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2019 Edition

Motion for Clarification

A Guide to Resources in the Law Library

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Introduction

A Guide to Resources in the Law Library

- “The trial court has jurisdiction to clarify an ambiguous judgment at any time.” [Sosin v. Sosin](#), 300 Conn. 205, 218, 14 A.3d 307, 316 (2011).
- “Motions for interpretation or clarification, although not specifically described in the rules of practice, are commonly considered by trial courts and are procedurally proper.” [Holcombe v. Holcombe](#), 22 Conn. App. 363, 366, 576 A.2d 1317, 1319 (1990).
- “[T]he purpose of a clarification is to take a prior statement, decision or order and make it easier to understand. Motions for clarification, therefore, may be appropriate where there is an ambiguous term in a judgment or decision ... but, not where the movant’s request would cause a substantive change in the existing decision. Moreover, motions for clarification may be made at any time and are grounded in the trial court’s equitable authority to protect the integrity of its judgments.” [Light v. Grimes](#), 136 Conn. App. 161, 166, 43 A.3d 808, 812, cert. denied, 305 Conn. 926 (2012). (Internal quotation marks omitted.)

Section 1: Motion for Clarification

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to the postjudgment motion for clarification.

SEE ALSO:

- [Motion for Articulation](#) (Research Guide)
- [Motion to Reargue](#) (Research Guide)

DEFINITIONS:

- “[M]otions for interpretation or clarification, although not specifically described in the rules of practice, are commonly considered by trial courts and are procedurally proper.” [State v. Denya](#), 294 Conn. 516, 528, 986 A.2d 260, 267 (2010).
- **“In cases in which execution of the original judgment** occurs over a period of years, a motion for clarification is an appropriate procedural vehicle to ensure that the original judgment is properly effectuated... Motions for clarification may not, however, be used to modify or to alter the substantive terms of a prior judgment ... and we look to the substance of the relief sought by the motion rather than the form to determine whether a motion is properly characterized as one seeking a clarification or a **modification.**” [State v. Denya](#), 294 Conn. 516, 528-529, 986 A.2d 260, 267 (2010).
- **“There is no time restriction imposed on the filing of a** motion for clarification. See [Barnard v. Barnard](#), supra [214 Conn. 99, 570 A.2d 690 (1990);] (motion for clarification filed sixteen months after judgment); [Cattaneo v. Cattaneo](#), [19 Conn. App. 161, 561 A.2d 967 (1989)]; supra (motion for clarification filed six and one-half years after judgment). Although a judgment may not be opened or set aside after four months; Practice Book § 326; [Blake v. Blake](#), 211 Conn. 485, 495, 560 A.2d 396 (1989); under the common law, judgments may be **‘corrected’ at any time.**” [Holcombe v. Holcombe](#), 22 Conn. App. 363, 366, 576 A.2d 1317, 1319 (1990).
- **“Even beyond the four month time frame set forth in** Practice Book § 17-4, **however, courts have ‘continuing** jurisdiction to fashion a remedy appropriate to the vindication of a prior ... judgment... pursuant to [their] **inherent powers....’** (Citation omitted; internal quotation marks omitted.) [Avalon Bay Communities, Inc. v. Plan & Zoning Commission](#), 260 Conn. 232, 239, 796 A.2d 1164 (2002).” [Mickey v. Mickey](#), 292 Conn. 597, 604, 974 A.2d 641, 648 (2009).
- **Compared to Motion for Modification:** “[A] modification is defined as ‘[a] change; an alteration or amendment which introduces new elements into the

details, or cancels some of them, but leaves the general purpose and effect of the subject-matter intact.’ **Black’s Law Dictionary** (6th Ed. 1990).

Conversely, to clarify something means to ‘free it from confusion.’ Webster’s New World Dictionary of the American Language (2d Ed. 1972). Thus, the purpose of a clarification is to take a prior statement, decision or order and make it easier to understand. Motions for clarification, therefore, may be appropriate where there is an ambiguous term in a judgment or decision . . . but, not where the movant’s request would cause a substantive **change in the existing decision.**” [In Re Haley B.](#), 262 Conn. 406, 413, 815 A.2d 113, 117 (2003).

- **Contrasted with Motion for Articulation:** “The petitioner’s appeal form also states that the he appeals from the denial of his motion for clarification. A motion seeking an articulation or further articulation of a trial court’s decision is called a motion for articulation. See Practice Book § 66-5. **‘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 . . . shall be by motion for review under Section 66-7.’ **Practice Book § 66-5.** We therefore decline to review this claim.” [Footnote 2] [Woolcock v. Commr. of Correction](#), 62 Conn. App. 821, 824, 772 A.2d 684, 687 (2001).
- **Latent Ambiguity:** “The difficulty with the defendant’s argument is that it assumes that the court’s initial allocation of the parties’ pension rights was unambiguous. Like the pension administrator, the court found, to the contrary, that its description of the event that would trigger the defendant’s eligibility for a pension contained a **latent ambiguity.** ‘[L]atent ambiguities are those which appear only as the result of extrinsic or collateral evidence showing that a word, thought to have but one meaning, actually has two or more meanings . . . Latent ambiguities [can] be shown and explained by pleading and parol proof.’ **11 S. Williston**, Contracts (4th Ed. Lord 1999) §33:40, pp. 816-17; [Heyman Associates No. 1 v. Ins. Co. of Pennsylvania](#), 231 Conn. 756, 782, 653 A.2d 122 (1995); [In re Marriage of Holloway](#), 299 Mont. 291, 295-96, 999 P.2d 980 (2000).

Applying the law stated in these authorities, we hold that the court reasonably found that a latent ambiguity in its original pension order authorized it to restate its order to clarify its original intention for the division of the defendant’s pension rights between the parties. We, therefore, **disagree with the defendant’s** characterization of the court’s order as an impermissible modification of its

terms.” [Ranfone v. Ranfone](#), 119 Conn. App. 341, 345-346, 987 A.2d 1088, 1091 (2010).

RECORDS & BRIEFS:

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.

- [Rosato v. Rosato](#), 255 Conn. 412, 766 A.2d 429 (2001). [Figure 1 - Motion For Clarification](#), Connecticut Supreme Court Records and Briefs (September 2000).
- [Almeida v. Almeida](#), 190 Conn. App. 760, 768, 213 A.3d 28, 34 (2019). “**The plaintiff’s motion sought to change the substance of the judgment by asking the trial court to revisit its original judgment and effectuate its original intent by introducing a new element into its judgment—that the defendant not just quitclaim whatever interest in the property he was able to, but that he ‘make whatever arrangements were necessary’ so as to be able to transfer his partner’s interest as well. Accordingly, the plaintiff’s motion more properly is characterized as a motion to modify because it ‘represent[s] an attempt to alter the substantive terms of the original judgment.’** [Mickey v. Mickey](#), 292 Conn. 597, 606, 974 A.2d 641 (2009); see also [In Re Haley B.](#), supra, 262 Conn. 414 (motion for clarification properly characterized as motion to alter or to modify original judgment when trial court changed, on basis of mistake made at trial, visitation order by reducing frequency of visitation from weekly to monthly visitation in order to effectuate intent of original judgment); [Miller v. Miller](#), 16 Conn. App. 412, 416–17, 547 A.2d 922 (motion for clarification improperly modified original judgment, which allowed defendant to satisfy \$500,000 lump sum alimony award by transferring securities to plaintiff, by subsequently ordering that any securities transferred to plaintiff in satisfaction of lump sum alimony award pay dividends of at least \$50,000 per year), cert. denied, 209 Conn. 823, 552 A.2d 430 (1988).”
- [DeAlmeida-Kennedy v. Kennedy](#), 188 Conn. App. 670, 684-685, 205 A.3d 704, 714-715 (2019). “**In the present case, the court granted in part the plaintiff’s motion for clarification and awarded the plaintiff attorney’s fees ‘as a sanction for bringing a baseless motion.’ The court, however, not only failed to find that the defendant had acted in bad faith, but also by granting in part the defendant’s motion for modification, it cannot be said that the court found the defendant’s claims to be entirely without color. Accordingly, we conclude that the court abused its discretion in granting the plaintiff attorney’s fees for opposing the defendant’s motion for modification.**”
- [Stewart v. Stewart](#), 157 Conn. App. 601, 610, 117 A.3d 958, 963 (2015). “We begin with our standard of review. ‘In order to determine whether the trial court properly clarified ambiguity in the judgment or impermissibly modified or altered the substantive terms of the

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judgment, we must **first construe the trial court's** judgment. It is well established that the construction of a judgment presents a question of law over which we exercise plenary review.... **In construing a trial court's** judgment, [t]he determinative factor is the intention of the court as gathered from all parts of the judgment.... The interpretation of a judgment may involve the circumstances surrounding the making of the judgment.... Effect must be given to that which is clearly implied as well as to that which is expressed.... The judgment should admit of a consistent construction as a whole.... In addition ... because the trial judge who issues the order that is the subject of subsequent clarification is familiar with the entire record and, of course, with the order itself, that judge is in the best position to clarify any ambiguity in the order. For that reason, substantial deference is **accorded to a court's** interpretation of its own order.... Accordingly, we **will not disturb a trial court's** clarification of an ambiguity in **its own order unless the court's** interpretation of that order is manifestly unreasonable.' (Citations omitted; internal quotation marks omitted.) [Bauer v. Bauer](#), 308 Conn. 124, 131-32, 60 A.3d 950 (2013)."

- [Clark v. Clark](#), 150 Conn. App. 551, 571-572, 91 A.3d 944, 955-956 (2014). **"Although the defendant characterizes the court's** orders as a modification and, in discussing the orders at issue, the court used the word **'modify' several times, 'neither of these factors influences the actual nature of the motion or the court's** responsive ruling. It has been recognized by both this court and our Supreme Court that despite the movant's or the trial court's characterization of a motion reviewing court examines the practical effect of the responsive ruling in determining the nature of the pleading.... On review, we look to the substance of the relief sought by the motion and the **practical effect of the trial court's** responsive ruling.' (Citations omitted.) [Fewtrell v. Fewtrell](#), 87 Conn. App. 526, 532, 865 A.2d 1240 (2005).... **The court's** clarification order merely determined that the original judgment and any subsequent court orders had never prohibited the plaintiff from exercising the statutorily mandated right to access afforded to him by § 46b-56 (g). **The court's** orders did not alter the judgment of dissolution or result in a modification of the original judgment or any prior order. We find that the court did not abuse its discretion or act unreasonably in clarifying **and enforcing the plaintiff's right . . ."**
- [Bauer v. Bauer](#), 308 Conn. 124, 134-135, 60 A.3d 950, 957 (2013). "The trial court, which was in the best position to resolve the discrepancy between the factual findings and the orders, clarified that the defendant was, in fact, required to split his pension accounts equally with

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the plaintiff. Not only was this interpretation reasonable, but any other interpretation would have rendered the trial court's factual finding superfluous and inconsistent with its orders. Moreover, the clarification merely reiterated the factual finding as originally stated and, thus, did not change or modify the judgment. **Because the trial court's clarification was not manifestly unreasonable, we conclude that the Appellate Court improperly reversed the trial court's judgment on the motion for clarification."**

- [Light v. Grimes](#), 136 Conn. App. 161, 166, 43 A.3d 808, 811 cert. denied, 305 Conn. 926 (2012). "The court explained that: 'The date of judgment is May 9, 2008. The date of the court's ruling on the plaintiff's motion for clarification cannot as a matter of law be the basis for the date of judgment. A motion for clarification is a postjudgment motion which does not modify or alter the substantive terms of a prior judgment.'"
- [Sosin v. Sosin](#), 300 Conn. 205, 220, 14 A.3d 307, 317 (2011). "Finally, the trial court effectively clarified its intent with respect to the asset distribution when it denied the defendant's amended motion for reargument. The fact that the trial court declined to correct the judgment to reflect the actual dollar amounts in the bank and brokerage accounts indicates that those specific dollar amounts had not been a critical component of the trial court's judgment. Cf. [State v. Denya](#), 294 Conn. 516, 531, 986 A.2d 260 (2010) ('[B]ecause the trial judge who issues the order that is the subject of subsequent clarification is familiar with the entire record and, of course, with the order itself, that judge is in the best position to clarify any ambiguity in the order. For that reason, substantial deference is accorded to a court's interpretation of its own order.')."
- [Von Kohorn v. Von Kohorn](#), 132 Conn. App. 709, 716, 33 A.3d 809, 813 (2011). "The court, by granting the plaintiff's request for clarification, lacked the authority to alter the substantive terms of the prior judgment beyond those terms that it determined were omitted from the original order. See [Mickey v. Mickey](#), supra, 292 Conn. at 604-605, 974 A.2d 641. It also lacked any authority to make substantive changes pursuant to General Statutes § 52-212a or Practice Book §§ 17-4 and 11-11 because the court did not grant reargument of the terms of the alimony orders, and the court reasonably could not have treated the plaintiff's post-judgment motion as a motion to open the judgment and modify the alimony award because such relief was neither directly nor implicitly requested in the postjudgment motion. We conclude that the court's sua sponte alteration of the alimony order from a lifetime award to a term of eight years was an

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abuse of discretion. Accordingly, we reverse that portion of the court's July 13, 2010 order."

- [Fuller v. Fuller](#), 119 Conn. App. 105, 112, 987 A.2d 1040, 1045 (2010). "[T]he trial court's continuing jurisdiction to effectuate its prior judgments, either by summarily ordering compliance with a clear judgment or by interpreting an ambiguous judgment and entering orders to effectuate the judgment as interpreted, is grounded in its inherent powers, and is not limited to cases wherein the noncompliant party is in contempt, family cases, cases involving injunctions, or cases wherein the parties have agreed to continuing jurisdiction.' [Avalon Bay Communities, Inc. v. Plan & Zoning Commission](#), 260 Conn. 232, 246, 796 A.2d 1164 (2002)."
- [Mickey v. Mickey](#), 292 Conn. 597, 605, 974 A.2d 641, 648 (2009). "In the present case, the defendant filed a motion for clarification, asserting that postdissolution events revealed a latent ambiguity in the dissolution judgment as to whether the trial court intended to distribute the defendant's disability benefits in connection with its distribution of the parties' marital property."
- [Sablosky v. Sablosky](#), 258 Conn. 713, 720, 784 A.2d 890, 895 (2001). "...the present case, 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. The appropriate remedy for doubt about the meaning of a judgment is to seek a judicial resolution of any ambiguity; it is not to resort to self-help."
- [Coscina v. Coscina](#), 24 Conn. App. 190, 192, 587 A.2d 159, 160 (1991). "In prior cases where a plaintiff was seeking to clarify a marital dissolution agreement, a motion for clarification of judgment was employed with approval. See [Holcombe v. Holcombe](#), 22 Conn. App. 363, 366, 576 A.2d 1317 (1990), and cases cited therein. The trial court here accepted the plaintiff's complaint for a declaratory judgment coupled with a request for monetary damages. Although an alternative form of action was available, namely the motion for clarification of judgment, we do not disapprove of the trial court's proceeding as it did."
- [Miller v. Miller](#), 16 Conn. App. 412, 413, 547 A.2d 922, 923 (1988). "The defendant appeals from a postjudgment ruling of the trial court in this dissolution action on a motion for clarification filed by the plaintiff."
- 46 *AmJur 2d Judgments* (2017).
§ 65. Court's authority to interpret and clarify judgment

ENCYCLOPEDIAS:

TEXTS & TREATISES:

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LAW REVIEWS:

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- Hon. Barry F. Armata and Campbell D. Barrett, Editors, *A Practical Guide to Divorce in Connecticut* (2018).
Chapter 16. Appellate Procedure and Posttrial Motions
§ 16.2.2(c). Posttrial Motions— Motion for Clarification
- 8A Arnold H. Rutkin et al., *Connecticut Practice Series. Family Law And Practice with Forms* (3rd ed. 2010).
Chapter 52. Postjudgment Motions
§ 52: 3. Motion for articulation or clarification
- Louise Truax, Editor, *LexisNexis Practice Guide: Connecticut Family Law* (2019).
Chapter 16. Appellate Procedure
§ 16.07. CHECKLIST: Filing motions in anticipation or while the appeal is pending
§ 16.08. Filing motions after the decision but before filing an appeal
§ 16.13. Filing a motion for clarification
- Wesley W. Horton and Kenneth J. Bartschi, *2009 Appellate Review*, 84 Connecticut Bar Journal 1, 8-9 (2010).
- Arthur E. Balbirer and Gaetano Ferro, *Survey Of 1990 Developments In Connecticut Family Law*, 65 Connecticut Bar Journal 103, 121 (1991).
- C. Ian McLachlan and Cynthia C. George, *Survey of Developments in Connecticut Family Law*, 63 Connecticut Bar Journal 131, 142-143 (1989).

Figure 1: Motion for Clarification

No. _____ Superior Court

(First Named Plaintiff)
v. _____

(First Named Defendant) (Date)

MOTION FOR CLARIFICATION

The defendant, _____, in the above referenced action hereby respectfully represents as follows:

1. On July 11, 1998 a judgment of dissolution of marriage entered by this Court (_____, J.)
2. **This Court's oral memorandum of decision and the party's judgment file set forth, in relevant part, as follows: "The wife is to retain any benefits in the husband's pension which she currently has, as his spouse..."**
3. **As of the date of this motion the defendant has received none of the plaintiff's pension benefits.**
4. The United States Office of Personnel Management has refused to convey the **plaintiff's pension interest to the defendant pursuant to the submitted domestic relations order.**

WHEREFORE, the defendant respectfully requests that this Court clarify its decision **and set forth the exact percentage interest of plaintiff's pension which is due to the defendant.**

THE DEFENDANT

BY _____

ORAL ARGUMENT REQUESTED
TESTIMONY REQUIRED

[*Heading*, Form 105.1, 2 Conn. Practice Book (1997).]

[*Motion For Clarification*, Connecticut Supreme Court Records and Briefs (September 2000). [Rosato v. Rosato](#), 255 Conn. 412, 766 A.2d 429 (2001).]

Table 1: Selected Superior Court Cases on Motions for Clarification

| Selected Superior Court Cases: Motion for Clarification | |
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| <p><u>Jones v. Jones</u>, Superior Court, Judicial District of Stamford-Norwalk at Stamford, No. FSTFA950143869S (March 4, 2015) (2015 Conn. Super. Lexis 494) (2015 WL 1427354).</p> | <p>“A motion for clarification is an appropriate procedural vehicle to ensure that the original judgment is properly effectuated ... Motions for clarification may not, however, be used to modify or to alter the substantive terms of a prior judgment.’ <u>Von Kohorn v. Von Kohorn</u>, 132 Conn. App. 709, 714 (2011). A motion for clarification although not specifically described in the rules of practice, is commonly considered by trial courts and is procedurally proper. <u>Holcombe v. Holcombe</u>, 22 Conn. App. 363, 366 (1990). ‘There is no time restriction for filing a motion for clarification.’ <u>Barnard v. Barnard</u>, 214 Conn. 99, 100 (1990).</p> <p>‘This trial court has jurisdiction to clarify an ambiguous judgment at any time.’ <u>Avalon Bay Communities, Inc. v. Plan & Zoning Commission</u>, 260 Conn. 232, 246 (2002); <u>State v. Denya</u>, 294 Conn. 516, 533, fn.10 (2010). Indeed, ‘courts have continuing jurisdiction to fashion a remedy appropriate to the vindication of a prior ... judgment ... pursuant to [their] inherent powers ... [Thus] [w]hen an ambiguity in the language of a prior judgment has arisen as a result of postjudgment events ... a trial court may, at any time, exercise its continuing jurisdiction to effectuate its prior [judgment] ... by interpreting [the] ambiguous judgment and entering orders to effectuate the judgment as interpreted ... In cases in which execution of the original judgment occurs over a period of years, a motion for clarification is an appropriate procedural vehicle to ensure that the original judgment is properly effectuated ... Motions for clarification may not, however, be used to modify or to alter the substantive terms of a prior judgment ... and we look to the substance of the relief sought by the motion rather than the form to determine whether a motion is properly characterized as one seeking a clarification or a modification.’ (Citations omitted; internal quotation marks omitted.) <u>Mickey v. Mickey</u>, <i>supra</i>, 292 Conn. 64-05; cf. <u>Rome v. Album</u>, 73 Conn. App. 103, 109, 807 A.2d 1017 (2002) (‘[when] the movant’s request would cause a substantive modification of an existing judgment, a motion to open or set aside the judgment would normally be necessary’). <u>State v. Denya</u>, <i>supra</i>, 294 Conn. 528-29.”</p> |

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| <p><u>Edlam v. Beeks</u>, Superior Court, Judicial District of New London at Norwich, No. FA094110621S (March 4, 2014) (2014 Conn. Super. Lexis 515) (2014 WL 1283926).</p> | <p>“Motions for articulation or clarification, although not specifically described in the rules of practice, are commonly considered by trial courts and are procedurally proper.’ <u>Holcombe v. Holcombe</u>, 22 Conn. App. 363, 366 (1990). Clarifications are appropriate when the trial court failed to rule on a matter. <u>Schoonmaker v. Lawrence Brunoli, Inc.</u>, 265 Conn. 210, 232 (2003). It is the proper procedural vehicle to ask the trial judge to rule on an overlooked matter. <u>Wallenta v. Moscovitz</u>, 81 Conn. App. 213, 230, <i>cert. denied</i>, 268 Conn. 909 (2004). Clarifications are not to be used by the trial court to ‘substitute a new decision [or] to change the reasoning or basis of a prior decision.’ <u>Walshon v. Walshon</u>, 42 Conn. App. 651, 655–56 (1996).”</p> |
| <p><u>R.T. Vanderbilt Co., Inc. v. Hartford Accident & Indemnity Co.</u>, Superior Court, Judicial District of Waterbury, Complex Litigation Docket at Waterbury, No. X02UWYCV075016321 (April 22, 2013) (2013 Conn. Super. Lexis 901) (2013 WL 1943943).</p> | <p>“Lastly, the plaintiff asks the court to clarify its decision. As to a motion for clarification, ‘where the movant’s request would cause a substantive modification of an existing judgment, a motion to open or set aside the judgment would normally be necessary.’ <u>Rome v. Alum</u>, 73 Conn. App. 103, 109 (2002). While the court’s findings from the first phase of the trial were purposely narrow and limited, the plaintiff’s request for clarification would effectively require the court to modify its order to make determinations that have been left for the second phase of the trial. Such actions, if taken by the court, would be improper and inconsistent with the prior actions of the court bifurcating the trial for the purpose of considering certain issues or claims in a scheduled sequence.”</p> |
| <p><u>Cohen v. Tziolis</u>, Superior Court, Judicial District of Fairfield at Bridgeport, No. CV116020149S, (February 27, 2013) (2013 Conn. Super. Lexis 445) (2013 WL 1189328).</p> | <p>“The plaintiffs agree with the statement of law in the defendants’ Response to plaintiffs’ Motion for Clarification and Contempt dated December 13, 2012, where the defendants stated that the Court lacks authority to modify its decision because such an action may only be done pursuant to a motion to open or set aside the decision which must be filed within four months of the decision itself. Thus, any such attempt to modify the Court’s February 8, 2012 Decision would be untimely and not be allowed. See <u>Perry v. Perry</u>, 130 Conn. App. 720, 733-34 (2011) (reversing trial court decision granting plaintiff’s motion for clarification because motion was actually a motion to modify the judgment that was not filed within four months as required by General Statutes §52-212a).”</p> |
| <p><u>O’Brien v. Davis</u>, 49 Conn. Supp. 474, 482,</p> | <p>“No motion for articulation has been filed. No appeal has been filed. There is no provision in the Practice Book for</p> |

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| 894 A.2d 1072, 1076 (2005). | 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. Brycki v. Brycki , 91 Conn. App. 579, 594, 881 A.2d 1056 (2005).” |
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