



**2019 Edition**

# Motion for Articulation

A Guide to Resources in the Law Library

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Treated Elsewhere:

- [Motion for Review](#)
- [Motion to Reargue](#)
- [Motion for Clarification](#)

*Prepared by Connecticut Judicial Branch, Superior Court Operations,  
Judge Support Services, Law Library Services Unit*

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# Introduction

## A Guide to Resources in the Law Library

- **“(a)** It is the responsibility of the appellant to provide an adequate record for review. The appellant shall determine whether the entire trial court record is complete, correct and otherwise perfected for presentation on appeal. For purposes of this section, the **term ‘record’ is not limited to its meaning pursuant to Section 63-4 (a) (2)**, but includes all trial court decisions, documents and exhibits necessary and appropriate for appellate review of any claimed impropriety.  
(b) The failure of any party on appeal to seek articulation pursuant to section 66-5 shall not be the sole ground upon which the court declines to review any issue or claim on appeal. If the court determines that articulation of the trial court decision is appropriate, it may remand the case pursuant to section 60-5 for articulation by the trial court within a specified time period. After remand to the trial court for articulation, the trial court may, in its discretion, require assistance from the parties in order to provide the articulation. Such assistance may include, but is not limited to, supplemental briefs, oral argument and provision of copies of transcripts and exhibits.”  
Conn. Practice Book § [61-10](#) (2019).
- **Motion for Articulation:** “A motion seeking . . . an articulation or further articulation of the decision of the trial court shall be called a motion for . . . articulation. . . .”  
Conn. Practice Book § [66-5](#) (2019).
- “It is well settled that [a]n articulation is appropriate where the trial court's decision contains some ambiguity or deficiency reasonably susceptible of clarification. . . . [P]roper utilization of the motion for articulation serves to dispel any . . . ambiguity by clarifying the factual and legal basis upon which the trial court rendered its decision, thereby sharpening the issues on appeal. . . .” [J.K. Scanlan Co. v. Construction Group, Inc.](#), 80 Conn. App. 345, 352, 835 A.2d 79 (2003). (Internal quotations marks omitted.)
- “Where the factual or legal basis of a trial court's decision is unclear, ambiguous, incomplete or the court has failed to state any basis for its decision, this court may remand the case, pursuant to Practice Book § 60-5, for further articulation of the basis of the trial court's decision.” [Housing Authority v. Charter Oak Terrace/Rice Heights Health Center](#), 82 Conn. App. 18, 24, 842 A.2d 601 (2004).
- “An appellant may seek to remedy any ambiguities or deficiencies in a trial court's decision by filing a motion for articulation as provided in Practice Book § 66-5.” [American Honda Finance Corp. v. Johnson](#), 80 Conn. App. 164, 168, 834 A.2d 59 (2003).
- “That language of Practice Book § 66-5 makes clear that the motions for articulation under that section may be filed only after the filing of an appeal.” [Brycki v. Brycki](#), 91 Conn. App. 579, 594, 881 A.2d 1056 (2005).
- **Motion for review:** “Any party aggrieved by the action of the trial judge as regards rectification of the appeal or articulation under Section 66-5 may, within ten days of the issuance of notice of the order sought to be reviewed, make a written motion for review to the court, to be filed with the appellate clerk, and the court may, upon such a motion, direct any action it deems proper.” Conn. Practice Book § [66-7](#) (2019).

Table 1: Amendment to § 61-10 and Official Commentary – Effective January 1, 2013

<p style="text-align: center;"><b>Amendment to § 61-10 and Official Commentary Effective January 1, 2013</b> (Applicable to appeals filed on or after July 1, 2013)</p>
<p><b>Sec. 61-10. Responsibility of Appellant to Provide Adequate Record for Review</b></p> <p>(a) It is the responsibility of the appellant to provide an adequate record for review. The appellant shall determine whether the entire trial court record is complete, correct and otherwise perfected for presentation on appeal. For purposes of this section, the term “record” is not limited to its meaning pursuant to Section 63-4 (a) (2), but includes all trial court decisions, documents and exhibits necessary and appropriate for appellate review of any claimed impropriety.</p> <p>(b) The failure of any party on appeal to seek articulation pursuant to section 66-5 shall not be the sole ground upon which the court declines to review any issue or claim on appeal. If the court determines that articulation of the trial court decision is appropriate, it may remand the case pursuant to section 60-5 for articulation by the trial court within a specified time period. After remand to the trial court for articulation, the trial court may, in its discretion, require assistance from the parties in order to provide the articulation. Such assistance may include, but is not limited to, supplemental briefs, oral argument and provision of copies of transcripts and exhibits.</p> <p><i>HISTORY—2013: In 2013, what has been Section 61-10 was designated as subsection (a), and subsection (b) was added.</i></p> <p><i>COMMENTARY: January 2013: Subsection (b) was adopted to effect a change in appellate procedure by limiting the use of the forfeiture sanction imposed when an appellant fails to seek an articulation from the trial court pursuant to Section 66-5 with regard to an issue on appeal, and the court therefore declines to review the issue for lack of an adequate record for review. In lieu of refusing to review the issue, when the court determines that articulation is appropriate, the court may now remand the case to the trial court for an articulation and then address the merits of the issue after articulation is provided. The adoption of subsection (b) is not intended to preclude the court from declining to review an issue where the record is inadequate for reasons other than solely the failure to seek an articulation, such as, for example, the failure to procure the trial court’s decision pursuant to Section 64-1 (b) or the failure to provide a transcript, exhibits or other documents necessary for appellate review.</i></p>

2013 Conn. Practice Book 421 (Rev. of 1998).

# Section 1: Motion for Articulation

A Guide to Resources in the Law Library

- SCOPE:** Bibliographic resources relating to the postjudgment motion for articulation.
- SEE ALSO:**
- [Motion for Review](#)
  - [Motion for Clarification](#)
- DEFINITIONS:**
- **Motion for Articulation:** "A motion seeking . . . an articulation or further articulation of the decision of the trial court shall be called a motion for . . . articulation. . . ." Conn. Practice Book § [66-5](#) (2019).
  - **Appropriateness:** "An articulation is appropriate where the trial court's decision contains some ambiguity or deficiency reasonably susceptible of clarification." [Miller v. Kirshner](#), 225 Conn. 185, 208, 621 A.2d 1326 (1993).
  - **Ambiguity:** "[P]roper utilization of the motion for articulation serves to dispel any such ambiguity by clarifying the factual and legal basis upon which the trial court rendered its decision, thereby sharpening the issues on appeal." [Barnes v. Barnes](#), 190 Conn. 491, 494, 460 A.2d 1302 (1983).
  - **What it is not:** "An articulation, however, is not an opportunity for a trial court to substitute a new decision [or] to change the reasoning or basis of a prior decision." [internal quotes omitted]. [Miller v. Kirshner](#), 225 Conn. 185, 208, 621 A.2d 1326 (1993).
  - **Statutory Criteria** "A motion for articulation is the proper procedure to seek elucidation from the trial court of its considered evaluation of statutory criteria." [Barnes v. Barnes](#), 190 Conn. 491, 493-94, 460 A.2d 1302 (1983).
  - **Unclear:** "Where the factual basis of the court's decision is unclear, proper utilization of the motion for articulation serves to dispel any such ambiguity by clarifying the factual and legal basis upon which the trial court rendered its decision, thereby sharpening the issues on appeal." [Holmes v. Holmes](#), 2 Conn. App. 380, 383, 478 A.2d 1046 (1984).
  - **Timing:** "Any motion for . . . articulation shall be filed within thirty-five days after the delivery of the last portion of the transcripts or, if none, after the filing of the appeal, or, if no memorandum of decision was filed before the filing of the appeal, after the filing of the memorandum of decision. If the court, sua sponte, sets a different deadline from that provided in Section 67-3 for filing the appellant's brief, a motion for rectification or articulation shall be filed ten days prior to the deadline for filing the appellant's brief, unless

otherwise ordered by the court. The filing deadline may be extended for good cause. No motion for rectification or articulation shall be filed after the filing of the appellant's **brief except for good cause shown.**" CONN. PRACTICE BOOK § [66-5](#) (2019).

### **COURT RULES:**

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

- Conn. Practice Book (2019).
  - § [60-5](#). Review by the Court; Plain Error; Preservation of Claims
  - § [61-10](#). Responsibility of Appellant to Provide Adequate Record for Review
  - § [66-2\(e\)](#). Motions, Petitions and Applications; Supporting Memoranda
  - § [66-5](#). Motion for rectification; Motion for articulation
  - § [66-7](#). Motion for review of motion for rectification of appeal or articulation

### **OFFICIAL COMMENTS:**

- See [Table 1](#): Text and Official Commentary for § 61-10 (2013).
- See [Table 3](#): Official Commentary and Histories for § 66-5.

### **FORMS:**

- Schoonmaker, George & Blomberg, P.C., *Library of Connecticut Family Law Forms, 2d* (2014).
  - Motion for articulation, Form 16-001, p. 543.
- 3A Joel M. Kaye and Wayne D. Efron, *Connecticut Practice Series, Civil Practice Forms* (4th ed. 2004).
  - Form S-183. Motion for Articulation.

### **RECORDS & BRIEFS:**

- [Figure 1](#): *Motion for Articulation*, AC 34669 (No. DDB CV11-6006963 S).
- [Figure 2](#): *Decision on Motion for Articulation*, Connecticut Appellate Court Records and Briefs (March 2013), [Sikorsky Financial Credit Union, Inc v. Butts](#), 144 Conn. App. 755, 75 A. 3d 700 (2013).

### **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.

- [Brennan v. Brennan Associates](#), 316 Conn. 677, 705, 113 A.3d 957 (2015). "We conclude that the record is inadequate to review the defendants' claim through no fault of the defendants. In its memorandum of decision, the trial court did not make any findings of fact with respect to the indemnity provision of the partnership agreement. Without findings of fact regarding whether the partnership is obligated to pay the defendants' attorney's fees under the indemnity provision, we cannot review the defendants' claim that the trial court should have treated their attorney's fees as a liability of the partnership. Nevertheless, the defendants made sufficient attempts to obtain an adequate record for review in their motion for articulation and/or clarification, which was denied, and their motion for review, which this court granted but ultimately denied the relief sought therein. Accordingly, under the unique circumstances of this case, we

remand the case for further proceedings.”

- [Deroy v. Estate of Baron](#), 136 Conn. App. 123, 43 A. 3d 759 (2012). “No ambiguity exists in the present case. The trial court concluded that the decedent was ‘incompetent’ because she was unable to make decisions with respect to complex financial transactions and needed a conservator. The trial court’s implicit—and exclusive—adoption of this reasoning sufficiently demonstrates that the correct legal standard was not applied to the issue of testamentary capacity. The defendant, under such circumstances, had no duty to file a motion for articulation.”
- [Discover Bank v. Mayer](#), 127 Conn. App. 813, 17 A. 3d 80 (2011). “On March 15, 2010, the plaintiff filed a motion for articulation of the court’s decision denying its request for postjudgment interest. The court denied the motion, and the plaintiff filed a motion for review of the court’s denial of its motion for articulation. On June 16, 2010, this court granted review and ordered the trial court to articulate the legal and factual basis for denying the plaintiff’s request for postjudgment interest.”
- [Brycki v. Brycki](#), 91 Conn. App. 579, 594, 881 A.2d 1056 (2005). “There is no provision in the Practice Book for a motion for articulation to be filed in a case that has not been appealed. Practice Book §§ 60-5, 63-1, 66-5 and 66-7.”
- [Miller v. Kirshner](#), 225 Conn. 185, 208, 621 A.2d 1326 (1993). “An articulation, however, is not an opportunity for a trial court to substitute a new decision [or] to change the reasoning or basis of a prior decision.” [internal quotes omitted].
- [Eichman v. J & J Building Co.](#), 216 Conn. 443, 458, 582 A.2d 182 (1990). “Although a trial court may not alter its initial findings by way of a further articulation . . . we do not regard the court’s supplemental memorandum of decision as having done so. In view of that supplemental decision, we conclude that the plaintiff has not carried her appellate burden of establishing that the error of the trial court was harmful.”
- [Barnes v. Barnes](#), 190 Conn. 491, 494, 460 A.2d 1302 (1983). “[P]roper utilization of the motion for articulation serves to dispel any such ambiguity by clarifying the factual and legal basis upon which the trial court rendered its decision, thereby sharpening the issues on appeal.”
- 8A Arnold H. Rutkin et al. *Connecticut Practice, Family Law & Practice with Forms* (3rd ed. 2010).  
Chapter 52. Post-Judgment motions  
§ 52:3. Motion for articulation or clarification

**TEXTS &  
TREATISES:**

Chapter 54. Appeals  
§ 54: 7. Motion for articulation

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

- 6 Robert B. Yules et al. *Conn. Practice, Trial Practice* (2d ed. 2000).  
Chapter 8. Motions During Trial or After the Evidence  
§ 8.11. Motions for articulation
- Wesley W. Horton and Kenneth J. Bartschi, *Connecticut Rules of Appellate Procedure* (2018-2019 ed.).  
Authors' Comments following §§ 66-5 and 66-7.
- Colin C. Tait and Eliot D. Prescott, *Connecticut Appellate Practice and Procedure* (2016).  
§ 6-2: 3. Motion for rectification or articulation.
- Jeanine M. Dumont, *Pleadings and Pretrial Practice: a Deskbook for Connecticut Litigators* (1998 ed.).  
Chapter XVI, Motions to set aside or open, reargue, correct, articulate and enforce settlements, and the accidental failure of suit statute  
8. Motions to articulate (p. 157).

**LAW REVIEWS:**

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

- Wesley W. Horton, *2005 Connecticut Appellate Review*, 79 Connecticut Bar Journal 93 (2005).
- Melvin J. Silverman, *Hurdles on the Path to Appellate Review - The Motion to Set aside the Verdict and Articulation*, 4 Connecticut Lawyer 15 (1994).



Table 2: Procedures under P.B. § 66-5 and § 66-2(e) (Articulation)

<b>Procedures</b> <b>Conn. Practice Book § 66-5 (2019 ed.)</b> (Applicable to appeals filed on or after July 1, 2013)	
Relief sought	"Any motion filed pursuant to this section shall state with particularity the relief sought."
Copies Filed	"Except in cases where the trial court was a three judge court, an original and two copies of such motion shall be filed with the appellate clerk. Where the trial court was a three judge court, an original and four copies of such motion shall be filed."
Opposing parties	"Any other party may oppose the motion by filing an original and two or four copies of an opposition with the appellate clerk within ten days of the filing of the motion for rectification or articulation. The trial court may, in its discretion, require assistance from the parties in providing an articulation. Such assistance may include, but is not limited to, provision of copies of transcripts and exhibits."
Superior Court	"The appellate clerk shall forward the motion for rectification or articulation and the opposition, if any, to the trial judge who decided, or presided over, the subject matter of the motion for rectification or articulation for a decision on the motion. If any party requests it and it is deemed necessary by the trial court, the trial court shall hold a hearing at which arguments may be heard, evidence taken or a stipulation of counsel received and approved. The trial court may make such corrections or additions as are necessary for the proper presentation of the issues raised or for the proper presentation of questions reserved. The trial judge shall file the decision on the motion with the appellate clerk."
Appellate review	"The sole remedy of any party desiring the court having appellate jurisdiction to review the trial court's decision on the motion filed pursuant to this section or any other correction or addition ordered by the trial court during the pendency of the appeal shall be by motion for review under Section 66-7."
Time for filing briefs	" <b>Upon the filing of a timely motion pursuant to Section 66-1</b> , the appellate clerk may extend the time for filing briefs until after the trial court has ruled on a motion made pursuant to this section or until a motion for review under Section 66-7 is decided."
Time limits and extension thereof	"Any motion for rectification or articulation shall be filed within thirty-five days after the delivery of the last portion of the transcripts or, if none, after the filing of the appeal, or, if no memorandum of decision was filed before the filing of the appeal, after the filing of the memorandum of decision. If the court, sua

	<p>sponte, sets a different deadline from that provided in Section 67-3 <b>for filing the appellant’s brief</b>, a motion for rectification or articulation shall be filed ten days prior to the deadline for filing the <b>appellant’s brief, unless otherwise ordered by the court. The filing</b> deadline may be extended for good cause. No motion for rectification or articulation shall be filed after the filing of the <b>appellant’s brief except for good cause shown.</b></p> <p>A motion for further articulation may be filed by any party within twenty days after issuance of notice of the filing of an articulation by the trial judge. A motion for extension of time to file a motion for articulation shall be filed in accordance with Section 66-1.”</p>
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<p><b>Procedures</b></p> <p><b>Conn. Practice Book § 66-2(e) (2019 ed.)</b></p>	
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<p>Motions that are directed to the trial court, such as ... motions for rectification or articulation pursuant to Section 66-5, shall:</p>	<p>(1) include both the trial court and the Appellate Court docket numbers in the caption of the case;</p> <p>(2) state in the first paragraph the name of the trial judge, or panel of judges, who issued the order or orders to be reviewed;</p> <p>(3) include a proper order for the trial court if required by Section 11-1; and</p> <p>(4) comply with the requirements of Section 66-3. Such motions will be forwarded to the trial court by the appellate clerk.</p>
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Table 3: Official Comments and History to P.B. § 66-5 (Articulation)

<b>Official Comments and History to P.B. § 66-5</b>	
September 1999	<p><b>"HISTORY: Prior to 2000, the first paragraph read 'A motion seeking corrections in the transcript or the trial court record or seeking an articulation or further articulation of the decision of the trial court shall be called a motion for rectification or a motion for articulation, whichever is applicable. Any motion filed pursuant to this section shall state with particularity the relief sought. An original and three copies of such motion shall be filed with the appellate clerk. Any other party may oppose the motion by filing an original and three copies of an opposition with the appellate clerk within ten days of the filing of the motion for rectification or articulation.'</b></p> <p>The second paragraph, which includes the second and third sentences of the former <b>first paragraph, was added at that time."</b> 61 Conn. L.J. 13C (Sept. 21, 1999). Also appears in 2000 Conn. Practice Book 318 (Rev. of 1998).</p>
August 2002	<p><b>"COMMENTARY: The need for articulation may not appear until a party has read the transcripts or begun drafting the brief. The filing deadline provides time to read the transcript, conduct legal research, and begin drafting the brief so that a party can make this assessment. The practice lately, however, has been to order, sua sponte, that the first brief be filed 45 days after the first pre-argument conference. The purpose of such orders is to encourage settlement before the parties have invested substantial resources in writing a brief. If a party must make this investment in order to determine whether to file a motion for articulation, the benefit of the delayed deadline is lost.</b></p> <p>Although a party can affirmatively seek an extension of time to file a motion for articulation, doing so is a minor nuisance for the alert and, more significantly, a trap for the unwary, given the seriousness with which <b>the courts treat an appellant's obligation to perfect the record.</b> Automatically advancing the deadline for articulation avoids unnecessary <b>paperwork, and potentially, the preclusion of appellate review of issues."</b> 64 Conn. L.J. 5C (August 20, 2002). Also appears in 2003 Conn. Practice Book 371 (Rev. of 1998).</p>

<p>July 2013</p>	<p><b>HISTORY—July, 2013:</b> In July, 2013, “two” was substituted for “three” in the first sentence of the second paragraph. “[F]our” was substituted for “five” in the second sentence of the second paragraph. In the third sentence of the second paragraph, “two” was substituted for “three,” and “four” was substituted for “five.” In the third sentence of the third paragraph, “raised or for the proper presentation of questions reserved” was deleted, following “issues.”</p> <p>Refer to Section 66-5, applicable to appeals filed before July 1, 2013, to compare the amended language with the fifth paragraph of the predecessor rule.</p> <p><b>COMMENTARY—July, 2013:</b> This amendment clarifies that corrections and articulations by the trial judge in response to a motion for articulation or a motion for rectification that are relevant to the issues on appeal shall be included in the appendices. 2014 Conn. Practice Book 458 (Rev. of 1998).</p>
<p>June 2017</p>	<p><b>HISTORY—June, 2017:</b> What are now the final two sentences of the first paragraph were added. 2018 Conn. Practice Book 456 (Rev. of 1998).</p> <p><b>COMMENTARY:</b> Effective June 15, 2017, the trial court may require transcript and documentary assistance from the parties in deciding articulation matters. This rule was amended for 2016 to clarify that the trial court clerk sends the articulation to the appellate clerk, who sends it to the counsel of record. Wesley W. Horton and Kenneth J. Bartschi, Connecticut Practice Series, <u>Connecticut Rules of Appellate Procedure</u> (2017-2018 ed.).</p>

Figure 1: Motion for Articulation  
DDB CV11-6006963 S  
AC 34669  
SIKORSKY FINANCIAL  
CREDIT UNION, INC.

APPELLATE COURT  
STATE OF CONNECTICUT

v.

WILLIAM D. BUTTS

JULY 2, 2012

## **MOTION FOR ARTICULATION**

### **I. BRIEF HISTORY OF THE CASE**

Plaintiff brought this action seeking to collect a balance due from monies loaned to the Defendant. After securing a default the Plaintiff claimed this matter to the hearing in damages list. On April 16, 2012, the court (Ozalis, J.), entered judgment in favor of the **Plaintiff. The court's judgment** order contained an award of discretionary post judgment interest at a rate of 2%. As the court had awarded the Plaintiff post maturity interest until the date of judgment at the rate set forth by contract, the Plaintiff, in accordance with C.P.B. § 11-11, sought re-argument and reconsideration of the post judgment interest **portion of the court's order. On May 7, 2012, the court (Ozalis, J.) granted reconsideration,** but left the judgment order undisturbed. This appeal followed.

### **II. SPECIFIC FACTS RELIED UPON**

Plaintiff brought this appeal because it believes that the court erred in granting an award of discretionary post judgment interest in this contract action. The court has failed to identify the statutory authority it is exercising with its discretionary award of post judgment interest. The statutory basis upon which the court is relying has a direct impact on the issues in this appeal. Plaintiff moves the court pursuant to Connecticut Practice Book § 66-5 to more fully articulate its legal and factual basis for its decisions as follows:

1. Articulate the statutory authority the court relies upon in entering its order of discretionary post judgment interest at a rate of 2%.

2. Articulate whether the award of discretionary post judgment interest at a rate of 2% is an award of interest as damages to be calculated in addition to post maturity eo nomine interest.

### **III. LEGAL GROUNDS**

This motion is brought pursuant to Practice Book §§ 61-10 and 66-5 and the Plaintiff's rights to due process, equal protection and effective assistance of appellate counsel. Practice Book § 66-5 provides that the Appellant can file a motion seeking an articulation of the decision of the trial court. "[A]n articulation is appropriate where the trial court's decision contains some ambiguity or deficiency reasonably susceptible of clarification ... [P]roper utilization of the motion for articulation serves to dispel any ... ambiguity by clarifying the factual and legal basis upon which the trial court rendered its decision, thereby sharpening the issues on appeal." (Internal quotation marks omitted.) *Alliance Partners, Inc. v. Oxford Health Plans, Inc.* 263 Conn. 191, 204, 819 A.2d 227 (2003); see also *Miller v. Kirshner*, 225 Conn. 185, 208, 621 A.2d 1326 (1993). *Cable v. Bic Corp.*, 270 Conn 433, 444-45, 854 A.2d 1057, 1065 (2004). "It is the responsibility of the appellant to provide an adequate record for review." Practice Book §61-10. In order to ensure an adequate record for review, the appellant may move for articulation pursuant to Practice Book §4051.2 (now 66-5). *Lockwood v. Professional Wheelchair Transportation, Inc.*, 37 Conn. App. 85, 90, 654 A.2d 1252, cert. denied, 233 Conn. 902, 657 A.2d 641 (1995), *Viets v. Viets*, 39 Conn App. 610, 612, 666 A.2d 434, 435-36 (1995).

WHEREFORE, the Plaintiff respectfully requests that articulation be rendered as requested herein.

Respectfully submitted,  
PLAINTIFF-APPELLANT  
Sikorsky Financial Credit Union, Inc.

By: \_\_\_\_\_  
William L. Marohn  
Tobin & Mellen  
Its Attorney

Figure 2: Decision on Motion for Articulation

Docket No. DBD-CV-11-6006963	:	SUPERIOR COURT
	:	
SIKORSKY FINANCIAL CREDIT UNION,	:	JUDICIAL DISTRICT OF
	:	DANBURY AT DANBURY
Plaintiff,	:	
	:	
vs.	:	
	:	
WILLIAM D. BUTTS,	:	
	:	
Defendant.	:	August 9, 2012

**DECISION ON MOTION FOR ARTICULATION**

The court has reviewed the Motion for Articulation filed pursuant to Practice Book § 11-11 by the plaintiff Sikorsky Financial Credit Union, Inc. and the plaintiff’s Motion for Articulation is granted. The plaintiff has requested articulation on two issues relating to a judgment entered by the court on April 16, 2012. The issues are: (1) the statutory authority the court relies upon in entering its order of discretionary post judgment interest at the rate of 2%; and (2) whether the award of discretionary post judgment interest at the rate of 2% is an award of interest as damages to be calculated in addition to post maturity eo nomine interest.

As to the first request for articulation, the court awarded 2% post judgment interest pursuant to General Statutes § 37-3(a). **“The decision of whether to grant interest under § 37-3a is primarily an equitable determination and a matter lying within the discretion of the trial court...”** *Sosin v. Sosin*, 300 Conn. 205, 227 (2011). **“It is well settled ... that the court’s determination [as to whether interest should be awarded under §37-3a] should be made in view of the demands of justice rather than through the application of any arbitrary rule .... Whether interest may be awarded depends on whether the detention of money is payable ... and whether the detention of money is or is not wrongful under the circumstances.”** (Citations omitted; internal quotation marks omitted.) *Id.*, at 229. The

court's decision to order 2% post judgment interest was an equitable decision based on the facts surrounding this debt, including the defendant's wrongful retention of funds.

As to the second request for articulation, the discretionary post judgment interest awarded by this court at a rate of 2% was not an award of interest in damages to be calculated in addition to "post maturity eo nomine interest", as the court interpreted such "post maturity eo nomine interest" as accruing under the terms of the agreement as prejudgment interest, not post judgment interest.

BY THE COURT

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Ozalis, J.



Table 4: Unreported Decisions, Motion for Articulation

<b>Unreported Decisions</b>	
<p><u>Desmond v. Yale–New Haven Hospital, Inc. et al.</u>, Superior Court, Judicial District of New Haven, CV 136040736 S (Aug. 6, 2015) (2015 WL 5314877).</p>	<p>"[The plaintiff is correct that a motion for articulation ... must be filed with the Appellate Court and not, as the <b>defendant did in this case, directly with the trial court ... 'A motion for articulation is only in support of a pending appeal and must be filed with the Appellate Court.'</b> <i>Travelers Casualty &amp; Surety Co. of America v. Caridi</i>, Superior Court, judicial district of Stamford–Norwalk, Docket No. CV–11–5013598–S (July 16, 2012, Tierney, J.T.R.)."</p>
<p><u>Klein v. Bratt</u>, Superior Court, Judicial District of Stamford–Norwalk at Stamford, No. FST CV 05 5000502 S (Feb. 18, 2011).</p>	<p>"<b>There is no provision in the Practice Book for a motion for articulation to be filed in a case that has not been appealed.</b> P.B. 60-5, 63-1(c)(1), 66-5 and 66-7. <i>Brycki v. Brycki</i>, 91 Conn.App. 579, 594 (2005)."</p>
<p><u>Bieler v. Continental Insurance Co.</u>, Superior Court, Judicial District of Stamford–Norwalk at Stamford, No. CV02 0189454 S (Dec. 24, 2003), (36 Conn. L.Rptr. 248) (2003 WL 23177484).</p>	<p>"<b>On December 1, 2003 defendant Federal Insurance</b> requested articulation of the court's order denying the motion for severance. In response to that motion the court finds that the defendant had not demonstrated to the court's satisfaction that good cause exists for the separate trial of these actions. The defendant has not brought to the court's attention any reason for reversing the order of Judge Mintz consolidating the cases for trial. Both actions involve the same event or occurrence, the same plaintiff and the same injuries. It is obvious that a consolidated trial will serve the interests of justice and of judicial economy. For the foregoing reasons, the court denied the motion for <b>severance.</b>"</p>
<p><u>Marquette v. Marquette</u>, Superior Court, Judicial District of Stamford–Norwalk at Stamford, No. FA 98 0163816 S (Feb. 21, 2001) (2001 WL 236853).</p>	<p>"... it is within the <b>discretion of the trial court 'to make such corrections or additions as are necessary</b> for the proper presentation of the issues <b>raised . . . or . . . reserved.'</b> Section 66-5 Connecticut Practice Book. (Emphasis added) A motion for articulation, by definition, implies that the court failed to state the basis for its decision on one or more points. However, if upon review of that decision, the court believes that is not the case, but that the decision would otherwise benefit by a clarification and/or correction, it lies within the power of the court to do so, even <b>sua sponte.</b>" [Emphasis added.]</p>

<p><u>Samuels v. Samuels</u>, Superior Court, Judicial District of New Haven, No. FA98-0414531 (Nov. 24, 1999) (2001 WL 649749).</p>	<p><b>"The plaintiff has filed a motion for articulation dated September 30, 1999 seeking to articulate the court order to the extent that it relates to the plaintiff's pendente lite obligation to make the monthly mortgage payment."</b></p>
<p><u>Benedetto v. Stamford Transit District</u>, Superior Court, Judicial District of Stamford-Norwalk at Stamford, No. SC 16204 (Nov. 17, 1999) (1999 WL 1081510).</p>	<p><b>"In their motion for articulation, the plaintiffs appear to criticize the court's decision on the grounds that: (1) it was only 'one paragraph;' (2) it stated that the motion for summary judgment was granted 'in its entirety;' (3) the court did not set forth the 'factual and legal basis for its decision,' but rather simply adopted the moving party's 'factual or legal conclusions;' and (4) the decision did not discuss the third and fourth claims made by J. R. Maintenance in its motion for summary judgment. The two claims were described by the plaintiffs as asserting a statute of limitations defense and that the direct claims were 'inappropriate because the apportionment complaint was improper.'"</b></p>
<p><u>Popp v. Bacon</u>, Superior Court, Judicial District of Fairfield at Bridgeport, CV 93 030 29 73 S (July 15, 1994) (12 Conn. L. Repr. 137) (1994 WL 386009).</p>	<p><b>"Since '[t]he denial of a motion for summary judgment is not ordinarily appealable because it is not a final judgment'; <i>Prishwalko v. Bob Thomas Ford, Inc.</i>, 33 Conn.App. 575, 589, 636 A.2d 1383 (1994); it is submitted that an articulation of the court's reasoning in denying the motion would serve no useful purpose."</b></p>
<p><u>Gretsch v. Housatonic Cable Vision Co.</u>, 8 Conn. Law Trib. No. 14, p. 13 (1982).</p>	<p><b>"No appeal has been taken in this case. Consequently, Section 3082 [now 66-5] of the Practice Book which pertains to rectification of appeal does not apply and is inappropriate."</b></p>
<p><u>Greene v. Keating</u>, Superior Court, Judicial District of Stamford/Norwalk at Stamford, CV 10-6007166 S (December 2, 2013) (2013 WL 6912907).</p>	<p><b>"The plaintiff frames pages 2-3 of her September 27, 2013 Memorandum of Law as a request for articulation. This matter is not on appeal. The trial court has no authority to articulate when the matter is not on appeal. Practice Book 66-5."</b></p>