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**2020 Edition**

# Motion for Review

A Guide to Resources in the Law Library

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See Also:

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

*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

## **Sec. 66-5. Motion for Rectification; Motion for Articulation**

“A motion seeking corrections in the transcript or 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.”

(P.B. 1978-1997, Sec. 4051.) (Amended July 21, 1999 to take effect Jan. 1, 2000; amended July 24, 2002, to take effect Oct. 1, 2002; amended June 5, 2013, to take effect July 1, 2013; amended Sept. 16, 2015, to take effect Jan. 1, 2016; amended March 15, 2017, to take effect June 15, 2017.) *For the history of the 2015 amendment, see Connecticut Practice Book (2016).*

## **Sec. 66-6. Motion for Review; In General**

“The court may, on written motion for review stating the grounds for the relief sought, modify or vacate any order made by the trial court under Section 66-1 (a); any action by the appellate clerk under Section 66-1 (c); any order made by the trial court, or by the **workers’ compensation commissioner in cases arising under General Statutes § 31-290a** (b), relating to the perfecting of the record for an appeal or the procedure of prosecuting or defending against an appeal; any order made by the trial court concerning a stay of execution in a case on appeal; any order made by the trial court concerning the waiver of fees, costs and security under Section 63-6 or 63-7; or any order concerning the withdrawal of appointed appellate counsel pursuant to Section 62-9 (d). Motions for review shall be filed within ten days from the issuance of notice of the order sought to be reviewed. **Motions for review of the clerk’s taxation of costs under judgments of the court having appellate jurisdiction shall be governed by Section 71-3.**”

(P.B. 1978-1997, Sec. 4053.) (Amended April 3, 2002, to take effect Nov. 1, 2002; amended June 2, 2005, to take effect, Jan. 1, 2006.)

## **Sec. 66-7. Motion for Review of Motion for Rectification of Appeal or Articulation**

“Any party aggrieved by the action of the trial judge regarding rectification of the appeal or articulation under Section 66-5 may, within ten days of the issuance of notice by the appellate clerk of the decision from the trial court sought to be reviewed, file a motion for review with the appellate clerk, and the court may, upon such a motion, direct any action it deems proper. If the motion depends upon a transcript of evidence or proceedings taken by a court reporter, the procedure set forth in Section 66-6 shall be followed. Corrections or articulations which the trial court makes or orders made pursuant to this section shall be included in the appendices as indicated in Section 66-5.”

(P.B. 1978-1997, Sec. 4054.) (Amended June 5, 2013, to take effect July 1, 2013; amended Sept. 16, 2015, to take effect Jan. 1, 2016.) *For the history of the 2015 amendment, see Connecticut Practice Book (2016).*

# Section 1: Motion for Review of Rectification

A Guide to Resources in the Law Library

**SCOPE:** Bibliographic resources relating to the Connecticut Practice Book section 66-7 appellate motion for review

**SEE ALSO:** • [Motion for Articulation](#) – Research Guide

**DEFINITIONS:** • Motion for rectification: "A motion seeking corrections in the transcript or trial court record...shall be called a motion for rectification..." Conn. Practice Book § [66-5](#) (2020).

• "A motion for rectification...is appropriate when the record must be modified or augmented in some fashion. 'A motion for rectification can be used to make (1) additions to the record, (2) corrections to the record or (3) deletions from the record. The motion cannot be used to add new matters to the record that were not presented at trial.' (Footnotes omitted.) C. Tait & E. Prescott, Connecticut Appellate Practice and Procedure (4th Ed. 2014) § 6-2:3.3;" [State v. Walker](#), 319 Conn. 668, 680, 126 A.3d 1087 (2015).

• Motion for review: "Any party aggrieved by the action of the trial judge regarding rectification of the appeal or articulation under Section 66-5 may, within ten days of the issuance of notice by the appellate clerk of the decision from the trial court sought to be reviewed, file a motion for review with the appellate clerk, and the court may, upon such a motion, direct any action it deems proper." Conn. Practice Book § [66-7](#) (2020).

**COURT RULES:** • Conn. Practice Book (2020)

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

Chapter 60. General Provisions Relating to Appellate Rules and Appellate Review

§ [60-2](#). Supervision of Procedure

§ [60-5](#). Review by the Court; Plain Error; Preservation of Claims

Chapter 61. Remedy by Appeal

§ [61-10](#). Responsibility of Appellant to Provide Adequate Record for Review

§ [61-14](#). Review of Order Concerning Stay; When Stay May Be Requested from Court Having Appellate Jurisdiction

Chapter 66. Motions and Other Procedures

§ [66-5](#). Motion for Rectification; Motion for Articulation

§ [66-6](#). Motion for Review; In General

§ [66-7](#). Motion for Review of Motion for Rectification of Appeal or Articulation

**FORMS:**

- 2 *Conn. Practice Book* (1979), Form 3000.15, Motion for Review of Decision Concerning Rectification of Appeal

**RECORDS & BRIEFS:**

- *Connecticut Appellate Court Records and Briefs*, December 2015, [Farmassony v. Farmassony](#), 164 Conn. App. 665, 670, 138 A.3d 417 (2016). "On April 14, 2014, the plaintiff filed a motion for review of the trial court's decision on the motion for rectification and articulation. In that motion, the plaintiff asked that the trial court articulate the basis for its decision regarding attorney's fees, interest, and the rate of repayment. On June 4, 2014, this court granted the motion as presented and ordered the relief requested." [Figure 1](#)

**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.

- [State v. Walker](#), 319 Conn. 668, 679, 126 A.3d 1087 (2015). "It is self-evident that Practice Book § 61-10 (b) refers only to articulations. Our rules of practice, however, recognize two mechanisms for remedying deficiencies in a record for appellate review: articulation and rectification. See Practice Book § 66-5; see also Practice Book § 66-7 (review of such motions). Admittedly, prior to the enactment of Practice Book § 61-10 (b), our case law occasionally has failed to properly distinguish the two."
- [Holmes v. Hartford Hospital](#), 147 Conn. App. 713, 724, 84 A.3d 885 (2014). ". . . insofar as the plaintiff challenges the court's October 12, 2012 order granting her revised motion for rectification, such an order can only be contested by way of a motion for review, pursuant to Practice Book § 66-5, which provides in pertinent part that '[t]he sole remedy of any party desiring the court having appellate jurisdiction to review the trial court's decision on [a motion for rectification]. . . shall be by motion for review under Section 66-7.' (Emphasis added.) In accordance with this section, the plaintiff filed a motion for review, which this court dismissed on February 7, 2013. Thus, the plaintiff already obtained the review to which she was entitled."
- [Winters v. Winters](#), 140 Conn. App. 816, 817 (footnote 1), 60 A.3d 351 (2013). "Included in the plaintiff's broader claim that the defendant's financial resources were calculated improperly are several specific claims. First, the plaintiff contends that the court made a clearly erroneous statement of fact concerning the defendant's weekly expenses. In accordance with this court's order, the trial court issued an articulation, which stated that the defendant had expenses amounting to \$3000 per month, whereas the record clearly reflects that he had expenses of \$3000 per week. After the plaintiff raised this issue on appeal, the defendant filed a motion for rectification, seeking to clarify the error. The trial court issued an order correcting the error. Because the error has been corrected, we need not address it further."

## **TREATISES:**

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.

References to online databases refer to in-library use of these databases. Remote access is not available.

- 8A Arnold H. Rutkin et al., *Connecticut Practice Series: Family Law and Practice with Forms*, 3d ed., 2010, Thomson West, with 2020-2021 supplement (also available on Westlaw).

Chapter 52. Post-Judgment Motions

§ 52.3. Motion for articulation or clarification

Chapter 54. Appeals

§ 54.7. Motion for articulation

- Wesley W. Horton and Kenneth J. Bartschi, *Connecticut Practice Series: Rules of Appellate Procedure*, 2019-2020 ed., Thomson West (also available on Westlaw).

See Authors' Comments following § 66-5

See Authors' Comments following § 66-7

- Hon. Eliot D. Prescott, *Connecticut Appellate Practice and Procedure*, 6th ed., 2019, Connecticut Law Tribune.

§ 1-5:3. Supreme Court Rules

§ 1-5:3.2. Motion for Review

§ 4-1:6. Amended Appeals

§ 4-1:6.1. In General

§ 6-2. Particular Motions

§ 6-2:5. Motion for Review

§ 6-2:5.1 In General

§ 6-2:5.5 Rectification or Articulation

- 2 *West's Connecticut Rules of Court Annotated*, 2019 ed., Thomson West.

See Notes of Decisions following § 66-5

See Notes of Decisions following § 66-7

## **JUDICIAL BRANCH PUBLICATION:**

- Connecticut Judicial Branch, [Handbook of Connecticut Appellate Procedure](#) (2018).

Figure 1: Motion for Review of Decision on Motion for Rectification

A.C. 36472

STATE OF CONNECTICUT

DEAN J. FARMASSONY

v.

APPELLATE COURT

VIVIAN M. FARMASSONY

APRIL 14, 2014

MOTION FOR REVIEW OF DECISION ON MOTION FOR RECTIFICATION

In accordance with Practice Book § 66-7, the Cross Appellant, Dean Farmassony, hereby moves for the Appellate Court to Review the April 2, 2014 decision of the Superior Court on Motion for Rectification and Articulation dated March 5, 2014. Specifically, Dean Farmassony, would ask this Appellate Court to direct the Superior Court to articulate the basis for its decision to not award attorney fees or interest and to order a low weekly reimbursement payment to the Plaintiff.

BRIEF HISTORY OF THE CASE

This is a cross appeal from the decision of the Court (Pinkus, J.) awarding Dean Farmassony \$23, 439.50 for child care costs he overpaid from August 14, 2006 to July 25, 2013. The parties were divorced and a Separation Agreement was made part of the Judgment of Divorce on September 20, 2002. According to Paragraph 9 of the Separation Agreement, the agreed to Child Support order was reported as \$167.00 child support and \$64.75 contribution for child care. On September 19, 2013, the parties stipulated and in each brief both counsel noted that August 14, 2006 marked the date child care ceased. The Court (Pinkus, J.) issued an Order dated November 22, 2013 as follows:

The Plaintiff's Motion for Modification of Support and Accounting of Child Care Costs - Post Dissolution # 111.79 is hereby granted.

The Court finds that the Plaintiff overpaid child care costs in the amount of \$23,439.50. This amount is to be repaid without interest at the rate of \$100.00 per month commencing on December 1, 2013. No Attorneys Fees to Either Party.

**See** Judicial Notice of Decision (JDNO) dated November 22, 2013. The Defendant moved for reconsideration of the decision on December 16, 2013 and the Court (Pinkus, J.) denied the motion on December 23, 2013.

The Defendant appealed claiming in the Preliminary Statement of Issues that first, the Court erred in ordering a retroactive modification of child care expenses because it lacked the authority under General Statute § 46b-86 to require repayment or retroactivity prior to date of service of the Plaintiff's Motion to Modify. The Defendant also claimed the Court erred in segregating child care expenses and child support when ordering retroactive payment by the Defendant to the Plaintiff because child care expenses are an integral portion of child support order. Finally, the Defendant claims that the Court erred in its factual finding that a weekly child care order of \$64.75 entered on September 20, 2002 was an accurate amount for repayment by the Defendant to the Plaintiff for overpaid child care expenses when the Court had no information on the income of the parties at the time the child care ceased on August 14, 2006. Although the last issue is a bit murky to the Plaintiff's appellate counsel, he will await the brief for the legal analysis.

On the cross appeal, the Plaintiff claimed in the Preliminary Statement of Issues that the Court erred in not awarding attorneys fees to the Plaintiff since the Defendant had intentionally and materially breached the Separation Agreement by accepting monies earmarked for child care that she did not use for child care. In addition, the Plaintiff claimed on cross appeal that he was entitled to interest on the monies which he did not receive. Finally, although not stated in the Preliminary

Statement of Issues, he will be claiming that a judgment of \$100.00 a month is not reasonable because the Defendant will not repay the balance for 19 and 1/2 years.

In order for the Cross Appellant to create an adequate record for review, the Plaintiff, filed a Motion for Rectification and Articulation requesting that the Superior Court make the following articulations:

1. The Separation Agreement provides in Paragraph 19 that in the event of an intentional and material breach of the agreement, such as the Defendant's failure to inform the Plaintiff of the cessation of child care expenses, the Court shall award the prevailing party an attorney's fee. Please explain the reasons that the Court opted to not order the Defendant, as the offending party, to pay, the Plaintiff, the prevailing party, a reasonable attorney's fee, court costs, and other related expenses incurred in the enforcement of the Agreement.
2. Please explain the reasons the Court opted not to award the Plaintiff interest to reimburse the Plaintiff for child care costs the Defendant never incurred and which the Defendant should have never returned to the Plaintiff years ago.
3. Please explain the reason the Court opted to award periodic payments of \$100.00 a month rather than a lump sum, series of lump sums, or more substantial weekly payment for reimbursement of overpaid child care contribution, rather than a monthly order that will take the Defendant close to 19 and 1/2 years to repay the Plaintiff.

The Court Granted the Motion for Articulation and stated as follows:

The Courts orders were made considering all the relevant statutory factors and case law and based upon its exercise of broad discretion as allowed by law.

Decision on Motion for Rectification and Articulation, p. 2.

#### SPECIFIC FACTS

Dean Farmassony would request that the Appellate Court review and remand this Motion for Rectification and Articulation for further articulation, as the comments are unhelpful in clarifying the reason the Superior Court opted not to act in awarding attorneys fees or interest. Although undersigned counsel recognizes that the Superior Court is correct it has broad equitable discretion in family matters, that discretion does not extend to allowing the Superior Court not to explain how it exercises that discretion.

With regards to the first request, the question is not one of equity but of law as it is the interpretation of the agreement dissolving the marriage. The agreement indicates that it is mandatory for the Superior Court to order fees to the party bringing an action to recover moneys for a breach of the agreement if the breach was "intentional and material." If the breach was not intentional and material, the Superior Court should articulate why that is the case because that is the only reason not to award an attorney's fee.

With regards to the second request, the Court does not explain why it opted not to award Dean Farmassony interest for funds that he should never have paid. It is well established that "The determination of whether or not interest is to be recognized as a proper element of damage, is one to be made in view of the demands of justice rather than through the application of any arbitrary rule....The real question in each case is whether the detention of the money is or is not wrongful under the circumstances." (internal citation omitted) Dowd v. Dowd, 96 Conn. App. 75, 84 (2006). "When a former spouse is not justified in failing to pay sums due under a separation agreement, the award of interest is proper." LaBow v. LaBow, 13 Conn.App. 330, 353 (1988). In this case, it appears that the defendant wrongfully withheld money, and that the plaintiff is entitled to interest which the Superior Court did not award. If the Superior Court believes that this was not wrongful, the plaintiff would like an articulation as to why it is not wrongful.

With regards to the third request, Dean Farmassony asked the Court to explain why it opted to award a weekly payment rather than a lump sum or series of lump sums. As indicated, at \$100.00 per month, the Plaintiff will not be reimbursed for 19 and 1/2 years. In addition, the rate of repayment per week is 1/2 of the rate the daycare was charged Mr. Farmassony per week. An articulation is necessary to determine why this was an adequate order to compensate the Plaintiff.

LEGAL GROUNDS

The Plaintiff-Appellant relies on Practice Book §§ 60-5, 61-10, 66-7, and the requirement that the Appellant create an adequate record for review, in presently moving for review of the lower court's inadequate articulation. "It is well established that [i]t is the appellant's burden to provide an adequate record for review.... It is, therefore, the responsibility of the appellant to move for an articulation or rectification of the record where the trial court has failed to state the basis of a decision." (Internal citations omitted.) D'Angelo Dev. and Constr. Corp. v. Cordovano, 121 Conn. App. 165, 187 (2010).

THE PLAINTIFF-CROSS APPELLANT  
DEAN J. FARMASSONY

BY: \_\_\_\_\_  
His Attorney

CERTIFICATION

I hereby certify that this motion complies with Practice Book §§ 62-7 and 66-3, and a copy of this motion was mailed to opposing counsel on April 14, 2014 to wit: .

\_\_\_\_\_

\_\_\_\_\_

Commissioner of the Superior

Table 1: Responsibility of Appellant to Provide Adequate Record for Review

<b>Connecticut Practice Book (2020)</b>
<p><b><u>Sec. 61-10.</u> 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 record is complete, correct and otherwise perfected for presentation on appeal.</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, pursuant to Section 60-5, order articulation by the trial court within a specified time period. 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>(P.B. 1978-1997, Sec. 4007.) (Amended Oct. 18, 2012, to take effect Jan. 1, 2013; amended June 5, 2013, to take effect July 1, 2013; amended July 8, 2015, to take effect Jan. 1, 2016.)</p> <p>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 order 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, <b>the failure to procure the trial court’s decision pursuant to Section 64-1 (b)</b> or the failure to provide a transcript, exhibits or other documents necessary for appellate review.</p>
<p>Amendments to the Practice Book (Court Rules) are published in the <a href="#">Connecticut Law Journal</a> and posted <a href="#">online</a>.</p>

## Section 2: Motion for Review of Articulation

A Guide to Resources in the Law Library

**SCOPE:** Bibliographic resources relating to the Connecticut Practice Book section 66-7 appellate motion for review

**SEE ALSO:** • [Motion for Articulation](#) – Research Guide

**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](#) (2020).
- Motion for review: "Any party aggrieved by the action of the trial judge regarding rectification of the appeal or articulation under Section 66-5 may, within ten days of the issuance of notice by the appellate clerk of the decision from the trial court sought to be reviewed, file a motion for review with the appellate clerk, and the court may, upon such a motion, direct any action it deems proper." Conn. Practice Book § [66-7](#) (2020).
- "It is well established 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. (Internal quotation marks omitted.)" [State v. Walker](#), 319 Conn. 668, 680, 126 A.3d 1087 (2015).

**COURT RULES:** • Conn. Practice Book (2020)

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

Chapter 60. General Provisions Relating to Appellate Rules and Appellate Review

§ [60-2](#). Supervision of Procedure

§ [60-5](#). Review by the Court; Plain Error; Preservation of Claims

Chapter 61. Remedy by Appeal

§ [61-10](#). Responsibility of Appellant to Provide Adequate Record for Review

§ [61-14](#). Review of Order Concerning Stay; When Stay May Be Requested from Court Having Appellate Jurisdiction

Chapter 66. Motions and Other Procedures

§ [66-5](#). Motion for Rectification; Motion for Articulation

§ [66-6](#). Motion for Review; In General

§ [66-7](#). Motion for Review of Motion for Rectification of Appeal or Articulation

**RECORDS & BRIEFS:**

- *Connecticut Appellate Court Records and Briefs*, December 1986, [Southington v. De Mello](#), 10 Conn. App. 581, 584 (footnote 1), 524 A.2d 1151 (1987). "In this [further] articulation, the court ordered that the fine imposed was to be paid to the state. The defendant filed a motion for review of this articulation with this court in which he requested that the trial court be directed to order that the fine be paid to the town of Southington as originally ordered. The trial court was so directed and it amended its order accordingly." [Figure 2](#)

**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.

- [State v. Walker](#), 319 Conn. 668, 679, 126 A.3d 1087 (2015). "It is self-evident that Practice Book § 61-10 (b) refers only to articulations. Our rules of practice, however, recognize two mechanisms for remedying deficiencies in a record for appellate review: articulation and rectification. See Practice Book § 66-5; see also Practice Book § 66-7 (review of such motions). Admittedly, prior to the enactment of Practice Book § 61-10 (b), our case law occasionally has failed to properly distinguish the two."
- [Macellaio v. Newington Police Department](#), 145 Conn App. 426, 437, 75 A.3d 78 (2013). "Practice Book § 66-5 provides in relevant part that '[t]he sole remedy of any party desiring the court having appellate jurisdiction to review the trial court's decision on the motion [for articulation] filed pursuant to this section . . . shall be by motion for review under Section 66-7 . . .' The plaintiff's pursuit of review and remedy through appeal is, therefore, inappropriate. See [Rivnak v. Rivnak](#), 99 Conn. App. 326, 334-35, 913 A.2d 1096 (2007). We decline to review this claim further."
- [Lynn v. Lynn](#), 145 Conn. App. 33, 37, 74 A.3d 506 (2013). [fn2] "Insofar as the defendant challenges the judgment on the ground that the court denied one or both of his motions for articulation, the claim is not a proper subject of this appeal. The record does not reflect that the defendant sought appellate review of the court's denial of his articulation requests in accordance with Practice Book § 66-7. The motion for review, not the appeal, is the only appropriate means by which to obtain a remedy with regard to a decision on a motion for articulation."
- [Deroy v. Estate of Baron](#), 136 Conn. App. 123, 129-130, 43 A.3d 759 (2012). "Although the dissent is correct to note that, under some circumstances, the failure of an appellant to seek an articulation requires the presumption that 'the trial court considered all of the facts before it and applied the correct legal standard'; [State v. Mathis](#), 59 Conn. App. 416, 422 n. 3, 757 A.2d 55, cert. denied, 254 Conn. 941, 761 A.2d 764 (2000); the application of this presumption has been limited

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.

by our Supreme Court to cases in which the trial court's reasoning is unclear or ambiguous. See [Walton v. New Hartford](#), 223 Conn. 155, 164, 612 A.2d 1153 (1992) (applying presumption when 'there is nothing in the record to indicate that the court did not consider the appropriate principles of law governing easements in Connecticut'); [Bell Food Services, Inc. v. Sherbacow](#), 217 Conn. 476, 482, 586 A.2d 1157 (1991) ('[w]here an appellant has failed to avail himself of the full panoply of articulation and review procedures, *and absent some indication to the contrary*, we ordinarily read a record to support, rather than to contradict, a trial court's judgment' [emphasis added]). No ambiguity exists in the present case."

- [Sosin v. Sosin](#), 300 Conn. 205, 241-242, 14 A.3d 307 (2011). "The plaintiff also contends that, under Practice Book § 66-5, the exclusive procedure for challenging an articulation is a motion for review. We are not persuaded. Practice Book § 66-5 provides in relevant part: 'The sole remedy of any party desiring the court having appellate jurisdiction to review the trial court's decision on [a] motion [for articulation] ... or any other correction or addition ordered by the trial court during the pendency of the appeal shall be by motion for review ....' We note that, since this language was adopted in 1996; see Connecticut Law Journal, Vol. 57, No. 47 (May 21, 1996) p. 29E; the Appellate Court previously has disregarded an articulation by the trial court that was inconsistent with the trial court's original ruling, even though no party had filed a motion for review of the inconsistent articulation. See [In re Christian P.](#), supra, 98 Conn. App. 266-67 n. 4. Although there was no claim in that case that a motion for review is the sole means by which an inconsistent articulation may be challenged, we see no reason why the rule that the trial court cannot alter the substance of a ruling by way of an articulation should apply only in proceedings in which a motion for review has been filed. If the issue is raised on appeal, all parties have the opportunity to address it, and the record is otherwise adequate for review, nothing would be gained by requiring a court with appellate jurisdiction to treat an articulation that is inconsistent with the trial court's original ruling as an independent and equally valid ruling in the absence of a motion for review. Indeed, in the present case, the plaintiff concedes that, on their face, the February 7, 2007 articulation and June 8, 2007 order were incorrect as a matter of law. We also note that the defendant filed a motion for review of the trial court's February 7, 2007 articulation and subsequently withdrew it, apparently because, before the Appellate Court could rule on the motion for review, the trial court granted her motion to reargue and for reconsideration of the February 7, 2007 articulation and issued its June 8, 2007 order. Under these circumstances, it would be particularly unfair and counterproductive to treat the February 7, 2007 articulation

and June 8, 2007 order as independently valid rulings merely because their validity was not determined in proceedings on a motion for review.”

- [Discover Bank v. Mayer](#), 127 Conn. App. 813, 815, 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.”

### **TREATISES:**

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.

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Chapter 52. Post-Judgment motions

§ 52.3. Motion for articulation or clarification

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See Authors' Comments following § 61-10

See Authors' Comments following § 66-7

- Hon. Eliot D. Prescott, *Connecticut Appellate Practice and Procedure*, 6th ed., 2019, Connecticut Law Tribune.

§ 1-5:3. Supreme Court Rules

§ 1-5:3.2. Motion for review

§ 4-1:6. Amended Appeals

§ 4-1:6.1. In General

§ 6-2:5. Motion for Review

§ 6-2:5.5 Rectification or Articulation

§ 6-2:5.6. Perfecting the Record; Appellate Procedures

- 2 *West’s Connecticut Rules of Court Annotated*, 2019 ed., Thomson West.

See Notes of Decisions following § 61-10

See Notes of Decisions following § 66-7

### **JUDICIAL BRANCH PUBLICATION:**

- Connecticut Judicial Branch, [Handbook of Connecticut Appellate Procedure](#) (2018).

Figure 2: Motion to Correct Articulation

No. CV 76 0128261	SUPERIOR COURT
TOWN OF SOUTHLINGTON, ET AL.	JUDICIAL DISTRICT OF HARTFORD-NEW BRITAIN
vs.	AT NEW BRITAIN, CONNECTICUT
ANTONIO DEMELLO	OCTOBER 29, 1985

MOTION TO CORRECT ARTICULATION

The Defendant in the above-entitled case requests the court to correct its Articulation dated October 24, 1985 and filed October 25, 1985 in one respect namely: to delete the sentence on Page 3 "The fine imposed is to be paid to the State of Connecticut." and replace it with: The fine imposed is to be paid to the Town of Southington, pursuant to the orders of the court made in court on July 18, 1985 pursuant to the transcript attached hereto. (TR pp. 37-38, 40-41).

Defendant, Antonio Demello

By \_\_\_\_\_  
Attorney

The undersigned hereby certifies that a copy of the foregoing was mailed postage prepaid: to Clerk, Appellate Court, 231 Capitol Avenue, Drawer A, Station A, Hartford, CT 06106, and \_\_\_\_\_ this 29th day of October, 1985.

\_\_\_\_\_  
Attorney

## Section 3: Motion for Review

A Guide to Resources in the Law Library

### **SCOPE:**

Bibliographic resources relating to the Connecticut Practice Book section 66-6 appellate motion for review

### **DEFINITIONS:**

#### **Sec. 66-6. Motion for Review; In General**

"The court may, on written motion for review stating the grounds for the relief sought, modify or vacate any order made by the trial court under Section 66-1 (a); any action by the appellate clerk under Section 66-1 (c); any order made by the **trial court, or by the workers' compensation commissioner** in cases arising under General Statutes § 31-290a (b), relating to the perfecting of the record for an appeal or the procedure of prosecuting or defending against an appeal; any order made by the trial court concerning a stay of execution in a case on appeal; any order made by the trial court concerning the waiver of fees, costs and security under Section 63-6 or 63-7; or any order concerning the withdrawal of appointed appellate counsel pursuant to Section 62-9 (d). Motions for review shall be filed within ten days from the issuance of notice of the order sought to be reviewed. Motions for **review of the clerk's** taxation of costs under judgments of the court having appellate jurisdiction shall be governed by Section 71-3."

### **COURT RULES:**

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

- Connecticut Practice Book (2020 ed.)

#### Chapter 61. Remedy by Appeal

§ [61-14](#). Review of Order Concerning Stay; When Stay May Be Requested from Court Having Appellate Jurisdiction

#### Chapter 62. Chief Judge, Appellate Clerk and Docket: General Administrative Matters

§ [62-9\(d\)\(3\)](#). Withdrawal of Appearance (see [2020 amendments](#))

#### Chapter 63. Filing the Appeal; Withdrawals

§ [63-1\(c\)\(1\)](#). Time to Appeal – New Appeal Period – How New Appeal Period is Created

§ [63-6](#). Waiver of Fees, Costs and Security—Civil Cases

§ [63-7](#). Waiver of Fees, Costs and Security—Criminal Cases

#### Chapter 66. Motions and Other Procedures

§ [66-1](#). Extension of Time (see [2020 amendments](#))

§ [66-6](#). Motion for Review; In General

§ [66-7](#). Motion for Review of Motion for Rectification of Appeal or Articulation

Chapter 78a. Review of Orders Concerning Release on Bail

§ [78a-1](#). Petition for Review of Order concerning Release on Bail

Chapter 79a. Appeals in Child Protection Matters

§ [79a-2](#). Time To Appeal (see [2020 amendments](#))

§ [79a-4](#). Waiver of Fees, Costs and Security (see [2020 amendments](#))

### **FORMS:**

- ***Library of Connecticut Collection Law Forms***, by Robert M. Singer, Connecticut Law Tribune, 2016.  
Chapter 17. Postjudgment Procedures  
# 17-030. Motion for Review Re (Denial of) Motion to Terminate Stay
- ***Connecticut Criminal Legal Forms***, volume 1, by Richard M. Marano, Atlantic Law Book Co., 1999.  
O. Motions Regarding Bail, Sentencing & Release  
#14. Motion for Review of Order Setting Bail at \$175,000.00
- ***Connecticut Criminal Legal Forms***, volume 2, Richard M. Marano, Atlantic Law Book Co., 2007.  
O. Bail, Sentencing & Release  
#13. Motion for Review of Order Setting Bail
- ***Appellate Forms Book, volume 1, Connecticut Trial Lawyers' Association***, 1990, 1996 reprint.  
7. Motions  
(c) Motion for Review: State v. Holloway
- ***Appellate Forms Book, volume 2, Connecticut Trial Lawyers' Association***, 1995, 1996 reprint.  
4. Motions  
(g) Motion for Review, with appendix – Berger v. Cuomo

### **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.

- [State v. Mendez](#), 185 Conn. App. 476, 197 A.3d 477 (2018).  
"A motion for review pursuant to Practice Book § 66-6 is the proper vehicle by which to obtain review of an order concerning the withdrawal of appointed appellate counsel after an appeal has been filed. See Practice Book § 62-9 (d) (3) ('If the trial court grants the motion to withdraw, counsel shall immediately notify his or her former client, by letter, of the status of the appeal and the responsibilities necessary to prosecute the appeal. . . . The trial court's decision shall be sealed and may be reviewed pursuant to Section 66-6.')." (pp. 478-479)

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.

“Because the defendant did not comply with Practice Book 62-9 (d) (3) and, instead, raised the issue in his direct appeal, we decline to review his claim.” (p. 479)

“Generally, in those instances in which our rules provide for expedited relief pursuant to a motion for review filed in accordance with Practice Book § 66-6, we have required that parties follow that procedure and declined to review such issues when raised by way of a direct appeal. See [Hartford Federal Savings & Loan Assn. v. Tucker](#), 192 Conn. 1, 8, 469 A.2d 778 (1984); [Clark v. Clark](#), 150 Conn. App. 551, 575-76, 91 A.3d 944 (2014); [State v. Casiano](#), 122 Conn. App. 61, 71, 998 A.2d 792, cert. denied, 298 Conn. 931, 5 A.3d 491 (2010); [Scagnelli v. Donovan](#), 88 Conn. App. 840, 843, 871 A.2d 1084 (2005); [State v. Pieger](#), 42 Conn. App. 460, 467, 680 A.2d 1001 (1996), aff’d, 240 Conn. 639, 692 A.2d 1273 (1997).” (p. 483)

“Accordingly, although Practice Book § 62-9 (d) (3) does not expressly state that a motion for review is the exclusive remedy available to a defendant, that is unquestionably the clear intent of the rule. Accordingly, if a defendant wishes to challenge a ruling permitting the withdrawal of appointed counsel in accordance with Practice Book § 62-9, he or she must do so by filing a motion for review pursuant to Practice Book § 66-6, not by raising the issue as a claim in the pending appeal.” (p. 484)

- [Lawrence v. Cords](#), 165 Conn. App. 473, 479-480, 139 A.3d 778, cert. denied 322 Conn. 907 (2016). “Practice Book § 61-14 provides in relevant part: ‘The sole remedy of any party desiring the court to review an order concerning a stay of execution shall be by motion for review under [Practice Book §] 66-6. Execution of an order of the court terminating a stay of execution shall be stayed for ten days from the issuance of notice of the order, and if a motion for review is filed within that period, the order shall be stayed pending decision of the motion, unless the court having appellate jurisdiction rules otherwise....’ . . . Thus, ‘[i]ssues regarding a stay of execution cannot be raised on direct appeal. The sole remedy of any party desiring ... [review of] ... an order concerning a stay of execution shall be by motion for review....’ (Internal quotation marks omitted.) [Santoro v. Santoro](#), 33 Conn.App. 839, 841, 639 A.2d 1044 (1994); see also [JP Morgan Chase Bank v. Gianopoulos](#), 131 Conn.App. 15, 23, 30 A.3d 697 (‘[t]he trial court’s decision to terminate an appellate stay is subject to review only pursuant to a timely motion for review’), cert. denied, 302 Conn. 947, 30 A.3d 2 (2011); [Housing Authority v. Morales](#), 67 Conn.App. 139, 140, 786 A.2d 1134 (2001) (‘[i]ssues regarding a stay of execution cannot be raised on direct appeal’ [internal quotation marks omitted]).

If the defendant here believed that the effect of the court's ruling was a termination of the automatic stay of execution, he was obligated to file a motion for review. Having failed to do so, he is precluded now from raising this issue on direct appeal. Accordingly, we decline to review the claim."

- [Scagnelli v. Donovan](#), 88 Conn. App. 840, 871 A.2d 1084 (2005). **"Because we conclude that a party may obtain appellate review of a trial court's order regarding use and occupancy payments in lieu of an appeal bond in summary process actions only by filing a motion for review pursuant to Practice Book § 66-6, we deny the defendants' motion for permission to file an amended appeal."** (pp. 841-842)

**"The language of Practice Book § 61-9 may be read to suggest that the court's use and occupancy order can be the subject of an amended appeal, as it occurred subsequent to the filing of the appeal from the judgment of eviction and was an order that the defendants desire to have reviewed. For the following reasons, however, we conclude that Practice Book § 61-9 is not applicable in the present situation and that counsel should have sought review, not by seeking to file an amended appeal, but by filing a motion for review pursuant to practice Book § 66-6."** (p. 843)

**"If the defendant fails either to post a bond or to move for use and occupancy payments in lieu of bond during the five day appeal period prescribed by General Statutes § 47a-35 (a), the judgment of eviction is not stayed and the judgment may be executed. See General Statutes § 47a-35 (b). An order as to use and occupancy payments, therefore, falls within the category of orders amenable to review pursuant to Practice Book § 66-6 because such an order is *related* to the prosecuting or the defending of an appeal and *concerns* a stay of execution in a case on appeal.**

Practice Book § 61-14 provides in relevant part: 'The sole remedy of any party desiring the court to review an order concerning a stay of execution shall be by motion for review under [Practice Book §] 66-6. . . .' Section 66-6 provides for the expeditious review of such orders. A motion for review must be filed within ten days from the issuance of notice of the order to be reviewed. The rule provides for the prompt filing of a transcript if a decision on the motion for review is dependent on a transcript. Certainly in the context of a summary process case, where expedited procedures are mandated; see [Prevedini v. Mobil Oil Corp.](#), 164 Conn. 287, 292, 320 A.2d 797 (1973); expedited appellate scrutiny of an order involving a stay by way of a motion for review makes sense. Requiring review by way of appeal would delay

for a much greater period a defendant's obligation to provide an appeal bond or to make use and occupancy payments. Such delay would negate in large part the inherent purpose of General Statutes § 47a-35a, which seeks to place some obligation on a nonpaying tenant to provide a property owner with surety against further financial losses while the summary process judgment is being considered on appeal. We have considered a challenge to a trial court's order setting a summary process appeal bond by way of a motion for review; [New Haven v. Konstandinidis](#), 29 Conn. App. 139, 612 A.2d 822, cert. denied, 224 Conn. 920, 618 A.2d 527 (1992); and there appears to be no practical reason for not similarly limiting our review of the setting of use and occupancy payments." (pp. 844-845)

- [State v. Casiano](#), 282 Conn. 614, 618, footnote 8, 922 A.2d 1065 (2007). "Practice Book § 63-7 provides in relevant part: 'The sole remedy of any defendant desiring the court to review an order concerning the waiver of fees, costs and security or the appointment of counsel shall be by motion for review under [Practice Book §] 66-6.'"
- Wesley W. Horton and Kenneth J. Bartschi, *Connecticut Practice Series: Rules of Appellate Procedure*, 2019-2020 ed., Thomson West (also available on Westlaw).

### **TEXTS & TREATISES:**

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.

References to online databases refer to in-library use of these databases. Remote access is not available.

See Authors' Comments following § 66-6:

1. Review of Extensions of Time
2. Stays of Execution
3. Waiver of Fees
4. Finding
5. Review Prior to Appeal
6. Timeliness
7. Bond
8. Review on Merits of Appeal
9. Denial of Request to Appeal
10. Workers Compensation Appeals
11. Supreme Court Review of Appellate Court Order
12. Miscellaneous

- Hon. Eliot D. Prescott, *Connecticut Appellate Practice and Procedure*, 6th ed., 2019, Connecticut Law Tribune.

§ 6-2:5. Motion for Review

§ 6-2:5.1 In General

§ 6-2:5.2 Extension of Time

§ 6-2:5.3 Waiver of Fees, Costs and Security

§ 6-2:5.4 Withdrawal of Appointed Appellate Counsel

§ 6-2:5.5 Rectification or Articulation

§ 6-2:5.6 Perfecting the Record; Appellate Procedures

§ 6-2:5.7 Orders Concerning Stay of Execution

§ 6-2: 5.8 Orders Concerning Bail  
§ 6-2: 5.9 Procedure  
§ 6-2: 5.10 Review of Appellate Court Decision by  
Supreme Court

- 2 *West's Connecticut Rules of Court Annotated*, 2019 ed., Thomson West.

See Notes of Decisions following § 66-6:

1. In general
2. Articulation
3. Mootness

- Hon. Barry F. Armata and Campbell D. Barrett, eds., *A Practical Guide to Divorce in Connecticut*, 2013 with 2018 supp., Massachusetts Continuing Legal Education.

Chapter 16. Appellate Procedure and Posttrial Motions  
§ 16.4.2. Fee Waiver  
§ 16.6.3. Motion for Review of Order Concerning Stay  
§ 16.9.3(b). Motions Decided by the Connecticut  
Supreme Court or Appellate Court – Motions for  
Review