

DOCKET NO. HHD-CV23-6171343-S : STATE OF CONNECTICUT  
STATE OF CONNECTICUT, COMMISSIONER OF : J.D. OF HARTFORD  
ADMINISTRATIVE SERVICES  
v. : AT HARTFORD  
MEGAN SEIGEL, EXECUTRIX OF THE ESTATE : MAY 28, 2024  
OF ILENE FRIEDMAN

**MEMORANDUM OF DECISION RE: DEFENDANT’S  
MOTION TO DISMISS (Docket No. 102)**

INTRODUCTION


The present action involves a claim for unpaid state assistance. The defendant moved to dismiss the plaintiff’s complaint based on lack of subject matter jurisdiction, arguing that the plaintiff failed to present its claim to the estate within the ninety-day period set forth in General Statutes § 45a-355, or alternatively that the plaintiff waived its right to present a claim. For the reasons set forth below, the defendant’s motion to dismiss is denied.

FACTS AND PROCEDURAL HISTORY

The plaintiff, Commissioner of the Department of Administrative Services (plaintiff or DAS), commenced this action pursuant to General Statutes § 45a-363 against the defendant, Megan Seigel, executrix of the estate of Ilene Friedman,<sup>1</sup> by complaint filed on July 7, 2023. The complaint seeks reimbursement of \$34,567.81 in state assistance received by the decedent in the period December 17, 2015, through March 1, 2019.

<sup>1</sup> References to “the defendant” in this memorandum are to Megan Seigel in her representative capacity.

FILED  
MAY 28 A 11:00  
OFFICE OF THE CLERK  
SUPERIOR COURT  
HARTFORD, J.D.

110.00 

The following undisputed facts are found based upon the parties' submissions in connection with the defendant's motion to dismiss.<sup>2</sup> The decedent died on March 20, 2019. On April 22, 2019, Seigel filed the PC-212 affidavit with the Probate Court.<sup>3</sup> Docket no. 102, Exh. A. The PC-212 affidavit states that the decedent was a beneficiary of state aid and that the value of the decedent's assets exceeds the total amount of claims. On April 23, 2019, the Probate Court sent a copy of the PC-212 affidavit to the plaintiff pursuant to § 45a-273 (c). The plaintiff filed a copy of the PC-212 affidavit with the Probate Court on or about May 23, 2019, that included a stamped legend stating that "[b]ased on the listed assets on this PC-212 DAS is not applying for [a] certificate [u]nder Sec. 4a-16."<sup>4</sup> Id., Exh. B. The Probate Court issued a decree on June 11, 2019, confirming that an

---

<sup>2</sup> The defendant submitted the following exhibits with her motion to dismiss and supporting memorandum (docket no. 102): an Affidavit in Lieu of Probate of Will/Administration filed with the Madison-Guilford Probate Court (Probate Court) on April 22, 2019 (PC-212 affidavit) (Exhibit A); a copy of Exhibit A bearing a stamped legend filed by the plaintiff with the Probate Court on May 23, 2019 (Exhibit B); a Decree/Transfer of Personal Property without Probate Proceedings (Form PC-264) dated June 11, 2019 (Exhibit C); a Decree Granting Administration or Probate of Will dated October 28, 2019 (Exhibit D); a claim notice from the plaintiff to the Probate Court dated December 9, 2019, and a claim letter from the plaintiff to the defendant dated December 16, 2019 (Exhibit E); and a copy of an unreported superior court decision (Exhibit F). The plaintiff also submitted with its opposition memorandum a copy of Exhibits B, C, and D as its exhibits, together with an affidavit of debt. See docket no. 103. In response to the court's order dated March 14, 2024 (docket no. 108), the parties submitted probate Form PC-200 (Petition/Administration or Probate of Will) that was filed with the Probate Court on October 2, 2019 (PC-200 Petition) (docket no. 109, pp. 01648-56), and various other documents filed with the Probate Court. See docket no. 109.

<sup>3</sup> Form PC-212 may be used to settle a decedent's estate having an aggregate value of less than forty thousand dollars (small estate). See General Statutes § 45a-273.

<sup>4</sup> The version of General Statutes § 4a-16 in effect in 2019 provides, in relevant part, that if a person who received public assistance from the state dies leaving a small estate, and the plaintiff files with the probate court "a certificate that the total estate is under the . . . [small estate] value, and the claim of the state . . . equals or exceeds the amount of such estate . . . [the probate court shall issue] a certificate . . . that the commissioner is the legal representative of such estate . . . . The commissioner shall have authority to claim such estate, [and] the commissioner's receipt for the same to be a valid discharge of the liability of any person turning over the same, and to settle the same by . . . partial or full reimbursement of the claim of the state for care or assistance rendered to the decedent."

affidavit had been filed pursuant to § 45a-273 and that “notice was sent to the appropriate agency as required by statute and no claim was made . . . .” Id., Exh. C.

On October 2, 2019, the defendant filed the PC-200 Petition with the Probate Court. Docket no. 109. The PC-200 Petition includes a handwritten note from Seigel that the estate “is being reopened because of a pending lawsuit with the town [of Madison].” Docket no. 109, p. 01648.<sup>5</sup> The Probate Court appointed Seigel as the estate’s fiduciary on October 28, 2019. Docket no. 109. The defendant was substituted as a party plaintiff in the New Haven action on December 3, 2019. The plaintiff asserted a claim against the estate for \$34,645.60 by letter dated December 16, 2019. Docket no. 109.

In late 2022, the New Haven action was settled for \$275,000 after a mediation. The defendant filed an application with the Probate Court to compromise the action for that sum on or about November 22, 2022. Docket no. 109. The Probate Court issued an order authorizing the settlement on December 15, 2022. Id.

The plaintiff alleges that the defendant, through her attorney, notified the plaintiff on March 21, 2023, that the plaintiff’s claim against the estate had been rejected. Complaint, ¶ 5.

On November 8, 2023, the defendant moved to dismiss the complaint for lack of subject matter jurisdiction, arguing that the plaintiff failed to present its claim within ninety days of the Probate Court’s April 23, 2019, notice that the decedent had received state aid, as mandated by § 45a-355. The defendant argues in the alternative that the plaintiff waived its right to make a claim

---

<sup>5</sup> The “pending lawsuit” was an apparent reference to a personal injury action originally styled *Ilene Friedman v. Town of Madison, et al*, Superior Court, Judicial District of New Haven, docket no. NNH-CV-18-6086902-S (New Haven action), of which the court takes judicial notice. The New Haven action arises out of injuries allegedly sustained by the decedent when ejected from her medical wheelchair while crossing a town road.

against the estate because the plaintiff expressly stated that it was not filing a certificate under § 4a-16. On December 8, 2023, the plaintiff filed its objection, opposition memorandum, and exhibits to the motion to dismiss. The defendant filed a reply on February 22, 2024. The court conducted oral argument on the motion at a remote hearing on February 26, 2024. The court thereafter ordered the parties to supplement the record on the motion with additional documents from the Probate Court, which the defendant filed on March 28, 2024. The court conducted further oral argument at a remote hearing on April 22, 2024.

#### DISCUSSION

“A motion to dismiss tests, inter alia, whether, on the face of the record, the court is without jurisdiction.” (Internal quotation marks omitted.) *MacDermid, Inc. v. Leonetti*, 310 Conn. 616, 626, 79 A.3d 60 (2013). “Subject matter jurisdiction involves the authority of the court to adjudicate the type of controversy presented by the action before it. . . . [A] court lacks discretion to consider the merits of a case over which it is without jurisdiction . . . . The subject matter jurisdiction requirement may not be waived by any party, and also may be raised by a party, or by the court sua sponte, at any stage of the proceedings . . . .” (Internal quotation marks omitted.) *Keller v. Beckenstein*, 305 Conn. 523, 531–32, 46 A.3d 102 (2012).

“[I]n determining whether a court has subject matter jurisdiction, every presumption favoring jurisdiction should be indulged.” (Internal quotation marks omitted.) *New England Pipe Corp. v. Northeast Corridor Foundation*, 271 Conn. 329, 335, 857 A.2d 348 (2004). “When a trial court decides . . . a pretrial motion to dismiss on the basis of the complaint alone, it must consider the allegations of the complaint in their most favorable light. . . . In contrast, if the complaint is supplemented by *undisputed facts* established by affidavits submitted in support of the motion to

dismiss . . . [and] other types of undisputed evidence . . . the trial court, in determining the jurisdictional issue, may consider these supplementary undisputed facts and need not conclusively presume the validity of the allegations of the complaint. . . . Rather, those allegations are tempered . . . by the supplementary undisputed facts. . . . If affidavits and/or other evidence submitted in support of a defendant’s motion to dismiss conclusively establish that jurisdiction is lacking, and the plaintiff fails to undermine this conclusion with counter affidavits . . . or other evidence, the trial court may dismiss the action without further proceedings.” (Citations omitted; footnote omitted; internal quotation marks omitted.) *Conboy v. State*, 292 Conn. 642, 651–53, 974 A.2d 669 (2009). As discussed above, the parties relied on a number of supplementary undisputed facts from the Probate Court filings.

In the present case, the defendant argues that the plaintiff failed to present its claim within ninety days of April 23, 2019 (the date the Probate Court issued notice of the filing of the PC-212 affidavit), as required by § 45a-355, and in any event waived its right to pursue its claim by affirmatively stating that it “is not applying for [a] certificate [u]nder Sec. 4a-16.” The plaintiff counters that: (1) § 45a-355 applies to applications for the admission of a decedent’s will to probate or for administration of a decedent’s estate, not to the small estates procedures under § 45a-273; (2) its filing with the Probate Court declining to apply for a certificate under § 4a-16 did not expressly or impliedly waive its right to assert a claim and did not even use the word “claim”; and (3) the ninety-day period under § 45a-355, if applicable at all, did not begin to run until October 28, 2019, when Seigel was appointed as the estate’s fiduciary. Thus, its claim was timely filed.

I. Whether the Plaintiff's Claim is Time-Barred Under § 45a-355

Section 45a-355, entitled "Notification to Departments of Administrative Services and Veterans Affairs," states in relevant part: "The application for admission of a decedent's will to probate or for administration of a decedent's estate shall state whether the decedent . . . received aid or care from the state . . . . A copy of any application which states that the decedent . . . did receive such aid or care shall be sent . . . by the Court of Probate to [DAS] . . . and if [DAS] . . . fails to present its claim to the fiduciary within ninety days from the date of mailing of such notification or the date of the appointment of the fiduciary, whichever is later, [DAS] . . . shall be forever barred from asserting or recovering on such claim . . . ."

It is undisputed that Seigel filed the PC-200 Petition, entitled "Petition/Administration or Probate of Will," on October 2, 2019. Docket no. 109, pp. 01649-56. The petition expressly states that the decedent left a will "herewith presented for probate, dated 12/5/13." The petition also states that the decedent received aid or care from the state. *Id.*, p. 01651. Seigel was appointed as a fiduciary on October 28, 2019. The plaintiff filed its claim with the estate on December 16, 2019, well within the ninety-day period under the statute. Therefore, the plaintiff's claim was timely filed.

The court finds unpersuasive the defendant's contention that the ninety-day period for the plaintiff to submit its claim commenced on April 23, 2019, the date the Probate Court sent the PC-212 affidavit to the plaintiff. The plain and unambiguous terms of § 45a-355 make clear that the statute applies only to "[t]he application for admission of a decedent's will to probate or for

administration of a decedent's estate".<sup>6</sup> The filing of a PC-212 affidavit is *in lieu* of the filing of an application for admission of a will or for probate administration, and does not trigger the commencement of the ninety-day filing provision under § 45a-355.

## II. Whether the Plaintiff Waived its Right to Pursue its Claim

The defendant also moves to dismiss the action on the grounds that the plaintiff waived its right to bring a claim against the estate because the affidavit the plaintiff filed with the Probate Court states that "[b]ased on the listed assets on this PC-212 DAS is not applying for [a] certificate [u]nder Sec. 4a-16." The plaintiff counters that it did not waive its entitlement to assert a claim, but rather only its right under § 4a-16 to apply for a certificate. The court agrees with the plaintiff. "Waiver is the intentional relinquishment or abandonment of a known right or privilege." (Internal quotation marks omitted.) *C.R. Klewin Northeast, LLC v. Bridgeport*, 282 Conn. 54, 87, 919 A.2d 1002 (2007). There is nothing in the record to suggest that the plaintiff intentionally waived its right to assert a *claim* simply by waiving its right to apply for a *certificate*.

The defendant cites *Commissioner of Administrative Services v. Mulcahy*, Superior Court, judicial district of Hartford, Docket No. CV-17-6078496-S (October 12, 2018, *Noble, J.*) (67 Conn. L. Rptr. 274) in support of her argument, but that decision is, despite the defendant's suggestion to the contrary, factually distinct from the present action. In *Mulcahy*, the case was submitted to the court based on a factual stipulation, after which the court conducted oral argument and rendered a

---

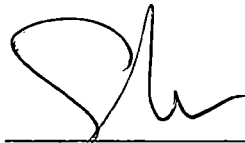
<sup>6</sup> "The meaning of a statute shall, in the first instance, be ascertained from the text of the statute itself and its relationship to other statutes. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered." General Statutes § 1-2z. In the present case, the plain and unambiguous text of the statute does not yield an absurd or unworkable result.

judgment. The plaintiff conceded at oral argument that it “waived its claim to the decedent’s estate” based on the nature and value of the estate. It later learned that the decedent was the beneficiary of an annuity contract and attempted to assert a claim. The court found in favor of the defendant, finding that the plaintiff had waived the right to assert its claim, and had not alleged fraud or any other infirmity with the defendant’s submission of its affidavit in lieu of probate (which failed to list the annuity as an asset). *Id.* Critically, and unlike in *Mulcahy*, in the present case there is no evidence that the plaintiff waived its claim to the decedent’s estate. Moreover, *Mulcahy* did not involve DAS’s waiver of the issuance of a certificate under § 4a-16.

#### CONCLUSION

For the foregoing reasons, the defendant’s motion to dismiss the plaintiff’s complaint based on lack of subject matter jurisdiction is denied.

BY THE COURT



---

Rosen, J.



## Checklist for Clerk

**Docket Number:** HHD-CV23-6171343-S

**Case Name:** State of Connecticut, Commissioner of Administrative Services v. Megan Seigel, Executrix of the Estate of Ilene Friedman

**Memorandum of Decision dated:** 5/28/24

**File Sealed:** Yes No X

**Memo Sealed:** Yes No X

**This Memorandum of Decision may be released to the Reporter of Judicial Decisions for Publication XXXX**

**This Memorandum of Decision may NOT be released to the Reporter of Judicial Decisions for Publication**

\\CO95\Common\Hartford JD Policy Manual\Sealed files\MOD memo.doc

FILED  
2024 MAY 28 A 11:03  
OFFICE OF THE CLERK  
SUPERIOR COURT  
HARTFORD J.D.



State of Connecticut Judicial Branch  
**Superior Court Case Look-up**



Superior Court Case Look-up  
 Civil/Family  
 Housing  
 Small Claims

e HHD-CV23-  
 6171343-S

STATE OF CONNECTICUT, COMMISSIONER OF ADMINISTRATI v. SEIGEL, MEGAN,  
 EXECUTRIX OF THE ESTATE OF ILENE FR

Prefix: HD2

Case Type: M90

File Date: 07/07/2023

Return Date: 07/18/2023

Case Detail | Notices | History | Scheduled Court Dates | E-Services Login | Screen Section Help | Exhibits  
 To receive an email when there is activity on this case, click here.

Attorney/Firm Juris Number Look-up

Case Look-up

By Party Name  
 By Docket Number  
 By Attorney/Firm Juris Number  
 By Property Address

Information Updated as of: 05/28/2024

**Case Information**

Case Type: M90 - Misc - All other  
 Court Location: HARTFORD JD  
 List Type: No List Type  
 Trial List Claim:  
 Last Action Date: 03/28/2024 (The "last action date" is the date the information was entered in the system)

Short Calendar Look-up

By Court Location  
 By Attorney/Firm Juris Number  
 Motion to Seal or Close  
 Calendar Notices

**Disposition Information**

Disposition Date:  
 Disposition:  
 Judge or Magistrate:

Court Events Look-up

By Date  
 By Docket Number  
 By Attorney/Firm Juris Number

**Party & Appearance Information**

Legal Notices

Pending Foreclosure Sales

Understanding

Display of Case Information

Contact Us



Comments

**Party**

No Fee Party Category

P-01 STATE OF CONNECTICUT, COMMISSIONER OF ADMINISTRATIVE SERVICES  
 Attorney: e KRISLYN MINA LAUNER (440789) File Date: 07/07/2023  
 AG-COLLECTIONS/CHILD SUP  
 165 CAPITOL AVE 4TH FLR  
 HARTFORD , CT 06106

D-01 MEGAN SEIGEL EXECUTRIX OF THE ESTATE OF ILENE FRIEDMAN  
 Attorney: e KENNEDY JOHNSON SCHWAB & ROBERGE PC (106077) File Date: 07/12/2023  
 555 LONG WHARF DRIVE  
 13TH FLOOR  
 NEW HAVEN , CT 06511

Defendant

**Viewing Documents on Civil, Housing and Small Claims Cases:**

If there is an e in front of the docket number at the top of this page, then the file is electronic (paperless).

- Documents, court orders and judicial notices in electronic (paperless) civil, housing and small claims cases with a return date on or after January 1, 2014 are available publicly over the internet.\* For more information on what you can view in all cases, view the [Electronic Access to Court Documents Quick Card](#).
- For civil cases filed prior to 2014, court orders and judicial notices that are electronic are available publicly over the internet. Orders can be viewed by selecting the link to the order from the list below. Notices can be viewed by clicking the Notices tab above and selecting the link.\*
- Documents, court orders and judicial notices in an electronic (paperless) file can be viewed at any judicial district courthouse during normal business hours.\*
- Pleadings or other documents that are not electronic (paperless) can be viewed only during normal business hours at the Clerk's Office in the Judicial District where the case is located.\*
- An Affidavit of Debt is not available publicly over the internet on small claims cases filed before October 16, 2017.\*

\*Any documents protected by law Or by court order that are Not open to the public cannot be viewed by the public online And can only be viewed in person at the clerk's office where the file is located by those authorized by law or court order to see them.

FILED

2024 MAY 28 A 11: 03

OFFICE OF THE CLERK  
 SUPERIOR COURT  
 HARTFORD J.D.

**Motions / Pleadings / Documents / Case Status**

Entry No	File Date	Filed By	Description	Arguable
	07/12/2023	D	APPEARANCE	
			Appearance	