreme Court has indicated that such statutes do not necessarily violate the contract clause of the United State Constitution. See *Serrano v. Aetna Ins. Co.*, 233 Conn. 437, 455–56 (1995).

16. **Discovery.** The Practice Book provides a number of different mechanisms for discovery. Discovery shall be permitted if the disclosure sought would be of assistance in the prosecution or defense of the action and if it can be provided by the disclosing party or person with substantially greater facility than it could otherwise be obtained by the party seeking disclosure. It shall not be ground for objection that the information sought will be inadmissible at trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. Practice Book § 13-2. The existence, contents and policy limits of any insurance policy under which any insurer may be liable to satisfy part or all of a judgment which may be rendered in the action against any party or to indemnify or reimburse any defendant for payments made to satisfy the judgment shall be subject to discovery by any party by interrogatory or request for production. Practice Book § 13-12. A party may obtain discovery of documents prepared in anticipation of litigation or for trial only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of the case and is unable, without undue hardship, to obtain the substantial equivalent of the materials from other means, although the judicial authority shall not order the disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative. Practice Book § 13-3 (a). A party shall disclose expert witnesses as well, including the names, addresses, and employers of such experts along with each expert’s opinion and the substance related thereto, which may be expressed in a contemporaneous written report. Practice Book § 13-4.

a. **Depositions.** Any party, where the judicial authority finds it reasonably probable that evidence outside the record will be required may take the testimony of any person, including a party, by deposition upon oral examination, which may be compelled by subpoena. Practice Book § 13-26. A party who wishes to take the deposition of any person upon oral examination shall give notice in writing to every other party to the action. Practice Book § 13-27 (a). At trial, any part or all of a deposition, so far admissible under the rules of evidence, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof (1) for the purpose of impeaching or contradicting the testimony of the deponent as witness, (2) in lieu of testimony at trial for enumerated physicians, (3) in lieu of testimony at trial for an officer, director, managing agent or employee of a corporation, partnership, association or government agency which is a party, or (4) any other reason on account that (a) the witness is dead, (b) the witness is in excess of thirty (30) miles or out of state,
(c) the witness is unable to attend because of age, illness, infirmity or incarceration, (d) the party offering the deposition was unable to procure the attendance of the witness by subpoena; (e) the parties agreed that deposition may be so used, or (f) there exist exceptional circumstances. Practice Book § 13-31 (a).

b. **Interrogatories.** Any party may serve written interrogatories upon any other party to be answered by the party served. Practice Book § 13-6 (a). Interrogatories may relate to any matters which can be inquired into under Practice Book § 13-2 through Practice Book § 13-5 and the answer may be used to the extent permitted by the rules of evidence, except standard interrogatory forms shall be used in actions alleging liability based on the operation or ownership of a motor vehicle or alleging liability based on the ownership, maintenance, or control of real property. Practice Book § 13-6 (b). Interrogatories shall be answered under oath by the party directed and shall be served within thirty (30) days after the date of certification unless a stipulation has been agreed to, extension has been granted, or an objection has been filed. Practice Book § 13-7 (a). An objection to one or more interrogatories shall not relieve the party from answering the remaining interrogatories within the thirty (30) day time period. Practice Book § 13-7 (c). Objections to interrogatories shall be immediately preceded by the interrogatory objected to, set forth the reasons for the objection, and be signed by the attorney or self-represented party, except no objections shall be had for standard form interrogatories. Practice Book § 13-8 (a). The party serving the interrogatories may file a motion for order of compliance under Practice Book § 13-14 for the failure to answer the interrogatories. Practice Book § 13-7 (c). All written or recorded statements of witnesses and parties, including a statement of a party made to a representative of an insurance company prior to the involvement of defense counsel, are discoverable to an opposing party. Practice Book Form Interrogatory 201.

c. **Requests for Production, Inspection and Examination.** Any party may serve on any other party a request to inspect or reproduce documents or tangible things or to permit entry upon designated land or other property for the purpose of inspection, measuring, surveying, photographing, testing or sampling the property. In all personal injury actions alleging liability based on the operation or ownership of a motor vehicle or liability based on ownership, maintenance or control of real property, the requests shall be limited to those set forth in the standard forms of the rules of practice unless the judicial authority, upon motion, otherwise determines. Practice Book § 13-9. A written response is required within thirty (30) days after the service of the request unless a stipulation or extension is granted, or the party files an objection thereto, but such objection to one part of the request shall not relieve the party from responding to any remaining unobjectionable requests. Practice Book § 13-10.

d. **Physical and Mental Examination of Persons.** In any civil action where the mental or physical condition of a party is at issue, the judicial authority may order
the party to submit to an independent medical examination (IME). Practice Book § 13-11 (a). This includes an examination of a plaintiff in any action for personal injuries, which examination shall be had by request. Practice Book § 13-11 (b). Any request shall be complied with unless the plaintiff files a written objection thereto stating the reason or reasons for such objection. Practice Book § 13-11 (b). In all other actions besides those based on personal injuries, a party must file a motion for good cause shown in order to obtain an examination. Practice Book § 13-11 (c). A report from the examination shall be provided to the plaintiff. Practice Book § 13-11 (d). Likewise, the plaintiff is obligated to provide a report for any examinations previously or thereafter conducted. Practice Book § 13-11 (d). Practice Book § 13-11 and General Statutes § 52-178a allow a plaintiff an unconditional right to object to an IME with a particular doctor. No appellate authority exists, but different Superior Court Judges have held that while the Court cannot compel an examination with a particular doctor, the Court can, in its discretion, impose sanctions on a plaintiff such as being subject to cross examination about their refusal to attend the IME or preclusion of certain evidence. Wallace v. Commerce Properties, Inc., 26 Conn. L. Rptr. 25 (1999). Certain judges have resolved a plaintiff’s objection by allowing the plaintiff to submit a list of doctors to whom they would not object. Moore v. Minton, 23 Conn. L. Rptr. 109 (1998). Other judges have declined to follow the decision in Moore because “the result is that the plaintiff indirectly chooses his opponent’s team.” Villoch v. Reznikoff, 31 Conn. L. Rptr. 734 (2002).

e. Requests for Admission. A party may serve upon any other party requests for the admission, for the pending action only, of the truth of any matter relevant to the subject matter of the pending action that relate to statements or opinions of fact or of the application of law to fact, including the existence, due execution and genuineness of any documents described in the request. Practice Book § 13-22 (a). Any matter set forth in such request shall be deemed admitted unless, within thirty (30) days after the filing of such request, the party upon whom such request is served files an answer. Practice Book § 13-23 (a).

f. Failure to Make Discovery. If any party has failed to appear and testify at a deposition duly noticed or has failed otherwise substantially to comply with any other discovery order, the discovering party may move for an order compelling discovery. Practice Book § 13-14 (a). The court may also order various sanctions, including reasonable attorney’s fees and costs associated with the motion. Practice Book § 13-14 (b).

g. Expert Discovery / Discoverability of Communications with Disclosed Experts. Practice Book § 13-4 (b) (3) mandates a party to disclose all documents “obtained, created and/or relied upon by the expert in connection with his or her opinions in the case.” Therefore, all communications with or documents sent to an expert are ultimately discoverable by the opposing party.
17. **Motion Practice.** Every motion or request shall be in writing and served on all parties. Practice Book § 11-1. A memorandum of law shall accompany any (1) motions to implead or other motions regarding parties, (2) motions to dismiss other than for lack of diligence, (3) motions to strike, (4) motions to set aside judgment, and (5) motions for summary judgment. Practice Book § 11-10. Matters to be placed on the short calendar shall be assigned automatically by the clerk but not on any calendar within five (5) days of the filing. Practice Book § 11-15. Oral argument is at the discretion of the judicial authority except as to motions to dismiss, motions to strike, motions for summary judgment, motions for judgment of foreclosure, and motions for judgment on the report of an attorney trial referee. Practice Book § 11-18. The date for any matter scheduled for argument shall be set by the judge scheduled to hear the matter. Practice Book § 11-8 (b).

A motion to dismiss, other than a motion to dismiss for lack of subject matter jurisdiction, must be filed within the order of pleadings set forth in Practice Book § 10-6 and otherwise within thirty (30) days of the filing of an appearance. Practice Book §§ 10-30, 10-32 and 10-33. Any adverse party shall have thirty (30) days from the filing of the motion to file a memorandum of law in opposition along with affidavits as to facts not apparent on the record. Practice Book § 10-31 (a). The motion shall be placed on the short calendar not less than forty-five (45) days following the filing of the motion, and if an evidentiary hearing is required any party shall file a request for such hearing with the court. Practice Book § 10-31 (b). A motion to strike must be filed within the order of pleadings set forth in Practice Book § 10-6. Practice Book § 10-7. Any adverse party shall have thirty (30) days from the filing of the motion to file a memorandum of law in opposition. Practice Book § 10-40 (a). The motion shall be placed on the short calendar not less than forty-five (45) days following the filing of the motion. Practice Book § 10-40 (b).

A party may move for summary judgment as to any claim or defense at any time so long as the time for filing specified in any scheduling order has not passed or, if no scheduling order exists, the case has not been assigned for trial. Practice Book § 17-44. If the case has been assigned for trial, a party may file a motion for permission to file a motion for summary judgment, which is in the discretion of the judicial authority. *Id.* The motion shall be supported by such documents as may be appropriate including but not limited to affidavits and certified transcripts. Practice Book § 17-45. The motion shall be placed on the short calendar not less than fifteen (15) days following the filing of the motion but any adverse party may, within ten (10) days thereof, file a request for extension of time to respond to the motion, in which case, the clerk shall grant such request and cause the motion to appear on the short calendar not less than thirty (30) days from the filing of the request. *Id.* Any adverse party shall file opposing affidavits and other documentary evidence at least five (5) days before the motion is to be considered. *Id.*

A party may file a motion to reargue a decision or order by the court within twenty (20) days of such decision or order. Practice Book § 11-12. A decision on any short calendar matter shall be issued within one hundred twenty (120) days of the submission, which is determined by the later of the date that the last brief is filed or the date of the oral argument. Practice Book § 11-19 (a).
18. **Jury Selection.** The Constitution of Connecticut guarantees a right to a jury trial of no less than six (6) jurors. Conn. Const., art. 1, § 19, as amended by Conn. Const., amend. art. 4, § 19. The constitution also guarantees the right to question each juror individually. *Id.* In civil cases, parties are permitted three (3) peremptory challenges except where a unity of interest exists between several parties, in which the court may consider them jointly or separately for the purpose of making challenges, but in no case shall the total number of challenges granted to the plaintiff(s) be more than twice those granted to the defendant(s) and vice versa. General Statutes § 51-241.

19. **Interest on Judgments.** The rate of interest in a negligence action is ten (10) percent to be computed from the date that is twenty (20) days after the date of judgment or the date that is ninety (90) days after the date of verdict, whichever is earlier. General Statutes § 37-3b.

20. **Costs and Attorney’s Fees.** Costs are permitted in civil actions. See General Statutes § 52-257. Nevertheless, the prevailing party generally is not entitled to attorney’s fees and costs absent a contractual or statutory exception, or upon a finding of bad faith conduct on the part of the other party or the other party’s attorney. *ACMAT Corp. v. Greater New York Mutual Ins. Co.*, 282 Conn. 576, 582 (2007). Statutory exceptions in which attorney’s fees may be awarded include actions under the CUTPA and actions under the Connecticut Products Liability Act (CPLA). See, e.g., General Statutes §§ 42-110g (g) and 52-240a.

21. **Offer of Compromise.** In a negligence action, a plaintiff may file an offer of compromise one hundred eighty (180) days after service of process upon the defendant but no later than thirty (30) days before trial. General Statutes § 52-192a (a). The defendant has thirty (30) days to accept the offer at which time the plaintiff shall withdraw the action. *Id.* Any offer not accepted is deemed rejected. *Id.* If at trial the plaintiff receives a judgment greater than the offer, then the court shall award interest at eight (8) percent annually from the date of the complaint if the offer was filed not later than eighteen (18) months from the filing of such complaint or, otherwise, from the date of the offer. General Statutes § 52-192a (c).

In a contract action, the defendant may file an offer of compromise not later than thirty (30) days before trial. General Statutes § 52-193. The plaintiff has sixty (60) days to accept the offer at which time the plaintiff shall withdraw the action. General Statutes § 52-194. Any offer not accepted is deemed to be withdrawn. General Statutes § 52-195 (a). If at trial, the plaintiff receives a judgment less than the offer calculated with interest from its date, then the plaintiff shall receive no costs from the date of its filing, but rather pay the defendant’s costs including attorney’s fees up to three hundred fifty dollars ($350). General Statutes § 52-195 (b).
22. Appellate Practice.

a. Filing Appeals. In general, appeals from the Superior Court proceed to the Appellate Court. General Statutes § 51-197a (a). A number of appeals proceed directly to the Supreme Court, however, including an appeal in any matter where the Superior Court declares a state statute or any provision of the state Constitution invalid. General Statutes § 51-199 (b) (2). With respect to a decision from any state agency, all appeals shall be taken to the Superior Court. General Statutes § 51-197b (a). There shall be a further right to appeal any decision of the Superior Court respecting the prior decision of an agency to the Appellate Court. General Statutes § 51-197b (d). Appeals from decisions of the Compensation Review Board respecting workers’ compensation proceed to the Appellate Court directly, however. General Statutes § 31-301b. Decisions from the Small Claims Court are not appealable. General Statutes § 51-197a (a).

Generally, most appeals must be filed within twenty (20) days from notice of the judgment or decision from which to appeal. Practice Book § 63-1. Nevertheless, the trial judge may grant an extension of up to twenty (20) days in which to appeal. Practice Book § 66-1 (a). Moreover, any party may defer by notice an appeal until the entire case is concluded. Practice Book § 61-5. Appeals are filed in the “original trial court or the court to which the case was transferred or in any judicial district court in the state.” Practice Book § 63-3. Within ten (10) days of filing the appeal, the appellant must file with the appellate clerk an original and copy of the endorsed appeal form, the docket sheet, papers required under Practice Book § 63-4, and proof that a copy of the endorsed appeal form was transmitted to the original trial court and any court to which the case was subsequently transferred. Practice Book §§ 63-3 and 62-4. An appellee must file a cross-appeal within ten (10) days of the filing of the appeal. Practice Book § 61-8.

There is no absolute right of appeal from a final decision or determination of the Appellate Court to the Supreme Court except upon certification. General Statutes § 51-197f. A party must file a petition for certification by the Supreme Court within twenty (20) days from the date that the appellate opinion is released or issuance of notice of any order or judgment finally determining a cause in the Appellate Court. Practice Book § 84-4 (a). The Supreme Court may further transfer any appeal in the Appellate Court to itself or transfer any matter from itself to the Appellate Court, except for any matter brought under its original jurisdiction. General Statutes § 51-199 (c).

b. Appeals Permitted. In general, in order to appeal, (1) a party must be aggrieved by the decision appealed from and (2) the decision must be final. Practice Book § 61-1. A judgment is final if it disposes of an entire complaint, counterclaim or cross complaint (Practice Book § 61-2), disposes of all claims brought by or against one party (Practice Book § 61-3), or is otherwise determined by the trial judge that an appeal is justified, and the Chief Judge or Chief Justice having