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2015 Edition

Enforcement of Family and Foreign Matrimonial Judgments in Connecticut

A Guide to Resources in the Law Library

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Introduction

A Guide to Resources in the Law Library

- **Contempt:** "To find a party in contempt, a trial court must conclude that a party has disobeyed an order of the court. Contempt is a disobedience to the rules and orders of a court which has power to punish for such an offense . . . A civil contempt is one in which the conduct constituting the contempt is directed against some civil right of an opposing party and the proceeding is **initiated by him.**' (Citations omitted; internal quotation marks omitted.) *Fitzgerald v. Fitzgerald*, 16 Conn. App. 548, 551, 547 A.2d 1387, cert. denied, 210 Conn. 802, 553 A.2d 615 (1988)." [Castro v. Castro](#), 31 Conn. App. 761, 764, 627 A.2d 452 (1993).
- **Standard of proof:** "Following a review of persuasive indirect civil contempt case law, we ultimately conclude that, under Connecticut law, such **proceedings should be proven by clear and convincing evidence**" [Brody v. Brody](#), 315 Conn. 300, 318, 105 A.3d 887 (2015).
- **Court Order Must Be Obeyed:** ". . . an order entered by a court with proper jurisdiction 'must be obeyed by the parties until it is reversed by orderly and proper proceedings.' (Internal quotation marks omitted.) [*Cologne v. Westfarms Associates*, 197 Conn. 141, 145, 496 A.2d 476 (1985)] Id. We noted that a party has a duty to obey a court order 'however erroneous the action of the court may be. . . .' (Internal quotation marks omitted.) Id. We registered our agreement with the 'long-standing rule that a contempt proceeding does not open to reconsideration the legal or factual basis of the order alleged to have been disobeyed. . . .' (Internal quotation marks omitted.) Id., 148. Finally, we emphasized that 'court orders must be obeyed; there is no privilege to disobey a court's order because the alleged contemnor believes that it is invalid.'" [Mulholland v. Mulholland](#), 229 Conn. 643 (1994), 649, 643 A.2d 246.
- **Motion for Clarification:** ". . . we conclude that where there is an ambiguous term in a judgment, a party must seek a clarification upon motion rather than resort to self-help." [Sablosky v. Sablosky](#), 258 Conn. 713, 720, 784 A.2d 890 (2001).
- **Standard of Appellate Review:** "A finding of contempt is a question of fact, and our standard of review is to determine whether the court abused its discretion in failing to find that the actions or inactions of the [party] were in contempt of a court order. . . . To constitute contempt, a party's conduct must be wilful. . . . Noncompliance alone will not support a judgment of contempt." (Citation omitted; internal quotation marks omitted.) [Prial v. Prial](#), 67 Conn. App. 7, 14, 787 A.2d 50 (2001).
- **Appealable Final Order:** "We conclude, therefore, that a civil contempt finding based upon the determination of an arrearage under a dissolution decree is an appealable final order, and that the Appellate Court had jurisdiction over the plaintiff's appeal." [Bryant v. Bryant](#), 228 Conn. 630, 636, 637 A.2d 1111 (1994).

Section 1: Contempt

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to contempt and the enforcement of family judgments in Connecticut

TREATED ELSEWHERE:

- [Enforcing Money Judgments](#)
- [Enforcement of Alimony](#)
- [Enforcement of Child Support](#)

DEFINITIONS:

- **Contempt:** "Contempt is a disobedience to the rules and orders of a court which has power to punish for such an offense." [State v. Jackson](#), 147 Conn. 167, 168-169, 158 A.2d 166 (1960).
- "Contempt may be civil or criminal in character." *Ibid*, 169.
- **Civil contempt:** "A civil contempt is one in which the conduct constituting the contempt is directed against some civil right of an opposing party and the proceeding is initiated by him." [State v. Jackson](#), *supra*, 169.
- In civil contempt proceedings, 'the punishment must be conditional and coercive' and 'the contemnor must be in a position to purge himself.' (Citations omitted; internal quotation marks omitted.) *Mays v. Mays*, 193 Conn. 261, 266, 476 A.2d 562 (1984)." [Wilson v. Cohen](#), 222 Conn. 591, 599, 610 A.2d 1177 (1992).
- **Indirect civil contempt:** "Contempts of court may also be classified as either direct or indirect, 'the test being whether the contempt is offered within or outside the presence of the court.' 17 am. Jur. 2d, Contempt § 6; see also Goldfarb, [The Contempt Power (1963)] 67-77. A refusal to comply with an injunctive decree is an indirect contempt of court because it occurs outside the presence of the trial court..." [Cologne v. Westfarms Associates](#), 197 Conn. 141, 150, 496 A.2d 476 (1985).
- **Standard of proof:** "Following a review of persuasive indirect civil contempt case law, we ultimately conclude that, under Connecticut law, such proceedings should be proven by clear and convincing evidence" [Brody v. Brody](#), 315 Conn. 300, 318, 105 A.3d 887 (2015).
- **Criminal contempt:** "Criminal contempt is conduct which is directed against the dignity and authority of the court. In such a case, the court may punish the offender on its own motion, without the presentation of any charge, formal or otherwise, and solely upon facts within its own knowledge. When the offense is committed in the presence of the court, punishment may be imposed at

once. This power inheres in, and is essential to, any court, in order that it may be enabled to administer justice." [State v. Jackson](#), supra, 169.

- "This court has repeatedly stated that '[i]n this class of contempt, the proceedings are criminal in nature but do not constitute a criminal prosecution.'" [Wilson v. Cohen](#), supra, 600.
- **Child Support:** "Contempt proceedings are a proper means of enforcing a court order of child support. A willful failure to pay court ordered child support as it becomes due constitutes indirect civil contempt. *Duve v. Duve*, 25 Conn. App. 262, 269, 594 A.2d 473, cert. denied, 220 Conn. 911, 597 A.2d 332 (1991); see General Statutes 46b-215. In the absence of a stay, the trial court continues to have jurisdiction to enforce its orders during an appeal from those orders. *Hartford Federal Savings and Loan Assn. v. Tucker*, 192 Conn. 1, 7, 469 A.2d 778 (1984)." [Mulholland v. Mulholland](#), 31 Conn. App. 214, 220-221, 624 A.2d 379 (1993).
- **Motion for Clarification:** ". . . we conclude that where there is an ambiguous term in a judgment, a party must seek a clarification upon motion rather than resort to self-help." [Sablosky v. Sablosky](#), 258 Conn. 713, 720, 784 A.2d 890 (2001).
- **Standard of Appellate Review:** "A finding of contempt is a question of fact, and our standard of review is to determine whether the court abused its discretion in failing to find that the actions or inactions of the [party] were in contempt of a court order. . . . To constitute contempt, a party's conduct must be willful. . . . Noncompliance alone will not support a judgment of contempt." (Citation omitted; internal quotation marks omitted.) [Priol v. Priol](#), 67 Conn. App. 7, 14, 787 A.2d 50 (2001).
- **Appealable Final Order:** "We conclude, therefore, that a civil contempt finding based upon the determination of an arrearage under a dissolution decree is an appealable final order, and that the Appellate Court had jurisdiction over the plaintiff's appeal." [Bryant v. Bryant](#), 228 Conn. 630, 636, 637 A.2d 1111 (1994).

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)
 - [§ 51-33](#). Punishment for contempt of court
 - [§ 51-33a](#). Criminal contempt
 - [§ 52-256b](#). Award of attorney's and officer's fees in contempt action

COURT RULES:

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

- Connecticut Practice Book (2015 Edition)
 - [Chapter 1](#). Scope of the rules
 - § 1-13A. Contempt
 - § 1-14. —Criminal Contempt
 - § 1-15. —Who may be Punished [Repealed]
 - § 1-16. —Summary Criminal Contempt
 - § 1-17. —Deferral of Proceedings
 - § 1-18. —Nonsummary Contempt Proceedings
 - § 1-19. —Judicial Authority Disqualification in Nonsummary Contempt Proceedings
 - § 1-20. —Where No Right to Jury Trial in Nonsummary Proceeding
 - § 1-21. —Nonsummary judgment
 - § 1-21A. —Civil Contempt
 - [Chapter 25](#). Superior Court—Procedure in Family Matters
 - § 25-27. Motion for Contempt
 - § 25-63. Right to Counsel in Family Civil Contempt Proceedings
 - § 25-64. —Waiver

FORMS:

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

- [Filing a Motion for Contempt](#)
- [JD-FM-173. Motion for Contempt/Contempt Citation](#) [Official form]
- [JD-FM-173H. Motion for Contempt/Contempt Citation Help File](#)
- MacNamara, Welsh, and George, editors. [Library of Connecticut Family Law Forms](#) (2d ed. 2014)
 - 5-036 Motion for Contempt Re: Automatic Orders
 - 16-000 Commentary – Post Judgment Pleadings, p. 542
 - 16-007 Motion for Contempt Re: Alimony Payments
- 8 Arnold H. Rutkin et al., [Connecticut Practice Series, Family Law And Practice with Forms](#) (3d ed. 2010).
 - Chapter 34 Modification of Alimony Provisions
 - § 34.6 *Motion for Contempt* – Form
- 2 [Family Law Practice In Connecticut](#) (1996)
 - 14.13 *Form for contempt and order to show cause*

CASES:

- [Pace v. Pace](#), 134 Conn. App. 212, 222, 39 A.3d 756 (2012). “Practice Book § 25–26 permits the court, when a party who is in arrears files a motion for modification, to consider whether the arrearage has accrued without sufficient excuse so as to constitute contempt and to determine whether any modification of alimony and child support shall be ordered prior to the payment of any

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.

arrearage found to exist. The court apparently did not find credible the plaintiff's claim that he was unable to pay alimony and child support, and found his claim in his motion for modification that he depleted his retirement accounts in order to pay his support obligations to be factually inaccurate. We cannot conclude that it was an abuse of discretion for the court to order the plaintiff to pay the arrearage not only in light of Practice Book § 25-26, but also because the defendant's motion for contempt was considered simultaneously with the **plaintiff's motion for modification.**"

- [Giordano v. Giordano](#), 127 Conn. App. 498, 502, 14 A.3d 1058 (2011) "[O]ur analysis of a [civil] judgment of contempt consists of two levels of inquiry. First, we must resolve the threshold question of whether the underlying order constituted a court order that was sufficiently clear and unambiguous so as to support a judgment of contempt.... This is a legal inquiry subject to de novo review.... Second, if we conclude that the underlying court order was sufficiently clear and unambiguous, we must then determine whether the trial court abused its discretion in issuing, or refusing to issue, a judgment of contempt, which includes a review of the trial court's determination of whether the violation was wilful or excused by a good faith dispute or **misunderstanding.**' (Internal quotation marks omitted.) *In re Marcus S.*, 120 Conn. App. 745, 749-50, 994 A.2d 253, cert. denied, 297 Conn. 914, 995 A.2d 955 (2010)."
- [Behrns v. Behrns](#), 124 Conn. App. 794, 809, 6 A.3d 184 (2010) "In Connecticut, the general rule is that a court order must be followed until it has been modified or successfully challenged. *Eldridge v. Eldridge*, [supra, 244 Conn. 530]; *Behrns v. Behrns*, [supra, 80 Conn. App. 289]. Our Supreme Court repeatedly has advised parties against **engaging in 'self-help' and has stressed that an 'order of the court must be obeyed until it has been modified or successfully challenged.'** . . . *Sablosky v. Sablosky*, [258 Conn. 713, 719, 784 A.2d 890 (2001)]; see also *Eldridge v. Eldridge*, supra, 528-32 (good faith belief that party was justified in suspending alimony payment did not preclude finding of contempt)."
- [Fromm v. Fromm](#), 108 Conn. App. 376, 378, 948 A.2d 328 (2008). "Unlike *Bozzi*, [Bozzi v. Bozzi, supra, 177 Conn. 232] the claimed prejudice in the present case is the fact that the defendant deliberately made it impossible for the plaintiff to comply with his alimony and support obligations. She also **made no 'motion in the Superior Court alleging the plaintiff's wilful failure to pay alimony and child support.'** The record supports the plaintiff's contention that he changed his position regarding his obligations as a result of her conduct."

- [Rivnak v. Rivnak](#), 99 Conn. App. 326, 335, 913 A.2d 1096 (2007). “Contempt proceedings are a proper means of enforcing a court order of child support. A willful failure to pay court ordered child support as it becomes due constitutes **indirect civil contempt.**’ *Mulholland v. Mulholland*, 31 Conn. App. 214, 220, 624 A.2d 379 (1993), aff’d, 229 Conn. 643, 643 A.2d 246 (1994); see also General Statutes § 46b-215.”
- [Nunez v. Nunez](#), 85 Conn. App. 735, 739-740, 858 A.2d 873 (2004). “In *Mallory v. Mallory*, 207 Conn. 48, 57, 539 A.2d 995 (1988), the defendant father claimed that he was too poor to meet his court-ordered financial obligations. Our Supreme Court, after stating that inability to obey an order **qualifies as a proper defense to contempt, stated: ‘The defendant in the case at bar, however, failed to seek a modification of his child support obligations until after the plaintiff had instituted contempt proceedings against him. In these circumstances, the trial court did not err in finding the defendant in contempt, at least in regard to the child support arrearage accumulated before he sought a modification of the child support orders.’ Id. It concluded that under those circumstances, a finding of contempt was proper.** Subsequently, in *Sablosky v. Sablosky*, supra, 258 Conn. 713, our Supreme Court stated that ‘[a]lthough one party may believe that his or her situation satisfies this standard [of changed circumstance], *until a motion is brought to and is granted by the court, that party may be held in contempt in the discretion of the trial court if, in the interim, the complaining party fails to abide by the support order.*’ (Emphasis added.) Id., 722; see also *Bunche v. Bunche*, 36 Conn. App. 322, 325, 650 A.2d 917 (1994) (order of court **must be obeyed until modified or successfully challenged).**”
- [Mulholland v. Mulholland](#), 31 Conn. App. 214, 215-216, 624 A.2d 379 (1993). “The sole question presented by this appeal is whether a trial court may render a judgment of contempt after an appellate court has reversed the underlying order where the acts constituting the contempt occurred prior to the reversal. We conclude that the sanction of contempt may be imposed on a party for the willful failure to pay any sums due under an order of child support that is on appeal at the time of the nonpayment, regardless of whether the sanction is imposed before or after the appellate reversal. This conclusion is dictated by our rules of practice, **our case law and by sound considerations of public policy.**”

DIGESTS:

- West Key Numbers *Divorce* #1000-1099, Enforcement of Judgment or Decree.
- *Divorce* #1100-1129, Contempt .
- Dowling’s Digest *Dissolution of marriage* § 18

SUBJECT HEADINGS:

- Connecticut Family Law Citations
Contempt

ENCYCLOPEDIAS:

- 24A [Am. Jur. 2d](#) *Divorce and Separation* (2008)
§§ 774-846. Enforcement of judgment, decree, or order;
Provisional remedies
§§ 831-846. Contempt proceedings
- 27B [C.J.S.](#) *Divorce* (2005).
§§ 709-785. Enforcement of order or decree
§ 721-742. Contempt proceedings

TEXTS & TREATISES:

- 8 Arnold H. Rutkin et al., [Connecticut Practice Series, Family Law And Practice with Forms](#) (3d ed. 2010).
Chapter 34. Enforcement of alimony and child support provisions of judgment
§ 34.4. Contempt proceedings
§ 34.5. Contempt procedure
§ 34.8. Hearing
§ 34.10. Necessity of counsel in contempt proceedings
§ 34.17. Contempt penalties and terms of payment
§ 34.18. Contempt penalties—incarceration
- 4 Arnold H. Rutkin, gen ed., [Family Law and Practice](#) (2013).
Chapter 47. Enforcement of court orders
§ 47.06. Contempt, Relief to litigant and incarceration
[1] Introduction
[2] Necessity to show intentional default
[a] Constitutional considerations; Notice and hearing requirements
[3] Necessity to show lack of effectiveness of other remedies
[4] Extent of arrears
[5] Hearing considerations; Proof requirements
[a] Use of disclosure devices
[b] Selection and orientation of witnesses and client
[6] Right to purge
[7] Contempt defenses
[8] Orders in aid of enforcement of litigant's rights
[9] Commitment
[10] Summary proceedings in courts of limited jurisdiction
- 2 [Family Law Practice In Connecticut](#) (1996).
Chapter 14. Enforcement of judgment by John F. Morris
III. Enforcement against the person: Contempt and other remedies
A. Contempt
1. [14.7] In general
a. [14.8] Definition of contempt
b. [14.9] Civil contempt

- c. [14.10] Criminal contempt
- d. [14.11] Indirect contempt
- e. [14.12] Direct contempt
- 6. [14.20] Order and punishment

- Crouch, Richard E. [Family Law Checklists](#) (2003).
Chapter 6. Alimony/Spousal Maintenance
XIV. Enforcement
6: 33 Legal Principles
6: 34 To enforce by contempt-Steps
6: 35 Additional enforcement devices
Chapter 7. Child Support
XIV. Enforcement
7: 25 Legal Principles
7: 26 Steps to enforce child support by contempt
7: 27 Additional details on special enforcement
devices, operative distinctions

LAW REVIEWS:

Public access to law review databases is available on-site at each of our law libraries.

- Leal, Manuel D. *Why there is disobedience of court orders: Contempt of court and neuroeconomics*. 26 [QLR](#) 1015 (2008).

Table 1: Requirements for Motion for Contempt

Requirements for Motion for Contempt	
Conn. Practice Book § 25-27 (2015)	
(a)	Each motion for contempt must state (1) the date and specific language of the order of the judicial authority on which the motion is based; (2) the specific acts alleged to constitute the contempt of that order, including the amount of any arrears claimed due as of the date of the motion or a date specifically identified in the motion; (3) the movant's claims for relief for the contempt.
(b)	Each motion for contempt must state clearly in the caption of the motion whether it is a pendente lite or a postjudgment motion, and the subject matter and the type of order alleged to have been violated.

Section 2: Defenses to Contempt

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to defenses of contempt in Connecticut

SEE ALSO:

- [§ 3 Laches and Estoppel](#)

DEFINITION:

- **Inability:** "The inability of the defendant to obey an order of the court, without fault on his part, is a good defense to a charge of contempt." [Tobey v. Tobey](#), 165 Conn. 742, 746, 345 A.2d 21 (1974).
- **Wilfulness:** "To constitute contempt, a party's conduct must be wilful. . . . Noncompliance alone will not support a judgment of contempt." [Priol v. Priol](#), 67 Conn. App. 7, 14, 787 A.2d 50 (2001).
- **Actual Notice:** "In holding that 46b-46 (b) permits the court to modify a dissolution judgment to require a nonresident defendant to pay child support if the nonresident had actual notice of the modification proceedings, we reach a result that is consistent with that reached by courts that have faced similar questions in other jurisdictions." [Jones v. Jones](#), 199 Conn. 287, 294, 507 A.2d 88 (1986).

COURT RULES:

- Connecticut Practice Book (2015 Edition)
[Chapter 25](#) Superior Court—Procedure in family matters
[§ 25-27. Motion for contempt](#)

FORMS:

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

- [Filing a Motion for Contempt](#)
- [JD-FM-173. Motion for Contempt/Contempt Citation](#) [Official form]
- [JD-FM-173H. Motion for Contempt/Contempt Citation Help File](#)
- MacNamara, Welsh, and George, editors. [Library of Connecticut Family Law Forms](#) (2d ed. 2014).
5-036 Motion for Contempt Re: Automatic Orders
16-007 Motion for Contempt Re: Alimony Payments
- Joel M. Kaye et al. 3 [Connecticut Practice Series, Civil Practice Forms, Connecticut Practice Book](#) (4th ed. 2004).
Form 506.2 - Motion for Contempt Pendente Lite

CASES:

- [Carpender v. Sigel](#), 142 Conn. App. 379, 382, 385, 67 A.3d 1011 (2013). "The defendant filed a post-judgment motion for contempt requesting that the plaintiff be held in contempt for her failure to comply with the payment of educational and other expenses...."

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.

"On the basis of the record provided, we cannot determine that there was error in the court's judgment. There was evidence in the record to support the court's factual findings that the plaintiff did not believe that the parties' son was ready to attend Long Island University, that he was not a good student and that a different school would be better. Given the evidence, the court had a reasonable basis on which to conclude that the plaintiff did not unreasonably withhold her consent to their son's enrollment at Long Island University, and, **therefore, there was no abuse of discretion.**"

- [Miller v. Miller](#), 124 Conn. App. 36, 38, 3 A.3d 1018 (2010). **"The defendant also filed a 'motion for contempt, modification and termination,' alleging that the plaintiff had violated the separation agreement by failing to notify him that she had been cohabiting with another individual. In its ruling on the contempt motions, filed January 2, 2009, the court found that the defendant had failed to establish that the plaintiff had been cohabiting with another individual. The court did not find the defendant in contempt, however, because the court concluded that his actions did not constitute a willful violation of the court's order. In this regard, the court found that although he was mistaken in his belief that the plaintiff was cohabiting, the defendant, nonetheless, honestly believed that he was no longer required to make alimony payments."**
- [Nunez v. Nunez](#), 85 Conn. App. 735, 739-740, 858 A.2d 873 (2004). **"In *Mallory v. Mallory*, 207 Conn. 48, 57, 539 A.2d 995 (1988), the defendant father claimed that he was too poor to meet his court-ordered financial obligations. Our Supreme Court, after stating that inability to obey an order qualifies as a proper defense to contempt, stated: 'The defendant in the case at bar, however, failed to seek a modification of his child support obligations until after the plaintiff had instituted contempt proceedings against him. In these circumstances, the trial court did not err in finding the defendant in contempt, at least in regard to the child support arrearage accumulated before he sought a modification of the child support orders.' *Id.* It concluded that under those circumstances, a finding of contempt was proper. Subsequently, in *Sablosky v. Sablosky*, supra, 258 Conn. 713, our Supreme Court stated that '[a]lthough one party may believe that his or her situation satisfies this standard [of changed circumstance], *until a motion is brought to and is granted by the court, that party may be held in contempt in the discretion of the trial court if, in the interim, the complaining party fails to abide by the support order.*' (Emphasis added.) *Id.*, 722; see also *Bunche v. Bunche*, 36 Conn. App. 322, 325, 650 A.2d 917 (1994) (order of court must be obeyed until modified or successfully challenged)."**
- [Eldridge v. Eldridge](#), 244 Conn. 523, 529, 710 A.2d 757 (1998). **"In order to constitute contempt, a party's conduct**

must be wilful A good faith dispute on legitimate misunderstanding of the terms of an alimony or support obligation may prevent a finding that **the payor's nonpayment was wilful.**"

- [Perry v. Perry](#), 222 Conn. 799, 805, 611 A.2d 400 (1992). "inability to pay an order is a defense to a charge of contempt however, . . . the defendant has the burden of proof on this issue"
- [Papcun v. Papcun](#), 181 Conn. 618, 620, 436 A.2d 608 (1980). "contention that the plaintiff is barred by laches from collecting the arrearage."
- [Farrell v. Farrell](#), 36 Conn. App. 305, 309, 650 A.2d 608 (1994). "The defendants also argue that the trial court incorrectly found by clear and convincing evidence that the three properties had been fraudulently conveyed. `A party who seeks to set aside a conveyance as fraudulent bears the burden of proving that the conveyance was made without substantial consideration and that, as a result, the transferor was unable to meet his obligations (constructive fraud) or that the conveyance was made with fraudulent intent in which the transferee participated (actual fraud).' *Tessitore v. Tessitore*, 31 Conn. App. 40, 42, 623 A.2d 496 (1993). `A fraudulent conveyance must be proven by clear and convincing evidence.' *Id.*, 43. Whether a conveyance is fraudulent is purely a question of fact. *Tyers v. Coma*, 214 Conn. 8, 11, 570 A.2d 186 (1990)."
- [Rule v. Rule](#), 6 Conn. App. 541, 543, 506 A.2d 1061 (1986). "The defendant moved to set aside the judgment, claiming that his counsel withdrew her appearance prior to the rendering of the Massachusetts contempt judgment and, therefore, it was not one in which `both parties [had] entered an appearance' as required by General Statutes § 46b-70."

DIGESTS:

- West Key Numbers *Divorce* §§ 1100-1129 Contempt § 1106. Defenses and excuses
- Dowling's Digest *Dissolution of marriage* § 18

SUBJECT HEADINGS:

- Connecticut Family Law Citations (George) Contempt

ENCYCLOPEDIAS:

- 24A [Am. Jur. 2d](#) *Divorce and Separation* (2008).
Spousal Support. Contempt. Defenses
§ 840. Generally
§ 841. Financial inability

Child Support. Contempt. Defenses.
§ 994. Generally
§ 995. Inability of obligor to pay amount owing

§ 996. Denial of visitation rights
§ 997. Statute of Limitations

- 27B [C.J.S. Divorce](#) (2005).
§ 724-727. Contempt proceedings. Prerequisites
- 8 Arnold H. Rutkin et al., [Connecticut Practice Series, Family Law And Practice with Forms](#) (3d ed. 2010).
Chapter 34. Enforcement of alimony and child support provisions of judgment
 - § 34.11. Excuse or defense to contempt claim
 - § 34.12. Inability to comply
 - § 34.13. Irregularities or uncertainties as to terms of original order
 - § 34.14. Laches and/or estoppel as a defense to contempt
 - § 34.15. Estoppel—in kind payments or other modifications
 - § 34.16. Misconduct by the complaining party
- 4 Arnold H. Rutkin, gen ed., [Family Law and Practice](#) (2013).
Chapter 47. Enforcement of court orders
 - § 47.06. Contempt, Relief to litigant and incarceration
 - [7] Contempt defenses
 - [a] Generally
 - [b] Inability to comply
 - [c] Substantial compliance
 - [d] Waiver and agreement
 - [e] Reconciliation
 - [f] Other defenses
- 2 [Family Law Practice In Connecticut](#) (1996).
Chapter 14. Enforcement of judgment
 - III. Enforcement against the person: Contempt and other remedies
 - A. Contempt
 - 5. [14.16] Defenses to contempt
 - a. [14.17] Validity of the order
 - b. [14.18]. Failure to comply with
 - c. [14.10]. Criminal contempt
 - d. [14.19] Lack of willfulness
- Joel M. Kaye et al. 3 [Connecticut Practice Series, Civil Practice Forms, Connecticut Practice Book, Authors' Comments](#) following Form 506.2, pp. 216-222 (2004).
- Crouch, Richard E. [Family Law Checklists](#) (2003).
Chapter 6. Alimony/Spousal Maintenance
 - XIV. Enforcement, sec. 6: 36 DefensesChapter 7. Child Support
 - XIV. Enforcement, sec. 7: 28 Defenses to enforcement

**TEXTS &
TREATISES:**

Section 3: Laches and Estoppel

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating Laches and/or Estoppel as a defense to contempt in alimony or child support

DEFINITIONS:

- **Laches:** "Laches consists of two elements. 'First, there must have been a delay that was inexcusable, and, second, that delay must have prejudiced the defendant.' The mere lapse of time does not constitute laches; . . . unless it results in prejudice to the defendant. . . . nor does the mere lapse of time (twenty-three years) relieve the defendant of his responsibility." [Bozzi v. Bozzi](#), 177 Conn. 232, 239, 413 A.2d 834 (1979).
- **Contempt:** "while a wife's long delay in attempting to enforce alimony payments does not destroy or affect the obligation of the husband to obey the order of the court, such delay is properly to be considered in determining whether a husband should be held in contempt for failure to pay. Not only may a wife's right to alimony be abandoned . . . but by her laches a divorced wife may be barred from the equitable aid of the court to secure payment of alimony arrears through use of the power of the court to punish for contempt." [Piacquadio v. Piacquadio](#), 22 Conn. Supp. 47, 50, 159 A.2d 628 (1960).
- **Arrearages:** "The issue to be decided by the court is whether contempt proceedings are available as a remedy to collect support arrearages after the child has reached the age of majority This court will hold that it has jurisdiction in a contempt proceeding to enter an order to pay child support on unpaid installments which accrued before the child reached majority, where the proceedings were commenced after the child reached majority." [Arnold v. Arnold](#), 35 Conn. Supp. 244, 245-246, 407 A.2d 190 (1979).
- **Estoppel:** "There are two essential elements to an estoppel--the party must do or say something that is intended or calculated to induce another to believe in the existence of certain facts and to act upon that belief; and the other party, influenced thereby, must actually change his position or do some act to his injury which he otherwise would not have done." [Fawcett v. New Haven Organ Company](#), 47 Conn. 224, 227[,1879 WL 1566 (1879).]" [Tradesmens National Bank of New Haven v. Minor](#), 122 Conn. 419, 424, 190 A. 270 (1937).
- **Due Diligence:** "It is fundamental that a person who claims an estoppel must show that he exercised due diligence to know the truth, and that he not only did not know the true state of things but also lacked any reasonably available

means of acquiring knowledge. *Myers v. Burke*, 120 Conn. 69, 76, 179 A. 88." [Spear-Newman, inc. v. Modern Floors Corporation](#), 149 Conn. 88, 91-92, 175 A.2d 565 (1961).

- **Special Defense:** "... special defense of equitable estoppel. 'In its traditional form the doctrine of equitable estoppel states that a party (1) who is guilty of a misrepresentation of existing fact including concealment, (2) upon which the other party justifiably relies, (3) to his injury, is estopped from denying his utterances or acts to the detriment of the other party.' . . . 'In considering the law of estoppel in Connecticut, we have stated: 'Under our well-established law, any claim of estoppel is predicated on proof of two essential elements: the party against whom estoppel is claimed must do or say something calculated or intended to induce another party to believe that certain facts exist and to act on that belief; and the other party must change its position in reliance on those facts, thereby incurring some injury. *Bozzi v. Bozzi*, 177 Conn. 232, 242, 413 A.2d 834 (1979); *Dupuis v. Submarine Base Credit Union, Inc.*, [170 Conn. 344, 353, 365 A.2d 1093 (1976)]; *Pet Car Products, Inc. v. Barnett*, 150 Conn. 42, 53-54, 184 A.2d 797 (1962)"; *Zoning Commission v. Lescynski*, [188 Conn. 724, 731, 453 A.2d 1144 (1982)].' *Kimberly-Clark Corporation v. Dubno*, 204 Conn. 137, 148, 527 A.2d 679 (1987).' *O'Sullivan v. Bergenty*, 214 Conn. 641, 648, 573 A.2d 729 (1990). "It is fundamental that a person who claims an estoppel must show that he has exercised due diligence to know the truth, and that he not only did not know the true state of things but also lacked any reasonably available means of acquiring knowledge.'"). [Connecticut National Bank v. Voog](#), 233 Conn. 352, 366-367, 659 A.2d 172 (1995).

STATUTES:

- Conn. Gen. Stat. (2015)
[§ 46b-87](#). Contempt of orders.

DIGESTS:

West Key Numbers *Pleading* # 76-100

SUBJECT HEADINGS:

- ALR: LACHES AND DELAY
- CONN. FAMILY LAW CITATIONS: Laches; Estoppel

FORMS:

- 19B. [Am Jur Pleading and Practice Forms](#) (2007).
Pleadings
§ 95 Answer—Defense—Laches

CASES:

- [Kasowitz v. Kazowitz](#), 140 Conn. App. 507, 513, 59 A.3d 347 (2013). "Laches is an equitable defense that consists of two elements. First, there must have been a delay that was inexcusable, and, second, that delay must have prejudiced the defendant.... The mere lapse of time does not constitute laches ... unless it results in prejudice to the defendant ... as where, for example, the defendant is led to change his position with respect to the matter in question.... Thus,

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.

prejudicial delay is the principal element in establishing the defense of laches.... The standard of review that governs appellate claims with respect to the law of laches is well established. A conclusion that a plaintiff has been guilty of laches is one of fact.... We must defer to the court's findings of fact unless they are clearly erroneous.' (Citations omitted; internal quotation marks omitted.) *Cifaldi v. Cifaldi*, 118 Conn. App. 325, 334–35, 983 A.2d 293 (2009); see also *Jarvis v. Lieder*, 117 Conn. App. 129, 149, 978 A.2d 106 (2009); *Sablosky v. Sablosky*, 72 Conn. App. 408, 413, 805 A.2d 745 (2002)."

- [Culver v. Culver](#), 127 Conn. App. 236, 246, 17 A.3d 1048 (2011). **"...the facts of this case do not demonstrate that the defendant exercised due diligence in ascertaining the legal effect of the parties' oral agreement. 'It is fundamental that a person who claims an estoppel must show that he has exercised due diligence to know the truth, and that he not only did not know the true state of things but also lacked any reasonably available means of acquiring knowledge.'** (Internal quotation marks omitted.) *Riscica v. Riscica*, supra, 101 Conn.App. at 205, 921 A.2d 633; see also *Boyce v. Allstate Ins. Co.*, 236 Conn. 375, 385–86, 673 A.2d 77 (1996)."
- [Fromm v. Fromm](#), 108 Conn. App. 376, 378, 948 A.2d 328 (2008). **"Unlike *Bozzi*, [Bozzi v. Bozzi, supra, 177 Conn. 232] the claimed prejudice in the present case is the fact that the defendant deliberately made it impossible for the plaintiff to comply with his alimony and support obligations. She also made no 'motion in the Superior Court alleging the plaintiff's wilful failure to pay alimony and child support.'** The record supports the plaintiff's contention that he changed his **position regarding his obligations as a result of her conduct."**
- [Sablosky v. Sablosky](#), 72 Conn. App. 408, 414-15, 805 A.2d 745 (2002). **"We now address the defense of equitable estoppel. '[A] claim of estoppel is predicated on proof of two essential elements: the party against whom estoppel is claimed must do or say something calculated or intended to induce another party to believe that certain facts exist and to act on that belief; and the other party must change its position in reliance on those facts, thereby incurring some injury. . . . It is fundamental that a person who claims an estoppel must show that he has exercised due diligence to know the truth, and that he not only did not know the true state of things but also lacked any reasonably available means of acquiring knowledge.'" (Internal quotation marks omitted.)**
"To find the plaintiff in contempt, the court must first find that there is in fact an arrearage due to the defendant, and if so, the court must find that the plaintiff's failure to pay the amounts ordered was a wilful violation of the court's order.

Before a modification can be ordered, it must be determined whether there has been a substantial change of circumstances in the financial status of either party. Lownds v. Lownds, 41 Conn. Sup. 100, 103-104, 551 A.2d 775 (1988).”

- Burrier v. Burrier, 59 Conn. App. 593, 596, 758 A.2d 373 (2000). “The burden is on the party alleging laches to establish that defense.”
- Papcun v. Papcun, 181 Conn. 618, 621, 436 A.2d 282 (1980). “A conclusion that a plaintiff has been guilty of laches is one of fact for the trier and not one that can be made by this court, unless the subordinate facts found make such a conclusion inevitable as a matter of law.”

ENCYCLOPEDIAS:

- 61A Am Jur 2d Pleading (2010)
VI. Answers, Pleas and Defenses
3. Affirmative Defenses §§ 270-281

TEXTS & TREATISES:

- 8 Arnold H. Rutkin et al., Connecticut Practice Series, Family Law And Practice with Forms, 3d ed. (2010).
Chapter 34. Enforcement of alimony and child support provisions of judgment
§ 34.14. Laches and/or estoppel as a defense to contempt
§ 34.15. Estoppel—In kind payments or other modifications
§ 34.16. Misconduct by the complaining party

Section 4: Foreign Matrimonial Judgments in Connecticut under UIFSA

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to the filing and enforcement in Connecticut of matrimonial judgments from other jurisdictions under Uniform Interstate Family Support Act (UIFSA), effective Jan. 1, 1998.

NOTICE:

- UIFSA (Conn. Gen Stat. sections 46b-212 through 46b-213w) was [repealed](#), effective July 1, 2015, and replaced with [Chapter 817](#), pursuant to H.B. 6973, [Public Act, 15-71](#), *An Act Adopting the Uniform Interstate Family Support Act of 2008*.
- A future update of this guide will integrate these changes.

SEE ALSO:

- [Section 5. Foreign Matrimonial Judgments in Connecticut under RURESA](#)

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.

- UIFSA (Conn. Gen Stat. sections 46b-212 through 46b-213w) was [repealed](#), effective July 1, 2015, and replaced with [Chapter 817](#), pursuant to H.B. 6973, [Public Act, 15-71](#), *An Act Adopting the Uniform Interstate Family Support Act of 2008*.
- Conn. Gen. Stat. (2015) **Repealed**
[Chapter 816](#). Support
Part Ia. Uniform Interstate Family Support Act
§ 46b-212. Short title: Uniform Interstate Family Support Act
§ 46b-212a. Definitions
§ 46b-212b. Tribunals of state
§ 46b-212c. Remedies cumulative
§ 46b-212d. Jurisdiction over nonresident
§ 46b-212e. Procedure when exercising jurisdiction over non resident
§ 46b-212f. Family Support Magistrate Division as initiating and responding tribunal
§ 46b-212g. Simultaneous proceedings in another state
§ 46b-212h. Continuing, exclusive jurisdiction of Family Support Magistrate Division or Superior Court, when
§ 46b-212i. Enforcement and modification of support orders by Family Support Magistrate Division
§ 46b-212j. Recognition of controlling child support orders
§ 46b-212k. Multiple child support orders for two or more obliges
§ 46b-212l. Credit for support payments
§ 46b-212m. Proceedings. Procedure
§ 46b-212n. Action by minor parent
§ 46b-212o. Applicability of state law

- § 46b-212p. Duties of initiating tribunal
- § 46b-212q. Duties and powers of responding tribunal
- § 46b-212r. Inappropriate tribunal
- § 46b-212s. Duties of support enforcement agency
- § 46b-212t. Legal Services by Attorney General. Private counsel
- § 46b-212u. Duty of Commissioner of Social Services
- § 46b-212v. Duties of state information agency

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.

- [Cartledge v. Evans](#), Superior Court, Judicial District of Hartford, No. FA07-4028072-S (April 23, 2010) (49 Conn. L. Rptr. 731, 732). **"This court is aware that numerous courts of this state have held that § 46b-71 governs modification of foreign child support orders. See, e.g., *Vitale v. Krieger*, 47 Conn. App. 146, 702 A.2d 148 (1997) (finding plain error where a trial court did **not apply foreign domestic law**: 'The Superior Court, in deciding the motions before it, applied the substantive law of Connecticut rather than that of the foreign jurisdiction, Texas. Clearly, when modifying a foreign matrimonial judgment, the courts of this state must apply the substantive law of the foreign jurisdiction, and failure to do so constitutes plain error'); and *Burton v. Burton*, 189 Conn. 129, 454 A.2d 1282 (1983) (holding that the trial court properly applied New York substantive law to a motion for modification of a child support order contained in a New York **divorce decree**: 'The defendant next assigns as error the trial court's application of the substantive law of New York. Clearly, when modifying a foreign matrimonial judgment, Connecticut courts must apply the substantive law of the foreign jurisdiction. General Statutes 46b-71(b)'). None of these cases, however, have considered the applicability of § 46b-213q(f) to child support orders where all relevant individuals now live in Connecticut or the mandate of the full faith and credit clause. The court thus concludes that Massachusetts no longer has continued, exclusive jurisdiction over the child support order and that the courts of this state may now exercise jurisdiction to modify the original Massachusetts child support order, and in doing so the proper substantive and procedural law to be applied now and thenceforth to the setting of the order for payment of current weekly child support is that of the State of Connecticut."**
- [Testa v. Geressy](#), 286 Conn. 291, 310-311, 310 943 A.2d 1075 (2008) **"We conclude that the unambiguous text of both §§ 46b-212t (a) and 46b-231 (t) (2) gives the state express statutory authority to provide legal services on behalf of support enforcement services in assisting the defendant in this action. Indeed, our conclusion is buttressed by the relevant state regulations, as § 17b-179(m)-10 (b) of the Regulations of Connecticut State Agencies provides in **relevant part**: 'When Connecticut is the responding state, [support enforcement division, now known as support enforcement services] shall: (1) serve as the *support***

enforcement agency under [the Uniform Interstate Family Support Act] and provide *any necessary services* within the applicable timeframes for the given services which shall include paternity and support obligation establishment, *in conjunction with the [attorney general's office], enforcement of court orders*, and collection and monitoring of support payments’ (Emphasis added.)”

- [Fish v. Igoe](#), 83 Conn. App. 398, 402-403, 849 A.2d 910 (2004). “In this case, the child support order, originally rendered in Massachusetts, was registered in Connecticut under UIFSA. As a consequence, we look to General Statutes § 46b-213q (a), which governs the modification of a child support order from another state. Section 46b-213q (a)(1) and (2) set forth alternate ways to confer jurisdiction on a Connecticut family support magistrate to modify a child support order issued in another state. In this case, the three requirements of § 46b-213q (a)(1) were satisfied with respect to the January 30, 2001 modification. Pursuant to subdivision (2) of the statute, a dual filing of written consent is merely an alternate way to modify an out-of-state child support order. Consequently, we conclude that the family support magistrate had jurisdiction to modify the child support order on January 30, 2001.

General Statutes § 46b-213q (d) settles the plaintiff’s other jurisdictional argument. Once the original order was modified in Connecticut on January 30, 2001, the family support magistrate had continuing, exclusive jurisdiction to decide the plaintiff’s subsequent motion to modify the child support order on December 16, 2002. Accordingly, the plaintiff’s subject matter jurisdiction claim fails.”

- [Sender v. Sender](#), 56 Conn. App. 492, 498, 743 A.2d 1149 (2000). “Our legislature has consistently drafted legislation to state expressly when a court has exclusive jurisdiction. See, e.g., General Statutes § 46b-42 (granting Superior Court exclusive jurisdiction over all complaints seeking dissolution of marriage, decree of annulment or legal separation); General Statutes § 46b-212h (a) (granting family support magistrate division or Superior Court exclusive jurisdiction over child support orders); General Statutes § 52-12 (granting Superior Court exclusive jurisdiction over sale of certain real property).”

DIGESTS:

West Key Numbers: *Divorce* §§ 1400-1476

Dowling’s Digest: Divorce and Separation §§ 540-557

Connecticut Family Law Citations:

Alimony—Foreign judgments, enforcement of

Alimony—Sister state decree, modification by

ENCYCLOPEDIAS:

- 23 [Am Jur 2d](#) Desertion and Nonsupport (2013).
§ 74. Uniform Interstate Family Support Act
- 24A [Am Jur 2d](#) Divorce and Separation (2008)

§ 1103-1113 Alimony. Under the UIFSA.
 § 1118 Child Support. UIFSA.

- Kurtis A. Kemper, Annotation, *Construction And Application Of Uniform Interstate Family Support Act*, [90 ALR 5th 1](#) (2001)
- 8 Arnold H. Rutkin et al., [Connecticut Practice Series, Family Law And Practice with Forms](#) (3d ed. 2010).
 Chapter 31. Jurisdiction to award alimony
 § 31: 7. Continuing jurisdiction
 Chapter 34. Enforcement of support judgments
 § 34: 3. Jurisdiction for enforcement
 Chapter 36. Jurisdiction to award child support
 § 36: 7 Continuing jurisdiction

TEXTS & TREATISES:

Table 2: Foreign Matrimonial Judgments under UIFSA

UIFSA Foreign Matrimonial Judgments in Connecticut Connecticut General Statutes (2015)	
§ 46b-213g	Registration of order for enforcement Repealed – See Conn. Gen Stat. Chapter 817 (2016 Supp.)
§ 46b-213h	Procedure to register order for enforcement Repealed – See Conn. Gen Stat. Chapter 817 (2016 Supp.)
§ 46b-213i	Effect of registration for enforcement Repealed – See Conn. Gen Stat. Chapter 817 (2016 Supp.)
§ 46b-213j	Choice of law Repealed – See Conn. Gen Stat. Chapter 817 (2016 Supp.)
§ 46b-213k	Notice of registration of order Repealed – See Conn. Gen Stat. Chapter 817 (2016 Supp.)
§ 46b-213l	Procedure to contest validity or enforcement of registered order Repealed – See Conn. Gen Stat. Chapter 817 (2016 Supp.)

Section 5: Foreign Matrimonial Judgments in Connecticut Under URESA

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to the filing and enforcement in Connecticut of matrimonial judgments from other jurisdictions under Revised Uniform Reciprocal Enforcement of Support Act (RURESAs)

SEE ALSO:

- [Section 4. Foreign Matrimonial Judgments in Connecticut under UIFSA](#)

DEFINITIONS:

- **Foreign Matrimonial Judgment:** "means any judgment, decree or order of a court of any state in the United States in an action for divorce, legal separation, annulment or dissolution of marriage, for the custody, care, education, visitation, maintenance or support of children or for alimony, support or the disposition of property of the parties to an existing or terminated marriage, in which both parties have entered an appearance." Conn. Gen. Stat. [sec. 46b-70](#).
- **Purpose:** "The purpose of General Statutes 46b-70 et seq. is to enforce matrimonial judgments in order to achieve a uniformity of law, without having that purpose frustrated by the courts. See *Walzer v. Walzer*, 173 Conn. 62, 376 A.2d 414 (1977). A mobile interstate populace is a societal fact of life in every state. Stability in the status of children as beneficiaries of support agreements should be preserved when consistent with the varying laws of our states." [Van Wagner v. Van Wagner](#), 1 Conn. App. 578, 582-583, 474 A.2d 110 (1984).
- "In addressing the purposes of this statute the court in *Rule v. Rule*, 6 Conn. App. 541, 545, 506 A.2d 1061, cert. denied, 201 Conn. 801, 513 A.2d 697 (1986), held that "[the purpose of General Statutes § 46b-70 and [§ 46b-71] is to prevent a defendant from avoiding the execution of a valid and enforceable judgment by fleeing the jurisdiction. See 20 S. Proc., Pt. 7, 1977 Sess., pp. 2907-2911; 20 H.R. Proc., Pt. 7, 1977 Sess., pp. 2942-44." Section 46b-71 allows a party to follow a person who has fled the original decree rendering forum. The plaintiff has not fled the jurisdiction of Massachusetts, rather, it is the defendant who has left that jurisdiction." [St. Hilaire v. St. Hilaire](#), 41 Conn. Supp. 429, 434-435, 581 A.2d 752 (1990).
- **Entry of Appearance Required:** "General Statutes § 46b-71(b) consigns to the courts of this state the power to enforce, satisfy, modify, alter, amend vacate, set aside or suspend a foreign matrimonial judgment that has been properly filed in a Connecticut court. This subject-matter

jurisdiction is circumscribed, however, by General Statutes § 46b-70, which defines a foreign matrimonial judgment as **'any judgment, decree or order of a court of any state in the United States in an action for . . . divorce . . . or dissolution of marriage, for the custody . . . or support of children . . . in which both parties have entered an appearance.'** (Emphasis added.) The requirement of the entry of an appearance by **both parties is a 'threshold requirement for enforcement'** of a foreign matrimonial judgment. *Morabito v. Wachsmann*, 191 Conn. 92, 101, 463 A.2d 593 (1983). The language of § 46b-70 differs from that of other uniform enforcement of **judgment acts; it 'reflects the intent of the legislature to ensure that both parties have actual notice of an out-of-state proceeding, and to preclude adoption of foreign judgments obtained by a default in appearance.'**" *Mirabal v. Mirabal*, 30 Conn. App. 821, 825-826, 622 A.2d 1037 (1993).

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-70](#). Foreign matrimonial judgment defined
 - [§ 46b-71](#). Filing of foreign matrimonial judgment; Enforcement in this state
 - [§ 46b-72](#). Notification of filing
 - [§ 46b-73](#). Stay of enforcement; Modifications; Hearing
 - [§ 46b-74](#). Right to action on judgment unimpaired
 - [§ 46b-75](#). Uniformity of interpretation

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.

- [Baugher v. Baugher](#), 63 Conn. App. 59, 61, 774 A.2d 1089 (2001). "There ensued a flurry of litigation in New York that ended when the New York court decided that, although it had continuing jurisdiction, it would decline to exercise that jurisdiction if the parties filed an appropriate action in Connecticut, where the parties were then residing or planning to reside."
- [Lowe v. Lowe](#), 58 Conn. App. 805, 811-812, 755 A.2d 338 (2000). **"Moreover, contrary to the plaintiff's claim, the court did conduct a complete trial de novo. At trial, the court heard evidence concerning the duration of the marriage, the cause of its breakdown, and evidence regarding the parties' ages, education, health, employment and financial circumstances throughout the marriage. The court also considered the parties' stipulation for permanent orders and the New Hampshire judgment which, by virtue of § 46b-71 (b) became 'a judgment of the court of this state.' Indeed, the court could not ignore that agreement, because most of its terms already had been executed. The marital home had been sold, the plaintiff had paid the capital gains tax and proceeds from the sale had been distributed to the defendant. The defendant also had received one-half of the plaintiff's pension and most of the parties' personal property. These actions could not be undone."**

- [Morabito v. Wachsman](#), 191 Conn. 92, 101, 463 A.2d 593 (1983). “It is undisputed that the defendant did not appear in either the original 1971 proceedings or the later 1979 proceedings, but the defendant did enter an appearance through his attorney in the 1972 proceedings. While the defendant made only a special appearance in 1972 for the purpose of contesting jurisdiction, Connecticut's act does not distinguish between special and general appearances. Because the defendant entered an appearance in the 1972 Nevada proceedings, the 1972 judgment may properly be enforced under the Enforcement of Foreign Matrimonial Judgments Act.”

DIGESTS:

West Key Numbers: *Divorce* §§ 1400-1476

Dowling's Digest: *Divorce and Separation* §§ 540-557

Connecticut Family Law Citations:

Alimony—Foreign judgments, enforcement of
Alimony—Sister state decree, modification by

ENCYCLOPEDIAS:

- 24A [Am. Jur. 2d](#) *Divorce and Separation* (2008)
§§ 1191-1202. In general; Alimony
- 27B [C.J.S.](#) *Divorce* (2005).
§ 508. Jurisdiction and power of courts—Jurisdiction over person or property

TEXTS & TREATISES:

- 8 Arnold H. Rutkin et al., [Connecticut Practice Series, Family Law And Practice with Forms](#) (3d ed. 2010).
Chapter 31. Jurisdiction to award alimony
§ 31:2. Personal jurisdiction over the payor
§ 31:5. Jurisdiction based on property in the state
§ 31:6. Effect of lack of jurisdiction
Chapter 34. Enforcement of support judgments
§ 34:3. Jurisdiction for enforcement
Chapter 36. Jurisdiction to award child support
§ 36:3 Personal jurisdiction over a nonresident payor
§ 36:4. Jurisdiction based on property in the state
§ 36:5. Effect of lack of jurisdiction
§ 36:6. Federal jurisdictional provisions
- 2 [Family Law Practice In Connecticut](#) (1996).
Chapter 14. Enforcement of judgment
V. Enforcement of judgments of other jurisdictions

Table 3: Foreign matrimonial judgments in Connecticut (URESAs)

Foreign Matrimonial Judgments in Connecticut (URESAs) Connecticut General Statutes (2015)	
<p>§ 46b-71(a) Filing of foreign matrimonial judgment</p>	<p>Any party to an action in which a foreign matrimonial judgment has been rendered, shall file, with a certified copy of the foreign matrimonial judgment, in the court in this state in which enforcement of such judgment is sought, a certification that such judgment is final, has not been modified, altered, amended, set aside or vacated and that the enforcement of such judgment has not been stayed or suspended, and such certificate shall set forth the full name and last-known address of the other party to such judgment and the name and address of the court in the foreign state which rendered such judgment.</p>
<p>§ 46b-71(b) Enforcement in Connecticut</p>	<p>Such foreign matrimonial judgment shall become a judgment of the court of this state where it is filed and shall be enforced and otherwise treated in the same manner as a judgment of a court in this state; provided such foreign matrimonial judgment does not contravene the public policy of the state of Connecticut. A foreign matrimonial judgment so filed shall have the same effect and may be enforced or satisfied in the same manner as any like judgment of a court of this state and is subject to the same procedures for modifying, altering, amending, vacating, setting aside, staying or suspending said judgment as a judgment of a court of this state; provided, in modifying, altering, amending, setting aside, vacating, staying or suspending any such foreign matrimonial judgment in this state the substantive law of the foreign jurisdiction shall be controlling.</p>
<p>§ 46b-72 Notification of filing</p>	<p>Within five days after the filing of such judgment and certificate, the party filing such judgment shall notify the other party of the filing of such foreign matrimonial judgment by registered mail at his last-known address or by personal service. Execution shall not issue on any such foreign matrimonial judgment for a period of twenty days from the filing thereof and no steps shall be taken to enforce such judgment until proof of service has been filed with the court.</p>
<p>§ 46b-73(a) Stay of enforcement</p>	<p>If either party files an affidavit with the court that an appeal from the foreign matrimonial judgment is pending in the foreign state, or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign matrimonial judgment until the appeal is concluded, the time for appeal expires or the stay of execution expires or is vacated.</p>
<p>§ 46b-73(b) Modifications</p>	<p>If a party files an affidavit with the court that such foreign matrimonial judgment has been modified, altered or amended, the court shall enforce such foreign matrimonial judgment as modified, altered or amended.</p>

Section 6: Collection Procedures

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to collection procedures in family law judgments

TREATED ELSEWHERE:

- [Enforcing Money Judgments](#)

DEFINITION:

- “[I]t is within the equitable powers of the trial court `to fashion whatever orders [are] required to protect the integrity of [its original] judgment.’” [Clement v. Clement](#), 34 Conn. App. 641, 646, 643 A.2d 874 (1994).
- **Incarceration:** “The order for imprisonment in this class of cases, therefore, is not to vindicate the authority of the law, but is remedial and is intended to coerce the defendant to do the thing required by the order for the benefit of the complainant. If imprisoned, as aptly said in *In re Nevitt*, 117 F. 451, ‘he carries the keys of his prison in his own pocket.’ He can end the sentence and discharge himself at any moment by doing what he had previously refused to do.” [Gompers v. Bucks Stove & Range Co.](#), 221 U.S. 418, 442 (1911).
- **Income Withholding:** “The Superior Court and any family support magistrate shall issue an order for withholding pursuant to this section against the income of an obligor to enforce a support order when the support order is entered or modified or when the obligor is before the court in an enforcement proceeding.” Conn. Gen. Stats. [§ 52-362](#)(b) (2015).
- **Judgment Lien on real property:** “A judgment lien, securing the unpaid amount of any money judgment, including interest and costs, may be placed on any real property by recording, in the town clerk’s office in the town where the real property lies, a judgment lien certificate, signed by the judgment creditor or his attorney or personal representative, containing: (1) A statement of the names and last-known addresses of the judgment creditor and judgment debtor, the court in which and the date on which the judgment was rendered, and the original amount of the money judgment and the amount due thereon; and (2) a description, which need not be by metes and bounds, of the real property on which a lien is to be placed, and a statement that the lien has been placed on such property.” Conn. Gen. Stats. [§ 52-380a](#)(a) (2015).
- **Garnishment:** “The Superior Court and any family support magistrate shall issue an order for withholding pursuant to this section against the income of an obligor to enforce a support order when the support order is entered or modified or when the obligor is before the

court in an enforcement proceeding.” Conn. Gen. State. [§ 52-362](#)(b) (2015).

- **Writ of Ne Exeat:** “In essence, a writ of ne exeat is an order, directed to the sheriff, commanding him to commit a party to custody until he gives security in the amount set by the court to guarantee his appearance in court. *National Automobile & Casualty Ins. Co. v. Queck*, [1 Ariz. App. 595, 599, 405 P.2d 905 (1965)]supra, 600. The writ of ne exeat is executed in all respects like an ordinary *capias*, and the bond is taken in the same way. The defendant, if arrested under the writ, may give bond at any time and be discharged. *Griswold v. Hazard*, 141 U.S. 260, 280-81, 11 S.Ct. 972, 35 L.Ed. 678 (1891).” [Beveridge v. Beveridge](#), 7 Conn. App. 11, 16-17, 507 A.2d 502 (1986).

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)
 - [§ 52-362](#). Income withholding and unemployment compensation for support
 - [§ 52-362d](#). Lien against property of obligor for unpaid child support. Securing, releasing or foreclosing lien. Notice of lien and opportunity for hearing. Information re unpaid support reported to participation consumer reporting agency. Offset for child support arrearage against money payable by state to obligor. Notification by Connecticut Lottery Corporation. Hearings re alleged arrearages. Regulations.
 - [§ 52-362f](#). Enforcement of child support orders by income withholding.
 - [§ 52-380a](#). Judgment lien on real property.

COURT RULES:

- Connecticut Practice Book (2015 Edition)
 - [Chapter 25](#) Superior Court—Procedure in family matters
 - [§ 25-27. Motion for contempt](#)

FORMS:

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

- [Filing a Motion for Contempt](#)
- [JD-FM-173. Motion for Contempt/Contempt Citation](#) [Official form]
- [JD-FM-173H. Help Text for Motion for Contempt/Contempt Citation](#)
- MacNamara, Welsh, and George, editors. [Library of Connecticut Family Law Forms](#) (2d ed. 2014)
 - 5-036 Motion for Contempt Re: Violation of Automatic Orders
 - 16-007 Motion for Contempt Re: Alimony Payments
 - 7-002 Wage Execution Proceedings Application, Order and Execution (court form)
 - 7-008 Contempt Proceedings Upon Failure of Payer of Income to Comply with Withholding Order for Support (Court Form)

- Joel M. Kaye et al. 3 [Connecticut Practice Series, Civil Practice Forms](#), (2004).
Form 506.2 - Motion for contempt Pendente Lite [Post Judgment]
- 4 Arnold H. Rutkin, gen ed., [Family Law and Practice](#) (2013)
§ 47.03[5]. Writ of Ne Exeat.
§ 47.04[5]. Sample Writ of Execution.

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.

- [Cooke v. Cooke](#), 99 Conn. App. 347, 352, 913 A.2d 480 (2007). **"In this instance, the record makes it plain that the order did not oblige Richard T. Cooke to pay a money judgment which is defined statutorily as 'a judgment, order or decree of the court calling in whole or in part for the payment of a sum of money, other than a family support judgment. Money judgment includes any such money judgment of a small claims session of the Superior Court, any foreign money judgment filed with the Superior Court pursuant to the general statutes and in IV-D cases, overdue support in the amount of five hundred dollars or more accruing after the entry of an initial family support judgment.'** General Statutes § 52-350a(13). Because the marital dissolution judgment in effect on the date of the imposition of the judgment lien did not order Richard T. Cooke to pay a certain sum, it cannot fairly be characterized as a money judgment."
- [Nunez v. Nunez](#), 85 Conn. App. 735, 739-740, 858 A.2d 873 (2004). **"In *Mallory v. Mallory*, 207 Conn. 48, 57, 539 A.2d 995 (1988), the defendant father claimed that he was too poor to meet his court-ordered financial obligations. Our Supreme Court, after stating that inability to obey an order qualifies as a proper defense to contempt, stated: 'The defendant in the case at bar, however, failed to seek a modification of his child support obligations until after the plaintiff had instituted contempt proceedings against him. In these circumstances, the trial court did not err in finding the defendant in contempt, at least in regard to the child support arrearage accumulated before he sought a modification of the child support orders.'** *Id.* **It concluded that under those circumstances, a finding of contempt was proper. Subsequently, in *Sablosky v. Sablosky*, supra, 258 Conn. 713, our Supreme Court stated that '[a]lthough one party may believe that his or her situation satisfies this standard [of changed circumstance], until a motion is brought to and is granted by the court, that party may be held in contempt in the discretion of the trial court if, in the interim, the complaining party fails to abide by the support order.'** (Emphasis added.) *Id.*, 722; see also *Bunche v. Bunche*, 36 Conn. App. 322, 325, 650 A.2d 917 (1994) (order of court must be obeyed until modified or successfully challenged)."

- [Eldridge v. Eldridge](#), 244 Conn. 523, 529, 710 A.2d 757 (1998). “In order to constitute contempt, a party’s conduct must be wilful A good faith dispute on legitimate misunderstanding of the terms of an alimony or support obligation may prevent a finding that the payor’s nonpayment was wilful.”
- [Castro v. Castro](#), 31 Conn. App. 761, 764, 627 A.2d 452 (1993).

“In the present case, the trial court properly denied the plaintiff’s motion for contempt because the defendant’s actions did not violate an order of the court.”

- [Perry v. Perry](#), 222 Conn. 799, 805, 611 A.2d 400 (1992). “inability to pay an order is a defense to a charge of contempt however, . . . the defendant has the burden of proof on this issue”
- [Papcun v. Papcun](#), 181 Conn. 618, 620, 436 A.2d 608 (1980). “The defendant’s contention that the plaintiff is barred by laches from collecting the arrearage is also unpersuasive.”
- [Farrell v. Farrell](#), 36 Conn. App. 305, 309, 650 A.2d 608 (1994). “The defendants also argue that the trial court incorrectly found by clear and convincing evidence that the three properties had been fraudulently conveyed. `A party who seeks to set aside a conveyance as fraudulent bears the burden of proving that the conveyance was made without substantial consideration and that, as a result, the transferor was unable to meet his obligations (constructive fraud) or that the conveyance was made with fraudulent intent in which the transferee participated (actual fraud).’ *Tessitore v. Tessitore*, 31 Conn. App. 40, 42, 623 A.2d 496 (1993). `A fraudulent conveyance must be proven by clear and convincing evidence.’ *Id.*, 43. Whether a conveyance is fraudulent is purely a question of fact. *Tyers v. Coma*, 214 Conn. 8, 11, 570 A.2d 186 (1990).”
- [Rule v. Rule](#), 6 Conn. App. 541, 543, 506 A.2d 1061 (1986). “The plaintiff sought enforcement of this contempt judgment in Connecticut. The trial court adopted the Massachusetts judgment pursuant to General Statutes § 46b-71. The defendant moved to set aside the judgment, claiming that his counsel withdrew her appearance prior to the rendering of the Massachusetts contempt judgment and, therefore, it was not one in which `both parties [had] entered an appearance’ as required by General Statutes § 46b-70.”

**FAMILY SUPPORT
MAGISTRATE
DECISIONS:**

- [Family Support Magistrate Decisions](#) are available through the Law Libraries' website.

DIGESTS:

- West Key Numbers *Divorce* §§ 260-277
§ 269(9). Contempt proceeding. Defenses and excuse for nonpayment or non compliance with order
- Dowling's Digest *Dissolution of marriage* § 18

**SUBJECT
HEADINGS:**

- Connecticut Family Law Citations
Contempt

ENCYCLOPEDIAS:

- 24 [Am Jur 2d Divorce and Separation](#) (2008).
§ 1075. Generally
§ 1076. Inability of obligor to pay amount owing
- 27B [C.J.S. Divorce](#) (2005).
§ 724-727. Contempt proceedings. Prerequisites
- John C. Williams, Annotation, *Laches Or Acquiescence As Defense, So As To Bar Recovery Of Arrearages Of Permanent Alimony Or Child Support*, 5 ALR 4th 1015 (1981).

**TEXTS &
TREATISES:**

- 8 Arnold H. Rutkin et al., [Connecticut Practice Series, Family Law And Practice with Forms](#) (3d ed. 2010).
Chapter 34. Enforcement of alimony and child support provisions of judgment
 - § 34.17. Contempt penalties and terms of payment
 - § 34.18. Contempt penalties--Incarceration
 - § 34.19. Criminal actions based on non-payment of alimony or support
 - § 34.20. Enforcement of alimony or support obligations against property
 - § 34.21. Receivership
 - § 34.22. Garnishment or income withholding, generally
 - § 34.23. Voluntary income withholding
 - § 34.24. Court ordered income withholding
 - § 34.25. Income withholding based on delinquency
 - § 34.26. Priorities and exemptions associated with income withholding
 - § 34.27. Employer obligations associated with income withholding
 - § 34.28. Limitations of income withholding
 - § 34.29. Payment through Support Enforcement Office
 - § 34.30. Withholding tax refunds
 - § 34.31. Other federal remedies
 - § 34.32. Writ of ne exeat
 - § 34.33. Security for performance
 - § 34.34. Claims for interest and/or damages
 - § 34.35. Effect of pending claim for modification
 - § 34.36. Effect of pending appeal
- 4 Arnold H. Rutkin, gen ed., [Family Law and Practice](#) (2013).
Chapter 47. Enforcement of court orders
 - § 47.01. Introduction

§ 47.02. Entry of money judgment
§ 47.03. Supplemental discovery in aid of recovery
§ 47.04. General execution and sale
§ 47.05. Wage garnishment and income withholding
§ 47.06. Contempt, relief to litigant and incarceration
§ 47.07. Security
§ 47.08. Sequestration
§ 47.09. Attachment
§ 47.10. Counsel fees in enforcement proceedings
§ 47.11. Alternative remedies

- 2 [Family Law Practice In Connecticut](#) (1996).
Chapter 14. Enforcement of judgment
IV. [14.21] Collection procedure
 - A. [14.22] Incarceration
 - B. [14.23] Income withholding
 - C. [14.24] Judgment lien
 - D. [14.25] Garnishment
 - E. [14.26] Constructive trust
 - F. [14.27] Qualified Domestic Relations Order (QDRO)
- Joel M. Kaye et al. 3 [Connecticut Practice Series, Civil Practice Forms](#), see **Authors' Comments** following Form 506.2, pp. 216-222 (2004).
- Crouch, Richard E. [Family Law Checklists](#) (2003).
Chapter 6. Alimony/Spousal Maintenance
XIV. Enforcement
6:35 Additional enforcement devices
Chapter 7. Child Support
XIV. Enforcement
7:27 Additional details on special enforcement devices, operative distinctions