# STATE OF CONNECTICUT
# COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
# OFFICE OF PUBLIC HEARINGS

## INDEX OF DECISIONS AND RULINGS OF THE HUMAN RIGHTS REFEREES

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Prepared by the Human Rights Referees, Office of Public Hearings, Connecticut Commission on Human Rights and Opportunities, 21 Grand Street, 3rd floor, Hartford, Connecticut 06106.

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*Shea, Kathleen M. v. David M. Spruance* 9640243

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*Dwyer, Erin v. Yale University* 0130315, 0230323
*Hartling, Judy v. Jeffrey Carfi* 0550116
*Kowalczyk, Lynne v. City of New Britain* 9810482
(appeal dismissed)
*McDonald, Robert v. Waterbury Republican* (motion to dismiss) 0630389
(on appeal, final decision vacated and appeal withdrawn)
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(on appeal, remanded by stipulation)

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(appeal dismissed)
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*Robinson, Patricia v. Dept. of Mental Health* (motion to dismiss) 0630292
*Weichman, Ann D. v. Dept. of Environmental Protection* (motion to dismiss, 05/19/09) 0710348

**Standing**
*McIntosh-Waller, Marcia v. Donna & David Vahlstrom* 0750080
*McWeeny, Robert v. City of Hartford* 0410314
(appeal dismissed)

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*Callado, Orlando v. Town of Fairfield* 9420437
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*Cooper, John & John C. Donahue v. City of Hartford Fire Dept.* 9710685, 9710637 (remanded decision on appeal; appeal withdrawn)
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*Hansen, Joan B. v. W.E.T. National Relocation Services* 0020220
*Intagliata, Debra J. v. Wal-Mart Stores, Inc.* 9740381
*Kennedy, Valerie v. Eastern Connecticut State University* 0140203
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*Schoen, Sandra J. v. Grace Christian School* 0120163
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*Andrees, JoAnn Andrees v. Raymond & Sylvia Rinaldi* 0650116
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*Filshtein, Herman v. West Hartford Housing Authority* 0050061
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*Alston, Dawn on behalf of Terrel Alston v. East Haven Bd. of Ed.* 9830205
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(rev'd and remanded by Supreme Ct)

**Transfer (Intra-agency)**

*Cordone, Angelo v. Bridgeport Board of Education.* 0420409
*Kowalczyk, Lynne v. City of New Britain* 9810482
(appeal dismissed)

**Transsexual/transgender**

*Dwyer, Erin v. Yale University* 0130315, 0230323

**Undue Hardship**

*Charette, Lisa v. Dept. of Social Services* 9810371, 9810581
*Shulman, Thomas E. v. Professional Help Desk* 9720041
(appeal dismissed)

**Wheelchair**

*Shulman, Thomas E. v. Professional Help Desk* 9720041
(appeal dismissed)

**Witnesses**

*McIntosh-Waller, Marcia v Donna & David Vahlstrom* (motion to reopen public hearing) 0750080

**Workshare Agreement**

*Collette, Yvonne v. University of Connecticut Health Center* (motion to dismiss, 7/22/08) 0610446

*Kennedy, Valerie v. Eastern Connecticut State University* 0140203

*Scarfo, Dominic C. v. Hamilton Sundstrand Corp.* 9610577

**Wrongful Termination**

*Navarro, Edwin v. Hospital for Special Care* 9710678

**Zoning**

*Ward, Carol v. Black Point Beach Club Association, Inc.* 0150047 (following appeal, stipulated judgment)

## II. Decisions/rulings listed alphabetically by complainant

*Abildgaard, William v. New Horizons Computer Learning Center*
0110495
FitzGerald, 08/07/03

The commission's motion to amend complaint granted. Complaint may be amended to correct an address, change a date and to add the respondent's parent corporation as a respondent.

*Aguiar, Deborah & Raymond, v. Nancy & Ralph Frenzilli*
9850105
Wilkerson, 1/14/00

Hearing in damages. The complainants attempted to rent a home from the respondents and the respondents would not allow the complainants to rent because they had small children. Discrimination based on family status. Award for emotional distress damages of $7,500 to the complainant wife and $3,500 to the complainant husband both with 10% post-judgment interest. Also awarded Attorney's fees of $8,236.25.

*Aguiar, Deborah. v. Nancy & Ralph Frenzilli*
9850105
(on remand)
FitzGerald, 4/22/02

Motion to set aside default denied with a hearing in damages to be scheduled. Following the entry of a default and a hearing in damages, the commission and complainant brought an enforcement action in Superior Court. The case was remanded with instructions to hold a hearing on setting aside the default and a hearing in damages. The respondents lacked both a good defense and/or reasonable cause for failure to timely raise their defense.

*Agvent, Rosa Maria v. Ace Tech, Inc. a.k.a. Applied Computer Engin. Technology*
0020042
Trojanowski, 4/11/01

Hearing in damages. Female computer worker awarded backpay, compound prejudgment interest, statutory postjudgment interest, and other equitable relief.

*Alexsavich, Bruce & Ronald Ferguson v. Pratt & Whitney Aircraft*
9330373, 9330374
Manzione, 10/4/00

Final decision. Judgment for the respondent. Held*:* The complainants proved a prima facie case because they were members of a protected class under the ADEA (over age 40), qualified for the position, demoted under circumstances giving rise to an inference of

age discrimination. They failed, however, to meet their ultimate burden of proving age discrimination because they did not prove that the respondent's legitimate, non-discriminatory reason of selection for the reduction in force (RIF) based on performance was pretextual.

*Ali, Liaquiat v Bridgeport, City of,*
0750131, 0750132
Wilkerson, 11/14/07

Motion to dismiss denied. The respondents (City of Bridgeport and Bridgeport planning and zoning commission) moved to dismiss the complaint for lack of subject matter jurisdiction as to the city arguing that the city had no authority to amend or enforce the zoning regulations. CHRO argued that the complaint against alleged discrimination in housing and was not an appeal of a zoning regulation. Held*:* the city shall remain a respondent because it is inferred that the planning and zoning commission is an authorized decision-maker for the city and acted as a policy maker for the city when it enforced the zoning regulations.

*Allen, Sheila v. Pollack's*
9710692
Manzione, 6/17/99

Motion to dismiss granted. At a public hearing, the human rights referee granted a motion to dismiss from the respondent's counsel (with the support of the commission) based on the complainant's failure to cooperate. (The complainant was pro se and failed to respond to numerous communications from the commission counsel and the office of public hearings).

*Alston, Dawn on behalf of Terrel Alston v. East Haven Bd. of Ed.*
9830205
(on appeal, stipulated judgment)
Manzione, 5/3/00

Motion to dismiss granted. Held*:* (1) public schools are not public accommodations under General Statutes § 46a-64(a); (2) the commission does not have jurisdiction over allegations of discrimination brought pursuant to General Statutes § 10-15c; and (3) General Statutes §§ 46a-75 and 46a-81m do not cover public schools.

*Amos, Barry E. v. Town of West Hartford*
9910041, 9910198, 9910199, 9910200, 9910201, 9910202
Manzione, 6/5/00

Motion for stay denied. Held*:* A matter scheduled for public hearing in six weeks will not be stayed pending the outcome of a possible declaratory judgment by a judicial authority because (1) the commission is charged with addressing complaints of discrimination; (2) the commission declined to address this matter through a declaratory ruling and rather set the matter down for these "specified proceedings;" (3) the matter is ripe for adjudication

because most of the pre-hearing matters have already occurred; and (4) proceeding with the public hearing, rather than staying it, will resolve the "real and substantial dispute between the parties."

*Andrees, JoAnn v. Raymond & Sylvia Rinaldi*
0650116
FitzGerald, 12/10/08 :

Final decision. Judgment for the respondents. The complainant alleged that the respondents discriminated against her in violation of 42 U.S.C. §§ 1981, 1982 and Title VIII and also General Statutes §§ 46a-58 (a) and 46a-64c (a) (1) and (2) when they refused to rent a condominium unit to her because of her race and color. Held: The commission and the complainant cannot establish their prima facie case and/or cannot establish by a preponderance of the evidence that the respondents intentionally discriminated against the complainant because of her race and color because they failed to provide credible persuasive evidence that the respondents knew the complainant was black.

*Azam, Qazi v. Yale University*
0430623
FitzGerald, 10/16/2006

The commission's motion to compel granted in part. Inter alia, the respondent, pursuant to General Statutes § 31-128f (2), was ordered to produce documents submitted by the successful candidates for the job positions the complainant had applied for.

*Baker, Michael v. Lowe's Home Centers, Inc.*
0430307
FitzGerald, 11/18/05

Ruling on commission's motion to amend the complaint to add claims of retaliation and national origin discrimination Denied. The complaint alleged that the respondent terminated the complainant's employment because of his age. The allegations of retaliation and national origin discrimination had not been alleged in the complaint, investigated by the commission during or raised by the complainant during the pre-certification factfinding investigation, or supported by any factual findings in the reasonable cause finding. The motion is denied because the requirement under § 46a-83, that the investigator list the factual findings on whether there is reasonable cause to believe that retaliation and national origin discrimination occurred, is a condition precedent to a hearing on those allegations.

*Baker, Michael v. Lowe's Home Centers, Inc.*
0430307
FitzGerald, 01/23/06

The commission's motion to compel denied for failure to articulate an explanation of how the requested documents were relevant and material to the facts of the case.

*Baker, Michael v. Lowe's Home Centers, Inc.*
0430307
FitzGerald, 01/23/06

The respondent's motion to compel denied. The respondents requested documents to contest the commission's finding of reasonable cause. However, the public hearing is a hearing on the merits and not an appeal of the commission's pre-certification processing of the complaint. General Statutes § 46a-84 (b).

*Ballard, Chillon v. Cheshire Bd. of Ed.*
9830294
(rev'd and remanded by Supreme Ct)
Giliberto, 7/15/99

Motion to dismiss granted in part. Held*:* (1) the commission does not have jurisdiction over claims pursuant to §10-15c; (2) public schools are not public accommodations; and (3) the commission does not have concurrent jurisdiction with the Dept of Education pursuant to §46a-58 and §46a-64(a)(2). On appeal, Superior Court vacated the referee's dismissal, found that the commission does have jurisdiction to hear complaints of discrimination against students in public schools, and remanded the case for further proceedings.

*Ballard, Chillon v. Cheshire Bd. of Ed.*
9830294
(rev'd and remanded by Supreme Ct)
Giliberto, 5/31/00

Motion to dismiss granted. Held*:* (1) General Statutes § 46a-75 does not apply to public schools; and (2) the commission through the human rights referee does not have the authority to transfer this matter to the State Board of Education. On appeal, Superior Court vacated the referee's dismissal, found that the commission does have jurisdiction to hear complaints of discrimination against students in public schools, and remanded the case for further proceedings.

*Ballard, Chillon v. Cheshire Bd. of Ed.*
9830294
FitzGerald, 11/15/05

Amended ruling re: the respondent's motion to vacate. The respondent requested reconsideration of an order granting the commission's motion to compel. The respondent claimed that producing the documents would violate the federal Family Educational Rights and Privacy Act. The respondent's motion denied as the requested documents were within statutory exceptions.

*Ballard, Chillon v. Cheshire Bd. of Ed.*
9830294
FitzGerald, 12/12/05

The respondent's motion for sanctions and to dismiss the complaint granted in part, denied in part. The complainant failed to comply with order to produce documents responsive to the respondent's production request. Because the requested documents were not relevant to the parties' burden of proof as to whether a discriminatory act occurred, the complaint was not dismissed. Because the requested documents were relevant as to the impact of the alleged discriminatory act on the complainant as his claim for emotional damages, the complainant and the commission are prohibited from introducing any oral or documentary evidence that the complainant sought and/or received treatment for emotional distress as a result of the alleged discriminatory act and they are prohibited from introducing any oral or documentary evidence of the impact the alleged discriminatory act had on the complainant's subsequent educational and employment performance after he withdrew from Cheshire High School.

*Banks, Shirley v. Eddie Eckhaus*
0250115
Wilkerson, 5/23/03

Hearing in damages. The complainant who possessed a section 8 voucher attempted to rent a home from the respondent who refused to accept the voucher and would not allow the complainant to apply to rent the house. Discrimination based on lawful source of income and public advertising. The complainant was awarded emotional distress damages of $4,500 and attorney fees.

*Barnes, Arnell v. Alan S. Goodman, Inc.*
0710395
Levine, 6/5/2009

Motion for summary judgment: denied. Held: (1) referees have the authority to rule on motions for summary judgment; and (2) issue of material issue of fact exists as evident by the complaint affidavit alleging discrimination based on color (black) and disparate treatment, production compliance resulting in some documentation of disparate treatment and the respondent's vigorous denial of discrimination.

*Baroudjian, Philip v. North East Transportation Company, Inc.*
0430505
(appeal dismissed)
Wilkerson Brillant 07/16/08

Final decision. Judgment for the respondent. The complainant alleged discrimination in the terms and conditions of his employment on the basis of his race, color, alienage, national origin and ancestry (Arabic). Held: The commission and the complainant failed to prove

under both the mixed motive and pretext analyses that the respondent discriminated against the complainant by treating him differently than non-basis similarly situated employees because of his ancestry and national origin (Arabic) when it suspended him for one day and warned him.

*Benjamin, Uel v. Mediplex of Greater Hartford*
9910193
Knishkowy, 9/8/00

Motion to dismiss denied. Held*:* Under certain circumstances, as in this case, a prior arbitration award adverse to the complainant does not bar the complainant from bringing a subsequent action with the commission and has no preclusive effect on the facts and issues raised therein.

*Bernd, Robert v. Hamilton Sundstrand Corp.*
9710052
FitzGerald, 01/04/02

Motion to dismiss denied. Held: (1) whether the complainant applied for a position is a question of fact; (2) the public hearing is not an opportunity to challenge the adequacy of precertification investigation; (3) commission has jurisdiction to adjudicate ADEA claims; (4) failure of investigator to comply with “date certain” for issuance of reasonable cause finding pursuant to General Statutes § 46a-82 does not result in the dismissal of the complaint; (5) complaint is not necessarily preempted by Labor Management Act.

*Bielanski, John v. Hamilton Sundstrand Corp.*
9710053
FitzGerald, 01/04/02

Motion to dismiss denied. Held: (1)whether the complainant applied for a position is a question of fact; (2) the public hearing is not an opportunity to challenge the adequacy of precertification investigation; (3) commission has jurisdiction to adjudicate ADEA claims; (4) failure of investigator to comply with “date certain” for issuance of reasonable cause finding pursuant to General Statutes § 46a-82 does not result in the dismissal of the complaint; (5) complaint is not necessarily preempted by Labor Management Act.

*Blake, Lugenia v. Beverly Enterprises-Connecticut*
9530630
Allen, 7/8/99

Motion to dismiss granted. Held*:* (1) Human Rights Referees have authority to dismiss matters; (2) Prior administrative decision by a separate state agency is given res judicata effect; (3) the complainant failed to establish a prima facie case for employment discrimination.

*Blinkoff, Holly v. City of Torrington*
9530406
(remanded by Court of Appeals)
FitzGerald, 05/10/04

The respondent's motion for summary judgment granted and the case dismissed. The complainant filed her complaint with the commission in 1995. In 1997, the commission's motion for stay was granted because the complainant had filed an action in federal court in which she raised the same state discrimination claims appearing in her CHRO complaint. In the federal action, the complainant's state claims were dismissed because she failed to obtain a release from the commission. Held: The complainant had an adequate opportunity to have her state claims adjudicated in federal court. The federal dismissal of her state discrimination claims was due to her own voluntary decision either not to proceed with those claims in federal court and/or not to seek a release from the commission.

*Blinkoff Holly v. City of Torrington*
9530406
FitzGerald, 06/28/04

On June 7, 2004, the commission filed a motion for articulation of the May 10, 2004 order dismissing the complaint. Ruling: the order of dismissal adequately articulated the basis for the dismissal.

*Blinkoff, Holly v City of Torrington*
9530406
FitzGerald, 07/17/07

The respondent's motion to dismiss denied. The complainant alleged that the respondent retaliated against her for filing a complaint with the commission. The respondent moved to dismiss arguing that no employment relationship existed between the complainant and the respondent. Held: under § 46a-60 (a) (4), a claim for retaliation can arise either from an employment relationship or from the filing of a complaint with the commission.

*Blinkoff, Holly v City of Torrington*
9530406
(appeal pending)
FitzGerald, 08/25/08

Final decision. The commission and the complainant established by a preponderance of the evidence that the respondents retaliated against the complainant (1) in 1995 when they filed a lawsuit against her seeking injunctive relief and (2) when they scheduled her special exceptions permit application in January 1997 rather than December 1996. Nevertheless, no monetary damages are awarded as the commission and the complainant failed to establish that these retaliatory actions resulted in monetary damages to the complainant.

*Braffith, Samuel v. Peter Pan Bus Lines*
0540183
Wilkerson Brillant, 11/13/09

The respondent's motion in limine denied. The respondent moved to exclude evidence regarding the complainant's emotional distress damages because it posited that the commission does not have the authority to award emotional distress damages in employment discrimination cases where § 46a-60 is alleged. This tribunal awards emotional distress damages based on the premise that when a respondent has violated a federal law, e.g., Title VII, covered under § 46a-58 (a); then remedies under § 46a-86 (c), which include emotional distress damages, are available.

*Bray-Faulks, Carla v. The Hartford Financial Services Group, Inc.*
0210354
FitzGerald, 05/25/04

Motion to dismiss denied and the complaint remanded to the investigator to attempt conciliation. The respondent filed a motion to dismiss the complaint in its entirety because the investigator did not attempt conciliation prior to her certification of the complaint. The respondent claimed that § 46a-83(f) mandates that an investigator attempt conciliation, and that the investigator's failure in this case to attempt conciliation resulted in the commission losing subject matter jurisdiction over the complaint. Held: (1) an attempt to conciliate is mandatory under § 46a-83(f), (2) this statutory requirement to attempt conciliation is a condition precedent to certification and public hearing, not an issue of subject matter jurisdiction; and (3) because subject matter jurisdiction is not lost if the attempt at conciliation is held more than 50 days after a finding of reasonable cause [see § 46a-82e(a)], the complaint is remanded to the investigator to attempt conciliation, and, if conciliation is unsuccessful, to then certify the complaint for public hearing. As the complaint is being remanded, the respondent's arguments to dismiss portions of the complaint as untimely need not be addressed at this time.

*Brelig, Diana Lee v. F&L Inc., d/b/a Luciano's Boathouse Restaurant*
9540683
Wilkerson, 2/2/00

Hearing in damages. Former waitress awarded: (1) Back pay in the amount of $37,616.08; and (2) Prejudgment interest in the amount of $3,419.64.

*Brown, Bradley, Sr. v. Creative Management Realty Co.*
9850062, 9850063, 9850064, 9850065, 9850068, 9850069
Giliberto, 11/16/99

Motion to dismiss granted in part. Held*:* (1) Motion to dismiss is treated as a motion to strike; (2) § 46a-64c(a)(2) protects against discriminatory practices after the initial sale or rental transaction; (3) § 46a-64c(a)(3) does not apply solely to discrimination in advertising and includes verbal statements; (4) family members of disabled individuals are protected

from discriminatory practices pursuant to § 46a-64c(a)(6)(B) and (C); (5) the discriminatory acts alleged against the respondent management company and the respondent property manager do not constitute "residential real-estate-related transactions" pursuant to § 46a-64(a)(7); and (6) white persons are protected from racial discrimination under the state and federal fair housing laws.

*Brown, Bradley, Sr. v. Creative Management Realty Co.*
9850062, 9850063, 9850064, 9850065, 9850068, 9850069
Giliberto, 3/13/00

Final decision. Judgment for the respondents. Held*:* All of the parties failed to appear for the public hearing, therefore the complainants and the commission failed to establish a prima facie case.

*Brown, Johnmark & Clarissa v. Arlette Jackson*
0750001, 0750002
Knishkowy, 07/03/07

Ruling on request for production. Held: Notwithstanding the caption of this document, the respondent's pleading is, de facto, a set of interrogatories. Discovery is limited by the Uniform Administrative Procedure Act and the commission regulations to requests for production. Absent express authorization, interrogatories are impermissible.

*Brown, Johnmark & Clarissa v. Arlette Jackson*
0750001, 0750002
Knishkowy, 11/17/08

Final decision. Judgment for the complainants. Complainants husband and wife rented apartment from the respondent landlord. When husband lost his job after several months, he applied for rental subsidy. The respondent landlord refused to complete the requisite forms and husband ultimately could not complete his application to obtain the subsidy. The respondent offered myriad reasons for her refusal, many inherently inconsistent or simply not credible. Held: given liberal reading of fair housing statutes, and following logic of other cases, thwarting the complainant's ability to obtain subsidy is not meaningfully different than outright refusing to accept lawful subsidy. The landlord violated §46a-64c(a)(2). After refusing to help husband, the landlord engaged in a two month period of severe harassment of both complainants. Held: landlord's egregious, severe and pervasive actions and provocations were in retaliation for husband's attempt to obtain subsidy, and they created a hostile housing environment, violating both §§ 46a-64c(a)(2) and 46a-64c(a)(9).

*Brown, Kim v. Olsten Services, Inc.*
9920046
(appeal dismissed 11/10/99; following appeal, stipulated judgment)
Giliberto, 2/19/99

Motion to open default granted. Held*:* (1) the human rights referee has authority at default hearing to open default entered by acting executive director and (2) matter referred back to investigative office.

*Caggiano, Caterina v. Doreen Rockhead*
0450017
Trojanowski, 05/05/04

Hearing in damages. Housing case. The complainant was awarded $210 in compensatory damages for medical care, $150 for attorney's fees, $4,500 for emotional distress damages and post judgment interest of 10% per annum.

*Callado, Orlando v. Town of Fairfield*
9420437
FitzGerald, 10/15/99

Final decision. Judgment for the complainant. The respondent discriminated against the complainant on the basis of age in denying him participation in its pension plan.

*Carlson, Rose Ann v. Town of Fairfield*
0620142
FitzGerald, 06/30/09

The respondent's "motion to preclude relitigation of factual findings in *O'Halloran v. Fairfield* and to preclude relitigation of certain legal issues as a result of the *O'Halloran v. Fairfield* decision" is denied. The respondent argued that the doctrine of collateral estoppel should apply so as to preclude the relitigation of the factual and legal findings determined in connection with the final decision issued in *O'Halloran*. Collateral estoppel is inapplicable for at least three reasons. First, the presiding referee concluded that O'Halloran did not prove discrimination; he did not conclude that the respondent did not discriminate. Second, in *O'Halloran*, the presiding referee specifically noted that: he did not intend his findings in *O'Halloran* to be applied to the merits of this case. Finally, under the facts of this case, the policies underlying collateral estoppel and the anti-discrimination statutes favor not applying collateral estoppel.

Carlson, Rose Ann v. Town of Fairfield
0620142
FitzGerald, 06/30/09

Motion in limine is granted to preclude evidence of qualifications unknown to the decision-maker at the time of the hiring decision. Under the "after-acquired evidence" doctrine, information that was unknown to the decision-maker at the time he made his decision could not have influenced his decision and, therefore, is irrelevant as to his motivation in choosing whom to hire.

*Carlson, Rose Ann v. Town of Fairfield*
0620142
FitzGerald, 06/30/09

Motion in limine seeking to preclude the introduction of evidence regarding any emotional distress damages is denied. The complainant alleged that the respondent violated Title VII and General Statutes §§ 46a-58 (a) and 46a-60 (a) (1) when it refused to hire her for the position of zoning inspector because of her sex. Although emotional distress damages are not available for a violation of § 46a-60, the complainant's damage claims also arise from the respondent's alleged unlawful practices under Title VII, which would constitute a violation of § 46a-58 (a) and afford the complainant the relief, including emotional distress damages, available under General Statute § 46a-86 (c).

*Carlson, Rose Ann v. Town of Fairfield*
0620142
FitzGerald, 07/10/09

Motion for reconsideration of the ruling sustaining the respondent's in limine objection to the testimony of Josephine O'Halloran is denied. First, as proffered by the commission, O'Halloran's proposed testimony offered no obvious or logical connection to the issue of the respondent's alleged discriminatory conduct toward the complainant. Second, O'Halloran is not a "similarly situated" witness. Third, the commission provided no specific as to the discriminatory treatment of the complainant that O'Halloran personally observed and also provided no specific information as to what testimony O'Halloran could corroborate that would both need corroboration and also not be unduly repetitious.

*Carlson, Rose Ann v. Town of Fairfield*
0620142
FitzGerald, 12/28/09

Final decision. Complaint dismissed. The complainant was one of four applicants (three females and one male) for the position of zoning inspector. The respondent hired the male applicant for the position. The complainant alleged that she was not hired because of her sex. Held: the commission did not establish by a preponderance of the evidence that the respondent discriminated against the complainant on the basis of her sex when it did not hire her for the position of zoning inspector.

*Carretero, Stefan v. Hartford Public Schools*
0310481
Knishkowy, 11/28/05

Two-part motion for "summary disposition" denied. The complainant filed his initial complaint alleging that the non-renewal of his teaching contract was motivated by discrimination; in his amended complaint, he claimed that the respondent's refusal to replace the termination notice in his personnel file with a resignation letter was in retaliation for his initial complaint. Held*:* (1) The respondent's claim that complainant failed to exhaust administrative remedies raises a jurisdictional issue and thus is treated as motion to dismiss. The exhaustion doctrine applies when a party brings a complaint to the superior court without exhausting administrative remedies. In this case, the doctrine is not applicable; there is no legal justification, explicit or otherwise, or convincing policy argument for a complainant to exhaust remedies under Teacher Tenure Act (§10-151) before bringing a discriminatory termination claim to the CHRO. (2) The respondent also argues that the complainant has not demonstrated that he suffered an adverse employment action, and that allowing the complainant to substitute a resignation letter at this time would compromise the respondent's ability to defend against the initial claim. Whether the complainant suffered an adverse employment action is an issue of material fact whose resolution is premature without further evidence. While the legal defense argument has been recognized as valid by various court decisions, in this case further evidence is needed before this tribunal can rule conclusively, especially in light of allegation that the respondent stated that its refusal to change the personnel file was due to the filing of the initial complaint.

*Carey, Edward J. v. Imagineers, LLC*
9850104
Wilkerson, 9/2/99

Motion to stay denied. The commission moved for stay of the proceedings because complainant had filed an action in federal court. The complainant joined and the respondent did not object. Held*:* Res judicata and collateral estoppel are not valid reasons to grant a stay of proceedings, no duplication of efforts, no unnecessary costs, and discovery by the commission may be used to effect discovery in the federal action. No plausible reason existed to grant stay of proceedings.

*Carter, Joseph v. C.N. Flagg Power, Inc.*
8840227
FitzGerald, 2/28/00

Final decision. Judgment for the complainant. Held*:* (1) termination of employment due to physical disability (cancer). The complainant proved discrimination by both the direct and inferential evidence standards. The respondent failed to show a bona fide occupational qualification and the complainant showed that the respondent’s claims of essential job

function were not worthy of credence; and (2) the complainant proved that the respondent aided and abetted in his termination.

*Caruso, Jr., John v. Western Connecticut State University*
0620214
FitzGerald, 3/18/09

Motion to dismiss granted in part. The complainant is employed by the respondent as a professor. On November 3, 2005, he filed an affidavit with the commission alleging that because of his participation on behalf of his wife's discrimination claim against the respondent, the respondent thereafter retaliated against him. The complainant identified three retaliatory acts, one of which occurred in 2004. (The 2004 retaliatory act was also included in a prior affidavit the complainant had filed with the commission in 2004. The commission dismissed the 2004 affidavit after finding no reasonable cause). Following an unsuccessful conciliation conference on December 12, 2008, the complainant filed an amended affidavit that included as a fourth alleged retaliatory act a failure to hire claim that arose in 2005. Held: the 2004 allegation was dismissed as untimely filed and as precluded by the res judicata effect of the commission's dismissal of the 2004 complaint. The 2005 failure to hire claim was not saved by the "relate back" doctrine and was dismissed as untimely.

*Carver, Monica v. Drawbridge Inn Restaurant*
9940179
Allen, 6/12/02

Final decision. Judgment for the respondent. The complainant alleges discrimination in the terms and conditions of her employment on the basis of her alienage (American Indian), and that she was discharged in retaliation for her complaints regarding alleged sexual harassment in the workplace. Held: The complainant failed to establish prima facie case as to her claim regarding discriminatory treatment in the terms and conditions of her employment. The complainant also failed to establish a prima facie case that she was fired in retaliation for her complaints because evidence showed, inter alia, that she quit her job.

*Ceslik, Stephen v. Napoli Motors*
0030569, 0030586, 0030587
Knishkowy, 2/15/02

Motion to disqualify opposing counsel denied. Held: The law firm of a lawyer who represented the complainant many years ago now represents the respondents in the present action. The complainant moved to disqualify the firm and its members under Rule 1.9 and 1.10 of the Rules of Professional Conduct. Because the earlier representation bears no "substantial relationship"—in fact, no relationship at all—to the present matter, no violation of the Rules exists.

*Ceslik, Stephen v. Napoli Motors*
0030569, 0030586, 0030587
Knishkowy, 3/21/02

Motion to strike special defenses granted. The respondent raised two special defenses predicated upon prior findings and determination of the commission investigator as to some of the allegations in the complaint. However, the complaint was certified to hearing in its entirety, and thus, the referee must conduct a de novo hearing on the entire complaint; the respondent cannot successfully base special defenses solely on the investigator's report.

*Charette, Lisa v. Dept. of Social Services*
9810371, 9810581
FitzGerald, 4/26/01

Final decision. Judgment for the respondents. The complainant alleged harassment based on disability, retaliation, sexual harassment, and failure to provide reasonable accommodation for her disability. Held*:* (1) Upon motion to dismiss by the respondents for lack of jurisdiction, the allegations for which no reasonable cause was found (harassment based on disability and retaliation) were dismissed at the commencement of the public hearing. (2) The sexual harassment allegation was dismissed. Evidence alleging the conduct occurred was not credible. Alternatively, the conduct, even if it occurred, did not rise to the level of actionable harassment. Also, the complainant unreasonably failed to utilize the employer's complaint procedure and to cooperate in the employer's investigation. (3) The allegation of failure to provide reasonable accommodation was dismissed. Reasonable accommodation is required under state antidiscrimination law. The complainant rejected the respondents' offer of a reasonable accommodation relative to the complainant's arrive time to work. The complainant failed to participate in the requisite good faith interactive process to determine the necessity of the requested private office, job restructuring, and special light bulbs.

*Chilly, John v. Milford Automatics, Inc.*
9830459
Knishkowy, 10/3/00

Final decision. Judgment for the complainant. The complainant was terminated from employment when he showed up for work with Bell's palsy. The respondent claimed it terminated the complainant for poor work quality and had been planning to do so for some time. Although the complainant failed to prove that he was disabled under the ADA or FEPA, he did prove that the respondent regarded him as disabled under FEPA. The complainant established a strong prima facie case and proved that, under the circumstances of the case, the respondent's proffered reason was unworthy of credence.

*Clark, Jeffrey v. Wal-Mart Stores, Inc.*
9830599
(appeal dismissed)
Wilkerson, 1/25/01

Final decision. Judgment for the respondent. The complainant filed a complaint claiming that he was demoted based on his disability. Held*:* The complainant did not establish a prima facie case under *McDonnell Douglas* proving that he was qualified by showing that he could perform the essential functions of his job with or without reasonable accommodations. The complainant also did not establish a prima facie case under *Price Waterhouse* analysis in that he did not prove that there was direct evidence of discrimination or rebut the respondent's reason for demoting the complainant.

*Clements, Joyce v. Town of Brookfield*
9620571
Allen, 7/6/00

Final decision. Judgment for the respondent. The complainant brought an action claiming harassment and demotion based on her age and amended her complaint to assert wrongful discharge based on age and gender. Held*:* (1) The complainant's amended complaint was filed more than 180 days after the alleged act of discrimination; (2) The complainant failed to establish a prima facie case; (3) The respondent's articulated non-discriminatory reason was valid and not pre-textual; (4) The complainant failed to produce evidence inferring that the abolition of her position in the Town's budget was motivated by her age or gender; (5) there was no evidence of the complainant being harassed or demoted.

*Collette, Yvonne v. University of Connecticut Health Center*
0610446
Wilkerson Brillant, 07/22/08

Motion to dismiss granted in part; denied in part. Held: (1) Because the complaint was amended as a matter of right prior to the appointment of the undersigned presiding referee pursuant to § 46a-54-38a (a) of the Regulations of Connecticut State Agencies, the state law claims are not time-barred; 2) the complainant's basis for her § 46a-58 (a) claim is not a cause of action under § 46a-60 but is a cause of action under the federal ADA and, thus, the complainant's federal ADA claim has been converted to a claim under state law by way of § 46a-58 (a) and is a valid claim; 3) § 46a-70 applies to employment discrimination in state agencies and the respondent's alleged failure to provide a reasonable accommodation in order for the complainant to resume working is covered within § 46a-70; and 4) Section 46a-77 applies to services provided to the public by state agencies and does not apply to employment discrimination claims, therefore, the complainant does not state a valid claim under § 46a-77 and her claims pursuant to § 46a-77 are dismissed.

*Cooper, John & John C. Donahue v. City of Hartford Fire Dept.*
9710685, 9710637
(remanded decision on appeal; appeal withdrawn)
Trojanowski, 8/14/00

Final decision. Judgment for the respondent. The complainants did not establish a prima facie case proving that the failure of the respondent to promote them was based on intentional discrimination due to their race and gender. The complainants also failed to establish a prima facie case proving that the respondent retaliated against them for the exercise of their rights under Title VII and CFEPA. After appeal, decision was remanded. On remand, judgment for the commission and complainant Donahue with relief as set forth in the decision.

*Cooper, John & John C. Donahue. v. City of Hartford Fire Dept.*
9710685, 9710637
Trojanowski, 9/7/00

Petition for reconsideration denied. The commission filed a petition for reconsideration citing the existence of a "valid settlement agreement" as its good cause. The respondent filed an objection based on the fact that although there was a proposed agreement between counsel, the agreement had not been approved by the Hartford City Council, the only authority authorized by the City Charter to approve settlements proposed by the Corporation Counsel. When the final decision was rendered, the City Council had not acted to finalize the agreement. Thus, the proposed settlement was invalidated because the decision came out before the Council had acted.

*Cooper, Ricky & Regina v. Andrew & Hanna Gorski*
9710196, 9710197
Allen, 1/5/01

Remand decision. Judgment for the complainants. Held*:* The respondents discriminated against the complainants with respect to the terms and conditions of a prospective rental by requiring additional and more comprehensive credit, employment, and educational background information than was required of white tenants. The complainants are awarded $5,000.00 in damages for emotional distress.

*Cooper, Ricky & Regina v. Andrew & Hanna Gorski*
9710196, 9710197
Allen, 1/31/01

Petition for reconsideration granted. The complainants and the commission are granted 30 days to file Motions seeking an award of reasonable attorneys' fees and costs and the respondents shall have 10 days to file objections, if any.

*Cooper, Ricky & Regina v. Andrew & Hanna Gorski*
9710196, 9710197
Allen, 4/16/01 (Supplemental)

The complainants awarded $20,000 in attorney's fees for the respondent's discrimination in regard to the terms and conditions associated with the rental of real estate; attorney's fees appropriate even where complainants represented by non-profit Legal Clinic; detailed time sheets sufficient to establish reasonableness of fees requested.

*Cordone, Angelo v. Bridgeport Board of Education.*
0420409
Knishkowy, 7/21/04

Motion to dismiss granted in part, denied in part. Held: (1) The complainant's first allegation was based on a discrete event occurring more than 180 days prior to the filing of the complaint. Although in certain circumstances the 180-day filing requirement may be excused for equitable reasons, the commission, in its response to the motion, provided no suggestion--much less any evidence--of any such reason. The motion to dismiss this portion of the complaint is granted. (2) The respondent challenged the second allegation by claiming that failure to transfer or promote the complainant to a certain position did not constitute an adverse employment action. Such determination is a matter of fact and thus requires full adjudication. The motion to dismiss this portion of the complaint is denied.

*Cordone, Angelo v. Bridgeport Board of Education*
0420409
Knishkowy, 9/21/04

Motion for leave to amend complaint. In an age discrimination case, the complainant moved to amend his complaint by adding legal conclusions of disability discrimination. Although the complainant argues that the additional charges clarify the factual allegations in the original complaint and "conform the legal grounds for the complaint with the factual allegations," such bald assertions are simply incorrect. Nothing in the original complaint so much as even alludes to any disability. The motion is denied. (Note: The respondent's failure to respond to the complainant's motion does not mandate automatic approval of the motion; rather, the presiding officer must still determine if the proposed amendment is "reasonable." See Regs. Conn. State Agencies, § 46a-54-80a(e).)

*Correa, Jocelin v. La Casona Restaurant*
0710004
Wilkerson, 04/28/08

Hearing in damages. Held: pursuant to the default order, the respondents were liable for discriminating against the complainant because of her pregnancy when they discharged her from employment. The complainant was awarded $19,404.88 for back pay, 10% pre-judgment interest of $1940.49, $2500 in emotional distress damages and post judgment

interest of 10% per annum from the date of the final decision. The discriminatory act was not done in public and was not highly egregious; the emotional distress was not long in duration; and the consequences of the discrimination were not found to be directly linked to the discriminatory act. The respondent was ordered to cease and desist from discriminatory practices, not to retaliate against the complainant and to post the commission's antidiscrimination posters in its workplace.

*Cosme, Edgardo v. Sunrise Estates, LLC*
0510210
FitzGerald, 06/29/07

Final decision. Judgment for the complainant. Held: the respondent failed to reasonably accommodate the complainant's mental disability; discriminated against the complainant in the terms, conditions and privileges of his employment because of his mental disability; and terminated his employment because of his mental disability. The complainant awarded relief including $36,696 in back pay; $45,136 in front pay (four years); and pre- and post-judgment interest.

*Couture, Alan v. Waterbury Republican*
0630390
(on appeal, final decision vacated and appeal withdrawn)
Kerr, 6/12/08

Motion to dismiss granted. Held: The respondent newspaper refused to publish an unpaid announcement (with photograph) of the complainant's same sex civil union with those of marriages similarly submitted. The complainant alleged a denial of a public accommodation under General Statutes § 46a-64 on the basis of sexual orientation and marital status. The respondent claimed First Amendment protection in the exercise of its editorial discretion. Held*:* while there have been legally recognized encroachments on a newspaper's First Amendment rights so as to advance other competing governmental and public interests, such encroachments have not been found in Connecticut (or elsewhere) to extend to the content of unpaid public/personal announcements in a newspaper under the theory that it is a public accommodation. Without a basis for determining that the respondent was a public accommodation for these purposes, the complainant was found to have failed to establish subject matter jurisdiction.

*Crebase, John v. Procter & Gamble Pharmaceuticals*
0330171
FitzGerald, 09/07/05

The respondent's motion for sanctions granted. The respondent moved that the complainant be sanctioned for failure to comply with the presiding human rights referee's order to produce documents. The complainant is sanctioned as follows: (1) it is established that the respondent did not terminate the complainant's employment because of his mental disorder; (2) no evidence shall be introduced that the respondent terminated the

complainant's employment because of his mental disorder and (3) no evidence shall be introduced that the complainant has a mental disorder.

*Crebase, John v Procter & Gamble Pharmaceuticals*
0330171
(appeal withdrawn)
FitzGerald, 07/12/06

Final decision. Judgment for the complainant. The complainant established that the respondent violated General Statutes §§ 46a-58 (a) (Title VII) and 46a-60 (a) when it terminated his employment because of his age, sex and mental disability. The complainant was awarded damages including two years of back pay, reinstatement, pre-and post-judgment interest, and emotional distress.

*Cuffee, Tampiepko Tion v. Nine West Group, Inc.*
9720038
Trojanowski, 5/7/99

Motion to dismiss granted the joint motion from the commission and the respondent based on the complainant's failure to respond to written and telephonic conversations for over a year.

*Czuchra, Roger A. v. Pace Motor Lines*
0820039
Austin, 10/22/10

The respondent's motion to subpoena witness to a deposition denied. The respondent argued that CGS 51-85 authorized the issuance of a subpoena to depose a witness it intended to call at trial. The respondent further proffered that given that the intended witness gave testimony that conflicted with a previously sworn to affidavit, good cause existed to issue a subpoena. Held: CGS 51-85 does not authorize the issuance of a subpoena to depose a witness in agency proceedings and that the conflict between the testimony and affidavit can be brought out at trial.

*Dacey, Roberta A. v. The Borough of Naugatuck*
8330054
Wilkerson, 8/10/99

Order for relief on remand. Calculation of backpay. Held*:* (1) the complainant vigorously litigated her discrimination claim for damages and is entitled to full amount of backpay; (2) prejudgment interest is an appropriate element in a backpay award; and (3) fringe benefits are an appropriate element in a backpay award.

*Dako-Smith, Frederica v. Dept. of Mental Health & Addiction Services*
0020228 & 0220142
(appeal dismissed)
Austin, 04/12/07

Final decision. Judgment for the respondent. African-American complainant alleged that the respondent discriminated against her by subjecting her to disparate treatment and a hostile work environment. In Case No. 0220142 the complainant alleged as a result of her filing with CHRO the respondent retaliated against her by filing a complaint with the Connecticut Department of Health. Held: the complainant failed to sustain her burden of proving a prima facie case in both complaints as to claims of discrimination and retaliation. (Transcript of decision)

*D'Angelo, Edward v. University of Bridgeport*
9520184, 9520185, 9520186
Allen, 6/29/99

Motion to dismiss granted due to failure of complainants to file complaints with the commission within the 180-day period following alleged act of discrimination.

*Daniels, Elbert v. U. S. Security Associates, Inc.*
0430286
Trojanowski, 11/17/04

Hearing in damages. The complainant alleged he had been discriminated against on the basis of his race. The complainant was awarded back pay and prejudgment interest. respondent also ordered to reimburse the Department of Labor for unemployment compensation paid to the complainant.

*Daniels, Jeffrey v Andre Ruellan*
0550012
Kerr, 11/6/06

Final decision. The complainant alleged that he was discriminated against in being denied rental housing on the basis of disability and source of income. The respondent denied the claim based on disability and rebutted the source of income claim by stating that his denial was predicated on the permissible consideration of insufficient income. Held: The disability claim was dismissed for lack of evidence and judgment for the complainant was entered on the source of income claim. The formula the respondent had used to determine insufficient income was legally flawed, and could be applied so as to eliminate virtually all Section 8 applicants. The complainant was awarded $4275 plus interest for all claims (which sum included a small award for emotional distress) and complainant's counsel was awarded a discounted attorney's fee in the amount of $10,150.

*Davis, Keith A. v. Mama Bears LLC*
0430103
FitzGerald, 08/29/05

The commission's motion to amend the complaint to add a respondent denied without prejudice because there was no verification that the motion and proposed amendment had been received by the proposed respondent. As a matter of due process, the proposed respondent is entitled to notice and opportunity to be heard on the motion.

*DeBarros, Paula v Hartford Roofing, Co., Inc.*
0430162
Trojanowski, 05/10/05

Hearing in damages. The complainant alleged sexual harassment because of her sex and constructive discharge because of the harassment. The complainant was awarded back pay of $15,223.30; health insurance benefits of $8,254.82, and pre- and post-judgment interest.

*DeRosa, Barbara G. v. Dr. Fredric Rosen*
9830057
Giliberto, 7/22/99

Motion to dismiss denied. Motion to amend granted in part. Held*:* (1) Complaint may be amended to correct statutory bases for discrimination; (2) General Statutes § 46a-60(a)(1) imposes individual liability; (3) complaint may be amended to cite in the proper respondent; (4) claim pursuant to § 46a-60(a)(5) may not be added to the complaint.

*DeRosa, Barbara G. v. Dr. Fredric Rosen*
9830057
Giliberto, 8/17/99

Motion to dismiss federal claims granted in part. Federal claims under ADEA and ADA are dismissed due to employer having less than minimum number of employees.

*DeRosa, Barbara G. v. Dr. Fredric Rosen*
9830057
Giliberto, 8/20/99

Motion to stay pending declaratory ruling from the commission denied. Held*:* (1) Executive Director cannot file motions as she is represented by the commission counsel; (2) Chief Human Rights Referee performs administrative function and cannot rule in place of presiding human rights referees; (3) We have duty to address matters in more expedient fashion than the court system; and (4) Declaratory Rulings are no more binding than final decisions in other contested cases and do not require halt to all potentially related proceedings.

*Dexter, Frank v. Dept. of Correction*
0320165
FitzGerald, 08/31/2005

Final decision. Judgment for the respondent. The respondent terminated the complainant's employment as a correction officer because he violated the administrative directive against undue familiarity with inmates by using his personal cell phone to make calls on behalf of inmates. The complainant, an African-American, alleged that the respondent did not terminate non-African Americans who had been cited for undue familiarity. Held: the complainant failed to establish a prima facie case because of his repeated violations of the administrative directive and because the non-African American correction officers to whom he compared himself were not similarly situated as their conduct were not as severe as the complainant's. Even if the prima facie elements were established, the complainant did not prove by a preponderance of the evidence that the respondent's business reason was a pretext for actual discrimination.

*DiMicco, Rosa v. Neil Roberts, Inc*.
0420438
Kerr, 9/12/06

Hearing in damages. Default entered for failure to answer in employment termination case predicated upon sexual harassment and retaliatory dismissal. The complainant was awarded back pay ($7,220), lost benefits ($3,699), emotional distress ($6,000) and prejudgment interest ($4,740).

*DiMicco, Rosa v Neil Roberts, Inc.*
0420438
Kerr, 11/16/06

Final decision on reconsideration. The complainant requested a reconsideration of the final decision dated September 12, 2006, wherein the referee declined to award attorney's fees because the complainant supplied inadequate documentation to support an award. Held: After granting the motion to reconsider, and reviewing a detailed itemized bill with proposed hourly rates, the referee awarded $10,369.39 in attorney's fees, rejecting the proposed lodestar fee of $17,282.31 as unreasonable and out of proportion with the effort put forth and the result obtained.

*Doe, Jane v. Claywell Electric*
0510199
Kerr, 12/09/08

Hearing in damages. Default entered for failure to answer in employment termination case predicated upon sexual discrimination/harassment and constructive discharge. The complainant was awarded back pay ($3,120), emotional distress ($15,000) and prejudgment interest ($1,310).

*Doe (1993) Jane v. Ice Cream Delight*
9310191
Trojanowski, 9/1/99

Hearing In damages. Part-time yogurt store worker who was sexually harassed and terminated requested monetary damages consisting of back pay, front pay and compound interest. Held*:* (1) The complainant was entitled to two years back pay which terminated when she obtained a higher paying job; (2) the complainant was not entitled to front pay because she was made whole economically by the award of backpay; (3) the awarding of interest and whether it is compounded is in the discretion of the presiding human rights referee, compound pre-judgment interest awarded on the award of backpay from the date of the discriminatory act; (4) statutory post-judgment interest; and (5) various equitable remedies.

*Downes, Elizabeth v. zUniversity.com*
0210366
Trojanowski, 9/12/03

Hearing in damages. The complainant was terminated because of her sex, familial status and her pregnancy. Damages included back pay, performance bonus, and money for medical coverage.

*Doyle, Claire T. v. State of Connecticut*
9730257
FitzGerald, 8/18/00

The respondent's motion to dismiss a portion of the complaint that was incorporated by an amendment is granted. The amendment alleges essentially the same facts as a subsequent complaint filed by the complainant against the respondent. Because the complainant obtained a release of jurisdiction under §§ 46a-100 and –101 of the subsequent complaint, General Statutes § 46a-101(d) waives the commission's jurisdiction as to allegations for which the release was obtained, proscribes the commission from continuing to prosecute the allegations, and requires the dismissal of the allegations in whatever form the allegations may take.

*Doyle, Claire T. v. State of Connecticut*
9730257
FitzGerald, 9/15/00

Motion to dismiss granted. The commission moved for an administrative dismissal pursuant to a request by the complainant for a release of jurisdiction.

*Duncan, Clive v CT Trane*
0410319
Kerr, 06/01/06

Motion to stay denied. The motion to stay was predicated on the filing of an action in federal court one month prior to the complaint's certification. The motion claimed that a stay was necessary to preserve (from the threat of preclusion) a right to a federal jury trial and to avoid duplication of effort. The motion was denied because the dual filing was at the complainant's option, preclusion issues could arise whether the stay was granted or not and because no compelling reason was advanced to indefinitely disenfranchise the commission from its statutory obligation to prosecute discrimination complaints.

*Dwyer, Erin v. Yale University*
0130315, 0230323
Wilkerson, 11/29/05

Final decision. Judgment, in part, for the complainant. The complainant alleged that the respondent discriminated against the complainant by 1) failing to respond to her continued reports of workplace harassment by both co-workers and management; 2) by treating her dissimilarly to other employees in trial periods; and 3) by suspending and ultimately terminating her because she is a transgendered woman with a mental disability who was, or was perceived to be homosexual, and in retaliation for participating in the University's grievance process and filing a CHRO complaint. Held*:* The respondent violated General Statutes § 46a-81c(1) by creating a hostile work environment based on the complainant's sexual orientation or perceived sexual orientation during her employment at one of its facilities when it failed to take reasonable steps to remedy the hostile work environment. The respondent is liable to the complainant for her injuries. The complainant is entitled to an award of back pay along with 10% pre and post-judgment interest. The commission and the complainant failed to prove that the respondent discriminated, retaliated or aided and abetted discrimination against the complainant for the lost promotions, demotions, poor evaluations, being placed on probation, failure to accommodate, and the suspension and termination and those claims are dismissed.

*Duarte, James v. Hamilton Standard*
9610553
Giliberto, 9/30/99

Motion to dismiss denied in part. Held*:* (1) The complainant alleged facts sufficient to establish a *prima facie* case of disability discrimination; (2) employers have a duty under state law to make reasonable accommodations; (3) General Statutes § 46a-58(a) does not apply to discriminatory employment practices that fall under the federal statutes; and (4) the commission does have jurisdiction over federal claims of discrimination.

*Ellis, John v. ACE International (ACE American Ins. Co.)*
0620473
FitzGerald, 09/13/10

Motion to dismiss granted in part and denied in part. The complainant's § 46a-58 (a), Title VII retaliation and ADEA claims dismissed. Commission lacks jurisdiction because retaliation and age are not enumerated as protected bases under § 46a-58 (a). Motion dismissed as to the complainant's § 46a-60 (a) (4) retaliation claim as (1) the claim is not time-barred and (2) whether the alleged acts would dissuade a reasonable worker from making or supporting a charge of discrimination is an evidentiary matter not a jurisdictional defect.

*Ellis, John v. ACE International (ACE American Ins. Co.)*
0620473
FitzGerald, 10/25/10

Motion to dismiss denied. The respondent asserted lack of subject matter jurisdiction, lack of personal jurisdiction and improper extraterritorial application of state's anti-discrimination laws. Held: (1) the commission has subject matter jurisdiction under § 46a-60 over a claim that an employee was terminated because of his age an in retaliation for his opposition to discriminatory employment practices; (2) a decision made in Connecticut that has extraterritorial effect does not make the application of the law extraterritorial and Connecticut's anti-discrimination laws may, in some cases be applied extraterritorially; and, (3) the commission and the complainant established that the commission's exercise of personal jurisdiction satisfies statutory and constitutional requirements.

*Esposito, Armando v. City of New London*
9340530
Allen, 10/21/99

Final decision. Judgment for the respondent. Held*:* (1) General Statutes §§ 7-430 and 46a-60(b)(1)(C) provide that age 65 is a legislatively accepted BFOQ for firefighters in Connecticut; and (2) the evidence submitted in this matter establishes that age 65 is a BFOQ for municipal firefighters.

*Feroleto, Salvatore v. Dept. of Mental Retardation*
0510140
Knishkowy, 8/27/07

Motion to dismiss denied. The respondent employer moved to dismiss complaint (or portions thereof) as untimely because some of the alleged discriminatory acts occurred beyond the statutory filing period. The filing requirement is not jurisdictional, but is like a statute of limitations, with which one must comply absent factors such as waiver, consent or equitable tolling. (1) Although untimely discrete acts may be barred even if they are related to timely acts, the vaguely-asserted allegations in the complaint lack details and

pertinent dates; only after further evidence can this tribunal determine which acts fall within, and which beyond, the filing period. (2) Because the complainant alleges ongoing harassment (due to his disability), he is entitled to adduce evidence at trial to demonstrate a hostile work environment, which would toll the filing requirement. (3) The complainant should also be allowed to adduce evidence to show that the other actions alleged in his complaint (e.g., ongoing unequal pay, ongoing denial of reasonable accommodations) constitute a "policy or practice" of discrimination, which might also toll the filing requirement.

*Ferri, Susan v Darien Barber Shop*
0520471
FitzGerald, 4/15/08

Motion to dismiss denied. The respondent claimed the commission lacked subject matter jurisdiction because the complaint was brought against a trade name. Held: Courts have held that a trade name may be named as a defendant in an action. Further, by entering an appearance, an attorney acknowledges that the party named on the appearance form is an accurate legal designation of the party for purposes of the trial

*Filshtein, Herman v. West Hartford Housing Authority*
0050061
Wilkerson, 10/04/01

Final decision. Judgment for the complainant. Held*:* The respondent discriminated against the complainant who was disabled by failing to reasonably accommodate him in housing. The complainant proved a prima facie case of failure to reasonably accommodate. The respondent did not meet its burden to prove that the accommodation was unreasonable. The complainant was awarded $2,500 for emotional distress damages with post-judgment interest, $7,497 for back rental fees paid with pre- and post-judgment interest, and the complainant's attorney was awarded $5,850 for attorney fees with post-judgment interest. The complainant was also awarded $252 (differential rental fee) per month until the respondent grants him a Section 8 certificate for his current dwelling.

*Flood, Robert v. American Can Company*
8220420
FitzGerald, 4/24/00

Final decision. Judgment for the respondent. The complainant alleged that he was the victim of age discrimination that occurred when the respondent, undergoing a reduction in force, failed to transfer the complainant into a lateral job position. Held*:* the complainant failed to prove his prima facie case, that the respondent's reason was pretextual, and that he was the victim of intentional age discrimination.

*Friedman, Sharon v. Office of the State Comptroller*
0110195
Allen, 11/17/03

The complainant made application for "domestic partner benefits" and was denied same on basis that state arbitration award providing such benefits applied only to same sex partners as they were unable to marry under state law. The complainant alleged that she was discriminated against by the arbitration award, because her "partner" was male, on the basis of her marital status and sexual orientation the respondent moved to dismiss complaint for failure to state a claim for which relief could be afforded. HELD: the respondent's Motion to Dismiss granted as Chapter 68 of the CGS (Section 5-276 et seq.) provides for finality of such an award unless a timely motion to vacate is filed with the Superior Court, and there having been none the award is not now subject to a collateral attack through the auspices of a CHRO complaint.

*Gabriel, Betty v. Town of Fairfield*
0620141
FitzGerald, 06/30/09

The respondent's "motion to preclude relitigation of factual findings in *O'Halloran v. Fairfield* and to preclude relitigation of certain legal issues as a result of the *O'Halloran v. Fairfield* decision" is denied. The respondent argued that the doctrine of collateral estoppel should apply so as to preclude the relitigation of the factual and legal findings determined in connection with the final decision issued in *O'Halloran*. Collateral estoppel is inapplicable for at least three reasons. First, the presiding referee concluded that O'Halloran did not prove discrimination; he did not conclude that the respondent did not discriminate. Second, in *O'Halloran*, the presiding referee specifically noted that: he did not intend his findings in *O'Halloran* to be applied to the merits of this case. Finally, under the facts of this case, the policies underlying collateral estoppel and the anti-discrimination statutes favor not applying collateral estoppel.

*Gabriel, Betty v. Town of Fairfield*
0620141
FitzGerald, 06/30/09

Motion in limine is granted to preclude evidence of qualifications unknown to the decision-maker at the time of the hiring decision. Under the "after-acquired evidence" doctrine, information that was unknown to the decision-maker at the time he made his decision could not have influenced his decision and, therefore, is irrelevant as to his motivation in choosing whom to hire.

*Gabriel, Betty v. Town of Fairfield*
0620141
FitzGerald, 06/30/09

Motion in limine seeking to preclude the introduction of evidence regarding any emotional distress damages is denied. The complainant alleged that the respondent violated Title VII and General Statutes §§ 46a-58 (a) and 46a-60 (a) (1) when it refused to hire her for the position of zoning inspector because of her sex. Although emotional distress damages are not available for a violation of § 46a-60, the complainant's damage claims also arise from the respondent's alleged unlawful practices under Title VII, which would constitute a violation of § 46a-58 (a) and afford the complainant the relief, including emotional distress damages, available under General Statute § 46a-86 (c).

*Gabriel, Betty v .Town of Fairfield*
0620141
FitzGerald, 07/10/09

Motion for reconsideration of the ruling sustaining the respondent's in limine objection to the testimony of Josephine O'Halloran is denied. First, as proffered by the commission, O'Halloran's proposed testimony offered no obvious or logical connection to the issue of the respondent's alleged discriminatory conduct toward the complainant. Second, O'Halloran is not a "similarly situated" witness. Third, the commission provided no specific as to the discriminatory treatment of the complainant that O'Halloran personally observed and also provided no specific information as to what testimony O'Halloran could corroborate that would both need corroboration and also not be unduly repetitious.

*Gabriel, Betty v. Town of Fairfield*
0620141
FitzGerald, 12/28/09

Final decision. Complaint dismissed. The complainant was one of four applicants (three females and one male) for the position of zoning inspector. The respondent hired the male applicant for the position. The complainant alleged that she was not hired because of her sex. Held: the commission did not establish by a preponderance of the evidence that the respondent discriminated against the complainant on the basis of her sex when it did not hire her for the position of zoning inspector.

*Garceau, Mary Beth v Yale University*
0530073
FitzGerald, 12/05/05

Motion to compel granted in part. Inter alia, the respondent, pursuant to General Statutes § 31-128f (2), was ordered to produce disciplinary records.

*Genovese, Lisa v. Ultimate Billiards*
0530337
FitzGerald, 02/09/07

Hearing in damages. The executive director defaulted the respondent for failing to respond to the commission's pre-certification interrogatories (General Statutes § 46a-54). The complainant was awarded back pay, front pay, reimbursement of medical costs that would have been paid through the respondent's employee medical benefit package, and pre- and post-judgment interest.

*Gill, Rosemarie v. Hartford Public Schools*
0010417
Knishkowy, 2/14/02

Ruling on interrogatories. Held*:* Interrogatories not allowed in administrative proceedings. Discovery is limited by the Uniform Administrative Procedure Act and the rules of practice to requests for production/disclosure of documents.

*Gillmore, Alexis v. Mothers Works, Inc.*
0330195
Trojanowski, 9/30/03

Hearing in damages. The complainant was terminated because of her gender, familial status and her pregnancy. Damages included back pay.

*Gilmore, David v. City of Waterbury*
9530587
(appeal withdrawn)
Allen, 8/11/00

Hearing in damages. The complainant was awarded: (1) back pay; (2) attorney's fees; and (3) prejudgment interest.

*Gilmore, David v. City of Waterbury*
9530587
Allen, 9/7/00

Motion for reconsideration granted. The complainant's back pay award reduced by the sum of $44,076.00 which had been awarded to the complainant in previous court decision involving the same parties.

*Gomez, Isabel v. United Security, Inc.*
9930490
(appeal dismissed)
Trojanowski, 1/28/00

Hearing in damages. Female security guard awarded: (1) back pay; (2) pre-judgment interest; and (3) statutory post-judgment interest.

*Graves, Jr., David v. Sno White Avenue Car Wash*
0330082
Wilkerson, 02/08/06

Final decision. Judgment for the respondent. Held: The complainant proved that the respondent's proffered business reason for terminating his employment was false, but he failed to prove that the false reason was a pretext for discrimination. The record revealed non-discriminatory reasons for the termination and, therefore, the complainant failed to prove by a preponderance of the evidence that the respondent terminated him because of his Puerto Rican ancestry.

*Grant, Sharyn L. v. Yale-New Haven Hospital*
9530477
Knishkowy, 10/13/99

Final decision. Judgment for the respondent. The complainant failed to prove that her discharge was the result of unlawful discrimination based on race, color, or disability. The respondent articulated—and convincingly proved—a legitimate, nondiscriminatory reason for the discharge; i.e., the complainant could not perform her essential job duties even with reasonable accommodation, and there were no other positions to which she could reasonably be assigned. Furthermore, the respondent satisfied its duty to reasonably accommodate the complainant.

*Green, Devon v. SNET Co.*
9420217
Knishkowy, 4/12/00

Ruling on interrogatories. Held*:* Interrogatories not allowed in administrative proceedings. Discovery is limited by the Uniform Administrative Procedure Act and the rules of practice to Requests for Production.

*Gyurko, Nancy v. City of Torrington*
9730281, 9730280, 9730279, 9730278
(On appeal, dismissed in part and remanded to referee in part; see suppl. decision)
Trojanowski, 1/26/00

Final decision. Judgment for the respondent. Held*:* (1) The complainants failed to prove that they were paid less than certain male employees for equal work on jobs whose performance requires equal skill, effort and responsibility and which are performed under similar working conditions. (2) the respondent's Job Study, introduced by The complainants to prove their case, was disallowed because it only measured two of the statutory criteria required by the Equal Pay Act and did not measure effort or performance under similar working conditions. (3) The complainants failed to prove discriminatory intent by the respondent in paying them less than comparable male employees. (4) the respondent's jurisdictional argument that the commission was precluded from considering the complainants' complaints because there have been prior arbitrator's decisions on the same or similar issues as those before the Human Rights Referee, was denied because there was no written or verbal waiver of statutory rights to a hearing before the commission by the complainants or their collective bargaining agent.

*Gyurko, Nancy v. City of Torrington*
9730281, 9730280, 9730279, 9730278
(on appeal; appeal dismissed)
Trojanowski, 7/13/01 (Supplemental decision)

The appeal was dismissed as to the presiding referee's dismissal of the complainants' EPA claim and remanded for further analysis of their Title VII and CFEPA claims. On remand, Held*:* Complaint dismissed. The complainant's failed to show the males to whom they compared themselves held similar or comparable jobs and failed to show discriminatory animus by the respondents.

*Haley, Mary v. City of Hartford*
0010273
(appeal withdrawn)
FitzGerald, 7/1/02

Final decision. Judgment for the complainant. Held: (1) The complainant established that she was discriminated against in promotional opportunities on the basis of her race. The respondent's articulated non-discriminatory reason found to be pretextual. The discrimination constituted a continuing violation. The complainant's failure to formally apply for a promotion excused as her application would have been a futile. The complainant is awarded back pay and a promotion retroactive to September 13, 1998. (2) The complainant's claim of discrimination based upon her disability was dismissed.

*Haley, Mary v. City of Hartford*
0010273
FitzGerald, 3/12/03

Supplement to final decision. Clarification and itemization of monetary damages.

*Hansberry, Phyllis v. Eddie Eckhaus*
0250114
Wilkerson, 5/23/03

Hearing in damages. The complainant who possessed a section 8 voucher attempted to rent a home from the respondent who refused to accept the voucher and would not allow the complainant to apply to rent the house. Discrimination based on lawful source of income and public advertising. The complainant awarded emotional distress damages of $2,500, $931 for rent differential, $862.94 for storage costs and attorney fees.

*Hansen, Joan B. v. W.E.T. National Relocation Services*
0020220
Wilkerson, 11/14/01

Final decision. Judgment for the complainant. Held*:* Under state law, the respondent discriminated against the complainant because of her age, 66, at the time of filing the complaint by terminating her employment. The complainant's federal claim was dismissed because the respondent did not employ at least 20 employees. The complainant proved a prima facie case of age discrimination in employment. The complainant proved that the respondent's proffered reason was unworthy of credence and therefore, pretextual. The complainant was awarded $14,493.00 for back pay with $1,449.00 for prejudgment interest and post-judgment interest at 10% for the unpaid balance.

*Harrington, Wayne v. United Technologies Corporation*
9710649, 9710650
(appeal withdrawn)
Allen, 4/25/00

Final decision. Judgment for complainant. Held*:* (1) The complainant established prima facie case in failure to hire age discrimination case and the respondent’s legitimate reason was pretextual; (2) the complainant sufficiently met requirement for application for position as part of his prima facie case by applying for and expressing interest in specific classes of positions; (3) Damages awarded reduced due to failure of the complainant to fully mitigate his losses by virtue of his quitting subsequent employment at another job; and (4) The complainant awarded: (a) $65, 037 in damages with interest compounded at the rate of 10%/year as of the date the position was filled by a younger person (b) the respondents ordered to hire the complainant to one of eleven positions; (c) the respondents ordered to provide retroactive pension benefits; (d) the respondents ordered to provide benefits until

the complainant is rehired, or until he reaches age 66; and (e) the respondents ordered to pay the complainant $5,000.00/year front pay until he is rehired, or until age 66.

*Hartling, Judy v. Jeffrey Carfi*
0550116
Knishkowy, 10/26/06

Hearing in damages. By virtue of default, the respondents liable for retaliation (in response to prior CHRO complaint) and for housing discrimination and harassment based on the complainant's sexual orientation. Pursuant to §46a-86(c) the referee awarded the complainant $1315 for various costs and $25,000 for emotional distress damages.

*Helliger, Patricia v. Avalon Properties*
9730397
Allen, 12/20/99

Final decision. Judgment for the complainant. Held*:* (1) the respondent Real Estate Management Corporation and its named agents discriminated against the complainant by making a rental opportunity unavailable and by misrepresenting the availability of a rental in violation of §§ 46a-64c(a)(1) and 46a-64c(a)(4)(A); (2) complainant awarded $3,000.00 damages suffered as a result of emotional distress at discriminatory treatment; (3) the complainant failed to mitigate her economic losses and no economic compensatory damages awarded.

*Henry, Robert v. Edwards Super Food Stores*
9510617
Manzione, 7/22/99

Motion to dismiss postponed for evidentiary hearing. Held*:* There are questions of fact as to whether the complaint against additional named respondents should be dismissed (i.e. whether "successor liability" should attach and whether to "pierce the corporate veil"). Accordingly, a conference call shall be scheduled to discuss limited discovery on this issue and set a date for an evidentiary hearing on this jurisdictional question.

*Henry, Robert v. Edwards Super Food Stores*
9510617
Manzione, 9/1/99

Ruling on the respondents' motion to dismiss and the commission's motion for stay. Held*:* (1) A parent corporation may be dismissed from an action when allegations are brought against its subsidiary for discriminatory treatment based on disability where the corporate veil of the parent is not able to be pierced under either the "instrumentality" or "identity" rule; (2) Successor liability does not attach to a company that purchased all of the assets of a predecessor company through a Purchase Agreement that specifically did not assume any liabilities and therefore said "successor" company is dismissed; and (3) A motion for stay is not granted based on the outcome of a pending declaratory ruling before the commission

because the ruling has no more weight than a decision in a contested case proceeding and the timeliness of the outcome is uncertain.

*Hodge, Pamela v. Dept. of Public Health*
9710032
(appeal dismissed)
Manzione, 10/6/99

Final decision. Judgment for the complainant. Held*:* The respondent is ordered to promote the complainant and pay her backpay with simple interest. Although the complainant did not formally apply for the position when it was posted, she made enough efforts to find out about the position while she was out on a maternity/medical leave to meet the application requirement under *McDonnell Douglas*. She should have been considered for the position and had she been considered, she would have been hired based on her education, training, experience and status as an affirmative action goal candidate.

*Intagliata, Debra J. v. Wal-Mart Stores, Inc.*
9740381
Giliberto, 7/31/00

Final decision. Judgment for the respondents. Held*:* (1) The complainant failed to establish a prima facie case of retaliation due to her failure to prove she complained about discriminatory employment practices and failure to prove any adverse action; and (2) The complainant failed to establish a prima facie case of gender discrimination due to her failure to prove that the male employee that replaced her was similarly situated and failure to prove any adverse action or inference of salary discrimination due to gender.

*Isler, Jacqueline v. Yale-New Haven Hospital*
9730024
Manzione, 3/3/99

Ruling on Discovery Motions. Held*:* (1) There is no authority for interrogatories at the commission; (2) human rights referees may grant or deny motions to compel on specific discovery issues.

*Jackson, Gloria v. Debra Lutkowski and Paul Pixbey*
0950094 & 0950095
Austin, 5/25/10

Hearing in Damages. The complainant had alleged that she was harassed due to her race and color by her neighbors (the respondents). The complainant was awarded damages for emotional distress (anxiety along with loss of weight and sleep) and for damage caused to her car.

*Jankowski, Laurence v. City of Meriden*
9730288
FitzGerald, 4/6/00

Final decision. Judgment for the respondent. The complainant, a firefighter, alleged a violation of General Statutes § 46a-60(a) on the basis of age (65) when the respondent involuntarily retired him under its mandatory retirement policy. Held*:* The respondent's mandatory retirement age of 65 for its firefighters is a per se statutory bona fide occupational qualification under §§ 7-430 and 46a-60(b)(1)(C). The complaint is dismissed.

*Joiner, David v. H.E.R.E. Local 217*
0410177
Austin, 07/21/06

Motion to dismiss granted. The complainant alleged that the respondent, his union, denied him representation and also aided and abetted his employer in denying him seniority rights he was entitled to under the collective bargaining agreement. Because resolution of the merits of the complaint would have required interpreting the collective bargaining agreement, the complaint was dismissed as preempted by § 301 of the federal Labor and Management Relations Act.

*Johnson, Mary L. v. Dept. of Correction*
9740163
Giliberto, 8/20/99

Motion to stay pending declaratory ruling from the commission Denied. Held*:* (1) executive director cannot file motions as she is represented by the commission counsel; (2) chief human rights referee performs administrative function and cannot rule in place of presiding human rights referees; (3) human rights referees have duty to address matters in more expedient fashion than the court system; and (4) declaratory rulings are no more binding than final decisions in other contested cases and do not require halt to all potentially related proceedings.

*Johnson, Mary L. v. Dept. of Correction*
9740163
Giliberto, 3/9/00

Final decision. Judgment for the respondent. Held*:* (1) The complainant is an "individual with a disability" due to her physical impairments of asthma and degenerative arthritis which are found to substantially limit the major life activities of breathing and walking; (2) the complainant was not qualified to perform the essential functions of her job and therefore failed to set forth a prima facie case under the ADA and the Rehabilitation Act; (3) the complainant's impairments of asthma and degenerative arthritis meet the definition of "physically disabled" under state law and the complainant established a prima facie case

under state law; (4) the respondent proved the safety defense and her physical disabilities prevent her from performing her job.

*Kelly, Brian v. City of New Britain*
0210359
Trojanowski, 10/18/04

Motion to dismiss denied. The respondent argued that (1) the complainant not physically disabled as defined under the ADA, Rehabilitation Act, or § 46a-60(a)(1) and (2) the complaint was barred by the statute of limitations because it was filed more than 180 days after the filing of the complaint. The respondent's first argument is more properly a motion for summary judgment and was treated as such. The motion denied in its entirety.

*Kennedy, Valerie v. Eastern Connecticut State University*
0140203
FitzGerald, 12/27/04

Final decision. Judgment for the respondent. The complainant alleged that the respondent terminated her employment because of her sex, her disability, and in retaliation for her requesting accommodations for her disability. Held*:* the commission and the complainant failed to establish that the respondent's articulated business reason was a pretext for discrimination. Also, a violation of Title VII or the Rehabilitation Act is a violation of § 46a-58(a) and would entitle the commission and the complainant to the remedies available under § 46a-86(c).

*Kennedy, Valerie v. Eastern Connecticut State University*
0140203
FitzGerald, 01/28/05

The commission's motion to reconsider the final decision denied.

*Kinder, Anthony v. Dept. of Children and Families*
0730367
Kerr, 4/21/10

Final decision. Complaint dismissed. The complainant alleged that he was discriminated against in being denied a promotion to the position of social work supervisor because of his race (African-American) and color (black), in violation of General Statutes § 46a-58 (a), 46a-60 (a) (1) and Title Vll. Because of the manifold safety valves built in to the interview and selection process by the respondent to safeguard against discriminatory animus interjecting itself into the selection process, the racial and ethnic composition of the interview panels and the diversity and qualifications of the successful candidates, the complainant was unable to establish a prima-facie case.

*Kondratowicz, Stephen v. Pleasant Valley Mobile Home Park*
0250051
FitzGerald, 6/4/02

Motion to amend the complaint granted. The commission's motion granted to amend complaint adding three respondents and an additional act of retaliation. The commission's motion was timely filed, no showing of prejudice to the respondents, and the additional respondents will enable a complete determination of the issues.

*Kowalczyk, Lynne v. City of New Britain*
9810482
(appeal dismissed)
Knishkowy, 3/15/02

Final decision. Judgment for the respondents. Three public school employees were transferred to other schools because their strained and volatile interpersonal relationships demonstrated a potential for disruption in the school where all three worked. The complainant brought this action against the city, the board of education, and two administrators, alleging that the transfer was based on her mental disability and her sexual orientation. Held: (1) complainant failed to meet her prima facie case for each claim, because her transfer was not an "adverse employment action;" (2) complainant failed to demonstrate, for purposes of her prima facie burden, that she was transferred "because of" her disability; (3) complainant failed to demonstrate, for purposes of her prima facie burden, any circumstances giving rise to an inference of discrimination based on her sexual orientation; (4) individual respondents not liable, as matter of law, under ADA, General Statutes §46a-60(a)(1), or §46a-81c; (5) complainant failed to prove facts showing individual respondents aided or abetted discriminatory practice in violation of §46a-60(a)(5).

*L'Annunziata, Paul v. New Horizons Learning Center*
0210153
FitzGerald, 08//07/2003

Motion to amend complaint granted. Complaint may be amended to change a date and to add the respondent's parent corporation as a respondent.

*Langan, Kevin v. RCK Corp. dba JP Dempsey's*
0730256
Knishkowy, 1/15/09

Motion to compel granted. The complainant was terminated from his position as "bar manager" in the respondent restaurant, allegedly because of his disabilities (real and/or perceived). The commission filed request for production that included requests for information about other employees--information likely found in personnel files. The respondent objected to certain requests for disclosure as overly burdensome, not "germane" to the complaint, and protected by the privacy rights of other employees. Ruling:

(1) a claim of "unduly burdensome" requires some explanation of the nature of the burden; mere recitation of the phrase is insufficient; (2) because the complainant/commission are comparing the respondent's treatment of the complainant with that of other employees, certain information about other employees may be relevant or, when disclosed, may lead to the discovery of relevant information; (3) Although General Statutes § 31-128f protects the confidentiality and integrity of personnel files, there are several narrow exceptions, one of which allows disclosure "pursuant to a lawfully issued administrative summons or judicial order . . . or in response to . . . the investigation or defense of personnel-related complaints against the employer."

*Lawton, Kimberly v. Chad Jansen*
0550135
Austin, 10/18/07

Hearing in damages: The complainant who was harassed due to her race and color by a teenage neighbor brought an action under state and federal fair housing laws. The complainant was awarded damages for emotional distress, lost wages, and attorney's fees. The complainant's claims for damages against the teenager's mother pursuant to General Statutes § 52-572 and common law negligent supervisor were not allowed.

*Leftridge, Rachael v. Anthem Blue Cross & Blue Shield*
9830218
Knishkowy, 1/22/01

Final decision. Judgment for the respondent. African-American complainant alleged that the respondent failed to promote her because of her race. The complainant had worked for the respondent for nine years, yet the promotion was given to a white co-worker who had only worked for one year. Although the complainant was qualified for the promotion and met her prima facie case, the respondent justified its decision by demonstrating that the promoted employee was better qualified. The complainant failed to show that the respondent's reason lacked credence or that it masked an unlawful discriminatory motive.

*Lenotti, David L. v. City of Stamford*
0520402
Wilkerson, 08/30/07

Motion to dismiss denied. Held*:* an alleged discriminatory decision to deny the complainant an accommodation made prior to the 180 days of the filing of the complaint that was referenced in a second alleged discriminatory decision to deny an accommodation that was made within the 180 days of the filing the complaint shall not be dismissed as untimely. The allegation outside of the 180 days is relevant because it directly relates to the timely made allegations of the complaint and shows that the respondent engaged in a pattern of discriminatory practice.

*Lenotti, David L. v. City of Stamford*
0520402
(on appeal, stipulated judgment)
Wilkerson, 04/08/08

Final decision. Judgment for the complainant. Held: The respondent discriminated against the complainant by failing to accommodate the complainant's learning disability when it denied him a reasonable accommodation to take an exam. The respondent failed to engage in an interactive process with the complainant. The respondent did not prove its safety defense or its defense that the exam was job-related. The complainant's claims of failure to promote, denied raise and differential rate of pay are dismissed. The complainant was awarded the accommodation of additional time to take the captain promotional exam and if he obtained the required score, he was awarded the captain position. If no captain position is available, the respondent would pay the complainant the difference in the captain and lieutenant salaries.

*Leslie, Willie v. City of New Haven*
9830575
Allen, 9/1/99

Hearing in damages. Held*:* (1) Request to suspend hearing denied as being unreasonable after five prior continuances; and (2) the complainant and the commission's failure to appear and produce evidence of damages and prospective relief required results in dismissal.

*Little, Ronald v. Stephen Clark*
9810387
Knishkowy, 9/1/99

Motion to dismiss as to one of 3 respondents denied. Motion did not include affidavits or other supporting documents other than excerpts from investigator's reasonable cause finding. Held*:* (1) Although commission investigator had found no reasonable cause as to him, the entire complaint was certified for public hearing; therefore the Referee cannot rely upon the investigator's findings as a basis for dismissing the case. Once a complaint is certified for public hearing, the Referee must conduct *de novo* proceeding on the merits; and (2) If evidence exists to exonerate him, it must be presented at the public hearing.

*Little, Ronald v. Stephen Clark*
9810387
Knishkowy, 8/2/00

Final decision. Judgment for the complainant. The complainant, who suffered from Parkinson's disease, brought action under state and federal fair housing statutes alleging that the respondents, teenage boys in the neighborhood, discriminated against him because of his disabilities. Held*:* The complainant proved that the respondents harassed

him because of his disability and created a hostile housing environment. The respondents were found liable for property damage, costs, attorneys fees, and emotional distress.

*Lopes, Elizabeth v. Comfort Suites*
0540252
Austin, 10/25/05

Hearing in damages. After having been sexually harassed by a co-worker, the complainant complained to her supervisor who took no remedial action. The complainant again complaint to her supervisor after a third instance of being sexually harassed by the same co-worker. The supervisor's response was "we are all family, enjoy it and I don't want to hear it." The following day the complainant was terminated. Discrimination was found for having previously opposed a discriminatory practice. The complainant was awarded back pay of $23,225.50 with postjudgment interest, reinstatement to the position she held at the time of termination, and front pay until such time as the complainant is reinstatement or rejects an offer of reinstatement.

*Magda, Muriel v. Diageo North America*
0420213
Knishkowy, 3/16/06

Motion to dismiss denied. The respondent moved to dismiss two lesser allegations which the investigator had found to be untimely filed. The motion was unaccompanied by the investigator's report or any other pertinent documentation. The motion was denied because (1) the investigator certified the entire complaint—and not merely portions thereof--to public hearing, so the timeliness challenges will need to be addressed de novo at hearing; (2) the challenged allegations may be a part of a "continuing violation" and the complainant should have the opportunity to adduce evidence on this matter.

*Maher, Stacy v. New Britain Transportation Co*.
0330303
Kerr, 04/17/06

Final decision. Case dismissed. The complainant claimed discrimination as a result of her gender in her rate of pay, being passed over for promotion, being offered a promotion on lesser terms than males, having her hours reduced and being constructively discharged. The complaint was brought under CFEPA, Title Vll and the Equal Pay Act. After full hearing the complaint was dismissed for failure to establish a prima facie case as some allegations did not constitute adverse employment actions and others were under circumstances where no improper animus could be inferred.

*Maier, Martin H. v. City of Norwalk*
9320024
*Maier, Martin H. v. Norwalk Municipal Employees Assoc.*
9320026
FitzGerald, 9/29/99

Final decision. Judgment for the respondents. The complainant failed to prove *prima facie* case and intentional age discrimination.

*Malizia, Angela v. Thames Talent, Ltd.*
9820039
(appeal dismissed)
Knishkowy, 7/23/99

Motion to dismiss denied. Held: (1) Corporate officer/shareholder/director who performs traditional employee duties on a full-time basis is counted as an "employee" to meet the three-employee requirement of General Statutes §46a-51(10). (2) Corporate officers cannot claim to be de facto partners in order to avoid their responsibilities under the Fair Employment Practices Act.

*Malizia, Angela v. Thames Talent, Ltd.*
9820039
(appeal dismissed)
Knishkowy, 12/16/99

Ruling on Interrogatories. Held*:* Interrogatories not allowed in administrative proceedings. Discovery is limited by the Uniform Administrative Procedure Act and the rules of practice to requests for production.

*Malizia, Angela v. Thames Talent, Ltd.*
9820039
(appeal dismissed)
Knishkowy, 6/30/00

Final decision. Judgment for the complainant. The complainant proved that her supervisor, the respondent's president, sexually harassed her and created a hostile work environment, with strict liability imputed to the respondent. The complainant was terminated from her job shortly after she complained to her supervisor about the harassment. She proved that her termination was in retaliation for opposing his behavior and demonstrated that the respondent's proffered reason—poor attitude and work performance—was a pretext and was the direct result of the supervisor's conduct. The complainant awarded backpay, prejudgment interest, costs of insurance coverage.

*Massa, Berzeda v. Electric Boat Corporation*
9840265
Manzione, 3/6/00

Motion in limine. Held*:* Once a complaint is certified to public hearing, it is viewed as a whole. Therefore, all allegations within it are the subject of the public hearing regardless of whether reasonable cause was found or conciliation attempted and failed with respect to each allegation within the complaint. (Note: A copy of the ruling is available by contacting the Office of Public Hearings.)

*Mather, Jayantha v. Dept. of Transportation*
9810116
(rev'd on appeal)
Manzione, 4/19/01

Final decision. Judgment for the complainant. Held*:* The complainant proved a prima facie case that his failure to be promoted was discriminatorily based on his race and national origin (Sri Lankan). The respondent articulated two legitimate business reasons: not possessing the required Professional Engineers license and not being the candidate chosen by the interview panel. The complainant proved that these reasons were pretextual by showing that similarly situated white employees were treated differently. The complainant failed, however, to meet his burden of proving that the respondent did not promote him in retaliation for filing a prior CHRO complaint or serving as chair of the internal affirmative action advisory committee. The respondent must pay $9,268.12 as compensation for back pay plus 10% compounded interest; promote the complainant to the next open appropriate position; pay the complainant as front pay an adjustment between his current salary and what he would have been earning had he been promoted, until he is promoted or retires, whichever comes first; credit the complainant with any vacation, personal or other days used for the hearing; and not engage in any retaliatory conduct as a result of these proceedings.

*Matson, Joel v. Dept. of Mental Health & Addictions Services*
9930311
Wilkerson, 03/25/04

Motion for sanctions granted in part, denied in part. The commission requested sanctions imposed on the respondent for failure to comply with the referee's ruling on a motion to compel which ordered the respondent to produce certain production requests during document discovery. The respondent did not respond to the motion for sanctions within the allotted fourteen days per Connecticut Rules of Practice nor did the respondent ever provide pertinent law to support its position not to comply with the order to produce the requested documents. The referee imposed sanctions on the respondent in that an order was entered finding: that the complainant was treated differently (less favorably) than similarly situated employees not in the complainant's protected class; that similarly situated employees not in the complainant's protected class were never placed on administrative

leave for having filed work place violation reports; and that respondent is excluded from introducing into evidence documents or testimony regarding the complainant's alleged symptoms or patterns of retaliation and recrimination used as a defense.

*McDonald, Robert v. Waterbury Republican*
0630389
(on appeal, final decision vacated and appeal withdrawn)
Kerr, 6/12/08

Motion to dismiss granted. The respondent newspaper refused to publish an unpaid announcement (with photograph) of the complainant's same sex civil union with those of marriages similarly submitted. The complainant alleged a denial of a public accommodation under General Statutes § 46a-64 on the basis of sexual orientation and marital status. The respondent claimed First Amendment protection in the exercise of its editorial discretion. Held*:* while there have been legally recognized encroachments on a newspaper's First Amendment rights so as to advance other competing governmental and public interests, such encroachments have not been found in Connecticut (or elsewhere) to extend to the content of unpaid public/personal announcements in a newspaper under the theory that it is a public accommodation. Without a basis for determining that the respondent was a public accommodation for these purposes, the complainant was found to have failed to establish subject matter jurisdiction.

*McIntosh-Waller, Marcia v. Donna & David Vahlstrom*
0750080
Wilkerson, 09/21/07

Motion to dismiss granted in part; denied in part. Held*:* the complainant has standing to bring a housing discrimination complaint against her neighbors alleging a hostile housing environment in which the respondents harassed and intimidated her and her family because of the complainant's race and ancestry. The complainant stated a claim for which relief can be granted as the only party complainant to this complaint. The complainant stated a cause of action under General Statutes § 46a-64c (a) (9), Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. § 3617); and 42 U.S.C. § 1982 for a violation of her rights to use and enjoy her property. The complainant did not state a cause of action under 42 U.S.C. § 1981 because she did not allege that a contractual relationship existed between her and the respondents, which the respondents interfered with or prevented because of her race.

*McIntosh-Waller, Marcia v Donna & David Vahlstrom*
0750080
FitzGerald, 03/19/08

Motion to reopen public hearing denied. The public hearing was held on February 20, 2008 and February 26, 2008. The respondents, represented by counsel, did not testify at the public hearing because, although they were listed on the commission's proposed witness list, the commission chose not to call them and because they were not listed on their own

witness list. On March 4, 2008, the respondents moved to re-open the hearing to permit them to testify. Held*:* General Statute § 4-177c and §§ 46a-54-78a and 46a-54-90a of the Regulations of Connecticut State Agencies provide that a party's participation in a contested case is a reasonable opportunity subject to oversight by the presiding referee, not an unrestricted right. The hearing conference summary and order of May 1, 2007 placed all parties on clear and unequivocal notice that they were to file and serve a list of the party's proposed witnesses and that witnesses not listed, except for impeachment and rebuttal, may not be permitted to testify except for good cause shown. The respondents filed a witness list but did not list themselves as witnesses and failed to file a motion to amend their list to include themselves. The requirement that all potential witnesses, including parties, be identified on the proffering party's witness list is not unreasonable and the respondents did not show that good cause existed for their failures to include themselves on their witness list.

*McIntosh-Waller, Marcia v. Donna & David Vahlstrom*
0750080
FitzGerald, 06/06/08

Final decision. Complaint dismissed. The complainant alleged that the respondents, her neighbors, discriminated against her on the basis of her color and ancestry and created a hostile housing environment in violation of 42 U.S.C. § 1982, Title VIII and General Statutes SS 46a-58 (a) and 46a-64c (a) (9). Held: (1) the respondents did not violate 42 U.S.C. § 1982, Title VIII or § 46a-58 (a) because they did not engage in violence or threaten violence; (2) § 46a-64c (9) prohibits discriminatory interference with any person in the person's post-acquisition exercise or enjoyment of his or her property. Prohibited interference includes severe, pervasive and grossly offensive nonviolent conduct directed against a person because of his or her protected status; (3) members of a household have a cause of action for actual interference in their own exercise and enjoyment of their property against a neighbor for the neighbor's severe, pervasive and grossly offensive nonviolent conduct toward any member of the household because of the member's protected status; and (4) the commission failed to prove by a preponderance of the evidence that the respondents' conduct toward the complainant and her sons was (a) because of the complainant's race or ancestry and (b) sufficiently severe or pervasive to alter the complainant's living conditions and to create a hostile housing environment for the complainant.

*McNeal-Morris, Malisa v. Czeslaw Gnat*
9950108
Knishkowy, 1/4/00

Hearing in damages. After the complainant negotiated purchase of residential property from the respondent landowner, the respondent changed his mind several times, resulting in a series of postponements for the closing. More than two months after the original closing date, the respondent decided he would not sell to complainant at all. The respondent's liability established by order of default. After hearing in damages, complainant awarded: (1) economic damages for various expenses needlessly incurred in

preparation for the closing and move ($3,995), and (2) emotional distress damages ($6,500).

*McWeeny, Robert v. City of Hartford*
0410314
(appeal dismissed)
FitzGerald, 08/02/05

Final decision. Complaint dismissed. The respondents paid a pension to the complainant's spouse, a retired city employee. When the complainant's spouse died, the respondents paid a spousal allowance to the complainant, who had never been employed by the respondents. The respondents terminated the spousal allowance upon the complainant's remarriage. The complainant alleged that the termination of the allowance constituted discrimination against him on the basis of his marital status. There was no evidence that the respondents had discriminated against the employed spouse. Held: (1) employee status is a prerequisite to maintaining a complaint of employment discrimination and (2) complaint dismissed because the complainant never had employee status with any of the respondents.

*Mejias, David v. Mortgage Company of America*
0630076
Knishkowy, 3/22/07

Hearing in damages. By virtue of default, the respondent deemed liable for national origin discrimination for its treatment (i.e., "terms and conditions of employment") and ultimate constructive discharge of the complainant. Pursuant to §46a-86(b), the referee awarded the complainant $43,214 for back pay and unpaid commissions, along with compounded pre-judgment and post-judgment interest.

*Melvin, Roderick v. Yale University*
0230320
Trojanowski, 07/17/2006

Amended final decision. Complaint dismissed. The complainant alleged that he was discriminated against in the terms and conditions of his employment; given warnings, poor evaluations and unfairly disciplined; received unequal pay; retaliated against; not promoted; and terminated because of his having filed a complaint with the commission, and his race, color, and perceived disability. Held: The complainant was unable to show that the respondent's explanation for its actions (the complainant's history of poor work performance) was a pretext for its actions. The complainant was also unable to show that any harassment was so severe or pervasive as to create a hostile work environment.

*Milton, Michele v. Pulte Homes, Inc.*
0630188
(appeal withdrawn)
FitzGerald, 12/03/09

Final decision. The complainant alleged that the respondent, her former employer, violated General Statutes §§ 46a-58 (a) and 46a-60 (a) (1) and Title VII when she was harassed, received unequal pay and was subsequently terminated because of her age and sex. Held: the commission did not establish by a preponderance of the evidence that that the complainant was harassed or terminated because of her sex or her age. The commission, though, did establish by a preponderance of the evidence that the complainant received less compensation than similarly situated non-basis sales managers because of her sex and/or age and relief awarded.

*Moore, John v. Dept. of Children & Families*
07310209
Levine, 10/20/2009

Motion to dismiss denied. Held: (1) General Statute 46a-58 (a) converts a violation of federal anti-discrimination laws into a violation of Connecticut anti-discrimination laws. The timing requirement for filing a complaint is that under state law. (2) It is premature to grant a motion to dismiss, given the generalized claims of sexual discrimination. (3) The issue is whether the complainant is entitled to offer evidence in support of his claim. (4) At this stage in the administrative proceedings, it is not possible to accurately assess the validity of the respondent's claims that there is no jurisdiction over the original complaint or the amendments. (5) The complainant's claims allege employment discrimination, not workplace violence, and there is no pre-emption of jurisdiction.

*Navarro, Edwin v. Hospital For Special Care*
9710678
Allen, 3/14/03

Final decision. The complainant alleged wrongful termination based on race, color, and gender, and discrimination based on disability alleged to be ADHD and learning disability; HELD: 1. Insufficient evidence presented to establish even prima facie case based on race, color or gender; 2. the complainant failed to show he was disabled according to law and thus prima facie case not established; 3. alternatively, even assuming a prima facie case, the weight of evidence established that discharge was based on legitimate performance grounds and were not based on disability notwithstanding some credibility problems with the respondent's testimony; 4. the complainant did not properly allege a failure to accommodate claim which was asserted in its brief and in any event there was no evidence to support such a claim.

*Negron, Lishka v. DSMA Enterprises*
0110448
FitzGerald, 4/11/03

The respondent's motion to dismiss the complainant because of the complainant's failure to appear at a hearing conference was granted. Section 46a-54-88a(d) of the Regulations of Connecticut State Agencies and case law authorize the presiding referee to dismiss a complaint for the complainant's failure to attend a hearing or conference without just cause. Neither the commission nor the complainant offered any reason for the complainant's absence. The attendance of counsel for the commission is not an adequate substitute for the presence of the complainant, who is an independent party not represented by the commission.

*Nemeth, Sandor v Wesport Big & Tall, Inc*
0920337
(appeal pending)
FitzGerald, 7/23/10

The presiding referee dismissed the complaint sua sponte for the complainant's failure to appear. Neither the complainant nor his attorney attended the hearing conference.

*Nicolosi, Patricia v. Johnny's Pizza*
9840466
Giliberto, 10/26/99

Order of dismissal due to the complainant's failure to cooperate. Pro se complainant failed to attend scheduling conference and settlement conference without excuse or explanation.

*Nobili, Thomas v. David E. Purdy & Co.*
0120389
Knishkowy, 1/17/03

Motion to dismiss/motion for summary judgment denied. Motion to dismiss may be viewed as motion for summary judgment when the issue is one of facts, not of jurisdiction. In motion for summary judgment, the tribunal's role is not to resolve issues of fact, but to determine if any issue of material fact exists.The movant bears the burden of demonstrating there is no genuine issue of material fact. Based on conflicting affidavits from two physicians, whether complainant's sinusitis and rhinitis were chronic impairments under state law is a question of fact to be decided by the referee. Additionally, the respondent's allegation that it had no notice of complainant's need for accommodation was amply contradicted by the complainant's affidavit; thus, this is also a factual matter requiring full adjudication.

*Nobili, Thomas v. David E. Purdy & Co.*
0120389
Knishkowy, 2/6/04

Final decision. Judgment for the respondents. Held: The complainant, a certified public accountant, failed to prove 4th prong of prima facie case in his state law complaint alleging termination because of his disability, sinusitis. Even if he had proven his prima facie case, he could not meet his ultimate burden of proving that his termination was motivated by a discriminatory animus. The complainant also failed to satisfy the prima facie case for his "failure to accommodate" state law claim because he did not need an accommodation in order to perform the essential functions of his job. The complainant finally failed to prove that his termination and other adverse employment actions constituted unlawful retaliation in violation of state antidiscrimination law.

*Ocana, Holger v. Metro-North Railroad Co.*
0630645
(appeal dismissed)
FitzGerald, 10/16/08

Motion to dismiss granted. The complainant alleged that the respondent violated General Statutes §§ 46a-58 (a) and 46a-60 (a) (1) and also Title VII and the Age Discrimination in Employment Act when it failed to promote him because of his age and national origin. The respondent filed a motion to dismiss claiming that the commission lacked subject matter jurisdiction. The respondent argued that it is a wholly-owned subsidiary of the Metropolitan Transportation Authority, organized under the laws of the State of New York. As a result of a compact between Connecticut and New York, codified in General Statutes §§ 16-343 and 16-344, the respondent operates a commuter rail service in Connecticut and is exempted by Connecticut's legislature from state regulation, including exemption from Connecticut's anti-discrimination laws.

Held: the respondent is in the business of providing mass transportation and railroad service pursuant to the Connecticut – New York compact and is the beneficiary of the exemption in § 16-344 (a). Its promotion of employees involved in its mass transportation and railroad service is within its routine and normal business operations. Based on the Connecticut Supreme Court's decision in *Greenwich v Connecticut Transportation Authority*, 166 Conn. 337(1974), the exemption in § 16-344 (a) applies to this case. Therefore, the commission lacks subject matter jurisdiction of this claim and the motion to dismiss is granted.

*Okonkwo, Francis v. Bidwell Healthcare Center*
9940144
FitzGerald, 2/5/01

Motion to dismiss denied in part, granted in part. The respondent filed a motion to dismiss for lack of jurisdiction based on reasonable cause findings. The respondent claimed that the investigator (1) found no reasonable cause to believe that the complainant had been

sexually harassed; and (2) improperly found reasonable cause for an allegation, disparate treatment, not alleged in the complaint. Held*:* (1) motion granted as to the sexual harassment claim because the investigator concluded that the investigation did not support the complainant's allegations of sexual harassment; and (2) denied as to the disparate treatment claim because the complaint alleged sufficient facts to put the respondent on notice that the allegation would reasonably fall within the scope of the investigation.

*O'Halloran, Josephine v. Town of Fairfield*
0620146
(appeal dismissed)
Austin, 5/20/08

Final Decision. Complaint dismissed. The complainant alleged that she was denied a promotion for the position of zoning inspector as a consequence of her gender. She further alleged that the respondent failed to follow the collective bargaining agreement (CBA). Held: The complainant failed to present a prima facie case in that she failed to satisfy the element that she was qualified for the position. Further, even if the complainant had sustained her burden of being qualified, she was not the best candidate in the field of three females and one male. As to the complainant's claims that the CBA was not followed, no credible evidence was submitted to believe that the respondent used the complainant's gender in determining how to interpret the CBA.

*O'Neill, Eileen v. J.P. Dempsey's, Inc.*
9430534
Knishkowy, 6/11/99

Ruling on Interrogatories. Interrogatories not allowed in administrative proceedings. Discovery limited by Uniform Administrative Procedure Act and the rules of practice to requests for production.

*Onoh, Mystraine v. Sterling, Inc.*
9620499
Manzione, 6/22/99

Motion to dismiss denied. Held*:* (1) Construing the facts in a light most favorable to the non-moving party, facts are in dispute, therefore, case is not ripe for a Motion to Dismiss; (2) human rights referees have the authority to dismiss a complaint even absent a full evidentiary hearing on the merits.

*Pappy, John v. Southern Connecticut State University*
0730288
FitzGerald, 06/28/10

Motion to compel denied. The respondent sought all medical records from 1997 to date because the complainant claims damages for emotional distress. The respondent also sought personnel records from the complainant's employers prior to the respondent hiring

the complainant in 1989. Ruling: (1) the medical records are exempt from disclosure because the complainant is alleging "garden variety" emotional distress, and psychological and mental conditions are not elements in a claim for garden variety emotional distress and (2) employment records from over twenty years ago are not relevant and material to the employment conditions alleged by the complainant or to the defenses raised by the respondent in its answer.

*Pappy, John v. Southern Connecticut State University*
0730288
FitzGerald, 10/12/10

Motion to dismiss granted in part and denied in part. The complainant alleged that the respondent violated Title VII and §§ 46a-58 (a) (1) and (4), and 46a-60 (a) and 46a-70 (a) and (e). Motion granted as to the § 46a-58 (a) retaliation claim; motion denied as to the § 46a-58 (a) race and national origin claims. Motion denied, without prejudice, as to the claim of untimeliness.

*Parker-Bair, Florence v. Dept. of Motor Vehicles*
0510486
Austin , 12/15/09

Motion to dismiss granted. Held: The respondent moved to dismiss complaint's allegations of retaliation for having previously opposed discrimination due to the lack of jurisdiction. The basis for respondent's motion was that the commission's investigator did not find reasonable cause as to the claim of retaliation. Not only was there no reasonable cause found, the investigator opined that filing with the commission resulted in the complainant's promotion. There being no reasonable cause found to believe that retaliation may have occurred deprives this tribunal of jurisdiction to hear this claim.

*Payton, Meredith v. Dept. of Mental Health & Addiction Services*
0220394
FitzGerald, 6/8/04

Motion in limine denied for failure to explain its legal position and to provide supporting documentation and affidavits.

*Payton, Meredith v. Dept. of Mental Health & Addiction Services*
0220394
FitzGerald, 7/6/06

Motion to dismiss, instead treated where appropriate as a motion for summary judgment and a motion to strike, Granted. The complainant alleged that the respondent discriminated against him on the basis of religion. The complainant did not establish an adverse employment action or that similarly situated co-workers were being treated differently. The complainant's proposed relief would have required the respondent to violate the Establishment Clauses of the federal and state constitutions.

*Perri, Dennis v George Peluso*
0750113
Austin, 6/13/08

Motion to dismiss denied. The respondent alleged that because the complaint that was filed beyond the 180 day filing requirement, it was untimely filed and the commission subject matter jurisdiction. Held: the 180 day filing requirement does not confer subject matter jurisdiction but is more similarly related to a statute of limitation subject to equitable tolling. Based on the actions taken by the CHRO investigator, the filing by the complainant Sonia Perri was subject to equitable tolling.

*Perry, Claude v. Town of Ansonia*
9730481
Knishkowy, 12/20/99

Motion to dismiss denied. Held*:* Although the commission investigator found reasonable cause on one allegation in the complaint, and no reasonable cause on the other three allegations, the *entire complaint* was certified for public hearing in accordance with the plain and unambiguous language of § 46a-84. Once a complaint is certified, the Referee must conduct a de novo hearing on the entire complaint and not rely upon the investigator's report as a basis for dismissal.

*Perry, Richard v. Hamilton Sundstrand*
9710063
FitzGerald, 01/04/02

Motion to dismiss denied. Held: (1) whether the complainant applied for a position is a question of fact; (2) the public hearing is not an opportunity to challenge the adequacy of precertification investigation; (3) commission has jurisdiction to adjudicate ADEA claims; (4) failure of investigator to comply with "date certain" for issuance of reasonable cause finding pursuant to General Statutes § 46a-82 does not result in the dismissal of the complaint; (5) complaint is not necessarily preempted by Labor Management Act.

*Peterson, Dana v. City of Hartford, Police Dept..*
0410049
(appeal pending)
Austin, 11/14/08

Final decision. Judgment for the respondent. The complainant alleged she was discriminated against as a consequence of her gender and disabilities (transsexual/physical and mental/gender dysphoria disorder). She further alleged that as a consequence of her having previously opposed an alleged discriminatory employment practice she was retaliated against by the respondent. Held: The complainant and commission failed to establish a prima facie case under the pretext model of analysis on most of the complainant's claims. As to the claims where the complainant successfully presented a

prima facie case the legitimate business reason produced by the respondent for its decision was not proven to be a pretext for discrimination.

*Pingle, V.R. Reddi v. Dept. of Environmental Protection*
9910114
FitzGerald, 2/1/01

Final decision. Judgment for the respondent. The complainant alleged that he was terminated at the end of his probationary period because of his national origin, color, and ancestry. Held*:* (1) the complainant offered no direct evidence of discriminatory motivation; (2) the complainant also did not show, under the McDonnell Douglas-Burdine analysis that he was qualified for the position, circumstances giving rise to an inference of discrimination, or that the respondent's articulated legitimate business reason was a pretext for discrimination or otherwise lacking in credibility.

*Pinto, Angela v. Edith Engelhard*
0550113
Kerr, 5/3/07

Final decision. The complainant alleged that she was discriminated against in being denied rental housing on the basis of her section 8 source of income, in violation of General Statutes § 46a-64c (a) (1). The respondent alleged that the denial was based on unsatisfactory credit and failing to comply with her last minute demand that the complainant provide proof of good funds for first month's rent and security two days prior to the lease inception. It was found that there was evidence of the respondent having stated that the cause of the rejection was her husband's refusal to accept the governmental involvement (in the form of section 8 paperwork and including submission of IRS form W-9) section 8 participation requires. This conclusion was supported by several exhibits (some executed by both parties), which confirmed a meeting of the minds on all rental details. The *Price Waterhouse* model was applied and it was found that the respondent did not meet her burden of establishing that she would have denied the complainant rental housing even in the absence of the complainant's section 8 source of income. The complainant was awarded $5,000 for emotional distress and an attorney's fee award was made in the amount of $10,500.

*Ramseur, Cecil v. Colonial Chimney & Masonry, Inc.*
0440130
(stipulated agreement on appeal)
FitzGerald, 11/28/05

Hearing in damages. The complainant alleged he was terminated because of his age. The respondent defaulted for failure to appear at the hearing conference and for failure to file an answer. The complainant awarded back pay of $35,535.99 and additional relief.

*Ramseur, Cecil v. Colonial Chimney & Masonry, Inc.*
0440130
(stipulated agreement on appeal)
FitzGerald, 12/30/05

Motions to stay, to reconsider back pay calculation and to reopen default judgment were denied. Back pay was properly calculated from date of discriminatory termination to date of judgment, less mitigation. The length of the complainant's employment with the respondent and his separation from subsequent employment do not preclude the accrual of back pay. The respondent failed to show mistake, accident or other reasonable cause to justify setting aside the default judgment.

Rajtar, *Donald J. v. Town of Bloomfield*
0510115
Kerr, 10/03/07

Motion to dismiss denied. Held: An arbitration panel's finding that the complainant (a police officer) had been untruthful during an investigation and subsequent disciplinary action, and a subsequent superior court ruling that the complainant could not be returned to duty by the panel as a matter of public policy, did not preclude the commission from considering whether the complainant's termination was an impermissible discriminatory act. The decision reasoned that discriminatory animus had not been considered by the town, panel or court, and that the complainant should be afforded the opportunity to establish that the finding of untruthfulness was pretext for a termination impermissibly predicated on the basis of his age. This case was distinguishable from *Sperow v. Regional School District No. 7,* CHRO No. 0130607).

*Rajtar, Donald J. v. Town of Bloomfield*
0510115
(appeal withdrawn)
Kerr, 10/03/07

Final decision. Judgment for the complainant. The complainant alleged that he had been wrongfully terminated as a police officer by the respondent on the basis of age. The respondent's decision to terminate had been set aside by an arbitration panel, which had found the complainant had been untruthful during an investigation and subsequent disciplinary hearing but had reduced the termination to a 200 workday suspension. The complainant maintained that the charges against him, the disciplinary proceedings and his discharge were pretext for age discrimination. There was evidence of tolerated and department wide disparagement of older patrol officers, of disparate discipline predicated on age, and of an investigation of the complainant's alleged dishonesty so one sided and perfunctory as to lend substantial credence to the complainant's assertion that the disciplinary process, finding of dishonesty and resultant termination were but pretext for a wrongful termination predicated on age. The complainant was awarded $80,369.34 for back pay, accrued time in the amount of 687.97 hours, $19,792 for medical expenses

incurred as a result of loss of insurance, prejudgment interest from January 9, 2006, post judgment interest and other equitable relief.

*Rajtar, Donald J. v Town of Bloomfield*
0510115
(appeal withdrawn)
Kerr, 11/08/07

The respondent, the complainant and the commission filed petitions to reconsider. The respondent's petition to reconsider the earlier denial of its motion to dismiss was denied. The complainant's and the respondent's petitions to reconsider the final decision was granted. Held: The final decision was affirmed and clarified to provide that the complainant be reinstated to full duty as a Bloomfield officer and that the final decision be implemented independent of any disposition in *Town of Bloomfield v. United Electrical Radio & Machine Workers of America*, 2006 WL 3491719 (Conn. Super.) because that matter is proceeding on a finding that the complainant (Rajtar) had been untruthful, which finding was rejected in the final decision as pretext advanced to impermissibly justify a termination effectuated because of age discrimination.

*Ratner, Ira v. Home & Life Security, Inc.*
9930246
Manzione, 5/12/00

Motion to dismiss granted due to failure to cooperate. The complainant, who was represented by counsel, failed to comply with multiple orders. The complainant, himself, failed to attend a settlement conference without excuse or permission. The complainant also failed to file and serve a settlement conference report, failed to produce documents in compliance with a ruling on a motion to compel, filed to file and serve exhibit and witness lists, failed to bring exhibits to the prehearing conference and failed to return opposing counsel's telephone calls. Held*:* the human rights referee has authority to dismiss complaints pursuant to § 46a-54-101 of the Regulations. Also, the nature of the relationship between the attorney and his client is one of traditional agency. The acts of an attorney are ordinarily attributed to his client. Therefore, the severe inaction of the complainant or his attorney warrants dismissal of the complaint.

*Recupero, Guy v. L.G. Defelice, Inc*.
0530022
Kerr, 4/10/08

Hearing in damages. Default entered for failure to answer in employment termination case predicated upon unlawful dismissal based upon mental disability (bipolar disorder). After hearing held damages awarded under CFEPA in the amount of $164,059.93, plus prejudgment interest, post judgment interest and $12,703 in reimbursement of unemployment compensation payments received. Request for front pay award denied.

*Rhodes, Kevin v. Mortgage Company of America*
0630040
Knishkowy, 3/15/07

Hearing in damages. By virtue of default, the respondent liable for race discrimination for its treatment (i.e., "terms and conditions of employment") and ultimate termination of the complainant. Pursuant to §46a-86(b) the referee awarded the complainant $33,960 for back pay and unpaid commissions, along with compounded pre-judgment and post-judgment interest.

*Roberts, Cheryl v. Germania Lodge*
0640147
Wilkerson Brillant, 12/29/08

Motion to amend the complaint to add a respondent: denied without prejudice: Held: The named respondent, Germania Lodge, the employer, is separate and distinct from Germania Lodge, the membership organization that is a subordinate of the Order of Hermann's Sons. The complainant did not establish that the entity to be added as a respondent, Order of Hermann's Sons, met the criteria of the identity or instrumentality rules in order to pierce the corporate veil. There was no evidence that the Order of Hermann's Sons had control over the employer, Germania Lodge's finances and employment policies and/or business practices. Also, there was no evidence that there existed a unity of interest and ownership for the Order of Hermann's Sons and Germania Lodge as an employer. The evidence showed that as an employer, Germania Lodge is an independent entity with separate funds and policies to conduct its employment operations.

*Roberts, Cheryl v. Germania Lodge*
0640147
Wilkerson Brillant, 03/03/09

Motion to amend granted; allegation of retaliation dismissed. The complainant alleged in her original complaint that the respondent violated General Statutes §§ 46a-60 (a) (1) and 46a-58 (a) when it discriminated against her because of her sex when it terminated her employment and denied her membership in its social club. She also alleged the respondent retaliated against her by terminating her because she applied for membership in its social club. The complainant requested that her complaint be amended to add violations of §§ 46a-63 and 46a-64 (a) (public accommodation and she also identified that the respondent as Germania Lodge. The respondent argued that the public accommodation claim had not been fully investigated prior to certification of the complaint and therefore its due process rights would be violated if the amendment were granted. The complaint had originally been dismissed by the investigator's finding of no reasonable cause which did include limited findings on the public accommodation issue. The complainant's reconsideration request was granted and the executive director's decision on reconsideration directed further investigations on the public accommodation claim. Subsequently, the investigator issued a

finding of reasonable cause on the complainant's termination, public accommodation and retaliation claims.

Held*:* Because the claim of public accommodation discrimination was alleged in the original complaint and had been investigated and because there was, after reconsideration, a finding of reasonable cause on the entire complaint, the respondent was fully aware of the public accommodation discrimination claim. More importantly, the public hearing process is not to be used as an appeal of the investigator's processing of the complaint pursuant to Section 46a-84 (b). Therefore, the motion to amend is granted allowing the public accommodation claim. However, the complainant's retaliation claim is dismissed because her allegation that the respondent retaliated against her because she applied for membership in the respondent's social club is not protected activity pursuant to § 46a-60 (a) (4).

*Roberts, Cheryl v. Germania Lodge*
0640147
Wilkerson Brillant, 07/01/09

Motion for sanctions granted in part; denied in part. The respondent moved for sanctions against the complainant for her failure to produce documents as ordered. The respondent was seeking documents, specifically income tax returns, pertaining to the complainant's damages calculation including her earned income from the respondent's employ and her mitigation obligation. The complainant had provided inconsistent reasons for not providing the documents as ordered. The commission and the complainant were precluded from introducing any evidence related to the complainant's income tax returns or relevant income information.

*Robinson, Patricia v. Dept. of Mental Health*
0630292
Knishkowy, 3/26/08

Motion to dismiss denied with one exception. (1) the respondent argued this employment discrimination claim was barred by doctrine of sovereign immunity. The respondent relied upon *Lyon v. Jones*, 104 Conn. App. 547 (2007), cert. granted, 285 Conn. 914 (2008) in support of assertion that this tribunal lacks jurisdiction because the complainant did not obtain permission to sue from the state claims commissioner. The respondent erred because General Statutes § 4-142 exempts from the claims commissioner's purview "claims for which an administrative hearing procedure otherwise is established by law." The CHRO administrative process for discrimination claims is precisely the type envisioned here. (2) The respondent also incorrectly claimed that this tribunal has no jurisdiction over federal claims. Case law has clarified that General Statutes § 46a-58 (a) expressly converts a violation of federal antidiscrimination law into a violation of Connecticut antidiscrimination laws. § 46a-58 (a) does not include "age" as one of the listed protected classes, so the federal Age Discrimination in Employment Act cannot be raised via 46a-58 (a) and must be dismissed. The complainant's federal race, color, physical disability, and retaliation claims remain viable through 46a-58 (a).

*Rosado, Nestor v. United Parcel Service, Inc.*
0020469
Giliberto, 11/15/00

Hearing in damages. Both the complainant and the respondent failed to appear. The Order of Relief included: (1) a cease and desist order against the respondent; and (2) the respondent was ordered to place posters, to be supplied by the commission at all of its Connecticut locations.

*Rose, Sheron v. Payless Shoesource, Inc.*
9920353
FitzGerald, 11/1/99

Hearing in damages. Employee terminated from employment on the basis of national origin and ancestry, and for opposing the respondent's discriminatory employment practice. The complainant awarded front pay, backpay, and other equitable remedies.

*Rountree, Maria S. v. Seafood Peddler*
9830387
FitzGerald, 5/14/99

Motion to amend the complaint denied. Provides criteria for amending complaints to add complainants/respondents.

*Saddler, Tina v Margaret Landry dba*
0450057
Knishkowy, 5/23/06

Final decision. Judgment for the complainant. The complainant proved that the respondent, a real estate broker, denied her an apartment because of her lawful source of income (Section 8 assistance), in violation of § 46a-64c.

*Saex, Randall v. Wireless Retail, Inc.*
0410175
FitzGerald, 07/26/2006

Hearing in damages. The respondent defaulted for failure to appear at a settlement conference. The complainant alleged, in part, that the respondent harassed him and terminated his employment because of his age, religion and sex. The complainant was awarded damages including back pay, front pay, reimbursement of medical expenses, pre- and post-judgment interest, and emotional distress.

*Saksena, Sharad v. Dept. of Revenue Services*
9940089
(appeal withdrawn)
Knishkowy, 8/9/01

Final decision. Judgment for the respondent. The complainant suffered from depression and sought, as accommodation, the ability to work at home. When his request was denied, he resigned. In this instance, working at home was not a reasonable accommodation. Furthermore, the respondent did provide other reasonable accommodations to complainant. The complainant also failed to prove constructive discharge because he was unable to prove that the respondent denied him a reasonable accommodation and because he was unable to show that the respondent intentionally created a work environment so intolerable that would force a reasonable person to resign voluntarily.

*Samuel, Henrietta Lorraine Stevens v. Pond Point Health Care Center d/b/a Lexington Health Care*
0230332
Wilkerson, 9/9/04

Hearing in damages. The respondent was defaulted for failure to appear at a hearing conference and failure to file an answer. The respondent had terminated/suspended and harassed the complainant multiple times during her employment with the respondent. Discrimination and retaliation based on race, color (Black) and physical disability (hypertension cardiac). The complainant was awarded $17,788.95 for back pay and $1,778.89 for prejudgment interest and 10% per year for postjudgment interest.

*Sanchez, Maria v. Atlantic Communications, Corp.*
0430462
Kerr, 03/08/05

Hearing in damages. The complainant filed her affidavit of discriminatory practice on March 12, 2004, alleging sexual harassment and wrongful termination (on the basis of her sex) in violation of General Statutes §§ 46a-58(a) and 46a-60(a)(1) and Title VII. The respondent was defaulted on January 5, 2005 for failure to file an answer and a hearing in damages was held on February 17, 2005. The respondent was ordered to cease and desist in further sexual harassment, to pay the complainant $8,402.70 in back pay, to reimburse the state $3,718 in unemployment compensation benefits paid to the complainant, and to pay pre- and postjudgment interest on both amounts at the rate of 10% per annum.

*Sarnecky, Fred v. Hamilton Standard*
9910156
Allen, 5/3/00

Ruling on motion to recuse denied. The commission sought to recuse referee because motion to decertify and supporting brief inadvertently sent to Office of Public Hearings. Held*:* Actual bias needed to be shown to recuse hearing officer and no showing was made,

particularly where Referee declined to read the briefs in denying the motion to decertify on its face.

*Saunders, John J. v. City of Norwalk, Board of Education*
9820124
(appeal dismissed)
Wilkerson, 9/29/00

Final decision. Judgment for the complainant. Held*:* (1) The complainant established prima facie case in failure to promote race, age, and color discrimination case and the respondent's proffered legitimate reasons were false thus pretextual; (2) the complainant teacher applied for the position/promotion of assistant principal and was denied position due to his race, age, and color; (3) the respondent did not satisfy its burden of proving the complainant failed to mitigate; (4) Award for back pay damages of $56,390.00 plus pre-and post-judgment interest and front pay of $18,796.67 per year until the respondent offers the complainant the next available assistant principal position or until retirement.

*Scarfo, Dominic C. v. Hamilton Sundstrand Corp.*
9610577
Giliberto, 9/27/00

Final decision. Judgment for the respondent. Held*:* (1) General Statutes § 46a-58(a) encompasses ADA claims; (2) Human Rights Referees have authority to adjudicate federal claims, including the ADA; (3) Prior adverse arbitration decision is not entitled to receive substantial weight by this tribunal and does not preclude the complainant from receiving remedies; (4) The complainant's state claims of discrimination are not preempted by § 301 of the Labor-Management Relations Act; (5) The respondent did not regard the complainant as disabled under the ADA; (6) The complainant was not entitled to reasonable accommodations under the ADA based on his "regarded as" claim; (7) General Statutes § 46a-60(a)(1) includes perceived disability claims; (8) The respondent did not perceive the complainant to be disabled under § 46a-60(a)(1); (9) the *McDonnell Douglas* model of analysis applies to the facts in this matter; and (10) there is no duty to provide reasonable accommodations for perceived disability claims under state law.

*Schoen, Sandra J. v. Grace Christian School*
0120163
(on appeal, remanded by stipulation)
FitzGerald, 12/02/02

Motion to dismiss granted. The complainant alleged that the respondent terminated her employment, harassed her, and discriminated against her in the terms and conditions of her employment in violation of Title VII and §§ 46a-60(a)(1) and 46a-60(a)(4) in retaliation for her refusal to ask her minister if he was a homosexual. Ruling: the commission lacked subject matter jurisdiction because sexual orientation is not an enumerated protected class within Title VII or § 46a-60(a)(1), opposing a discriminatory employment practice is not protected by § 46a-81c, the respondent is exempt under § 46a-81p from § 46a-81c, and/or

there is no employment relationship between the respondent and the complainant's minister.

*Scott, Juliet v. Robert* Jemison
9950020
FitzGerald, 3/20/00

Hearing in damages. The complainant's motion for default for failure to file an answer was granted. The respondent's motions to dismiss and set aside default were denied. Case proceeded to a hearing in damages. The complainant was awarded $6,000 for emotional distress and $25,296.44 for attorney's fees and costs. The complainant alleged her landlord physically and verbally assaulted and harassed her, denied her equal services, and threatened her with eviction in violation of General Statutes § 46a-64c(a)(2) and (3) on the basis of her race and color. She also alleged retaliation for the filing of her complaint in violation of § 46a-60(a)(4).

*Secondo, Frank v. Hartford Housing Authority*
9710713
Knishkowy, 6/9/00

Final decision. Judgment for the respondent. Held: (1) Entire complaint, as certified, properly before human rights referee, even though commission investigator found no reasonable cause on several of the allegations. (2) Because the respondent chose not to re-fill vacant foreman position in 1997, the complainant did not prove that the respondent's failure to promote him to foreman was motivated by his physical disabilities. Even if the respondent had filled the position, the complainant was not qualified. (3) The respondent did not harass the complainant because of his disabilities. (4) The respondent did not deny overtime opportunities to the complainant because of his disabilities. (5) The respondent did not unlawfully withhold reasonable accommodations from the complainant. For some time, the complainant was able to perform the essential functions of his job without need for reasonable accommodations. After a work-related injury, there were no reasonable accommodations that would allow the complainant to perform the essential functions. (6) The respondent did not retaliate against the complainant for challenging promotional decisions made in 1995 and 1997.

*Shea, Kathleen M. v. David M. Spruance*
9640243
FitzGerald, 10/26/99

Final decision. Judgment for the complainant. Held*:* (1) The complainant failed to prove that the sexual harassment was sufficiently pervasive or severe to create an abusive work environment and (2) the complainant proved retaliation claim. Although the complainant did not prove sexual harassment claim, she demonstrated good faith belief in the underlying challenged actions. The complainant proved the respondent's business reason was pretextual by showing that the reason was not worthy of credence.

*Shulman, Thomas E. v. Professional Help Desk*
9720041
(appeal dismissed)
Trojanowski, 6/7/00

Final decision. Judgment for the complainant. Held*:* (1) The complainant is an "individual with a disability" due to his physical impairment of being a wheelchair-bound paraplegic which was found to substantially limit the major life activities of walking and running; (2) The complainant was qualified to perform the essential functions of the job because of his educational background and prior work experience; (3) The complainant requested four reasonable accommodations in order to assist him in performing the essential functions of his job which the respondent never provided; (4) The respondent never introduced any evidence of undue hardship; (5) The complainant's impairment of being a wheelchair-bound paraplegic met both of the definitions of "physically disabled" as well as "reliance on a wheelchair" under state law; and (6) The complainant proved that he was retaliated against through his discharge for exercising his right to request reasonable accommodations under the ADA.

*Slootskin, Inessa v. John Brown Engineers & Construction, Inc.*
9320167
FitzGerald, 4/29/03

Final decision after remand. The final decision was issued by the hearing officer in 1999. On appeal, the matter was remanded as to damages. On remand, the case was reassigned to a human rights referee who awarded front pay, prejudgment and post-judgment interest, and additional back pay and fringe benefits.

*Sloss, George T. v. Ed-Mor Electric Company*
9930221
Manzione, 6/16/99

Hearing in damages. At a hearing in damages, where no one for the respondent appeared, the complainant was awarded $7,568.00 in back pay, $2,022.00 to reimburse the Department of Labor for unemployment compensation, $2,854.08 to reimburse the complainant's union for other benefits and $46.22/month for prejudgment interest for his claim of discrimination based on age.

*Smalls, Kelly v. Waterbury Masonry & Foundation, Inc.*
0330386
Trojanowski, 1/23/04

Hearing in damages. Discrimination due to a physical disability, a "drop foot" condition, in violation of General Statutes § 46a-60(a)(1) as well as the American with Disabilities Act, 42 U.S.C. 12101 et seq. Awarded back pay and lost benefits, prejudgment interest and post-judgment interest.

*Smith, Alex v. Tony Lee d/b/a Better Built Transmissions*
0130212
FitzGerald, 7/27/01

Hearing in damages. The complainant alleged racial discrimination by his employer resulting in disparate treatment, hostile work environment, and constructive discharge. The complainant was awarded $48,496 in back pay and front pay, together with prejudgment and postjudgment compounded interest.

*Smith, Eunice v. Dept. of Correction*
9710718
Knishkowy, 5/4/00

Parties' third joint motion to extend deadline for legal briefs (on discovery issue) denied after two previous continuances had been granted. Even though parties are engaged in settlement negotiations, they remain obligated to meet previously-established deadlines set by human rights referee. For the same reason, deadline for exchange of witness lists and exhibit lists extended for only 4 business days. Extension of prehearing conference and hearing dates denied.

*Soulemani, Arouna v. Mark Ash .*
0230045
Allen, 01/08/04

Hearing in damages. By virtue of a default for failure to appear, the respondent was held liable for discrimination based on race, color and ancestry against the complainant with regard to the terms and conditions of his employment and for terminating his employment. The complainant was awarded $45,405 as back pay and monetary relief and post judgment interest at the rate of 10% compounded annually. Front pay was not awarded.

*Sperow, Joyce v. Regional School District No. 7*
0130607
Kerr, 12/01/05

Motion to dismiss granted in part and denied in part. Teacher termination matter based upon sex (female) age and religion (Methodist). Motion predicated on res judicata and collateral estoppel as a result of termination being upheld by impartial state hearing panel (General Statutes 10-151) and superior court on appeal from panel ruling. Motion granted as to claims under General Statutes 46a-60(a)(1) and the ADEA. Motion denied as to claims under General Statutes 46a - 58(a) and Title VII.

*Sperow, Joyce v. Regional School District No. 7*
0130607
Kerr, 01/04/06

Motion for reconsideration denied. Held: The request did not meet the statutory standards warranting reconsideration and grossly mischaracterized the final decision by not recognizing that while certain of the complainant's claims were found to be barred by issue preclusion (back pay, reinstatement), others (injunctive relief) were protected by the provisions of the Civil Rights Act of 1991 and the matter could proceed on the limited basis authorized therein.

*Standard, Tracy A. v. Esposito Design Associates, Inc.*
0820445
FitzGerald, 06/28/10

Objection to defendant corporation proceeding pro se overruled. When the attorney for the respondent corporation withdrew its appearance, the non-lawyer officer of the corporation filed notice that he would be proceeding on behalf of the corporation. The commission's objection to the respondent appearing pro se is overruled as the commission's regulations permit a respondent to appear pro se in an administrative proceeding.

*Stevens, Lorraine v. Urban League*
0010328
Knishkowy, 12/5/02

Motion to dismiss denied. Motion to dismiss may be treated as a motion to strike, where the respondents challenge not jurisdiction, but the legal sufficiency of claim. The respondents moved to dismiss portion of complaint predicated upon §46a-58(a), asserting that it cannot co-exist with §46a-60(a) employment discrimination claim, pursuant to *CHRO v. Truelove & Maclean, Inc.*, 238 Conn. 337(1996). Notwithstanding the respondents' interpretation of *Truelove*, §46a-58(a) "has expressly converted a violation of federal antidiscrimination laws [here, Title VII] into a violation of Connecticut antidiscrimination laws." (*Trimachi v. Connecticut Workers Comp. Comm*., 2000 WL 872451 (Conn. Super.)) Motion to dismiss §46a-58(a) claim, when treated as a motion to strike, is denied.

*Swindell, Jennifer v. Lighthouse Inn*
0840137
Kerr, 1/29/09

Hearing in damages. Default entered for failure to answer in an employment case claiming retaliation and termination on the basis of race (African-American) and having opposed discrimination. The complainant was awarded back pay ($8,000), emotional distress ($1,000) and prejudgment and postjugment interest.

*Szydlo, Adam v. EDAC Technologies*
0510366
Knishkowy, 11/19/07

Final decision. Judgment for complainant on CFEPA age discrimination claim; federal ADEA claim raised via General Statutes 46a-58(a) denied because referee has no authority to adjudicate federal age discrimination cases via 46a-58(a). The complainant was terminated during the respondent's reduction in work force (RIF). When the complainant asked his supervisor if he (complainant) was selected for layoff because of his age, the supervisor stated, "Yes. We keep the younger people." Because of the direct nature of the credible evidence—the statement by the de facto decision maker at the time of and in the context of the termination—the case was analyzed under the Price-Waterhouse mixed motive paradigm. The complainant's satisfaction of his evidentiary burden, shifted the burden to the respondent to prove by a preponderance of the evidence that it nonetheless terminated the complainant for other valid reasons. The supervisor's credibility was damaged by his demeanor and attitude on the stand, his faulty memory, and inconsistencies with other testimony—both his own and that of others. The supervisor also did not follow the protocol established for the RIF process, further weakening his justification for the choices of who would be terminated and who would remain. The complainant was awarded back pay plus interest.

*Szydlo, Adam v. EDAC Technologies*
0510366
Knishkowy, 12/27/07

Ruling on reconsideration. Back pay award increased (a) to correct a typographical error in final decision, and (b) to include complainant's out-of-pocket costs of obtaining health insurance for period of seven months. Inclusion of annual merit increases (had complainant not been terminated) in calculations was rejected as too speculative, since merit increases were subjective-based and in the past were not given every year.

*Taranto, Jennifer v. Big Enough, Inc.*
0420316
Knishkowy, 6/30/06

Hearing in damages. By virtue of default, the respondent liable for sex discrimination when it terminated the complainant because of her pregnancy. The complainant recovered back pay, interest, and certain travel expenses associated with new job. However, back pay and travel expenses recoverable only until the time the respondent went out of business (a year prior to judgment), as complainant would have been lawfully dismissed at that time. Front pay disallowed for the same reason. Emotional distress damages awarded under §46a-86(c), based on the premise that a violation of Title VII constituted a violation of §46a-58(a) [following the CT Supreme Court's decision in *CHRO v. Board of Education of Town of Cheshire*, 270 Conn. 665 (2004)].

*Taranto, Jennifer v. Big Enough, Inc.*
0420316
Knishkowy, 10/5/06

Modified final decision on reconsideration. In initial final decision (6/30/06), the respondent's liability established by order of default, but back pay damages awarded only up until the time the respondent ceased business (one year before issuance of this decision). On reconsideration, the back pay award was increased by one week, in light of document showing the correct date of the respondent's dissolution.

*Tavares, Cori v. Sam's Club, Wal-Mart Stores Inc.*
9730092
(decision vacated on appeal by stipulated judgment)
Wilkerson, 11/8/99

Final decision. Judgment for the respondent due to the complainant's failure to appear for the public hearing. Sanctions in the form of attorney fees and court reporter costs imposed against the complainant's attorney.

Thompson, Nicole v Marc & Marie Pennino and John & Karen Bauco
0450008
(appeal withdrawn)
Austin, 03/02/07

Final decision. Judgment for the complainant. Held; The complainant proved she was denied an advertised apartment for rent due to her source of income (section 8) in violation of 46a-64c (a) (3). The basis of the finding was found under a strict liability interpretation of the statute in that the respondents stated to the complainant that section 8 was not being accepted. Damages for both emotional distress and loss of the section 8 benefit were awarded totaling $15,280.69. Attorney fees were awarded in the amount of $42,493.50 after having reduced the original fee request.

*Thompson, Nicole v. Marc & Marie Pennino*
0450008
(appeal withdrawn)
Austin, 07/08/07

Final decision on reconsideration. The respondent's petition for reconsideration requested that certain factual findings be corrected to comport with the testimony at the public hearing along with reconsideration of legal conclusions reached that supported the finding in complainant's favor. Held: After granting the petition to reconsider, and having conducted a hearing on the respondent's petition the final decision was modified to correct two facts (paragraphs 12 and 24) contained therein. In all other respects the decision was affirmed as originally rendered.

*Turner, Laurie v. Ritz Realty, Quality Towing*
9920135, 9920136
FitzGerald, 6/22/99

Hearing in damages. Criteria for emotional distress damages. One complainant is awarded $125.00 in economic damages.

*Vendryes, Kathrine v. Roadway Package Systems, Inc.*
9830539
Knishkowy, 11/18/99

Ruling on interrogatories. Interrogatories not allowed in administrative proceedings. Discovery limited by Uniform Administrative Procedure Act and the rules of practice to requests for production.

*Vidal, Robert v. Metro-North Railroad Co.*
0630646
(appeal dismissed)
FitzGerald, 10/16/08

Motion to dismiss granted. The complainant alleged that the respondent violated Title VII and General Statutes §§ 46a-58 (a) and 46a-60 (a) (1) when it failed to promote him because of his national origin and color. The respondent filed a motion to dismiss claiming that the commission lacked subject matter jurisdiction. The respondent argued that it is a wholly-owned subsidiary of the Metropolitan Transportation Authority, organized under the laws of the State of New York. As a result of a compact between Connecticut and New York, codified in General Statutes §§ 16-343 and 16-344, the respondent operates a commuter rail service in Connecticut and is exempted by Connecticut's legislature from state regulation, including exemption from Connecticut's anti-discrimination laws.

Held: the respondent is in the business of providing mass transportation and railroad service pursuant to the Connecticut – New York compact and is the beneficiary of the exemption in § 16-344 (a). Its promotion of employees involved in its mass transportation and railroad service is within its routine and normal business operations. Based on the Connecticut Supreme Court's decision in *Greenwich v Connecticut Transportation Authority*, 166 Conn. 337 (1974), the exemption in § 16-344 (a) applies to this case. Therefore, the commission lacks subject matter jurisdiction of this claim and the motion to dismiss is granted.

*Volpintesta, Lou v. International Athletic Association of Basketball Officials*
9910120
Giliberto, 7/29/99

Hearing in damages. Part-time high school basketball referee awarded: (1) back pay (2) front pay (3) membership dues; (4) various equitable remedies.

*Walley, Terry v. Dept. of Correction*
0020470
FitzGerald, 7/31/02

Motion to amend the complaint to add a claim of retaliation denied. The proposed amendment repeated allegations of retaliation contained in a subsequent complaint filed by the complainant. This subsequent complaint was dismissed by the investigator who found that the allegations of retaliation were not supported by the record. The commission then issued a release of its jurisdiction over the subsequent complaint and the allegations therein.

*Ward, Carol v. Black Point Beach Club Association, Inc.*
0150047
(following appeal, stipulated judgment)
FitzGerald, 8/30/02

Final decision. Held: The complainant established that she was physically disabled, the Zoning Board of Appeals (ZBA) was aware of her disability, her request for a variance to attach her detached garage to her house was a reasonable accommodation and the ZBA denied the request. She also established that the denial was a continuing violation based upon the ZBA's ongoing, and incorrect, policy that federal and state disability/fair housing laws do not supersede zoning restrictions. The ZBA failed to establish that the complainant's proposed accommodation was unreasonable. The complainant failed to engage in good faith, interactive dialogue with the respondents on alternative locations for the construction of her garage that would have reasonably accommodated her disability without requiring a variance. The ZBA was ordered to grant the complainant a variance to attach the garage to her house. The complainant's request for emotional distress and attorney's fees was denied.

*Weichman, Ann D. v. Dept. of Environmental Protection*
0710348
Wilkerson Brillant, 05/19/09

Motion to dismiss granted in part; denied in part. The complainant alleged that the respondent failed to accommodate her disability, subjected her to unequal terms and conditions of employment and terminated her because of her physical disability and her age in violation of General Statutes §§ 46a-58 (a), 46a-60 (a) (1), 46a-70, and Title VII of the Civil Rights Act of 1964, as amended, and the Civil Rights Act of 1991, the Age Discrimination in Employment Act of 1967 (ADEA) and the American with Disabilities Act (ADA). The respondent moved to dismiss the complaint arguing this tribunal lacked subject matter jurisdiction because the doctrine of sovereign immunity bars the state claims, the § 46a-70 claim applies to named state officials, and that § 46a-58 (a) did not cover the federal claims. Ruling: The complainant's state claims fall within the exceptions of §§ 4-142 (2) and (3), and § 46a-70 applies to employment discrimination in state agencies where no individual state officials are named defendants. The complainant's ADA and Title

VII claims are covered under § 46a-58 (a), but age is not a protected class under § 46a-58 (a) and therefore complainant's ADEA claim is dismissed.

*Weller-Bajrami, Catherine v. Lawrence Crest Cooperative, Inc.*
99500095, 9950096
Trojanowski, 8/28/01

Hearing in damages. Claim by a tenant of the respondent and her children that they were discriminated against because of her race, white, her sex, female, and her physical disability, chronic ulcerative colitis. The complainant's children were not awarded any damages. The complainant was awarded the following types of damages: security deposits, moving costs, rent differentials, the cost of alternative housing, utility (electric bill) differentials, $20,000 for her emotional distress and $6,562 for attorney's fees.

*Williams, Robert v. M.N.S. Corporation*
0010124
Knishkowy, 3/1/01

Hearing in damages. The respondent's liability determined by entry of order of default. Award of back pay made to black employee who was terminated from truck-driving position and subsequently replaced by white driver.

*Young, Claude v. City of Stamford Police Dept.*
0720418
FitzGerald, 11/18/09

Motion to dismiss for lack of subject matter denied. The complainant alleged that the respondent violated § 46a-58 (a) and 46a-64 and the equal protection clause of the 14th amendment when he was subjected to excessive use of force, police brutality, verbally abusive language and racial slurs. Held: the respondent is a public accommodation for purposes of § 46a-64, and the complaint may be amended to allege additional facts to show an equal protection violation enforceable through § 46a-58 (a).

## III. Decisions/ruling listed alphabetically by respondent

*ACE International (ACE American Ins. Co.), John Ellis v.*
0620473
FitzGerald, 09/13/10

Motion to dismiss granted in part and denied in part. The complainant's § 46a-58 (a), Title VII retaliation and ADEA claims dismissed. Commission lacks jurisdiction because retaliation and age are not enumerated as protected bases under § 46a-58 (a). Motion dismissed as to the complainant's § 46a-60 (a) (4) retaliation claim as (1) the claim is not time-barred and (2) whether the alleged acts would dissuade a reasonable worker from making or supporting a charge of discrimination is an evidentiary matter not a jurisdictional defect.

*ACE International (ACE American Ins. Co.), John Ellis v.*
0620473
FitzGerald, 10/25/10

Motion to dismiss denied. The respondent asserted lack of subject matter jurisdiction, lack of personal jurisdiction and improper extraterritorial application of state's anti-discrimination laws. Held: (1) the commission has subject matter jurisdiction under § 46a-60 over a claim that an employee was terminated because of his age an in retaliation for his opposition to discriminatory employment practices; (2) a decision made in Connecticut that has extraterritorial effect does not make the application of the law extraterritorial and Connecticut's anti-discrimination laws may, in some cases be applied extraterritorially; and, (3) the commission and the complainant established that the commission's exercise of personal jurisdiction satisfies statutory and constitutional requirements.

*Ace Tech, Inc. a.k.a. Applied Computer Engineering Technology, Rosa Maria Agvent v.*
0020042
Trojanowski, 4/11/01

Hearing in damages. Female computer worker awarded backpay, compound prejudgment interest, statutory postjudgment interest, and other equitable relief.

*Alan S. Goodman, Inc., Arnell Barnes v.*
0710395
Levine, 6/5/2009

Motion for summary judgment: denied. Held: (1) human rights referees have the authority to rule on motions for summary judgment; and (2) issue of material issue of fact exists as evident by the complaint affidavit alleging discrimination based on color (black) and disparate treatment, production compliance resulting in some documentation of disparate treatment and the respondent's vigorous denial of discrimination.

*American Can Company, Robert Flood v.*
8220420
FitzGerald, 4/24/00

Final decision. Judgment for the respondent. The complainant alleged that he was the victim of age discrimination that occurred when the respondent, undergoing a reduction in force, failed to transfer the complainant into a lateral job position. Held*:* the complainant failed to prove his prima facie case, that the respondent's reason was pretextual, and that he was the victim of intentional age discrimination.

*Ansonia, Town of, Claude Perry v.*
9730481
Knishkowy, 12/20/99

Motion to dismiss denied. Held*:* Although the commission investigator found reasonable cause on one allegation in the complaint, and no reasonable cause on the other three allegations, the *entire complaint* was certified for public hearing in accordance with the plain and unambiguous language of § 46a-84. Once a complaint is certified, the Referee must conduct a *de novo* hearing on the entire complaint and not rely upon the investigator's report as a basis for dismissal.

*Ash, Mark, Arouna Soulemani v.*
0230045
Allen, 01/08/04

Hearing in damages. By virtue of a default for failure to appear, the respondent was held liable for discrimination based on race, color and ancestry against the complainant with regard to the terms and conditions of his employment and for terminating his employment. The complainant was awarded $45,405 as back pay and monetary relief and post judgment interest at the rate of 10% compounded annually. Front pay was not awarded.

*Anthem Blue Cross & Blue Shield, Rachael Leftridge v.*
9830218
Knishkowy, 1/22/01

Final decision. Judgment for the respondent. African-American complainant alleged that the respondent failed to promote her because of her race. The complainant had worked for the respondent for nine years, yet the promotion was given to a white co-worker who had only worked for one year. Although the complainant was qualified for the promotion and met her prima facie case, the respondent justified its decision by demonstrating that the promoted employee was better qualified. The complainant failed to show that the respondent's reason lacked credence or that it masked an unlawful discriminatory motive.

*Atlantic Communications, Corp., Maria Sanchez v.,*
0430462
Kerr, 03/08/05

Hearing in damages. The complainant filed her affidavit of discriminatory practice on March 12, 2004, alleging sexual harassment and wrongful termination (on the basis of her sex) in violation of General Statutes §§ 46a-58(a) and 46a-60(a)(1) and Title VII. The respondent was defaulted on January 5, 2005 for failure to file an answer and a hearing in damages was held on February 17, 2005. The respondent was ordered to cease and desist in further sexual harassment, to pay the complainant $8,402.70 in back pay, to reimburse the state $3, 718.00 in unemployment compensation benefits paid to the complainant, and to pay pre- and postjudgment interest on both amounts at the rate of 10% per annum.

*Avalon Properties , Patricia Helliger v.*
9730397
Allen, 12/20/99

Final decision. Judgment for the complainant. Held*:* (1) the respondent Real Estate Management Corporation and its named agents discriminated against the complainant by making a rental opportunity unavailable and by misrepresenting the availability of a rental in violation of §§ 46a-64c(a)(1) and 46a-64c(a)(4)(A); (2) complainant awarded $3,000.00 damages suffered as a result of emotional distress at discriminatory treatment; (3) the complainant failed to mitigate her economic losses and no economic compensatory damages awarded.

*Beverly Enterprises-Connecticut , Lugenia Blake v.*
9530630
Allen, 7/8/99

Motion to dismiss granted. Held*:* (1) human rights referees have authority to dismiss matters; (2) prior administrative decision by a separate state agency is given res judicata effect; (3) the complainant failed to establish a prima facie case for employment discrimination.

*Bidwell Healthcare Center, Francis Okonkwo v.*
9940144
FitzGerald, 2/5/01

Motion to dismiss denied in part, granted in part. The respondent filed a motion to dismiss for lack of jurisdiction based on reasonable cause findings. The respondent claimed that the investigator (1) found no reasonable cause to believe that the complainant had been sexually harassed; and (2) improperly found reasonable cause for an allegation, disparate treatment, not alleged in the complaint. Held*:* (1) motion granted as to the sexual harassment claim because the investigator concluded that the investigation did not support the complainant's allegations of sexual harassment; and (2) denied as to the disparate

treatment claim because the complaint alleged sufficient facts to put the respondent on notice that the allegation would reasonably fall within the scope of the investigation.

*Big Enough, Inc., Jennifer Taranto v.*
0420316
Knishkowy, 6/30/06

Hearing in damages. By virtue of default, the respondent liable for sex discrimination when it terminated the complainant because of her pregnancy. The complainant recovered back pay, interest, and certain travel expenses associated with new job. However, back pay and travel expenses recoverable only until the time the respondent went out of business (a year prior to judgment), as complainant would have been lawfully dismissed at that time. Front pay disallowed for the same reason. Emotional distress damages awarded under §46a-86(c), based on the premise that a violation of Title VII constituted a violation of §46a-58(a) [following the CT Supreme Court's decision in *CHRO v. Board of Education of Town of Cheshire*, 270 Conn. 665 (2004)].

*Big Enough, Inc., Jennifer Taranto v.*
0420316
Knishkowy, 10/5/06

Modified final decision on reconsideration. In initial final decision (6/30/06), the respondent's liability established by order of default, but back pay damages awarded only up until the time the respondent ceased business (one year before issuance of this decision). On reconsideration, the back pay award was increased by one week, in light of document showing the correct date of the respondent's dissolution.

*Black Point Beach Association, Inc., Carol Ward v..*
0150047
(following appeal, stipulated judgment)
FitzGerald, 8/30/02

Final decision. Held: The complainant established that she was physically disabled, the Zoning Board of Appeals (ZBA) was aware of her disability, her request for a variance to attach her detached garage to her house was a reasonable accommodation and the ZBA denied the request. She also established that the denial was a continuing violation based upon the ZBA's ongoing, and incorrect, policy that federal and state disability/fair housing laws do not supersede zoning restrictions. The ZBA failed to establish that the complainant's proposed accommodation was unreasonable. The complainant failed to engage in good faith, interactive dialogue with the respondents on alternative locations for the construction of her garage that would have reasonably accommodated her disability without requiring a variance. The ZBA was ordered to grant the complainant a variance to attach the garage to her house. The complainant's request for emotional distress and attorney's fees was denied.

*Bloomfield, Town of, Donald J. Rajtar v.*
0510115
Kerr, 10/03/07

Motion to dismiss denied. Held: An arbitration panel's finding that the complainant (a police officer) had been untruthful during an investigation and subsequent disciplinary action, and a subsequent superior court ruling that the complainant could not be returned to duty by the panel as a matter of public policy, did not preclude the commission from considering whether the complainant's termination was an impermissible discriminatory act. The decision reasoned that discriminatory animus had not been considered by the town, panel or court, and that the complainant should be afforded the opportunity to establish that the finding of untruthfulness was pretext for a termination impermissibly predicated on the basis of his age. This case was distinguishable from *Sperow v. Regional School District No. 7,* CHRO No. 0130607).

*Bloomfield, Town of, Donald J. Rajtar v.*
0510115
(appeal withdrawn)
Kerr, 10/03/07

Final decision. Judgment for the complainant. The complainant alleged that he had been wrongfully terminated as a police officer by the respondent on the basis of age. The respondent's decision to terminate had been set aside by an arbitration panel, which had found the complainant had been untruthful during an investigation and subsequent disciplinary hearing but had reduced the termination to a 200 workday suspension. The complainant maintained that the charges against him, the disciplinary proceedings and his discharge were pretext for age discrimination. There was evidence of tolerated and department wide disparagement of older patrol officers, of disparate discipline predicated on age, and of an investigation of the complainant's alleged dishonesty so one sided and perfunctory as to lend substantial credence to the complainant's assertion that the disciplinary process, finding of dishonesty and resultant termination were but pretext for a wrongful termination predicated on age. The complainant was awarded $80,369.34 for back pay, accrued time in the amount of 687.97 hours, $19,79 .for medical expenses incurred as a result of loss of insurance, prejudgment interest from January 9, 2006, post judgment interest and other equitable relief.

*Bloomfield, Town of, Donald J. Rajtar v*
0510115
(appeal withdrawn)
Kerr, 11/08/07

Petitions for reconsideration. The respondent, the complainant and the commission filed petitions to reconsider. The respondent's petition to reconsider the earlier denial of its motion to dismiss was denied. The complainant's and the respondent's petitions to reconsider the final decision was granted. Held: The final decision was affirmed and

clarified to provide that the complainant be reinstated to full duty as a Bloomfield officer and that the final decision be implemented independent of any disposition in *Town of Bloomfield v. United Electrical Radio & Machine Workers of America*, 2006 WL 3491719 (Conn. Super.) because that matter is proceeding on a finding that the complainant (Rajtar) had been untruthful, which finding was rejected in the final decision as pretext advanced to impermissibly justify a termination effectuated because of age discrimination.

*Bridgeport Board of Education, Angelo Cordone v.*
0420409
Knishkowy, 7/21/04

Motion to dismiss granted in part, denied in part. Held: (1) The complainant's first allegation was based on a discrete event occurring more than 180 days prior to the filing of the complaint. Although in certain circumstances the 180-day filing requirement may be excused for equitable reasons, the commission, in its response to the motion, provided no suggestion--much less any evidence--of any such reason. The motion to dismiss this portion of the complaint is granted. (2) The respondent challenged the second allegation by claiming that failure to transfer or promote the complainant to a certain position did not constitute an adverse employment action. Such determination is a matter of fact and thus requires full adjudication. The motion to dismiss this portion of the complaint is denied.

*Bridgeport Board of Education, Angelo Cordone v.*
0420409
Knishkowy, 9/21/04

Motion for leave to amend complaint. In an age discrimination case, the complainant moved to amend his complaint by adding legal conclusions of disability discrimination. Although the complainant argues that the additional charges clarify the factual allegations in the original complaint and “conform the legal grounds for the complaint with the factual allegations,” such bald assertions are simply incorrect. Nothing in the original complaint so much as even alludes to any disability. The motion is denied. (Note: The respondent’s failure to respond to the complainant’s motion does not mandate automatic approval of the motion; rather, the presiding officer must still determine if the proposed amendment is “reasonable.” See Regs. Conn. State Agencies, § 46a-54-80a(e).)

*Bridgeport, City of, Liaquiat Ali v*
0750131 & 0750132
Wilkerson, 11/14/07

Motion to dismiss denied. The respondents (City of Bridgeport and Bridgeport planning and zoning commission) moved to dismiss the complaint for lack of subject matter jurisdiction as to the city arguing that the city had no authority to amend or enforce the zoning regulations. CHRO argued that the complaint against alleged discrimination in housing and was not an appeal of a zoning regulation. Held*:* the city shall remain a respondent because it is inferred that the planning and zoning commission is an authorized decision-maker for the city and acted as a policy maker for the city when it enforced the zoning regulations.

*Brookfield, Town of, Joyce Clements v.*
9620571
Allen, 7/6/00

Final decision. Judgment for the respondent. The complainant brought an action claiming harassment and demotion based on her age and amended her complaint to assert wrongful discharge based on age and gender. Held*:* (1) The complainant's amended complaint was filed more than 180 days after the alleged act of discrimination; (2) The complainant failed to establish a prima facie case; (3) The respondent's articulated non-discriminatory reason was valid and not pre-textual; (4) The complainant failed to produce evidence inferring that the abolition of her position in the Town's budget was motivated by her age or gender; (5) there was no evidence of the complainant being harassed or demoted.

*Carfi, Jeffrey, Judy Hartling v.*
0550116
Knishkowy, 10/26/06

Hearing in damages. By virtue of default, the respondents liable for retaliation (in response to prior CHRO complaint) and for housing discrimination and harassment based on the complainant's sexual orientation. Pursuant to §46a-86(c) the referee awarded the complainant $1315 for various costs and $25,000 for emotional distress damages.

*Cheshire Bd. of Ed., Chillon Ballard v.*
9830294
(rev'd and remanded by Supreme Ct)
Giliberto, 7/15/99

Motion to dismiss granted in part. Held*:* (1) the commission does not have jurisdiction over claims pursuant to §10-15c; (2) public schools are not public accommodations; (3) the commission does not have concurrent jurisdiction with the Dept of Education pursuant to §46a-58 and §46a-64(a)(2). On appeal, Superior Court vacated the referee's dismissal, found that the commission does have jurisdiction to hear complaints of discrimination against students in public schools, and remanded the case for further proceedings.

*Cheshire Bd. of Ed., Chillon Ballard v.* 9830294
(rev'd and remanded by Supreme Ct)
Giliberto, 5/31/00

Motion to dismiss granted. Held*:* (1) General Statutes § 46a-75 does not apply to public schools; and (2) the commission through the human rights referee does not have the authority to transfer this matter to the State Board of Education. On appeal, Superior Court vacated the referee's dismissal, found that the commission does have jurisdiction to hear complaints of discrimination against students in public schools, and remanded the case for further proceedings.

*Cheshire Bd. of Ed., Chillon Ballard v.*
9830294
FitzGerald, 11/15/05

Amended ruling re: the respondent's motion to vacate. The respondent requested reconsideration of an order granting the commission's motion to compel. The respondent claimed that producing the documents would violate the federal Family Educational Rights and Privacy Act. The respondent's motion denied as the requested documents were within statutory exceptions.

*Cheshire Bd. of Ed., Chillon Ballard v.*
9830294
FitzGerald, 12/12/05

The respondent's motion for sanctions and to dismiss the complaint granted in part, denied in part. The complainant failed to comply with order to produce documents responsive to the respondent's production request. Because the requested documents were not relevant to the parties' burden of proof as to whether a discriminatory act occurred, the complaint was not dismissed. Because the requested documents were relevant as to the impact of the alleged discriminatory act on the complainant as his claim for emotional damages, the complainant and the commission are prohibited from introducing any oral or documentary evidence that the complainant sought and/or received treatment for emotional distress as a result of the alleged discriminatory act and they are prohibited from introducing any oral or documentary evidence of the impact the alleged discriminatory act had on the complainant's subsequent educational and employment performance after he withdrew from Cheshire High School.

*Children & Families, Dept. of, John Moore v.*
07310209
Levine, 10/20/2009

Motion to dismiss denied. Held: (1) General Statute 46a-58 (a) converts a violation of federal anti-discrimination laws into a violation of Connecticut anti-discrimination laws. The timing requirement for filing a complaint is that under state law. (2) It is premature to grant a motion to dismiss, given the generalized claims of sexual discrimination. (3) The issue is whether the complainant is entitled to offer evidence in support of his claim. (4) At this stage in the administrative proceedings, it is not possible to accurately assess the validity of the respondent's claims that there is no jurisdiction over the original complaint or the amendments. (5) The complainant's claims allege employment discrimination, not workplace violence, and there is no pre-emption of jurisdiction.

*Children and Families, Dept. of, Anthony Kinder v*.
0730367
Kerr, 4/21/10

Final decision. Complaint dismissed. The complainant alleged that he was discriminated against in being denied a promotion to the position of social work supervisor because of his race (African-American) and color (black), in violation of General Statutes § 46a-58 (a), 46a-60 (a) (1) and Title Vll. Because of the manifold safety valves built in to the interview and selection process by the respondent to safeguard against discriminatory animus interjecting itself into the selection process, the racial and ethnic composition of the interview panels and the diversity and qualifications of the successful candidates, the complainant was unable to establish a prima-facie case.

*Clark, Stephen , Ronald Little v.*
9810387
Knishkowy, 9/1/99

Motion to dismiss as to one of 3 respondents denied. Motion did not include affidavits or other supporting documents other than excerpts from investigator's reasonable cause finding. Held*:* (1) Although commission investigator had found no reasonable cause as to him, the entire complaint was certified for public hearing; therefore the Referee cannot rely upon the investigator's findings as a basis for dismissing the case. Once a complaint is certified for public hearing, the Referee must conduct *de novo* proceeding on the merits; and (2) If evidence exists to exonerate him, it must be presented at the public hearing.

*Clark, Stephen , Ronald Little v.*
9810387
Knishkowy, 8/2/00

Final decision. Judgment for the complainant. The complainant, who suffered from Parkinson's disease, brought action under state and federal fair housing statutes alleging that the respondents, teenage boys in the neighborhood, discriminated against him because of his disabilities. Held*:* The complainant proved that the respondents harassed him because of his disability and created a hostile housing environment. The respondents were found liable for property damage, costs, attorneys fees, and emotional distress.

*Claywell Electric, Jane Doe v.*
0510199
Kerr, 12/09/08

Hearing in damages. Default entered for failure to answer in employment termination case predicated upon sexual discrimination/harassment and constructive discharge. The complainant was awarded back pay ($3,120), emotional distress ($15,000) and prejudgment interest ($1,310).

*C.N. Flagg Power, Inc., Joseph Carter v.*
8840227
FitzGerald, 2/28/00

Final decision. Judgment for the complainant. Held*:* (1) termination of employment due to physical disability (cancer). The complainant proved discrimination by both the direct and inferential evidence standards. The respondent failed to show a bona fide occupational qualification and the showed that the respondent's claims of essential job function were not worthy of credence; and (2) the complainant proved that the respondent aided and abetted in his termination.

*Colonial Chimney & Masonry, Inc. Cecil Ramseur v.*
0440130
(stipulated agreement on appeal)
FitzGerald, 11/28/05

Hearing in damages. The complainant alleged he was terminated because of his age. The respondent defaulted for failure to appear at the hearing conference and for failure to file an answer. The complainant was awarded back pay of $35,535.99 and additional relief.

*Colonial Chimney & Masonry, Inc., Cecil Ramseur v.*
0440130
(stipulated agreement on appeal)
FitzGerald, 12/30/05

Motions to stay, to reconsider back pay calculation and to reopen default judgment were denied. Back pay was properly calculated from date of discriminatory termination to date of judgment, less mitigation. The length of the complainant's employment with the respondent and his separation from subsequent employment do not preclude the accrual of back pay. The respondent failed to show mistake, accident or other reasonable cause to justify setting aside the default judgment.

*Comfort Suites, Elizabeth Lopes v.*
0540252
Austin, 10/25/05

Hearing in damages. After having been sexually harassed by a co-worker, the complainant complained to her supervisor who took no remedial action. The complainant again complained to her supervisor after a third instance of being sexually harassed by the same co-worker. The supervisor's response was "we are all family, enjoy it and I don't want to hear it." The following day the complainant was terminated. Discrimination was found for having previously opposed a discriminatory practice. The complainant was awarded back pay of $23,225.50 with postjudgment interest, reinstatement to the position she held at the time of termination, and front pay until such time as the complainant is reinstatement or rejects an offer of reinstatement.

*Comptroller, Office of the State, Sharon Friedman v.*
0110195
Allen, 11/17/03

The complainant made application for "domestic partner benefits" and was denied same on basis that state arbitration award providing such benefits applied only to same sex partners as they were unable to marry under state law. The complainant alleged that she was discriminated against by the arbitration award, because her "partner" was male, on the basis of her marital status and sexual orientation the respondent moved to dismiss complaint for failure to state a claim for which relief could be afforded. HELD: the respondent's Motion to Dismiss granted as Chapter 68 of the CGS (Section 5-276 et seq.) provides for finality of such an award unless a timely motion to vacate is filed with the Superior Court, and there having been none the award is not now subject to a collateral attack through the auspices of a CHRO complaint.

*Correction, Dept. of, Frank Dexter v.*
0320165
FitzGerald, 08/31/2005

Final decision. Judgment for the respondent. The respondent terminated the complainant's employment as a correction officer because he violated the administrative directive against undue familiarity with inmates by using his personal cell phone to make calls on behalf of inmates. The complainant, an African-American, alleged that the respondent did not terminate non-African Americans who had been cited for undue familiarity. Held: the complainant failed to establish a prima facie case because of his repeated violations of the administrative directive and because the non-African American correction officers to whom he compared himself were not similarly situated as their conduct were not as severe as the complainant's. Even if the prima facie elements were established, the complainant did not prove by a preponderance of the evidence that the respondent's business reason was a pretext for actual discrimination.

*Correction, Dept. of, Mary L. Johnson v.*
9740163
Giliberto, 8/20/99

Motion to stay pending declaratory ruling from the commission denied. Held*:* (1) Executive Director cannot file motions as she is represented by the commission counsel; (2) Chief Human Rights Referee performs administrative function and cannot rule in place of presiding human rights referees; (3) We have duty to address matters in more expedient fashion than the court system; and (4) Declaratory Rulings are no more binding than final decisions in other contested cases and do not require halt to all potentially related proceedings.

*Correction, Dept. of, Mary L. Johnson v.*
9740163
Giliberto, 3/9/00

Final decision. Judgment for the respondent. Held*:* (1) The complainant is an "individual with a disability" due to her physical impairments of asthma and degenerative arthritis which are found to substantially limit the major life activities of breathing and walking; (2) The complainant was not qualified to perform the essential functions of her job and therefore failed to set forth a prima facie case under the ADA and the Rehabilitation Act; (3) the complainant's impairments of asthma and degenerative arthritis meet the definition of "physically disabled" under state law and the complainant established a prima facie case under state law; (4) the respondent proved the safety defense and her physical disabilities prevent her from performing her job.

*Correction, Dept. of, Eunice Smith v.*
9710718
Knishkowy, 5/4/00

Parties' third joint motion to extend deadline for legal briefs (on discovery issue) denied after two previous continuances had been granted. Even though parties are engaged in settlement negotiations, they remain obligated to meet previously-established deadlines set by human rights referee. For the same reason, deadline for exchange of witness lists and exhibit lists extended for only 4 business days. Extension of prehearing conference and hearing dates denied.

*Correction, Dept. of, Terry Walley v.*
0020470
FitzGerald, 7/31/02

Motion to amend the complaint to add a claim of retaliation Denied. The proposed amendment repeated allegations of retaliation contained in a subsequent complaint filed by the complainant. This subsequent complaint was dismissed by the investigator who found that the allegations of retaliation were not supported by the record. The commission then issued a release of its jurisdiction over the subsequent complaint and the allegations therein.

*State of Connecticut, Dept. of Education, Claire T. Doyle v.*
9730257
FitzGerald, 8/18/00

Motion to dismiss a portion of the complaint that was incorporated by an amendment is granted. The amendment alleges essentially the same facts as a subsequent complaint filed by the complainant against the respondent. Because the complainant obtained a release of jurisdiction under §§ 46a-100 and –101 of the subsequent complaint, General Statutes § 46a-101(d) waives the commission's jurisdiction as to allegations for which the

release was obtained, proscribes the commission from continuing to prosecute the allegations, and requires the dismissal of the allegations in whatever form the allegations may take.

*Creative Management Realty Co. , Bradley Brown, Sr. v.*
9850062, 9850063, 9850064, 9850065, 9850068, 9850069
Giliberto, 11/16/99

Motion to dismiss granted in part. Held*:* (1) motion to dismiss is treated as a motion to strike; (2) § 46a-64c(a)(2) protects against discriminatory practices after the initial sale or rental transaction; (3) § 46a-64c(a)(3) does not apply solely to discrimination in advertising and includes verbal statements; (4) family members of disabled individuals are protected from discriminatory practices pursuant to § 46a-64c(a)(6)(B) and (C); (5) the discriminatory acts alleged against respondent management company and the respondent property manager do not constitute "residential real-estate-related transactions" pursuant to § 46a-64(a)(7); and (6) white persons are protected from racial discrimination under the state and federal fair housing laws.

*Creative Management Realty Co. , Bradley Brown, Sr. v.*
9850062, 9850063, 9850064, 9850065, 9850068, 9850069
Giliberto, 3/13/00

Final decision. Judgment for the respondents. Held*:* All of the parties failed to appear for the public hearing, therefore the complainants and the commission failed to establish a prima facie case.

*CT Trane, Clive Duncan v*
0410319
Kerr, 06/01/06

Motion to stay denied. The motion to stay was predicated on the filing of an action in federal court one month prior to the complaint's certification. The motion claimed that a stay was necessary to preserve (from the threat of preclusion) a right to a federal jury trial and to avoid duplication of effort. The motion was denied because the dual filing was at the complainant's option, preclusion issues could arise whether the stay was granted or not and because no compelling reason was advanced to indefinitely disenfranchise the commission from its statutory obligation to prosecute discrimination complaints.

*Darien Barber Shop, Susan Ferri v*
0520471
FitzGerald, 4/15/08

Motion to dismiss denied. The respondent claimed the commission lacked subject matter jurisdiction because the complaint was brought against a trade name. Held: Courts have held that a trade name may be named as a defendant in an action. Further, by entering an

appearance, an attorney acknowledges that the party named on the appearance form is an accurate legal designation of the party for purposes of the trial

*David E. Purdy & Co., Thomas Nobili v.*
0120389
Knishkowy, 1/17/03

Motion to dismiss/motion for summary judgment denied. Motion to dismiss may be viewed as motion for summary judgment when the issue is one of facts, not of jurisdiction. In motion for summary judgment, the tribunal's role is not to resolve issues of fact, but to determine if any issue of material fact exists. The movant bears the burden of demonstrating there is no genuine issue of material fact. Based on conflicting affidavits from two physicians, whether complainant's sinusitis and rhinitis were chronic impairments under state law is a question of fact to be decided by the referee. Additionally, the respondent's allegation that it had no notice of complainant's need for accommodation was amply contradicted by the complainant's affidavit; thus, this is also a factual matter requiring full adjudication.

*David E. Purdy & Co., Thomas Nobili v.*
0120389
Knishkowy, 2/6/04

Final decision. Judgment for the respondents. Held: The complainant, a certified public accountant, failed to prove 4th prong of prima facie case in his state law complaint alleging termination because of his disability, sinusitis. Even if he had proven his prima facie case, he could not meet his ultimate burden of proving that his termination was motivated by a discriminatory animus. The complainant also failed to satisfy the prima facie case for his "failure to accommodate" state law claim because he did not need an accommodation in order to perform the essential functions of his job. The complainant finally failed to prove that his termination and other adverse employment actions constituted unlawful retaliation in violation of state antidiscrimination law.

*Diageo North America, Muriel Magda v.*
0420213
Knishkowy, 3/16/06

Motion to dismiss denied. The respondent moved to dismiss two lesser allegations which the investigator had found to be untimely filed. The motion was unaccompanied by the investigator's report or any other pertinent documentation. The motion was denied because (1) the investigator certified the entire complaint—and not merely portions thereof--to public hearing, so the timeliness challenges will need to be addressed de novo at hearing; (2) the challenged allegations may be a part of a "continuing violation" and the complainant should have the opportunity to adduce evidence on this matter.

*Drawbridge Inn Restaurant, Monica Carver v.*
9940179
Allen, 6/12/02

Final decision. Judgment for the respondent. The complainant alleges discrimination in the terms and conditions of her employment on the basis of her alienage (American Indian), and that she was discharged in retaliation for her complaints regarding alleged sexual harassment in the workplace. Held: The complainant failed to establish prima facie case as to her claim regarding discriminatory treatment in the terms and conditions of her employment. The complainant also failed to establish a prima facie case that she was fired in retaliation for her complaints because evidence showed, inter alia, that she quit her job.

*DSMA Enterprises, Lishka Negron v.*
0110448
FitzGerald, 04/11/03

Motion to dismiss the complainant because of the complainant's failure to appear at a hearing conference was Granted. Section 46a-54-88a(d) of the Regulations of Connecticut State Agencies and case law authorize the presiding referee to dismiss a complaint for the complainant's failure to attend a hearing or conference without just cause. Neither the commission nor the complainant offered any reason for the complainant's absence. The attendance of counsel for the commission is not an adequate substitute for the presence of the complainant, who is an independent party not represented by the commission.

*East Haven Bd. of Ed., Dawn Alston on behalf of Terrel Alston v.*
9830205
(on appeal stipulated judgment)
Manzione, 5/3/00

Motion to dismiss granted. Held*:* (1) public schools are not public accommodations under General Statutes § 46a-64(a); (2) the commission does not have jurisdiction over allegations of discrimination brought pursuant to General Statutes § 10-15c; and (3) General Statutes §§ 46a-75 and 46a-81m do not cover public schools.

*Eastern Connecticut State University, Valerie Kennedy v*
0140203
FitzGerald, 12/27/04

Final decision. Judgment for the respondent. The complainant alleged that the respondent terminated her employment because of her sex, her disability, and in retaliation for her requesting accommodations for her disability. Held*:* the commission and the complainant failed to establish that the respondent's articulated business reason was a pretext for discrimination. Also, a violation of Title VII or the Rehabilitation Act is a violation of § 46a-58(a) and would entitle the commission and the complainant to the remedies available under § 46a-86(c).

*Eastern Connecticut State University, Valerie Kennedy v.*
0140203
FitzGerald, 01/28/05

The commission's motion to reconsider the final decision denied.

*Eckhaus, Eddie, Shirley Banks v.*
0250115
Wilkerson, 5/23/03

Hearing in damages. The complainant who possessed a section 8 voucher attempted to rent a home from the respondent who refused to accept the voucher and would not allow the complainant to apply to rent the house. Discrimination based on lawful source of income and public advertising. The complainant awarded emotional distress damages of $4,500 and attorney fees.

*Eckhaus, Eddie, Phyllis Hansberry v.*
0250114
Wilkerson, 5/23/03

Hearing in damages. The complainant who possessed a section 8 voucher attempted to rent a home from the respondent who refused to accept the voucher and would not allow the complainant to apply to rent the house. Discrimination based on lawful source of income and public advertising. The complainant awarded emotional distress damages of $2,500, $931 for rent differential, $862.94 for storage costs and attorney fees.

*Ed-Mor Electric Company, George T. Sloss v.*
9930221
Manzione, 6/16/99

Hearing in damages. At a hearing in damages, where no one for the respondent appeared, the complainant was awarded $7,568.00 in back pay, $2,022.00 to reimburse the Department of Labor for unemployment compensation, $2,854.08 to reimburse the complainant's union for other benefits and $46.22/mo. For prejudgment interest for his claim of discrimination based on age.

*EDAC Technologies, Adam Szydlo v*
0510366
Knishkowy, 11/19/07

Final decision. Judgment for complainant on CFEPA age discrimination claim; federal ADEA claim raised via General Statutes 46a-58(a) denied because referee has no authority to adjudicate federal age discrimination cases via 46a-58(a). The complainant was terminated during the respondent's reduction in work force (RIF). When the complainant asked his supervisor if he (complainant) was selected for layoff because of his age, the

supervisor stated, "Yes. We keep the younger people." Because of the direct nature of the credible evidence—the statement by the de facto decision maker at the time of and in the context of the termination—the case was analyzed under the Price-Waterhouse mixed motive paradigm. The complainant's satisfaction of his evidentiary burden, shifted the burden to the respondent to prove by a preponderance of the evidence that it nonetheless terminated the complainant for other valid reasons. The supervisor's credibility was damaged by his demeanor and attitude on the stand, his faulty memory, and inconsistencies with other testimony—both his own and that of others. The supervisor also did not follow the protocol established for the RIF process, further weakening his justification for the choices of who would be terminated and who would remain. The complainant was awarded back pay plus interest.

*EDAC Technologies, Adam Szydlo v.*
0510366
Knishkowy, 12/27/07

Ruling on reconsideration. Back pay award increased (a) to correct a typographical error in final decision, and (b) to include complainant's out-of-pocket costs of obtaining health insurance for period of seven months. Inclusion of annual merit increases (had complainant not been terminated) in calculations was rejected as too speculative, since merit increases were subjective-based and in the past were not given every year.

*Education, Dept. of, Claire T. Doyle v.*
9730257
FitzGerald, 9/15/00

Motion to dismiss granted. The commission moved for an administrative dismissal pursuant to a request by the complainant for a release of jurisdiction.

*Edwards Super Food Stores, Robert Henry v.*
9510617
Manzione, 7/22/99

Motion to dismiss postponed for evidentiary hearing. Held*:* There are questions of fact as to whether the complaint against additional named the respondents should be dismissed (i.e. whether "successor liability" should attach and whether to "pierce the corporate veil"). Accordingly, a conference call shall be scheduled to discuss limited discovery on this issue and set a date for an evidentiary hearing on this jurisdictional question.

*Edwards Super Food Stores, Robert Henry v.*
9510617
Manzione, 9/1/99

Motion to dismiss and the commission's motion for stay. Held*:* (1) a parent corporation may be dismissed from an action when allegations are brought against its subsidiary for discriminatory treatment based on disability where the corporate veil of the parent is not

able to be pierced under either the “instrumentality” or “identity” rule; (2) successor liability does not attach to a company that purchased all of the assets of a predecessor company through a purchase agreement that specifically did not assume any liabilities and therefore said “successor” company is dismissed; and (3) a motion for stay is not granted based on the outcome of a pending declaratory ruling before the commission because the ruling has no more weight than a decision in a contested case proceeding and the timeliness of the outcome is uncertain.

*Electric Boat Corporation, Berzeda Massa v.*
9840265
Manzione, 3/6/00

Ruling on motion in limine. Held*:* Once a complaint is certified to public hearing, it is viewed as a whole. Therefore, all allegations within it are the subject of the public hearing regardless of whether reasonable cause was found or conciliation attempted and failed with respect to each allegation within the complaint. (Note: A copy of the ruling is available by contacting the Office of Public Hearings.)

*Engelhard, Edith, Angela Pinto v.*
0550113
Kerr, 5/3/07

Final decision. The complainant alleged that she was discriminated against in being denied rental housing on the basis of her section 8 source of income, in violation of General Statutes § 46a-64c (a) (1). The respondent alleged that the denial was based on unsatisfactory credit and failing to comply with her last minute demand that the complainant provide proof of good funds for first month’s rent and security two days prior to the lease inception. It was found that there was evidence of the respondent having stated that the cause of the rejection was her husband’s refusal to accept the governmental involvement (in the form of section 8 paperwork and including submission of IRS form W-9) section 8 participation requires. This conclusion was supported by several exhibits (some executed by both parties), which confirmed a meeting of the minds on all rental details. The *Price Waterhouse* model was applied and it was found that the respondent did not meet her burden of establishing that she would have denied the complainant rental housing even in the absence of the complainant’s section 8 source of income. The complainant was awarded $5,000 for emotional distress and an attorney’s fee award was made in the amount of $10,500.

*Environmental Protection, Dept. of, V.R. Reddi Pingle v.*
9910114
FitzGerald, 2/1/01

Final decision. Judgment for the respondent. The complainant alleged that he was terminated at the end of his probationary period because of his national origin, color, and ancestry. Held*:* (1) the complainant offered no direct evidence of discriminatory motivation; (2) the complainant also did not show, under the McDonnell Douglas-Burdine analysis that

he was qualified for the position, circumstances giving rise to an inference of discrimination, or that the respondent's articulated legitimate business reason was a pretext for discrimination or otherwise lacking in credibility.

*Environmental Protection, Dept. of, Ann D. Weichman v.*
0710348
Wilkerson Brillant, 05/19/09

Motion to dismiss granted in part, denied in part. The complainant alleged that the respondent failed to accommodate her disability, subjected her to unequal terms and conditions of employment and terminated her because of her physical disability and her age in violation of General Statutes §§ 46a-58 (a), 46a-60 (a) (1), 46a-70, and Title VII of the Civil Rights Act of 1964, as amended, and the Civil Rights Act of 1991, the Age Discrimination in Employment Act of 1967 (ADEA) and the American with Disabilities Act (ADA). The respondent moved to dismiss the complaint arguing this tribunal lacked subject matter jurisdiction because the doctrine of sovereign immunity bars the state claims, the § 46a-70 claim applies to named state officials, and that § 46a-58 (a) did not cover the federal claims. Ruling: The complainant's state claims fall within the exceptions of §§ 4-142 (2) and (3), and § 46a-70 applies to employment discrimination in state agencies where no individual state officials are named defendants. The complainant's ADA and Title VII claims are covered under § 46a-58 (a), but age is not a protected class under § 46a-58 (a) and therefore complainant's ADEA claim is dismissed.

*Esposito Design Associates, Inc., Tracy A. Standard v.*
0820445
FitzGerald, 06/28/10

Objection to defendant corporation proceeding pro se overruled. When the attorney for the respondent corporation withdrew its appearance, the non-lawyer officer of the corporation filed notice that he would be proceeding on behalf of the corporation. The commission's objection to the respondent appearing pro se is overruled as the commission's regulations permit a respondent to appear pro se in an administrative proceeding.

*F&L, Inc., d/b/a Luciano's Boathouse Restaurant, Diana Lee Brelig v.*
9540683
Wilkerson, 2/2/00

Hearing in damages. Former waitress awarded: (1) Back pay in the amount of $37,616.08; and (2) Prejudgment interest in the amount of $3,419.64.

*Fairfield, Town of, Orlando Callado v.*
9420437
FitzGerald, 10/15/99

Final decision. Judgment for the complainant. The respondent discriminated against the complainant on the basis of age in denying him participation in its pension plan.

*Fairfield, Town of, v. Rose Ann Carlson*
0620142
FitzGerald, 06/30/09

The respondent's "motion to preclude relitigation of factual findings in *O'Halloran v. Fairfield* and to preclude relitigation of certain legal issues as a result of the *O'Halloran v. Fairfield* decision" is denied. The respondent argued that the doctrine of collateral estoppel should apply so as to preclude the relitigation of the factual and legal findings determined in connection with the final decision issued in *O'Halloran*. Collateral estoppel is inapplicable for at least three reasons. First, the presiding referee concluded that O'Halloran did not prove discrimination; he did not conclude that the respondent did not discriminate. Second, in *O'Halloran*, the presiding referee specifically noted that: he did not intend his findings in *O'Halloran* to be applied to the merits of this case. Finally, under the facts of this case, the policies underlying collateral estoppel and the anti-discrimination statutes favor not applying collateral estoppel.

*Fairfield, Town of, v. Rose Ann Carlson*
0620142
FitzGerald, 06/30/09

Motion in limine is granted to preclude evidence of qualifications unknown to the decision-maker at the time of the hiring decision. Under the "after-acquired evidence" doctrine, information that was unknown to the decision-maker at the time he made his decision could not have influenced his decision and, therefore, is irrelevant as to his motivation in choosing whom to hire.

*Fairfield, Town of, v. Rose Ann Carlson*
0620142
FitzGerald, 06/30/09

Motion in limine seeking to preclude the introduction of evidence regarding any emotional distress damages is denied. The complainant alleged that the respondent violated Title VII and General Statutes §§ 46a-58 (a) and 46a-60 (a) (1) when it refused to hire her for the position of zoning inspector because of her sex. Although emotional distress damages are not available for a violation of § 46a-60, the complainant's damage claims also arise from the respondent's alleged unlawful practices under Title VII, which would constitute a violation of § 46a-58 (a) and afford the complainant the relief, including emotional distress damages, available under General Statute § 46a-86 (c).

*Fairfield, Town of, Rose Ann Carlson v.*
0620142
FitzGerald, 07/10/09

Motion for reconsideration of the ruling sustaining the respondent's in limine objection to the testimony of Josephine O'Halloran is denied. First, as proffered by the commission,

O'Halloran's proposed testimony offered no obvious or logical connection to the issue of the respondent's alleged discriminatory conduct toward the complainant. Second, O'Halloran is not a "similarly situated" witness. Third, the commission provided no specific as to the discriminatory treatment of the complainant that O'Halloran personally observed and also provided no specific information as to what testimony O'Halloran could corroborate that would both need corroboration and also not be unduly repetitious.

*Fairfield, Town of, Betty Gabriel v.*
0620141
FitzGerald, 06/30/09

The respondent's "motion to preclude relitigation of factual findings in *O'Halloran v. Fairfield* and to preclude relitigation of certain legal issues as a result of the *O'Halloran v. Fairfield* decision" is denied. The respondent argued that the doctrine of collateral estoppel should apply so as to preclude the relitigation of the factual and legal findings determined in connection with the final decision issued in *O'Halloran*. Collateral estoppel is inapplicable for at least three reasons. First, the presiding referee concluded that O'Halloran did not prove discrimination; he did not conclude that the respondent did not discriminate. Second, in *O'Halloran*, the presiding referee specifically noted that: he did not intend his findings in *O'Halloran* to be applied to the merits of this case. Finally, under the facts of this case, the policies underlying collateral estoppel and the anti-discrimination statutes favor not applying collateral estoppel.

*Fairfield, Town of, Betty Gabriel v.*
0620141
FitzGerald, 06/30/09

Motion in limine is granted to preclude evidence of qualifications unknown to the decision-maker at the time of the hiring decision. Under the "after-acquired evidence" doctrine, information that was unknown to the decision-maker at the time he made his decision could not have influenced his decision and, therefore, is irrelevant as to his motivation in choosing whom to hire.

*Fairfield, Town of, Betty Gabriel v.*
0620141
FitzGerald, 06/30/09

Motion in limine seeking to preclude the introduction of evidence regarding any emotional distress damages is denied. The complainant alleged that the respondent violated Title VII and General Statutes §§ 46a-58 (a) and 46a-60 (a) (1) when it refused to hire her for the position of zoning inspector because of her sex. Although emotional distress damages are not available for a violation of § 46a-60, the complainant's damage claims also arise from the respondent's alleged unlawful practices under Title VII, which would constitute a violation of § 46a-58 (a) and afford the complainant the relief, including emotional distress damages, available under General Statute § 46a-86 (c).

*Fairfield, Town of, Betty Gabriel v.*
0620141
FitzGerald, 07/10/09

Motion for reconsideration of the ruling sustaining the respondent's in limine objection to the testimony of Josephine O'Halloran is denied. First, as proffered by the commission, O'Halloran's proposed testimony offered no obvious or logical connection to the issue of the respondent's alleged discriminatory conduct toward the complainant. Second, O'Halloran is not a "similarly situated" witness. Third, the commission provided no specific as to the discriminatory treatment of the complainant that O'Halloran personally observed and also provided no specific information as to what testimony O'Halloran could corroborate that would both need corroboration and also not be unduly repetitious.

*Fairfield, Town of, Rose Ann Carlson v.*
0620142
FitzGerald, 12/28/09

Final decision. Complaint dismissed. The complainant was one of four applicants (three females and one male) for the position of zoning inspector. The respondent hired the male applicant for the position. The complainant alleged that she was not hired because of her sex. Held: the commission did not establish by a preponderance of the evidence that the respondent discriminated against the complainant on the basis of her sex when it did not hire her for the position of zoning inspector.

*Fairfield, Town of, Betty Gabriel v.*
0620141
FitzGerald, 12/28/09

Final decision. Complaint dismissed. The complainant was one of four applicants (three females and one male) for the position of zoning inspector. The respondent hired the male applicant for the position. The complainant alleged that she was not hired because of her sex. Held: the commission did not establish by a preponderance of the evidence that the respondent discriminated against the complainant on the basis of her sex when it did not hire her for the position of zoning inspector.

*Fairfield, Town of, Josephine O'Halloran v*
0620146
(appeal dismissed)
Austin, 5/20/08

Final Decision. Complaint dismissed. The complainant alleged that she was denied a promotion for the position of zoning inspector as a consequence of her gender. She further alleged that the respondent failed to follow the collective bargaining agreement (CBA). Held: The complainant failed to present a prima facie case in that she failed to satisfy the element that she was qualified for the position. Further, even if the complainant had sustained her burden of being qualified, she was not the best candidate in the field of three

females and one male. As to the complainant's claims that the CBA was not followed, no credible evidence was submitted to believe that the respondent used the complainant's gender in determining how to interpret the CBA.

*Frenzilli, Nancy & Ralph, Deborah & Raymond Aguiar v.*
9850105
Wilkerson, 1/14/00

Hearing in damages. The complainants attempted to rent a home from the respondents and the respondents would not allow the complainants to rent because they had small children. Discrimination based on family status. Award for emotional distress damages of $7,500 to the complainant wife and $3,500 to the complainant husband both with 10% post-judgment interest. Also awarded Attorney's fees of $8,236.25.

*Frenzilli, Nancy & Ralph, Deborah & Raymond Aguiar v.*
9850105
FitzGerald, 4/22/02 (on remand)

Motion to set aside default Denied with a hearing in damages to be scheduled. Following the entry of a default and a hearing in damages, the commission and complainant brought an enforcement action in Superior Court. The case was remanded with instructions to hold a hearing on setting aside the default and a hearing in damages. The respondents lacked both a good defense and/or reasonable cause for failure to timely raise their defense.

*Germania Lodge, Cheryl Roberts v.*
0640147
Wilkerson Brillant, 12/29/08

The complainant's motion to amend the complaint to add a respondent: denied without prejudice: Held: The named respondent, Germania Lodge, the employer, is separate and distinct from Germania Lodge, the membership organization that is a subordinate of the Order of Hermann's Sons. The complainant did not establish that the entity to be added as a respondent, Order of Hermann's Sons, met the criteria of the identity or instrumentality rules in order to pierce the corporate veil. There was no evidence that the Order of Hermann's Sons had control over the employer, Germania Lodge's finances and employment policies and/or business practices. Also, there was no evidence that there existed a unity of interest and ownership for the Order of Hermann's Sons and Germania Lodge as an employer. The evidence showed that as an employer, Germania Lodge is an independent entity with separate funds and policies to conduct its employment operations.

*Germania Lodge, Cheryl Roberts v.*
0640147
Wilkerson Brillant, 03/03/09

Motion to amend granted; allegation of retaliation dismissed. The complainant alleged in her original complaint that the respondent violated General Statutes §§ 46a-60 (a) (1) and

46a-58 (a) when it discriminated against her because of her sex when it terminated her employment and denied her membership in its social club. She also alleged the respondent retaliated against her by terminating her because she applied for membership in its social club. The complainant requested that her complaint be amended to add violations of §§ 46a-63 and 46a-64 (a) (public accommodation and she also identified that the respondent as Germania Lodge. The respondent argued that the public accommodation claim had not been fully investigated prior to certification of the complaint and therefore its due process rights would be violated if the amendment were granted. The complaint had originally been dismissed by the investigator's finding of no reasonable cause which did include limited findings on the public accommodation issue. The complainant's reconsideration request was granted and the executive director's decision on reconsideration directed further investigations on the public accommodation claim. Subsequently, the investigator issued a finding of reasonable cause on the complainant's termination, public accommodation and retaliation claims.

Held*:* Because the claim of public accommodation discrimination was alleged in the original complaint and had been investigated and because there was, after reconsideration, a finding of reasonable cause on the entire complaint, the respondent was fully aware of the public accommodation discrimination claim. More importantly, the public hearing process is not to be used as an appeal of the investigator's processing of the complaint pursuant to Section 46a-84 (b). Therefore, the motion to amend is granted allowing the public accommodation claim. However, the complainant's retaliation claim is dismissed because her allegation that the respondent retaliated against her because she applied for membership in the respondent's social club is not protected activity pursuant to § 46a-60 (a) (4).

*Germania Lodge, Cheryl Roberts v.*
0640147
Wilkerson Brillant, 07/01/09

Motion for sanctions granted in part, denied in part. The respondent moved for sanctions against the complainant for her failure to produce documents as ordered. The respondent was seeking documents, specifically income tax returns, pertaining to the complainant’s damages calculation including her earned income from the respondent’s employ and her mitigation obligation. The complainant had provided inconsistent reasons for not providing the documents as ordered. The commission and the complainant were precluded from introducing any evidence related to the complainant’s income tax returns or relevant income information.

*Gnat, Czeslaw, Malisa McNeal-Morris v.*
9950108
Knishkowy, 1/4/00

Hearing in damages. After the complainant negotiated purchase of residential property from the respondent landowner, the respondent changed his mind several times, resulting in a series of postponements for the closing. More than two months after the original closing

date, the respondent decided he would not sell to complainant at all. The respondent's liability established by order of default. After hearing in damages, complainant awarded: (1) economic damages for various expenses needlessly incurred in preparation for the closing and move ($3,995), and (2) emotional distress damages ($6,500).

*Gorski, Andrew & Hanna, Ricky & Regina Cooper v.*
9710196, 9710197
Allen, 1/5/01

Remand decision. Judgment for the complainants. Held*:* The respondents discriminated against the complainants with respect to the terms and conditions of a prospective rental by requiring additional and more comprehensive credit, employment, and educational background information than was required of white tenants. The complainants are awarded $5,000.00 in damages for emotional distress.

*Gorski, Andrew & Hanna, Ricky & Regina Cooper v.*
9710196, 9710197
Allen, 1/31/01

Petition for reconsideration granted. The complainants and the commission are granted 30 days to file Motions seeking an award of reasonable attorneys' fees and costs and the respondents shall have 10 days to file objections, if any.

*Gorski, Andrew & Hanna, Ricky & Regina Cooper v.*
9710196, 9710197
Allen, 4/16/01
(Supplemental)

The complainants were awarded $20,000.00 in attorney's fees for the respondent's discrimination in regard to the terms and conditions associated with the rental of real estate; attorney's fees appropriate even where complainants represented by non-profit Legal Clinic; detailed time sheets sufficient to establish reasonableness of fees requested.

*Grace Christian School, Sandra J. Schoen v.* 0120163
(on appeal, remanded by stipulation)
FitzGerald, 12/02/02

Motion to dismiss granted. The complainant alleged that the respondent terminated her employment, harassed her, and discriminated against her in the terms and conditions of her employment in violation of Title VII and §§ 46a-60(a)(1) and 46a-60(a)(4) in retaliation for her refusal to ask her minister if he was a homosexual. Ruling: the commission lacked subject matter jurisdiction because sexual orientation is not an enumerated protected class within Title VII or § 46a-60(a)(1), opposing a discriminatory employment practice is not protected by § 46a-81c, the respondent is exempt under § 46a-81p from § 46a-81c, and/or there is no employment relationship between the respondent and the complainant's minister.

*Hamilton Standard, James Duarte v.*
9610553
Giliberto, 9/30/99

Motion to dismiss denied in part. Held*:* (1) The complainant alleged facts sufficient to establish a *prima facie* case of disability discrimination; (2) Employers have a duty under state law to make reasonable accommodations; (3) General Statutes § 46a-58(a) does not apply to discriminatory employment practices that fall under the federal statutes; and (4) The commission does have jurisdiction over federal claims of discrimination.

*Hamilton Standard, Fred Sarnecky v.*
9910156
Allen, 5/3/00

Motion to recuse denied. The commission sought to recuse referee because Motion to Decertify and supporting brief inadvertently sent to Office of Public Hearings. Held*:* Actual bias needed to be shown to recuse hearing officer and no showing was made, particularly where Referee declined to read the briefs in denying the motion to decertify on its face.

*Hamilton Sundstrand Corp., Dominic C. Scarfo v.*
9610577
Giliberto, 9/27/00

Final decision. Judgment for the respondent. Held*:* (1) General Statutes § 46a-58(a) encompasses ADA claims; (2) Human Rights Referees have authority to adjudicate federal claims, including the ADA; (3) Prior adverse arbitration decision is not entitled to receive substantial weight by this tribunal and does not preclude the complainant from receiving remedies; (4) The complainant's state claims of discrimination are not preempted by § 301 of the Labor-Management Relations Act; (5) The respondent did not regard the complainant as disabled under the ADA; (6) The complainant was not entitled to reasonable accommodations under the ADA based on his "regarded as" claim; (7) General Statutes § 46a-60(a)(1) includes perceived disability claims; (8) The respondent did not perceive the complainant to be disabled under § 46a-60(a)(1); (9) the *McDonnell Douglas* model of analysis applies to the facts in this matter; and (10) There is no duty to provide reasonable accommodations for perceived disability claims under state law.

*Hamilton Sundstrand; Robert Bernd (9710052), John Bielanski (9710053), and Richard Perry (9710063) v.*
FitzGerald, 01/04/02

Motion to dismiss denied. Held: (1) whether the complainant applied for a position is a question of fact; (2) the public hearing is not an opportunity to challenge the adequacy of precertification investigation; (3) commission has jurisdiction to adjudicate ADEA claims; (4) failure of investigator to comply with "date certain" for issuance of reasonable cause finding pursuant to General Statutes § 46a-82 does not result in the dismissal of the complaint; (5) complaint is not necessarily preempted by Labor Management Act.

*Hartford, City of, Mary Haley v.*
0010273
(appeal withdrawn)
FitzGerald, 7/1/02

Final decision. Judgment for the complainant. Held: (1) The complainant established that she was discriminated against in promotional opportunities on the basis of her race. The respondent's articulated non-discriminatory reason found to be pretextual. The discrimination constituted a continuing violation. The complainant's failure to formally apply for a promotion excused as her application would have been a futile. The complainant is awarded back pay and a promotion retroactive to September 13, 1998. (2) The complainant's claim of discrimination based upon her disability was dismissed.

*Hartford, City of, Mary Haley v.*
0010273
FitzGerald, 3/12/03

Supplement to final decision. Clarification and itemization of monetary damages.

*Hartford, City of, Robert McWeeny v.*
0410314
(appeal dismissed)
FitzGerald, 08/02/05

Final decision. Complaint dismissed. The respondents paid a pension to the complainant's spouse, a retired city employee. When the complainant's spouse died, the respondents paid a spousal allowance to the complainant, who had never been employed by the respondents. The respondents terminated the spousal allowance upon the complainant's remarriage. The complainant alleged that the termination of the allowance constituted discrimination against him on the basis of his marital status. There was no evidence that the respondents had discriminated against the employed spouse. Held: (1) employee status is a prerequisite to maintaining a complaint of employment discrimination and (2) complaint dismissed because the complainant never had employee status with any of the respondents.

*Hartford Fire Dept, City of., John Cooper & John C. Donahue v.*
9710685, 9710637
(remanded decision on appeal; appeal withdrawn)
Trojanowski, 8/14/00

Final decision. Judgment for the respondent. The complainants did not establish a prima facie case proving that the failure of the respondent to promote them was based on intentional discrimination due to their race and gender. The complainants also failed to establish a prima facie case proving that the respondent retaliated against them for the exercise of their rights under Title VII and CFEPA. After appeal, decision was remanded.

On remand, judgment for commission and complainant Donahue with relief as set forth in the decision.

*Hartford Fire Dept., City of, John Cooper & John C. Donahue v.*
9710685, 9710637
Trojanowski, 9/7/00

Petition for reconsideration denied. The commission filed a petition for reconsideration citing the existence of a "valid settlement agreement" as its good cause. The respondent filed an objection based on the fact that although there was a proposed agreement between counsel, the agreement had not been approved by the Hartford City Council, the only authority authorized by the City Charter to approve settlements proposed by the Corporation Counsel. When the final decision was rendered, the City Council had not acted to finalize the agreement. Thus, the proposed settlement was invalidated because the decision came out before the Council had acted.

*Hartford Financial Services Group, Inc., Carla Bray-Faulks v.*
0210354
FitzGerald, 05/25/04

The respondent's motion to dismiss is denied and the complaint is remanded to the investigator to attempt conciliation. The respondent filed a motion to dismiss the complaint in its entirety because the investigator did not attempt conciliation prior to her certification of the complaint. The respondent claimed that § 46a-83(f) mandates that an investigator attempt conciliation, and that the investigator's failure in this case to attempt conciliation resulted in the commission losing subject matter jurisdiction over the complaint. Held: (1) an attempt to conciliate is mandatory under § 46a-83(f), (2) this statutory requirement to attempt conciliation is a condition precedent to certification and public hearing, not an issue of subject matter jurisdiction; and (3) because subject matter jurisdiction is not lost if the attempt at conciliation is held more than 50 days after a finding of reasonable cause [see § 46a-82e(a)], the complaint is remanded to the investigator to attempt conciliation, and, if conciliation is unsuccessful, to then certify the complaint for public hearing. As the complaint is being remanded, the respondent's arguments to dismiss portions of the complaint as untimely need not be addressed at this time.

*Hartford Housing Authority, Frank Secondo v.*
9710713
Knishkowy, 6/9/00

Final decision. Judgment for the respondent. Held*:* (1) Entire complaint, as certified, properly before human rights referee, even though commission investigator found no reasonable cause on several of the allegations. (2) Because the respondent chose not to re-fill vacant foreman position in 1997, the complainant did not prove that the respondent's failure to promote him to foreman was motivated by his physical disabilities. Even if the respondent had filled the position, the complainant was not qualified. (3) The respondent did not harass the complainant because of his disabilities. (4) The respondent did not deny

overtime opportunities to the complainant because of his disabilities. (5) The respondent did not unlawfully withhold reasonable accommodations from the complainant. For some time, the complainant was able to perform the essential functions of his job without need for reasonable accommodations. After a work-related injury, there were no reasonable accommodations that would allow the complainant to perform the essential functions. (6) The respondent did not retaliate against the complainant for challenging promotional decisions made in 1995 and 1997.

*City of Hartford, Police Dept.., Dana Peterson v.*
0410049 *.*
(appeal pending)
Austin, 11/14/08

Final decision. Judgment for the respondent. The complainant alleged she was discriminated against as a consequence of her gender and disabilities (transsexual/physical and mental/gender dysphoria disorder). She further alleged that as a consequence of her having previously opposed an alleged discriminatory employment practice she was retaliated against by the respondent. Held: The complainant and commission failed to establish a prima facie case under the pretext model of analysis on most of the complainant's claims. As to the claims where the complainant successfully presented a prima facie case the legitimate business reason produced by the respondent for its decision was not proven to be a pretext for discrimination.

*Hartford Public Schools, Rosemarie Gill v.*
0010417
Knishkowy, 2/14/02

Ruling on interrogatories. Held*:* Interrogatories not allowed in administrative proceedings. Discovery is limited by the Uniform Administrative Procedure Act and the rules of practice to requests for production/disclosure of documents.

*Hartford Public Schools, Stephan Carretero v.*
0310481
Knishkowy, 11/28/05

Two-part motion for "Summary Disposition" denied. The complainant filed his initial complaint alleging that the non-renewal of his teaching contract was motivated by discrimination; in his amended complaint, he claimed that the respondent's refusal to replace the termination notice in his personnel file with a resignation letter was in retaliation for his initial complaint. Held*:* (1) the respondent's claim that complainant failed to exhaust administrative remedies raises a jurisdictional issue and thus is treated as motion to dismiss. The exhaustion doctrine applies when a party brings a complaint to the superior court without exhausting administrative remedies. In this case, the doctrine is not applicable; there is no legal justification, explicit or otherwise, or convincing policy argument for a complainant to exhaust remedies under Teacher Tenure Act (§10-151) before bringing a discriminatory termination claim to the CHRO. (2) The respondent also argues that the

complainant has not demonstrated that he suffered an adverse employment action, and that allowing the complainant to substitute a resignation letter at this time would compromise the respondent's ability to defend against the initial claim. Whether the complainant suffered an adverse employment action is an issue of material fact whose resolution is premature without further evidence. While the legal defense argument has been recognized as valid by various court decisions, in this case further evidence is needed before this tribunal can rule conclusively, especially in light of allegation that the respondent stated that its refusal to change the personnel file was due to the filing of the initial complaint.

*Hartford Roofing Co., Paula DeBarros v.*
0430162
Trojanowski, 05/10/05

Hearing in damages. The complainant alleged sexual harassment because of her sex and constructive discharge because of the harassment. The complainant was awarded back pay of $15,223.30; health insurance benefits of $8,254.82, and pre- and post-judgment interest.

*H.E.R.E. Local 217, David Joiner v.*
0410177
Austin, 07/21/06

Motion to dismiss granted. The complainant alleged that the respondent, his union, denied him representation and also aided and abetted his employer in denying him seniority rights he was entitled to under the collective bargaining agreement. Because resolution of the merits of the complaint would have required interpreting the collective bargaining agreement, the complaint was dismissed as preempted by § 301 of the federal Labor and Management Relations Act.

*Home & Life Security, Inc., Ira Ratner v.*
9930246
Manzione, 5/12/00

Motion to dismiss granted due to failure to cooperate. The complainant, who was represented by counsel, failed to comply with multiple orders. The complainant, himself, failed to attend a settlement conference without excuse or permission. The complainant also failed to file and serve a settlement conference report, failed to produce documents in compliance with a ruling on a motion to compel, filed to file and serve exhibit and witness lists, failed to bring exhibits to the prehearing conference and failed to return opposing counsel's telephone calls. Held*:* the human rights referee has authority to dismiss complaints pursuant to § 46a-54-101 of the Regulations. Also, the nature of the relationship between the attorney and his client is one of traditional agency. The acts of an attorney are ordinarily attributed to his client. Therefore, the severe inaction of the complainant or his attorney warrants dismissal of the complaint.

*Hospital for Special Care, Edwin Navarro v.*
9710678
Allen, 3/14/03

Final decision. The complainant alleged wrongful termination based on race, color, and gender, and discrimination based on disability alleged to be ADHD and learning disability; HELD: 1. Insufficient evidence presented to establish even prima facie case based on race, color or gender; 2. The complainant failed to show he was disabled according to law and thus prima facie case not established; 3. Alternatively, even assuming a prima facie case, the weight of evidence established that discharge was based on legitimate performance grounds and were not based on disability notwithstanding some credibility problems with the respondent's testimony; 4. The complainant did not properly allege a failure to accommodate claim which was asserted in its brief and in any event there was no evidence to support such a claim.

*Ice Cream Delight , Jane Doe (1993) v.*
9310191
Trojanowski, 9/1/99

Hearing in damages. Part-time yogurt store worker who was sexually harassed and terminated requested monetary damages consisting of back pay, front pay and compound interest. Held*:* (1) the complainant is entitled to two years back pay which terminated when she obtained a higher paying job; (2) the complainant not entitled to front pay because she was made whole economically by the award of back pay; (3) the awarding of interest and whether it is compounded is in the discretion of the presiding human rights referee. Compound pre-judgment interest awarded on the award of backpay from the date of the discriminatory act; (4) statutory post-judgment interest; and (5) Various equitable remedies.

*Imagineers, LLC , Edward J. Carey v.*
9850104
Wilkerson, 9/2/99

Motion to stay denied. The commission moved for stay of the proceedings because the complainant had filed an action in federal court. The complainant joined and the respondent did not object. Held*:* Res judicata and collateral estoppel are not valid reasons to grant a stay of proceedings, no duplication of efforts, no unnecessary costs, and discovery by the commission may be used to effect discovery in the federal action. No plausible reason existed to grant stay of proceedings.

*International Athletic Association of Basketball Officials, Lou Volpintesta v.*
9910120
Giliberto, 7/29/99

Hearing in damages. Part-time high school basketball referee awarded: (1) back pay (2) front pay (3) membership dues; (4) various equitable remedies.

*Jackson, Arlette, Johnmark & Clarissa v. Arlette Jackson*
0750001, 0750002
Knishkowy, 07/03/07

Ruling on request for production. Held: Notwithstanding the caption of this document, the respondent's pleading is, de facto, a set of interrogatories. Discovery is limited by the Uniform Administrative Procedure Act and the commission regulations to requests for production. Absent express authorization, interrogatories are impermissible.

*Jackson, Arlette, Johnmark & Clarissa Brown v.*
0750001, 0750002
Knishkowy, 11/17/08

Final decision. Judgment for complainants. Complainants husband and wife rented apartment from the respondent landlord. When husband lost his job after several months, he applied for rental subsidy. The respondent landlord refused to complete the requisite forms and husband ultimately could not complete his application to obtain the subsidy. The respondent offered myriad reasons for her refusal, many inherently inconsistent or simply not credible. Held: given liberal reading of fair housing statutes, and following logic of other cases, thwarting the complainant's ability to obtain subsidy is not meaningfully different than outright refusing to accept lawful subsidy. The landlord violated §46a-64c(a)(2). After refusing to help husband, the landlord engaged in a two month period of severe harassment of both complainants. Held: landlord's egregious, severe and pervasive actions and provocations were in retaliation for husband's attempt to obtain subsidy, and they created a hostile housing environment, violating both §§ 46a-64c(a)(2) and 46a-64c(a)(9).

*Jemison, Robert , Juliet Scott v.*
9950020
FitzGerald, 3/20/00

Hearing in damages. The complainant's motion for default for failure to file an answer was granted. The respondent's motions to dismiss and set aside default were denied. Case proceeded to a hearing in damages. The complainant was awarded $6,000 for emotional distress and $25,296.44 for attorney's fees and costs. The complainant alleged her landlord physically and verbally assaulted and harassed her, denied her equal services, and threatened her with eviction in violation of General Statutes § 46a-64c(a)(2) and (3) on the basis of her race and color. She also alleged retaliation for the filing of her complaint in violation of § 46a-60(a)(4).

*Jensen, Chad, Kimberly Lawton v.*
0550135
Austin, 10/18/07

Hearing in damages: The complainant who was harassed due to her race and color by a teenage neighbor brought an action under state and federal fair housing laws. The complainant was awarded damages for emotional distress, lost wages, and attorney's fees. The complainant's claims for damages against the teenager's mother pursuant to General Statutes § 52-572 and common law negligent supervisor were not allowed.

*John Brown Engineers & Construction, Inc., Inessa Slootskin v.*
9320167
FitzGerald, 4/29/03

Final decision after remand. The final decision was issued by the hearing officer in 1999. On appeal, the matter was remanded as to damages. On remand, the case was reassigned to a human rights referee who awarded front pay, prejudgment and post-judgment interest, and additional back pay and fringe benefits.

*Johnny's Pizza, Patricia Nicolosi v.*
9840466
Giliberto, 10/26/99

Complaint dismissed due to the complainant's failure to cooperate. Pro se complainant failed to attend scheduling conference and settlement conference without excuse or explanation.

*J.P. Dempsey's, Eileen O'Neill v.*
9430534
Knishkowy, 6/11/99

Ruling on interrogatories. Interrogatories not allowed in administrative proceedings. Discovery limited by Uniform Administrative Procedure Act and the rules of practice to requests for production.

*La Casona Restaurant, Jocelin Correa v.*
0710004
Wilkerson, 04/28/08

Hearing in damages. Held: Pursuant to the default order, the respondents were liable for discriminating against the complainant because of her pregnancy when they discharged her from employment. The complainant was awarded $19,404.88 for back pay, 10% pre-judgment interest of $1940.49, $2500 in emotional distress damages and post judgment interest of 10% per annum from the date of the final decision. The discriminatory act was not done in public and was not highly egregious; the emotional distress was not long in

duration; and the consequences of the discrimination were not found to be directly linked to the discriminatory act. The respondent was ordered to cease and desist from discriminatory practices, not to retaliate against the complainant and to post the commission's antidiscrimination posters in its workplace.

*L.G. Defelice, Inc., Guy Recupero v.*
0530022
Kerr, 4/10/08

Hearing in damages. Default entered for failure to answer in employment termination case predicated upon unlawful dismissal based upon mental disability (bipolar disorder). After hearing held damages awarded under CFEPA in the amount of $164,059.93, plus prejudgment interest, post judgment interest and $12,703 in reimbursement of unemployment compensation payments received. Request for front pay award denied.

*Landry, Margaret, dba Superior Agency, Tina Saddler v.*
0450057
Knishkowy, 5/23/06

Final decision. Judgment for the complainant. The complainant proved that the respondent, a real estate broker, denied her an apartment because of her lawful source of income (Section 8 assistance), in violation of § 46a-64c.

*Lawrence Crest Cooperative, Inc., Catherine Weller-Bajrami v.*
99500095, 9950096
Trojanowski, 8/28/01

Hearing in damages. Claim by a tenant of the respondent and her children that they were discriminated against because of her race, white, her sex, female, and her physical disability, chronic ulcerative colitis. The complainant’s children were not awarded any damages. The complainant was awarded the following types of damages: security deposits, moving costs, rent differentials, the cost of alternative housing, utility (electric bill) differentials, $20,000 for her emotional distress and $6,562 for attorney’s fees.

*Lee, Tony d/b/a Better Built Transmissions, Alex Smith v.*
0130212
FitzGerald, 7/27/01

Hearing in damages. The complainant alleged racial discrimination by his employer resulting in disparate treatment, hostile work environment, and constructive discharge. The complainant awarded $48,496 in back pay and front pay, together with prejudgment and postjudgment compounded interest.

*Lighthouse Inn, Jennifer Swindell v.*
0840137
Kerr, 1/29/09

Hearing in damages. Default entered for failure to answer in an employment case claiming retaliation and termination on the basis of race (African-American) and having opposed discrimination. The complainant awarded back pay ($8,000), emotional distress ($1,000) and prejudgment and postjugment interest.

*Lowe's Home Centers, Inc., Michael Baker v.*
0430307
FitzGerald, 11/18/05

Motion to amend the complaint to add claims of retaliation and national origin discrimination Denied. The complaint alleged that the respondent terminated the complainant's employment because of his age. The allegations of retaliation and national origin discrimination had not been alleged in the complaint, investigated by the commission during or raised by the complainant during the pre-certification factfinding investigation, or supported by any factual findings in the reasonable cause finding. The motion is denied because the requirement under § 46a-83, that the investigator list the factual findings on whether there is reasonable cause to believe that retaliation and national origin discrimination occurred, is a condition precedent to a hearing on those allegations.

*Lowe's Home Centers, Inc., Michael Baker v.*
0430307
FitzGerald, 01/23/06

Motion to compel denied for failure to articulate an explanation of how the requested documents were relevant and material to the facts of the case.

*Lowe's Home Centers, Inc., Michael Baker v.*
0430307
FitzGerald, 01/23/06

Motion to compel denied. The respondent's requested documents to contest the commission's finding of reasonable cause. However, the public hearing is a hearing on the merits and not an appeal of the commission's pre-certification processing of the complaint. General Statutes § 46a-84 (b).

*Lutkowski, Debra and Paul Pixbey, Gloria Jackson v*.
0950094 & 0950095
Austin, 5/25/10

Hearing in Damages. The complainant had alleged that she was harassed due to her race and color by her neighbors (the respondents). The complainant was awarded damages for

emotional distress (anxiety along with loss of weight and sleep) and for damage caused to her car.

*Mama Bears LLC, Keith Davis v.*
0430103
FitzGerald, 08/29/05

Motion to amend the complaint to add a respondent denied without prejudice because there was no verification that the motion and proposed amendment had been received by the proposed respondent. As a matter of due process, the proposed respondent is entitled to notice and opportunity to be heard on the motion.

*Mediplex of Greater Hartford, Benjamin Uel v.*
9910193
Knishkowy, 9/8/00

Motion to dismiss denied. Held*:* Under certain circumstances, as in this case, a prior arbitration award adverse to the complainant does not bar the complainant from bringing a subsequent action with the commission and has no preclusive effect on the facts and issues raised therein.

*Mental Health & Addiction Services, Dept. of, Meredith Payton v.*
0220396
FitzGerald, 6/8/04

Motion in limine denied for failure to explain its legal position and to provide supporting documentation and affidavits.

*Mental Health & Addiction Services, Dept. of, Frederica Dako-Smith v.*
0020228 & 0220142
(appeal dismissed)
Austin, 04/12/07

Final decision. Judgment for the respondent. African-American complainant alleged that the respondent discriminated against her by subjecting her to disparate treatment and a hostile work environment. In Case No. 0220142 the complainant alleged as a result of her filing with CHRO the respondent retaliated against her by filing a complaint with the Connecticut Department of Health. Held: The complainant failed to sustain her burden of proving a prima facie case in both complaints as to claims of discrimination and retaliation. (Transcript of decision)

*Mental Health & Addiction Services, Dept. of, Meredith Payton v.*
0220394
FitzGerald, 7/6/06

The respondent's motion to dismiss, instead treated where appropriate as a motion for summary judgment and a motion to strike, granted. The complainant alleged that the respondent discriminated against him on the basis of religion. The complainant did not establish an adverse employment action or that similarly situated co-workers were being treated differently. The complainant's proposed relief would have required the respondent to violate the Establishment Clauses of the federal and state constitutions.

*Mental Health & Addiction Services, Dept. of, Patricia Robinson v.*
0630292
Knishkowy, 3/26/08

Ruling on motion to dismiss: The motion to dismiss is denied with one exception. (1) the respondent argued this employment discrimination claim was barred by doctrine of sovereign immunity. The respondent relied upon *Lyon v. Jones*, 104 Conn. App. 547 (2007), cert. granted, 285 Conn. 914 (2008) in support of assertion that this tribunal lacks jurisdiction because the complainant did not obtain permission to sue from the state claims commissioner. The respondent erred because General Statutes § 4-142 exempts from the claims commissioner's purview "claims for which an administrative hearing procedure otherwise is established by law." The CHRO administrative process for discrimination claims is precisely the type envisioned here. (2) The respondent also incorrectly claimed that this tribunal has no jurisdiction over federal claims. Case law has clarified that General Statutes § 46a-58 (a) expressly converts a violation of federal antidiscrimination law into a violation of Connecticut antidiscrimination laws. § 46a-58 (a) does not include "age" as one of the listed protected classes, so the federal Age Discrimination in Employment Act cannot be raised via 46a-58 (a) and must be dismissed. The complainant's federal race, color, physical disability, and retaliation claims remain viable through 46a-58 (a).

*Mental Retardation, Dept. of, Salvatore Feroleto v.*
0510140
Knishkowy, 8/27/07

Motion to dismiss denied. The respondent employer moved to dismiss complaint (or portions thereof) as untimely because some of the alleged discriminatory acts occurred beyond the statutory filing period. The filing requirement is not jurisdictional, but is like a statute of limitations, with which one must comply absent factors such as waiver, consent or equitable tolling. (1) Although untimely discrete acts may be barred even if they are related to timely acts, the vaguely-asserted allegations in the complaint lack details and pertinent dates; only after further evidence can this tribunal determine which acts fall within, and which beyond, the filing period. (2) Because the complainant alleges ongoing harassment (due to his disability), he is entitled to adduce evidence at trial to demonstrate a hostile work environment, which would toll the filing requirement. (3) The complainant

should also be allowed to adduce evidence to show that the other actions alleged in his complaint (e.g., ongoing unequal pay, ongoing denial of reasonable accommodations) constitute a "policy or practice" of discrimination, which might also toll the filing requirement.

*Meriden, City of, Laurence Jankowski v.*
9730288
FitzGerald, 4/6/00

Final decision. Judgment for the respondent. The complainant, a firefighter, alleged a violation of General Statutes § 46a-60(a) on the basis of age (65) when the respondent involuntarily retired him under its mandatory retirement policy. Held*:* The respondent's mandatory retirement age of 65 for its firefighters is a per se statutory bona fide occupational qualification under §§ 7-430 and 46a-60(b)(1)(C). The complaint is dismissed.

*Metro-North Railroad Co., Holger Ocana v.*
0630645
(appeal dismissed)
FitzGerald, 10/16/08

Motion to dismiss granted. The complainant alleged that the respondent violated General Statutes §§ 46a-58 (a) and 46a-60 (a) (1) and also Title VII and the Age Discrimination in Employment Act when it failed to promote him because of his age and national origin. The respondent filed a motion to dismiss claiming that the commission lacked subject matter jurisdiction. The respondent argued that it is a wholly-owned subsidiary of the Metropolitan Transportation Authority, organized under the laws of the State of New York. As a result of a compact between Connecticut and New York, codified in General Statutes §§ 16-343 and 16-344, the respondent operates a commuter rail service in Connecticut and is exempted by Connecticut's legislature from state regulation, including exemption from Connecticut's anti-discrimination laws.

Held: the respondent is in the business of providing mass transportation and railroad service pursuant to the Connecticut – New York compact and is the beneficiary of the exemption in § 16-344 (a). Its promotion of employees involved in its mass transportation and railroad service is within its routine and normal business operations. Based on the Connecticut Supreme Court's decision in *Greenwich v Connecticut Transportation Authority*, 166 Conn. 337 (1974), the exemption in § 16-344 (a) applies to this case. Therefore, the commission lacks subject matter jurisdiction of this claim and the motion to dismiss is granted.

*Metro-North Railroad Co., Robert Vidal v.*
0630646
(appeal dismissed)
FitzGerald, 10/16/08

Motion to dismiss granted. The complainant alleged that the respondent violated Title VII and General Statutes §§ 46a-58 (a) and 46a-60 (a) (1) when it failed to promote him

because of his national origin and color. The respondent filed a motion to dismiss claiming that the commission lacked subject matter jurisdiction. The respondent argued that it is a wholly-owned subsidiary of the Metropolitan Transportation Authority, organized under the laws of the State of New York. As a result of a compact between Connecticut and New York, codified in General Statutes §§ 16-343 and 16-344, the respondent operates a commuter rail service in Connecticut and is exempted by Connecticut's legislature from state regulation, including exemption from Connecticut's anti-discrimination laws.

Held: the respondent is in the business of providing mass transportation and railroad service pursuant to the Connecticut – New York compact and is the beneficiary of the exemption in § 16-344 (a). Its promotion of employees involved in its mass transportation and railroad service is within its routine and normal business operations. Based on the Connecticut Supreme Court's decision in *Greenwich v Connecticut Transportation Authority*, 166 Conn. 337 (1974), the exemption in § 16-344 (a) applies to this case. Therefore, the commission lacks subject matter jurisdiction of this claim and the motion to dismiss is granted.

*Milford Automatics, Inc., John Chilly v.*
9830459
Knishkowy, 10/3/00

Final decision. Judgment for the complainant. The complainant was terminated from employment when he showed up for work with Bell's palsy. The respondent claimed it terminated the complainant for poor work quality and had been planning to do so for some time. Although the complainant failed to prove that he was disabled under the ADA or CFEPA, he did prove that the respondent regarded him as disabled under CFEPA. The complainant established a strong prima facie case and proved that, under the circumstances of the case, the respondent's proffered reason was unworthy of credence.

*M.N.S. Corporation, Robert Williams v.*
0010124
Knishkowy, 3/1/01

Hearing in damages. The respondent's liability determined by entry of order of default. Award of back pay made to black employee who was terminated from truck-driving position and subsequently replaced by white driver.

*Mortgage Company of America, David Mejias v.*
0630076
Knishkowy, 3/22/07

Hearing in damages. By virtue of default, the respondent deemed liable for national origin discrimination for its treatment (i.e., "terms and conditions of employment") and ultimate constructive discharge of the complainant. Pursuant to §46a-86(b), the referee awarded the complainant $43,214 for back pay and unpaid commissions, along with compounded pre-judgment and post-judgment interest.

*Mortgage Company of America, Kevin Rhodes v.*
0630040
Knishkowy, 3/15/07

Hearing in damages. By virtue of default, the respondent liable for race discrimination for its treatment (i.e., "terms and conditions of employment") and ultimate termination of the complainant. Pursuant to §46a-86(b) the referee awarded the complainant $33,960 for back pay and unpaid commissions, along with compounded pre-judgment and post-judgment interest.

*Motor Vehicles, Dept. of, Florence Parker-Bair v.*
0510486
Austin, 12/15/09

Motion to dismiss granted. Held: The respondent moved to dismiss complaint's allegations of retaliation for having previously opposed discrimination due to the lack of jurisdiction. The basis for the respondent's motion was that the commission's investigator did not find reasonable cause as to the claim of retaliation. Not only was there no reasonable cause found, the investigator opined that filing with the commission resulted in the complainant's promotion. There being no reasonable cause found to believe that retaliation may have occurred deprives this tribunal of jurisdiction to hear this claim.

*Mothers Works, Inc., Alexis Gillmore v*
0330195
Trojanowski, 9/30/03

Hearing in damages. The complainant was terminated because of her gender, familial status and her pregnancy. Damages included back pay.

*Napoli Motors , Stephen Ceslik v.*
0030569, 0030586, 0030587
Knishkowy, 2/15/02

Motion to disqualify opposing counsel denied. Held: The law firm of a lawyer who represented the complainant many years ago now represents the respondents in the present action. The complainant moved to disqualify the firm and its members under Rule 1.9 and 1.10 of the Rules of Professional Conduct. Because the earlier representation bears no "substantial relationship"—in fact, no relationship at all—to the present matter, no violation of the Rules exists.

*Napoli Motors , Stephen Ceslik v.*
0030569, 0030586, 0030587
Knishkowy, 3/21/02

Motion to strike special defenses granted. The respondent raised two special defenses predicated upon prior findings and determination of the commission investigator as to some

of the allegations in the complaint. However, the complaint was certified to hearing in its entirety, and thus, the referee must conduct a de novo hearing on the entire complaint; the respondent cannot successfully base special defenses solely on the investigator's report.

*Naugatuck, Borough of, Roberta A. Dacey v.*
8330054
Wilkerson, 8/10/99

Order for relief on remand. Calculation of backpay. Held*:* (1) The complainant vigorously litigated her discrimination claim for damages and is entitled to full amount of backpay; (2) Prejudgment interest is an appropriate element in a backpay award; and (3) Fringe benefits are an appropriate element in a backpay award.

*Neil Roberts, Inc, Rosa DiMicco v.*
0420438
Kerr, 9/12/06

Hearing in damages. Default entered for failure to answer in employment termination case predicated upon sexual harassment and retaliatory dismissal. The complainant was awarded back pay ($7,220), lost benefits ($3,699), emotional distress ($6,000) and prejudgment interest ($4,740).

*Neil Roberts, Inc., Rosa DiMicco v*
0420438
Kerr, 11/16/06

Final decision on reconsideration. The complainant requested a reconsideration of the final decision dated September 12, 2006, wherein the referee declined to award attorney's fees because the complainant supplied inadequate documentation to support an award. Held: After granting the motion to reconsider, and reviewing a detailed itemized bill with proposed hourly rates, the referee awarded $10,369.39 in attorney's fees, rejecting the proposed lodestar fee of $17,282.31 as unreasonable and out of proportion with the effort put forth and the result obtained.

*New Britain, City of, Brian Kelly v.*
0210359
Trojanowski, 10/18/04

Motion to dismiss denied. The respondent argued that (1) the complainant not physically disabled as defined under the ADA, Rehabilitation Act, or § 46a-60(a)(1) and (2) the complaint was barred by the statute of limitations because it was filed more than 180 days after the filing of the complaint. The respondent's first argument is more properly a motion for summary judgment and was treated as such. The motion denied in its entirety.

*New Britain, City of , Lynne Kowalczyk v.*
9810482
(appeal dismissed)
Knishkowy, 3/15/02

Final decision. Judgment for the respondents. Three public school employees were transferred to other schools because their strained and volatile interpersonal relationships demonstrated a potential for disruption in the school where all three worked. The complainant brought this action against the city, the board of education, and two administrators, alleging that the transfer was based on her mental disability and her sexual orientation. Held: (1) complainant failed to meet her prima facie case for each claim, because her transfer was not an "adverse employment action;" (2) complainant failed to demonstrate, for purposes of her prima facie burden, that she was transferred "because of" her disability; (3) complainant failed to demonstrate, for purposes of her prima facie burden, any circumstances giving rise to an inference of discrimination based on her sexual orientation; (4) individual respondents not liable, as matter of law, under ADA, General Statutes §46a-60(a)(1), or §46a-81c; (5) complainant failed to prove facts showing individual respondents aided or abetted discriminatory practice in violation of §46a-60(a)(5).

*New Britain Transportation Co., Stacy Maher v.*
0330303
Kerr, 04/17/06

Final decision. Case dismissed. The complainant claimed discrimination as a result of her gender in her rate of pay, being passed over for promotion, being offered a promotion on lesser terms than males, having her hours reduced and being constructively discharged. The complaint was brought under CFEPA, Title Vll and the Equal Pay Act. After full hearing the complaint was dismissed for failure to establish a prima facie case as some allegations did not constitute adverse employment actions and others were under circumstances where no improper animus could be inferred.

*New Haven, City of, Willie Leslie v.*
9830575
Allen, 9/1/99

Hearing in damages. Held*:* (1) Request to suspend hearing denied as being unreasonable after five prior continuances; and (2) the complainant and the commission's failure to appear and produce evidence of damages and prospective relief required results in dismissal.

*New Horizons Learning Center, William Abildgaard v.*
0110495
FitzGerald, 08/07/03

Motion to amend complaint granted. Complaint may be amended to correct an address, change a date and to add respondent's parent corporation as a respondent.

*New Horizons Learning Center, Paul L'Annunziata v.*
0210153
FitzGerald, 08//07/2003

Motion to amend complaint granted. Complaint may be amended to change a date and to add respondent's parent corporation as a respondent.

*New London, City of, Armando Esposito v.*
9340530
Allen, 10/21/99

Final decision. Judgment for the respondent. Held*:* (1) General Statutes §§ 7-430 and 46a-60(b)(1)(C) provide that age 65 is a legislatively accepted BFOQ for firefighters in Connecticut; and (2) the evidence submitted in this matter establishes that age 65 is a BFOQ for municipal firefighters.

*Nine West Group, Inc., Tampiepko Tion Cuffee v.*
9720038
Trojanowski, 5/7/99

Motion to dismiss granted. The human rights referee granted a joint motion from the commission and the respondent based on the complainant's failure to respond to written and telephonic conversations for over a year.

*North East Transportation Company, Inc., Philip Baroudjian v.*
0430505
(appeal dismissed)
Wilkerson Brillant 07/16/08

Final decision. Judgment for the respondent. The complainant alleged discrimination in the terms and conditions of his employment on the basis of his race, color, alienage, national origin and ancestry (Arabic). Held: The commission and the complainant failed to prove under both the mixed motive and pretext analyses that the respondent discriminated against the complainant by treating him differently than non-basis similarly situated employees because of his ancestry and national origin (Arabic) when it suspended him for one day and warned him.

*Norwalk, City of, Martin H. Maier v.*
9320024
*Norwalk Municipal Employees Assoc., Martin H. Maier v.*
9320026
FitzGerald, 9/29/99

Final decision. Judgment for the respondents. The complainant failed to prove *prima facie* case and intentional age discrimination.

*Norwalk, City of, Board of Education, John J. Saunders v.*
9820124
(appeal dismissed)
Wilkerson, 9/29/00

Final decision. Judgment for the complainant. Held*:* (1) The complainant established prima facie case in failure to promote race, age, and color discrimination case and the respondent's proffered legitimate reasons were false thus pretextual; (2) the complainant teacher applied for the position/promotion of assistant principal and was denied position due to his race, age, and color; (3) the respondent did not satisfy its burden of proving The complainant failed to mitigate; (4) Award for back pay damages of $56,390.00 plus pre-and post-judgment interest and front pay of $18,796.67 per year until the respondent offers the complainant the next available assistant principal position or until retirement.

*Olsten Services, Inc., Kim Brown v.*
9920046
(appeal dismissed 11/10/99; following appeal, stipulated judgment)
Giliberto, 2/19/99

Motion to open default granted. Held*:* (1) human rights referee has authority at default hearing to open default entered by acting executive director (2) matter referred back to investigative office.

*Pace Motor Lines, Roger A. Czuchra v.*
0820039
Austin, 10/22/10

The respondent's motion to subpoena witness to a deposition denied. The respondent argued that CGS 51-85 authorized the issuance of a subpoena to depose a witness it intended to call at trial. The respondent further proffered that given that the intended witness gave testimony that conflicted with a previously sworn to affidavit, good cause existed to issue a subpoena. Held: CGS 51-85 does not authorize the issuance of a subpoena to depose a witness in agency proceedings and that the conflict between the testimony and affidavit can be brought out at trial.

*Payless Shoesource, Inc., Sheron Rose v.*
9920353
FitzGerald, 11/1/99

Hearing in damages. Employee terminated from employment on the basis of national origin and ancestry, and for opposing the respondent's discriminatory employment practice. The complainant was awarded front pay, backpay, and other equitable remedies.

*Peluso, George, Dennis Perri v.*
0750113
Austin, 6/13/08

Motion to dismiss denied. The respondent alleged that because the complaint that was filed beyond the 180 day filing requirement, it was untimely filed and the commission subject matter jurisdiction. Held: the 180 day filing requirement does not confer subject matter jurisdiction but is more similarly related to a statute of limitation subject to equitable tolling. Based on the actions taken by the CHRO investigator, the filing by the complainant Sonia Perri was subject to equitable tolling.

*Pennino, Marc & Marie, and John & Karen Bauco, Nicole Thompson v*
0450008
(appeal withdrawn)
Austin, 03/02/07

Final decision. Judgment for the complainant. Held: The complainant proved she was denied an advertised apartment for rent due to her source of income (section 8) in violation of 46a-64c (a) (3). The basis of the finding was found under a strict liability interpretation of the statute in that the respondents stated to the complainant that section 8 was not being accepted. Damages for both emotional distress and loss of the section 8 benefit were awarded totaling $15,280.69. Attorney fees were awarded in the amount of $42,493.50 after having reduced the original fee request.

*Pennino, Marc & Marie, Nicole Thompson v.*,
0450008
(appeal withdrawn)
Austin, 07/08/07

Final decision on reconsideration. The respondent's petition for reconsideration requested that certain factual findings be corrected to comport with the testimony at the public hearing along with reconsideration of legal conclusions reached that supported the finding in complainant's favor. Held: After granting the petition to reconsider, and having conducted a hearing on the respondent's petition the final decision was modified to correct two facts (paragraphs 12 and 24) contained therein. In all other respects the decision was affirmed as originally rendered.

*Peter Pan Bus Lines, Samuel Braffith v.*
0540183
Wilkerson Brillant, 11/13/09

Motion in limine denied. The respondent moved to exclude evidence regarding the complainant's emotional distress damages because it posited that the commission does not have the authority to award emotional distress damages in employment discrimination cases where § 46a-60 is alleged. This tribunal awards emotional distress damages based on the premise that when a respondent has violated a federal law, e.g., Title VII, covered under § 46a-58 (a); then remedies under § 46a-86 (c), which include emotional distress damages, are available.

*Pleasant Valley Mobile Home Park, Stephen Kondratowicz v.*
0250051
FitzGerald, 6/4/02

Ruling on motion to amend complaint. The commission's motion granted to amend complaint adding three respondents and an additional act of retaliation. The commission's motion was timely filed, no showing of prejudice to the respondents, and the additional respondents will enable a complete determination of the issues.

*Pollack's, Sheila Allen v.*
9710692
Manzione, 6/17/99

Motion to dismiss granted. At a public hearing, the human rights referee granted a motion to dismiss from the respondent's counsel (with the support of the commission) based on complainant's failure to cooperate. (The complainant was pro se and failed to respond to numerous communications from the commission counsel and the Office of Public Hearings).

*Pond Point Health Care Center d/b/a Lexington Health Care, Henrietta Lorraine Stevens Samuel v.*
0230332
Wilkerson, 9/9/04

Hearing in damages. The respondent was defaulted for failure to appear at a hearing conference and failure to file an answer. The respondent had terminated/suspended and harassed the complainant multiple times during her employment with the respondent. Discrimination and retaliation based on race, color (Black) and physical disability (hypertension cardiac). The complainant was awarded $17,788.95 for back pay and $1,778.89 for prejudgment interest and 10% per year for postjudgment interest.

*Pratt & Whitney Aircraft, Bruce Alexsavich & Ronald Ferguson v.*
9330373, 9330374
Manzione, 10/4/00

Final decision. Judgment for the respondent. Held*:* The complainants proved a prima facie case because they were members of a protected class under the ADEA (over age 40), qualified for the position, demoted under circumstances giving rise to an inference of age discrimination. They failed, however, to meet their ultimate burden of proving age discrimination because they did not prove that the respondent's legitimate, non-discriminatory reason of selection for the reduction in force (RIF) based on performance was pretextual.

*Procter & Gamble Pharmaceuticals, Inc., John Crebase v.*
0330171
FitzGerald, 09/07/05

Motion for sanctions granted. The respondent moved that the complainant be sanctioned for failure to comply with the presiding human rights referee's order to produce documents. The complainant is sanctioned as follows: (1) it is established that the respondent did not terminate the complainant's employment because of his mental disorder; (2) no evidence shall be introduced that the respondent terminated the complainant's employment because of his mental disorder and (3) no evidence shall be introduced that the complainant has a mental disorder.

*Procter & Gamble Pharmaceutical, Inc., John Crebase v.*
0330171
(appeal withdrawn)
FitzGerald, 07/12/06

Final decision. Judgment for the complainant. The complainant established that the respondent violated General Statutes §§ 46a-58 (a) (Title VII) and 46a-60 (a) when it terminated his employment because of his age, sex and mental disability. The complainant was awarded damages including two years of back pay, reinstatement, pre-and post-judgment interest, and emotional distress.

*Professional Help Desk , Thomas E. Shulman v.*
9720041
(appeal dismissed)
Trojanowski, 6/7/00

Final decision. Judgment for the complainant. Held*:* (1) The complainant is an "individual with a disability" due to his physical impairment of being a wheelchair-bound paraplegic which was found to substantially limit the major life activities of walking and running; (2) The complainant was qualified to perform the essential functions of the job because of his educational background and prior work experience; (3) The complainant requested four reasonable accommodations in order to assist him in performing the essential functions of

his job which the respondent never provided; (4) The respondent never introduced any evidence of undue hardship; (5) The complainant's impairment of being a wheelchair-bound paraplegic met both of the definitions of "physically disabled" as well as "reliance on a wheelchair" under state law; and (6) The complainant proved that he was retaliated against through his discharge for exercising his right to request reasonable accommodations under the ADA.

*Public Health, Dept. of, Pamela Hodge v.*
9710032
(appeal dismissed)
Manzione, 10/6/99

Final decision. Judgment for the complainant. Held*:* The respondent is ordered to promote the complainant and pay her backpay with simple interest. Although the complainant did not formally apply for the position when it was posted, she made enough efforts to find out about the position while she was out on a maternity/medical leave to meet the application requirement under *McDonnell Douglas*. She should have been considered for the position and had she been considered, she would have been hired based on her education, training, experience and status as an affirmative action goal candidate.

*Public Health, Dept. of, Joel Matson v.*
9930311
Wilkerson, 03/25/04

Motion for sanctions granted in part, denied in part. The commission on Human Rights and Opportunities requested sanctions imposed on the respondent for failure to comply with the Referee's ruling on a motion to compel which ordered the respondent to produce certain production requests during document discovery. The respondent did not respond to the motion for sanctions within the allotted fourteen days per Connecticut Rules of Practice nor did the respondent ever provide pertinent law to support its position not to comply with the order to produce the requested documents. The Referee imposed sanctions on the respondent in that an order was entered finding: that the complainant was treated differently (less favorably) than similarly situated employees not in the complainant's protected class; that similarly situated employees not in the complainant's protected class were never placed on administrative leave for having filed work place violation reports; and that the respondent is excluded from introducing into evidence documents or testimony regarding the complainant's alleged symptoms or patterns of retaliation and recrimination used as a defense.

*Pulte Homes, Inc., Michele Milton v.*
0630188
(appeal withdrawn)
FitzGerald, 12/03/09

Final decision. The complainant alleged that the respondent, her former employer, violated General Statutes §§ 46a-58 (a) and 46a-60 (a) (1) and Title VII when she was harassed, received unequal pay and was subsequently terminated because of her age and sex. Held:

the commission did not establish by a preponderance of the evidence that that the complainant was harassed or terminated because of her sex or her age. The commission, though, did establish by a preponderance of the evidence that the complainant received less compensation than similarly situated non-basis sales managers because of her sex and/or age and relief awarded.

*RCK Corp. dba JP Dempsey's, Kevin Langan v.*
0730256
Knishkowy, 1/15/09

Motion to compel granted. The complainant was terminated from his position as "bar manager" in the respondent restaurant, allegedly because of his disabilities (real and/or perceived). The commission filed request for production that included requests for information about other employees--information likely found in personnel files. The respondent objected to certain requests for disclosure as overly burdensome, not "germane" to the complaint, and protected by the privacy rights of other employees. Ruling: (1) a claim of "unduly burdensome" requires some explanation of the nature of the burden; mere recitation of the phrase is insufficient; (2) because the complainant/commission are comparing the respondent's treatment of the complainant with that of other employees, certain information about other employees may be relevant or, when disclosed, may lead to the discovery of relevant information; (3) Although General Statutes § 31-128f protects the confidentiality and integrity of personnel files, there are several narrow exceptions, one of which allows disclosure "pursuant to a lawfully issued administrative summons or judicial order . . . or in response to . . . the investigation or defense of personnel-related complaints against the employer."

*Regional School District No. 7, Joyce Sperow v.*
0130607
Kerr, 12/01/05

Motion to dismiss granted. Teacher termination matter based upon sex (female) age and religion (Methodist). Motion predicated on res judicata and collateral estoppel as a result of termination being upheld by impartial state hearing panel (General Statutes 10-151) and superior court on appeal from panel ruling. Motion granted as to claims under General Statutes 46a-60(a)(1) and the ADEA. Motion denied as to claims under General Statutes 46a—58(a) and Title VII.

*Regional School District No 7, Joyce Sperow v.*
0130607
Kerr, 01/04/06

Motion for reconsideration denied. Held: The request did not meet the statutory standards warranting reconsideration and grossly mischaracterized the final decision by not recognizing that while certain of the complainant's claims were found to be barred by issue preclusion (back pay, reinstatement), others (injunctive relief) were protected by the

provisions of the Civil Rights Act of 1991 and the matter could proceed on the limited basis authorized therein.

*Revenue Services, Dept. of, Shared Saksena v.*
9940089
(appeal withdrawn)
Knishkowy, 8/9/01

Final decision. Judgment for the respondent. The complainant suffered from depression and sought, as accommodation, the ability to work at home. When his request was denied, he resigned. In this instance, working at home was not a reasonable accommodation. Furthermore, the respondent did provide other reasonable accommodations to complainant. The complainant also failed to prove constructive discharge because he was unable to prove that the respondent denied him a reasonable accommodation and because he was unable to show that the respondent intentionally created a work environment so intolerable that would force a reasonable person to resign voluntarily.

*Rinaldi, Raymond & Sylvia, JoAnn Andrees v.*
0650116
FitzGerald, 12/10/08 :

Final decision. Judgment for the respondents. The complainant alleged that the respondents discriminated against her in violation of 42 U.S.C. §§ 1981, 1982 and Title VIII and also General Statutes §§ 46a-58 (a) and 46a-64c (a) (1) and (2) when they refused to rent a condominium unit to her because of her race and color. Held: The commission and the complainant cannot establish their prima facie case and/or cannot establish by a preponderance of the evidence that the respondents intentionally discriminated against the complainant because of her race and color because they failed to provide credible persuasive evidence that the respondents knew the complainant was black.

*Ritz Realty, Quality Towing, Laurie Turner v.*
9920135, 9920136
FitzGerald, 6/22/99

Hearing in damages. Criteria for emotional distress damages. One complainant is awarded $125.00 in economic damages.

*Roadway Package Systems, Inc. , Kathrine Vendryes v.*
9830539
Knishkowy, 11/18/99

Ruling on Interrogatories. Interrogatories not allowed in administrative proceedings. Discovery limited by the Uniform Administrative Procedure Act and the rules of practice to requests for production.

*Rockhead, Doreen, Caterina Caggiano v.*
0450017
Trojanowski, 05/05/04

Hearing in damages. Housing case. The complainant was awarded $210 in compensatory damages for medical care, $150 for attorney's fees, $4,500 for emotional distress damages and post judgment interest of 10% per annum.

*Rosen, Dr. Fredric, DDS, Barbara G. DeRosa v.*
9830057
Giliberto, 7/22/99

Motion to dismiss denied. Motion to amend granted in part. Held*:* (1) Complaint may be amended to correct statutory bases for discrimination; (2) General Statutes § 46a-60(a)(1) imposes individual liability; (3) complaint may be amended to cite in the proper respondent; (4) claim pursuant to § 46a-60(a)(5) may not be added to the complaint.

*Rosen, Dr. Fredric, DDS, Barbara G. DeRosa v.*
9830057
Giliberto, 8/17/99

Motion to dismiss federal claims granted in part. Federal claims under ADEA and ADA are dismissed due to employer having less than minimum number of employees.

*Rosen, Dr. Fredric, DDS, Barbara G. DeRosa v.*
9830057
Giliberto, 8/20/99

Motion to stay pending declaratory ruling from the commission denied. Held*:* (1) executive director cannot file motions as she is represented by the commission counsel; (2) chief human rights referee performs administrative function and cannot rule in place of presiding human rights referees; (3) the human rights referees have duty to address matters in more expedient fashion than the court system; and (4) declaratory rulings are no more binding than final decisions in other contested cases and do not require halt to all potentially related proceedings.

*Ruellan, Andre, Jeffery Daniels v.*
0550012
Kerr, 11/6/06

Final decision. The complainant alleged that he was discriminated against in being denied rental housing on the basis of disability and source of income. The respondent denied the claim based on disability and rebutted the source of income claim by stating that his denial was predicated on the permissible consideration of insufficient income. Held: The disability claim was dismissed for lack of evidence and judgment for the complainant was entered on the source of income claim. The formula the respondent had used to determine insufficient

income was legally flawed, and could be applied so as to eliminate virtually all Section 8 applicants. The complainant was awarded $4275 plus interest for all claims (which sum included a small award for emotional distress) and complainant's counsel was awarded a discounted attorney's fee in the amount of $10,150.

*Sam's Club, Wal-mart Stores Inc., Cori Tavares v.*
9730092
(decision vacated on appeal by stipulated judgment)
Wilkerson, 11/8/99

Final decision. Judgment for the respondent due to the complainant's failure to appear for the public hearing. Sanctions in the form of attorney fees and court reporter costs imposed against the complainant's attorney.

*Seafood Peddler, Maria S. Rountree v.*
9830387
FitzGerald, 5/14/99

Motion to amend complaint denied. Provides criteria for amending complaints to add complainants/respondents.

*SNET Co., Devon Green v.*
9420217
Knishkowy, 4/12/00

Ruling on interrogatories. Held*:* Interrogatories not allowed in administrative proceedings. Discovery is limited by the Uniform Administrative Procedure Act and the rules of practice to requests for production.

*Sno White Avenue Car Wash, David Graves, Jr. v.*
0330082
Wilkerson, 02/08/06

Final decision. Judgment for the respondent. Held: The complainant proved that the respondent's proffered business reason for terminating his employment was false, but he failed to prove that the false reason was a pretext for discrimination. The record revealed non-discriminatory reasons for the termination and, therefore, the complainant failed to prove by a preponderance of the evidence that the respondent terminated him because of his Puerto Rican ancestry.

*Social Services, Dept. of, Lisa Charette v.*
9810371, 9810581
FitzGerald, 4/26/01

Final decision. Judgment for the respondents. The complainant alleged harassment based on disability, retaliation, sexual harassment, and failure to provide reasonable

accommodation for her disability. Held*:* (1) Upon motion to dismiss by the respondents for lack of jurisdiction, the allegations for which no reasonable cause was found (harassment based on disability and retaliation) were dismissed at the commencement of the public hearing. (2) The sexual harassment allegation was dismissed. Evidence alleging the conduct occurred was not credible. Alternatively, the conduct, even if it occurred, did not rise to the level of actionable harassment. Also, the complainant unreasonably failed to utilize the employer's complaint procedure and to cooperate in the employer's investigation. (3) The allegation of failure to provide reasonable accommodation was dismissed. Reasonable accommodation is required under state antidiscrimination law. The complainant rejected the respondents' offer of a reasonable accommodation relative to the complainant's arrive time to work. The complainant failed to participate in the requisite good faith interactive process to determine the necessity of the requested private office, job restructuring, and special light bulbs.

*Southern Connecticut State University, John Pappy v.*
0730288
FitzGerald, 06/28/10

Motion to compel denied. The respondent sought all medical records from 1997 to date because the complainant claims damages for emotional distress. The respondent also sought personnel records from the complainant's employers prior to the respondent hiring the complainant in 1989. Ruling: (1) the medical records are exempt from disclosure because the complainant is alleging "garden variety" emotional distress, and psychological and mental conditions are not elements in a claim for garden variety emotional distress and (2) employment records from over twenty years ago are not relevant and material to the employment conditions alleged by the complainant or to the defenses raised by the respondent in its answer.

*Southern Connecticut State University, John Pappy v.*
0730288
FitzGerald, 10/12/10

Motion to dismiss granted in part and denied in part. The complainant alleged that the respondent violated Title VII and §§ 46a-58 (a) (1) and (4), and 46a-60 (a) and 46a-70 (a) and (e). Motion granted as to the § 46a-58 (a) retaliation claim; motion denied as to the § 46a-58 (a) race and national origin claims. Motion denied, without prejudice, as to the claim of untimeliness.

*Spruance, David M., Kathleen M. Shea v.*
9640243
FitzGerald, 10/26/99

Final decision. Judgment for the complainant. Held*:* (1) The complainant failed to prove that sexual harassment was sufficiently pervasive or severe to create an abusive work environment. (2) The complainant proved retaliation claim. Although the complainant did not prove sexual harassment claim, she demonstrated good faith belief in the underlying

challenged actions. The complainant proved the respondent's business reason was pretextual by showing that the reason was not worthy of credence.

*Stamford, City of, David L. Lenotti v.*
0520402
Wilkerson, 08/30/07

Motion to dismiss denied. Held*:* an alleged discriminatory decision to deny the complainant an accommodation made prior to the 180 days of the filing of the complaint that was referenced in a second alleged discriminatory decision to deny an accommodation that was made within the 180 days of the filing the complaint shall not be dismissed as untimely. The allegation outside of the 180 days is relevant because it directly relates to the timely made allegations of the complaint and shows that the respondent engaged in a pattern of discriminatory practice.

*Stamford, City of, David L. Lenotti, v.*
0520402
(on appeal, stipulated judgment)
Wilkerson, 04/08/08

Final decision. Judgment for the complainant. Held: The respondent discriminated against the complainant by failing to accommodate the complainant's learning disability when it denied him a reasonable accommodation to take an exam. The respondent failed to engage in an interactive process with the complainant. The respondent did not prove its safety defense or its defense that the exam was job-related. The complainant's claims of failure to promote, denied raise and differential rate of pay are dismissed. The complainant was awarded the accommodation of additional time to take the captain promotional exam and if he obtained the required score, he was awarded the captain position. If no captain position is available, the respondent would pay the complainant the difference in the captain and lieutenant salaries.

*Stamford, City of, Police Dept., Claude Young v.*
0720418
FitzGerald, 11/18/09

Motion to dismiss for lack of subject matter denied. The complainant alleged that the respondent violated § 46a-58 (a) and 46a-64 and the equal protection clause of the 14th amendment when he was subjected to excessive use of force, police brutality, verbally abusive language and racial slurs. Held: the respondent is a public accommodation for purposes of § 46a-64, and the complaint may be amended to allege additional facts to show an equal protection violation enforceable through § 46a-58 (a).

*Sterling, Inc., Mystraine Onoh v.*
9620499
Manzione, 6/22/99

Motion to dismiss denied. Held*:* (1) Construing the facts in a light most favorable to the non-moving party, facts are in dispute, therefore, case is not ripe for a Motion to Dismiss; (2) human rights referees have the authority to dismiss a complaint even absent a full evidentiary hearing on the merits.

*Sunrise Estates, LLC, Edgardo Cosme v.*
0510210
FitzGerald, 06/29/07

Final decision. Judgment for the complainant. Held: the respondent failed to reasonably accommodate the complainant's mental disability; discriminated against the complainant in the terms, conditions and privileges of his employment because of his mental disability; and terminated his employment because of his mental disability. The complainant awarded relief including $36,696 in back pay; $45,136 in front pay (four years); and pre- and post-judgment interest.

*Thames Talent, Ltd., Angela Malizia v.*
9820039
(appeal dismissed)
Knishkowy, 7/23/99

Motion to dismiss denied. Held*:* (1) Corporate officer/shareholder/director who performs traditional employee duties on a full-time basis is counted as an "employee" to meet the three-employee requirement of General Statutes §46a-51(10). (2) Corporate officers cannot claim to be de facto partners in order to avoid their responsibilities under the Fair Employment Practices Act.

*Thames Talent, Ltd., Angela Malizia v.*
9820039
(appeal dismissed)
Knishkowy, 12/16/99

Ruling on interrogatories. Held*:* Interrogatories not allowed in administrative proceedings. Discovery is limited by the Uniform Administrative Procedure Act and the rules of practice to requests for production.

*Thames Talent, Ltd., Angela Malizia v.*
9820039
(appeal dismissed)
Knishkowy, 6/30/00

Final decision. Judgment for the complainant. The complainant proved that her supervisor, the respondent's president, sexually harassed her and created a hostile work environment, with strict liability imputed to the respondent. The complainant was terminated from her job shortly after she complained to her supervisor about the harassment. She proved that her termination was in retaliation for opposing his behavior and demonstrated that the respondent's proffered reason—poor attitude and work performance—was a pretext and was the direct result of the supervisor's conduct. The complainant awarded backpay, prejudgment interest, costs of insurance coverage.

*Torrington, City of, Holly Blinkoff v.*
9530406
(remanded by Court of Appeals)
FitzGerald, 05/10/04

Motion for summary judgment granted and the case dismissed. The complainant filed her complaint with the commission in 1995. In 1997, the commission's motion for stay was granted because the complainant had filed an action in federal court in which she raised the same state discrimination claims appearing in her CHRO complaint. In the federal action, the complainant's state claims were dismissed because she failed to obtain a release from the commission. Held: The complainant had an adequate opportunity to have her state claims adjudicated in federal court. The federal dismissal of her state discrimination claims was due to her own voluntary decision either not to proceed with those claims in federal court and/or not to seek a release from the commission.

*Torrington, City of,. Holly Blinkoff v.*
9530406
FitzGerald, 06/28/04

On June 7, 2004, the commission filed a motion for articulation of the May 10, 2004 order dismissing the complaint. Ruling: the order of dismissal adequately articulated the basis for the dismissal.

*Torrington, City of Holly Blinkoff v*
9530406
FitzGerald, 07/17/07

Motion to dismiss denied. The complainant alleged that the respondent retaliated against her for filing a complaint with the commission. The respondent moved to dismiss arguing that no employment relationship existed between the complainant and the respondent.

Held: under § 46a-60 (a) (4), a claim for retaliation can arise either from an employment relationship or from the filing of a complaint with the commission.

*Torrington, City of, Holly Blinkoff v.*
9530406
(appeal pending)
FitzGerald, 08/25/08

Final decision. The commission and the complainant established by a preponderance of the evidence that the respondents retaliated against the complainant (1) in 1995 when they filed a lawsuit against her seeking injunctive relief and (2) when they scheduled her special exceptions permit application in January 1997 rather than December 1996. Nevertheless, no monetary damages are awarded as the commission and the complainant failed to establish that these retaliatory actions resulted in monetary damages to the complainant.

*Torrington, City of, Nancy Gyurko v.*
9730281, 9730280, 9730279, 9730278
(on appeal, dismissed in part and remanded to referee in part; see supplemental. decision)
Trojanowski, 1/26/00

Final decision. Judgment for the respondent. Held*:* (1) The complainants failed to prove that they were paid less than certain male employees for equal work on jobs whose performance requires equal skill, effort and responsibility and which are performed under similar working conditions. (2) the respondent's Job Study, introduced by the complainants to prove their case, was disallowed because it only measured two of the statutory criteria required by the Equal Pay Act and did not measure effort or performance under similar working conditions. (3) The complainants failed to prove discriminatory intent by the respondent in paying them less than comparable male employees. (4) the respondent's jurisdictional argument that the commission was precluded from considering the complainants' complaints because there have been prior arbitrator's decisions on the same or similar issues as those before the Human Rights Referee, was denied because there was no written or verbal waiver of statutory rights to a hearing before the commission by the complainants or their collective bargaining agent.

*Torrington, City of, Nancy Gyurko v*
9730281, 9730280, 9730279, 9730278
(appeal dismissed)
Trojanowski, 7/13/01 (Supplemental decision)

The appeal was dismissed as to the presiding referee's dismissal of the complainants' EPA claim and remanded for further analysis of their Title VII and CFEPA claims. On remand, Held*:* Complaint dismissed. The complainants failed to show the males to whom they compared themselves held similar or comparable jobs and failed to show discriminatory animus by the respondents.

*Transportation, Dept. of, Jayantha Mather v.*
9810116
(rev'd on appeal)
Manzione, 4/19/01

Final decision. Judgment for the complainant. Held*:* The complainant proved a prima facie case that his failure to be promoted was discriminatorily based on his race and national origin (Sri Lankan). The respondent articulated two legitimate business reasons: not possessing the required Professional Engineers license and not being the candidate chosen by the interview panel. The complainant proved that these reasons were pretextual by showing that similarly situated white employees were treated differently. The complainant failed, however, to meet his burden of proving that the respondent did not promote him in retaliation for filing a prior CHRO complaint or serving as Chair of the internal affirmative action advisory committee. The respondent must pay $9,268.12 as compensation for back pay plus 10% compounded interest; promote the complainant to the next open appropriate position; pay the complainant as front pay an adjustment between his current salary and what he would have been earning had he been promoted, until he is promoted or retires, whichever comes first; credit the complainant with any vacation, personal or other days used for the hearing; and not engage in any retaliatory conduct as a result of these proceedings.

*U. S. Security Associates, Inc., Elbert Daniels v.*
0430286
Trojanowski, 11/17/04

Hearing in damages. The complainant alleged he had been discriminated against on the basis of his race. The complainant was awarded back pay and prejudgment interest. The respondent also ordered to reimburse the Department of Labor for unemployment compensation paid to the complainant.

*United Parcel Service, Inc., Nestor Rosado v.*
0020469
Giliberto, 11/15/00

Hearing In Damages. Both the complainant and the respondent failed to appear. The Order of Relief included: (1) a cease and desist order against the respondent; and (2) the respondent was ordered to place posters, to be supplied by the commission at all of its Connecticut locations.

*Ultimate Billiards, Lisa Genovese v.*
0530337
FitzGerald, 02/09/07

Hearing in damages. The executive director defaulted the respondent for failing to respond to the commission's pre-certification interrogatories (General Statutes § 46a-54). The

complainant was awarded back pay, front pay, reimbursement of medical costs that would have been paid through the respondent's employee medical benefit package, and pre- and post-judgment interest.

*United Security, Isabel Gomez v.*
9930490
(appeal dismissed)
Trojanowski, 1/28/00

Hearing in damages. Female security guard awarded: (1) back pay; (2) pre-judgment interest; and (3) statutory post-judgment interest.

*United Technologies Corporation , Wayne Harrington v.*
9710649, 9710650
(appeal withdrawn)
Allen, 4/25/00

Final decision. Judgment for the complainant. Held*:* (1) The complainant established prima facie case in failure to hire age discrimination case and the respondent's legitimate reason was pretextual; (2) the complainant sufficiently met requirement for application for position as part of his prima facie case by applying for and expressing interest in specific classes of positions; (3) Damages awarded reduced due to failure of the complainant to fully mitigate his losses by virtue of his quitting subsequent employment at another job; and (4) the complainant awarded: (a) $65, 037 in damages with interest compounded at the rate of 10%/year as of the date the position was filled by a younger person (b) the respondents ordered to hire the complainant to one of eleven positions; (c) the respondents ordered to provide retroactive pension benefits; (d) the respondents ordered to provide benefits until the complainant is rehired, or until he reaches age 66; and (e) the respondents ordered to pay the complainant $5,000.00/year front pay until he is rehired, or until age 66.

*University of Bridgeport, Edward D'Angelo v.*
9520184, 9520185, 9520186
Allen, 6/29/99

Motion to dismiss granted due to failure of complainants to file complaints with the commission within the 180-day period following alleged act of discrimination.

*University of Connecticut Health Center, Yvonne Collette v.*
0610446
Wilkerson Brillant, 07/22/08

Motion to dismiss granted in part, denied in part. Held: (1) Because the complaint was amended as a matter of right prior to the appointment of the undersigned presiding referee pursuant to § 46a-54-38a (a) of the Regulations of Connecticut State Agencies, the state law claims are not time-barred; 2) the complainant's basis for her § 46a-58 (a) claim is not a cause of action under § 46a-60 but is a cause of action under the federal ADA and, thus,

the complainant's federal ADA claim has been converted to a claim under state law by way of § 46a-58 (a) and is a valid claim; 3) § 46a-70 applies to employment discrimination in state agencies and the respondent's alleged failure to provide a reasonable accommodation in order for the complainant to resume working is covered within § 46a-70; and 4) Section 46a-77 applies to services provided to the public by state agencies and does not apply to employment discrimination claims, therefore, the complainant does not state a valid claim under § 46a-77 and her claims pursuant to § 46a-77 are dismissed.

*Urban League, Lorraine Stevens v.*
0010328
Knishkowy, 12/5/02

Motion to dismiss denied. Motion to dismiss may be treated as a motion to strike, where the respondents challenge not jurisdiction, but the legal sufficiency of claim. The respondents moved to dismiss portion of complaint predicated upon §46a-58(a), asserting that it cannot co-exist with §46a-60(a) employment discrimination claim, pursuant to *CHRO v. Truelove & Maclean, Inc.*, 238 Conn. 337(1996). Notwithstanding the respondents' interpretation of *Truelove*, §46a-58(a) "has expressly converted a violation of federal antidiscrimination laws [here, Title VII] into a violation of Connecticut antidiscrimination laws." (*Trimachi v. Connecticut Workers Comp. Comm*., 2000 WL 872451 (Conn. Super.)) Motion to dismiss §46a-58(a) claim, when treated as a motion to strike, is denied.

*Vahlstrom, Donna & David, Marcia McIntosh-Waller v.*
0750080
Wilkerson, 09/21/07

Motion to dismiss granted in part, denied in part. Held*:* the complainant has standing to bring a housing discrimination complaint against her neighbors alleging a hostile housing environment in which the respondents harassed and intimidated her and her family because of the complainant's race and ancestry. The complainant stated a claim for which relief can be granted as the only party complainant to this complaint. The complainant stated a cause of action under General Statutes § 46a-64c (a) (9), Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. § 3617); and 42 U.S.C. § 1982 for a violation of her rights to use and enjoy her property. The complainant did not state a cause of action under 42 U.S.C. § 1981 because she did not allege that a contractual relationship existed between her and the respondents, which the respondents interfered with or prevented because of her race.

*Vahlstrom, Donna & David, Marcia McIntosh-Waller v*
0750080
FitzGerald, 03/19/08

The respondents' motion to reopen public hearing denied. The public hearing was held on February 20, 2008 and February 26, 2008. The respondents, represented by counsel, did not testify at the public hearing because, although they were listed on the commission's proposed witness list, the commission chose not to call them and because they were not

listed on their own witness list. On March 4, 2008, the respondents moved to re-open the hearing to permit them to testify. Held*:* General Statute § 4-177c and §§ 46a-54-78a and 46a-54-90a of the Regulations of Connecticut State Agencies provide that a party's participation in a contested case is a reasonable opportunity subject to oversight by the presiding referee, not an unrestricted right. The hearing conference summary and order of May 1, 2007 placed all parties on clear and unequivocal notice that they were to file and serve a list of the party's proposed witnesses and that witnesses not listed, except for impeachment and rebuttal, may not be permitted to testify except for good cause shown. The respondents filed a witness list but did not list themselves as witnesses and failed to file a motion to amend their list to include themselves. The requirement that all potential witnesses, including parties, be identified on the proffering party's witness list is not unreasonable and the respondents did not show that good cause existed for their failures to include themselves on their witness list.

*Vahlstrom, Donna & David, Marcia McIntosh-Waller*
0750080
FitzGerald, 06/06/08

Final decision. Complaint dismissed. The complainant alleged that the respondents, her neighbors, discriminated against her on the basis of her color and ancestry and created a hostile housing environment in violation of 42 U.S.C. § 1982, Title VIII and General Statutes SS 46a-58 (a) and 46a-64c (a) (9). Held: (1) the respondents did not violate 42 U.S.C. § 1982, Title VIII or § 46a-58 (a) because they did not engage in violence or threaten violence; (2) § 46a-64c (9) prohibits discriminatory interference with any person in the person's post-acquisition exercise or enjoyment of his or her property. Prohibited interference includes severe, pervasive and grossly offensive nonviolent conduct directed against a person because of his or her protected status; (3) members of a household have a cause of action for actual interference in their own exercise and enjoyment of their property against a neighbor for the neighbor's severe, pervasive and grossly offensive nonviolent conduct toward any member of the household because of the member's protected status; and (4) the commission failed to prove by a preponderance of the evidence that the respondents' conduct toward the complainant and her sons was (a) because of the complainant's race or ancestry and (b) sufficiently severe or pervasive to alter the complainant's living conditions and to create a hostile housing environment for the complainant.

*Wal-Mart Stores, Inc., Jeffrey Clark v.*
9830599
(appeal dismissed)
Wilkerson, 1/25/01

Final decision. Judgment for he respondent. The complainant filed a complaint claiming that he was demoted based on his disability. Held*:* The complainant did not establish a prima facie case under *McDonnell Douglas* proving that he was qualified by showing that he could perform the essential functions of his job with or without reasonable accommodations. The complainant also did not establish a prima facie case under *Price*

*Waterhouse* analysis in that he did not prove that there was direct evidence of discrimination or rebut the respondent's reason for demoting the complainant.

*Wal-Mart Stores, Inc., Debra J. Intagliata v.*
9740381
Giliberto, 7/31/00

Final decision. Judgment for he respondents. Held*:* (1) The complainant failed to establish a prima facie case of retaliation due to her failure to prove she complained about discriminatory employment practices and failure to prove any adverse action; and (2) The complainant failed to establish a prima facie case of gender discrimination due to her failure to prove that the male employee that replaced her was similarly situated and failure to prove any adverse action or inference of salary discrimination due to gender.

*Westport Big & Tall, Inc., Sandor Nemeth v.*
0920337
(appeal pending)
FitzGerald, 7/23/10

The presiding referee dismissed the complaint sua sponte for the complainant's failure to appear. Neither the complainant nor his attorney attended the hearing conference.

*Waterbury, City of, David Gilmore v.*
9530587
(appeal withdrawn)
Allen, 8/11/00

Hearing in damages. The complainant was awarded: (1)back pay; (2) attorney's fees; and (3) prejudgment interest.

*Waterbury, City of, David Gilmore v.*
9530587
Allen, 9/7/00

Motion for reconsideration granted. The complainant's back pay award reduced by the sum of $44,076.00 which had been awarded to the complainant in previous court decision involving the same parties.

*Waterbury Masonry & Foundation, Inc., Kelly Smalls v.*
0330386
Trojanowski, 1/23/04

Hearing in damages. Discrimination due to a physical disability, a "drop foot" condition, in violation of General Statutes § 46a-60(a)(1) as well as the American with Disabilities Act, 42 U.S.C. 12101 et seq. Awarded back pay and lost benefits, prejudgment interest and post-judgment interest.

*Waterbury Republican, Alan Couture v.*
0630390
(on appeal, final decision vacated and appeal withdrawn)
Kerr, 6/12/08

Motion to dismiss granted. The respondent newspaper refused to publish an unpaid announcement (with photograph) of the complainant's same sex civil union with those of marriages similarly submitted. The complainant alleged a denial of a public accommodation under General Statutes § 46a-64 on the basis of sexual orientation and marital status. The he respondent claimed First Amendment protection in the exercise of its editorial discretion. Held*:* while there have been legally recognized encroachments on a newspaper's First Amendment rights so as to advance other competing governmental and public interests, such encroachments have not been found in Connecticut (or elsewhere) to extend to the content of unpaid public/personal announcements in a newspaper under the theory that it is a public accommodation. Without a basis for determining that the respondent was a public accommodation for these purposes, the complainant was found to have failed to establish subject matter jurisdiction.

*Waterbury Republican, Robert McDonald v.*
0630389
(on appeal, final decision vacated and appeal withdrawn)
Kerr, 6/12/08

Motion to dismiss granted. The respondent newspaper refused to publish an unpaid announcement (with photograph) of the complainant's same sex civil union with those of marriages similarly submitted. The complainant alleged a denial of a public accommodation under General Statutes § 46a-64 on the basis of sexual orientation and marital status. The respondent claimed First Amendment protection in the exercise of its editorial discretion. Held*:* while there have been legally recognized encroachments on a newspaper's First Amendment rights so as to advance other competing governmental and public interests, such encroachments have not been found in Connecticut (or elsewhere) to extend to the content of unpaid public/personal announcements in a newspaper under the theory that it is a public accommodation. Without a basis for determining that the respondent was a public accommodation for these purposes, the complainant was found to have failed to establish subject matter jurisdiction.

*West Hartford Housing Authority, Herman Filshtein v.*
0050061
Wilkerson, 10/04/01

Final decision. Judgment for the complainant. Held*:* The respondent discriminated against the complainant who was disabled by failing to reasonably accommodate him in housing. The complainant proved a prima facie case of failure to reasonably accommodate. The respondent did not meet its burden to prove that the accommodation was unreasonable. The complainant was awarded $2,500 for emotional distress damages with post-judgment

interest, $7,497 for back rental fees paid with pre- and post-judgment interest, and the complainant's attorney was awarded $5,850 for attorney fees with post-judgment interest. The complainant was also awarded $252 (differential rental fee) per month until the respondent grants him a Section 8 certificate for his current dwelling.

*West Hartford, Town of, Barry E. Amos. v.*
9910041, 9910198, 9910199, 9910200, 9910201, 9910202
Manzione, 6/5/00

Motion for stay denied. Held*:* A matter scheduled for public hearing in six weeks will not be stayed pending the outcome of a possible declaratory judgment by a judicial authority because (1) the commission is charged with addressing complaints of discrimination; (2) the commission declined to address this matter through a declaratory ruling and rather set the matter down for these "specified proceedings;" (3) the matter is ripe for adjudication because most of the pre-hearing matters have already occurred; and (4) proceeding with the public hearing, rather than staying it, will resolve the "real and substantial dispute between the parties."

*W.E.T. National Relocation Services , Joan B. Hansen v.* 0020220
Wilkerson, 11/14/01

Final decision. Judgment for the complainant. Held*:* Under State law, the respondent discriminated against the complainant because of her age, 66, at the time of filing the complaint by terminating her employment. The complainant's federal claim was dismissed because the respondent did not employ at least 20 employees. The complainant proved a prima facie case of age discrimination in employment. The complainant proved that the respondent's proffered reason was unworthy of credence and therefore, pretextual. The complainant was awarded $14,493.00 for back pay with $1,449.00 for prejudgment interest and post-judgment interest at 10% for the unpaid balance.

*Western Connecticut State University, John Caruso, Jr. v.*
0620214
FitzGerald, 3/18/09

Motion to dismiss granted in part. The complainant is employed by the respondent as a professor. On November 3, 2005, he filed an affidavit with the commission alleging that because of his participation on behalf of his wife's discrimination claim against the respondent, the respondent thereafter retaliated against him. The complainant identified three retaliatory acts, one of which occurred in 2004. (The 2004 retaliatory act was also included in a prior affidavit the complainant had filed with the commission in 2004. The commission dismissed the 2004 affidavit after finding no reasonable cause). Following an unsuccessful conciliation conference on December 12, 2008, the complainant filed an amended affidavit that included as a fourth alleged retaliatory act a failure to hire claim that arose in 2005. Held: the 2004 allegation was dismissed as untimely filed and as precluded by the res judicata effect of the commission's dismissal of the 2004 complaint. The 2005

failure to hire claim was not saved by the "relate back" doctrine and was dismissed as untimely.

*Wireless Retail, Inc., Randall Saex v.*
0410175
FitzGerald, 07/26/2006

Hearing in damages. The respondent defaulted for failure to appear at a settlement conference. The complainant alleged, in part, that the respondent harassed him and terminated his employment because of his age, religion and sex. The complainant was awarded damages including back pay, front pay, reimbursement of medical expenses, pre- and post-judgment interest, and emotional distress.

*Yale University, Erin Dwyer v.*
0130315, 0230323
Wilkerson, 11/29/05

Final decision. Judgment, in part, for the complainant. The complainant alleged that the respondent discriminated against the complainant by 1) failing to respond to her continued reports of workplace harassment by both co-workers and management; 2) by treating her dissimilarly to other employees in trial periods; and 3) by suspending and ultimately terminating her because she is a transgendered woman with a mental disability who was, or was perceived to be homosexual, and in retaliation for participating in the University's grievance process and filing a CHRO complaint. Held*:* The respondent violated General Statutes § 46a-81c(1) by creating a hostile work environment based on the complainant's sexual orientation or perceived sexual orientation during her employment at one of its facilities when it failed to take reasonable steps to remedy the hostile work environment. The respondent is liable to the complainant for her injuries. The complainant is entitled to an award of back pay along with 10% pre and post-judgment interest. The commission and the complainant failed to prove that the respondent discriminated, retaliated or aided and abetted discrimination against the complainant for the lost promotions, demotions, poor evaluations, being placed on probation, failure to accommodate, and the suspension and termination and those claims are dismissed.

*Yale University, Mary Beth Garceau v.*
0530073
FitzGerald, 12/05/05

Motion to compel granted in part. Inter alia, the respondent, pursuant to General Statutes § 31-128f (2), was ordered to produce disciplinary records.

*Yale University, Roderick Melvin v.*
0230320
Trojanowski, 07/19/06

Amended final decision. Complaint dismissed. The complainant alleged that he was discriminated against in the terms and conditions of his employment; given warnings, poor evaluations and unfairly disciplined; received unequal pay; retaliated against; not promoted;

and terminated because of his having filed a complaint with the commission, and his race, color, and perceived disability. Held: The complainant was unable to show that the respondent's explanation for its actions (the complainant's history of poor work performance) was a pretext for its actions. The complainant was also unable to show that any harassment was so severe or pervasive as to create a hostile work environment.

*Yale University, Qazi Azam*
0430623
FitzGerald, 10/16/2006

Motion to compel granted in part. Inter alia, the respondent, pursuant to General Statutes § 31-128f (2), was ordered to produce documents submitted by the successful candidates for the job positions the complainant had applied for.

*Yale-New Haven Hospital, Sharyn L. Grant v.*
9530477
Knishkowy, 10/13/99

Final decision. Judgment for he respondent. The complainant failed to prove that her discharge was the result of unlawful discrimination based on race, color, or disability. The respondent articulated—and convincingly proved—a legitimate, nondiscriminatory reason for the discharge; i.e., the complainant could not perform her essential job duties even with reasonable accommodation, and there were no other positions to which she could reasonably be assigned. Furthermore, the respondent satisfied its duty to reasonably accommodate the complainant.

*Yale-New Haven Hospital, Jacqueline Isler v.*
9730024
Manzione, 3/3/99

Ruling on discovery motions. Held*:* (1) There is no authority for interrogatories at the commission; (2) human rights referees may grant or deny motions to compel on specific discovery issues.

*zUniversity.com, Elizabeth Downes v.*
0210366
Trojanowski, 9/12/03

Hearing in damages. The complainant terminated because of her gender, familial status and her pregnancy. Damages included back pay.

## IV. Decisions/ruling listed alphabetically by presiding human rights referee

***Allen, 6/29/99***
*D'Angelo, Edward v. University of Bridgeport*
9520184, 9520185, 9520186

Motion to dismiss granted due to failure of complainants to file complaints with the commission within the 180-day period following alleged act of discrimination.

***Allen, 7/8/99***
*Blake, Lugenia v. Beverly Enterprises-Connecticut*
9530630

Motion to dismiss granted. Held*:* (1) human rights referees have authority to dismiss matters; (2) prior administrative decision by a separate state agency is given res judicata effect; (3) the complainant failed to establish a prima facie case for employment discrimination.

***Allen, 9/1/99***
*Leslie, Willie v. City of New Haven*
9830575

Hearing in damages. Held*:* (1) request to suspend hearing denied as being unreasonable after five prior continuances; and (2) the complainant and the commission's failure to appear and produce evidence of damages and prospective relief required results in dismissal.

***Allen, 10/21/99***
*Esposito, Armando v. City of New London*
9340530

Final decision. Judgment for the respondent. Held*:* (1) General Statutes §§ 7-430 and 46a-60(b)(1)(C) provide that age 65 is a legislatively accepted BFOQ for firefighters in Connecticut; and (2) the evidence submitted in this matter establishes that age 65 is a BFOQ for municipal firefighters.

***Allen, 12/20/99***
*Helliger, Patricia v. Avalon Properties*
9730397

Final decision. Judgment for the complainant. Held*:* (1) the respondent Real Estate Management Corporation and its named agents discriminated against the complainant by making a rental opportunity unavailable and by misrepresenting the availability of a rental in violation of §§ 46a-64c(a)(1) and 46a-64c(a)(4)(A); (2) complainant awarded $3,000.00 damages suffered as a result of emotional distress at discriminatory treatment; (3) the

complainant failed to mitigate her economic losses and no economic compensatory damages awarded.

***Allen, 4/25/00***
*Harrington, Wayne v. United Technologies Corporation*
9710649, 9710650
(appeal withdrawn)

Final decision. Judgment for the complainant. Held*:* (1) the complainant established prima facie case in failure to hire age discrimination case and he respondent's legitimate reason was pretextual; (2) the complainant sufficiently met requirement for application for position as part of his prima facie case by applying for and expressing interest in specific classes of positions; (3) damages awarded reduced due to failure of the complainant to fully mitigate his losses by virtue of his quitting subsequent employment at another job; and (4) the complainant awarded: (a) $65,037 in damages with interest compounded at the rate of 10%/year as of the date the position was filled by a younger person (b) he respondents ordered to hire the complainant to one of eleven positions; (c) the respondents ordered to provide retroactive pension benefits; (d) the respondents ordered to provide benefits until the complainant is rehired, or until he reaches age 66; and (e) he respondents ordered to pay the complainant $5,000.00/year front pay until he is rehired, or until age 66.

***Allen, 5/3/00***
*Sarnecky, Fred v. Hamilton Standard*
9910156

Ruling on motion to recuse denied. The commission sought to recuse the referee because a motion to decertify and supporting brief inadvertently sent to Office of Public Hearings. Held*:* actual bias needed to be shown to recuse hearing officer and no showing was made, particularly where Referee declined to read the briefs in denying the motion to decertify on its face.

***Allen, 7/6/00***
*Clements, Joyce v. Town of Brookfield*
9620571

Final decision. Judgment for the respondent. The complainant brought an action claiming harassment and demotion based on her age and amended her complaint to assert wrongful discharge based on age and gender. Held*:* (1) the complainant's amended complaint was filed more than 180 days after the alleged act of discrimination; (2) the complainant failed to establish a prima facie case; (3) the respondent's articulated non-discriminatory reason was valid and not pre-textual; (4) the complainant failed to produce evidence inferring that the abolition of her position in the Town's budget was motivated by her age or gender; and (5) there was no evidence of the complainant being harassed or demoted.

***Allen, 8/11/00***
*Gilmore, David v. City of Waterbury*
9530587
(appeal withdrawn)

Hearing in damages. The complainant was awarded: (1) back pay; (2) attorney's fees; and (3) prejudgment interest.

***Allen, 9/7/00***
*Gilmore, David v. City of Waterbury*
9530587

Motion for reconsideration granted. The complainant's back pay award reduced by the sum of $44,076.00 which had been awarded to the complainant in previous court decision involving the same parties.

***Allen, 1/5/01***
*Cooper, Ricky & Regina v. Andrew & Hanna Gorski*
9710196, 9710197

Remand decision. Judgment for the complainants. Held*:* the respondents discriminated against the complainants with respect to the terms and conditions of a prospective rental by requiring additional and more comprehensive credit, employment, and educational background information than was required of white tenants. The complainants are awarded $5,000.00 in damages for emotional distress.

***Allen, 1/31/01***
*Cooper, Ricky & Regina v. Andrew & Hanna Gorski*
9710196, 9710197

Petition for reconsideration granted. The complainants and the commission are granted 30 days to file Motions seeking an award of reasonable attorneys' fees and costs and the respondents shall have 10 days to file objections, if any.

***Allen, 4/16/01***
*Cooper, Ricky & Regina v. Andrew & Hanna Gorski*
9710196, 9710197
(Supplemental)

The complainants awarded $20,000.00 in attorney's fees for he respondent's discrimination in regard to the terms and conditions associated with the rental of real estate; attorney's fees appropriate even where complainants represented by non-profit Legal Clinic; detailed time sheets sufficient to establish reasonableness of fees requested.

***Allen, 6/12/02***
*Carver, Monica v. Drawbridge Inn Restaurant*
9940179

Final decision. Judgment for the respondent. The complainant alleges discrimination in the terms and conditions of her employment on the basis of her alienage (American Indian), and that she was discharged in retaliation for her complaints regarding alleged sexual harassment in the workplace. Held: The complainant failed to establish prima facie case as to her claim regarding discriminatory treatment in the terms and conditions of her employment. The complainant also failed to establish a prima facie case that she was fired in retaliation for her complaints because evidence showed, inter alia, that she quit her job.

***Allen, 3/14/03***
*Navarro, Edwin v. Hospital for Special Care*
9710678

Final decision. The complainant alleged wrongful termination based on race, color, and gender, and discrimination based on disability alleged to be ADHD and learning disability; HELD: 1. Insufficient evidence presented to establish even prima facie case based on race, color or gender; 2. the complainant failed to show he was disabled according to law and thus prima facie case not established; 3. alternatively, even assuming a prima facie case, the weight of evidence established that discharge was based on legitimate performance grounds and were not based on disability notwithstanding some credibility problems with he respondent's testimony; 4. the complainant did not properly allege a failure to accommodate claim which was asserted in its brief and in any event there was no evidence to support such a claim.

***Allen, 11/17/03***
*Friedman, Sharon v. Office of the State Comptroller*
0110195

The complainant made application for "domestic partner benefits" and was denied same on basis that state arbitration award providing such benefits applied only to same sex partners as they were unable to marry under state law. The complainant alleged that she was discriminated against by the arbitration award , because her "partner" was male, on the basis of her marital status and sexual orientation he respondent moved to dismiss complaint for failure to state a claim for which relief could be afforded. HELD: he respondent's Motion to Dismiss granted as Chapter 68 of the Connecticut General Statutes (Section 5-276 et seq.) provides for finality of such an award unless a timely motion to vacate is filed with the Superior Court, and there having been none the award is not now subject to a collateral attack through the auspices of a CHRO complaint.

***Allen, 01/08/04***
*Soulemani, Arouna v. Mark Ash*
0230045

Hearing in damages. By virtue of a default for failure to appear, the respondent was held liable for discrimination based on race, color and ancestry against the complainant with regard to the terms and conditions of his employment and for terminating his employment. The complainant was awarded $45,405 as back pay and monetary relief and post judgment interest at the rate of 10% compounded annually. Front pay was not awarded.

***Austin, 10/25/05***
*Lopes, Elizabeth v. Comfort Suites*
0540252

Hearing in damages. After having been sexually harassed by a co-worker, the complainant complained to her supervisor who took no remedial action. The complainant again complaint to her supervisor after a third instance of being sexually harassed by the same co-worker. The supervisor's response was "we are all family, enjoy it and I don't want to hear it." The following day the complainant was terminated. Discrimination was found for having previously opposed a discriminatory practice. The complainant was awarded back pay of $23,225.50 with postjudgment interest, reinstatement to the position she held at the time of termination, and front pay until such time as the complainant is reinstatement or rejects an offer of reinstatement.

***Austin, 07/21/06***
*Joiner, David v. H.E.R.E. Local 217*
0410177

Motion to dismiss granted. The complainant alleged that the respondent, his union, denied him representation and also aided and abetted his employer in denying him seniority rights he was entitled to under the collective bargaining agreement. Because resolution of the merits of the complaint would have required interpreting the collective bargaining agreement, the complaint was dismissed as preempted by § 301 of the federal Labor and Management Relations Act.

***Austin, 03/02/07***
*Thompson, Nicole v Marc & Marie Pennino and John & Karen Bauco*
0450008
(appeal withdrawn)

Final decision. Judgment for the complainant. Held: The complainant proved she was denied an advertised apartment for rent due to her source of income (section 8) in violation of 46a-64c (a) (3). The basis of the finding was found under a strict liability interpretation of the statute in that the respondents stated to the complainant that section 8 was not being accepted. Damages for both emotional distress and loss of the section 8 benefit were

awarded totaling $15,280.69. Attorney fees were awarded in the amount of $42,493.50 after having reduced the original fee request.

***Austin, 04/12/07***
*Dako-Smith, Frederica v. Dept. of Mental Health & Addiction Services*
0020228 & 0220142
(appeal dismissed)

Final decision. Judgment for the respondent. African-American complainant alleged that the respondent discriminated against her by subjecting her to disparate treatment and a hostile work environment. In Case No. 0220142 the complainant alleged as a result of her filing with CHRO the respondent retaliated against her by filing a complaint with the Connecticut Department of Health. Held: The complainant failed to sustain her burden of proving a prima facie case in both complaints as to claims of discrimination and retaliation. (Transcript of decision.)

***Austin, 07/07/07***
*Thompson, Nicole v. Marc & Marie Pennino*
0450008
(appeal withdrawn)

Final decision on reconsideration. The respondent's petition for reconsideration requested that certain factual findings be corrected to comport with the testimony at the public hearing along with reconsideration of legal conclusions reached that supported the finding in complainant's favor. Held: After granting the petition to reconsider, and having conducted a hearing on he respondent's petition the final decision was modified to correct two facts (paragraphs 12 and 24) contained therein. In all other respects the decision was affirmed as originally rendered.

***Austin, 10/18/07***
*Lawton, Kimberly v. Chad Jansen*
0550135

Hearing in damages: The complainant who was harassed due to her race and color by a teenage neighbor brought an action under state and federal fair housing laws. The complainant was awarded damages for emotional distress, lost wages, and attorney's fees. The complainant's claims for damages against the teenager's mother pursuant to General Statutes § 52-572 and common law negligent supervisor were not allowed.

**Austin, 5/20/08**
*O'Halloran, Josephine v. Town of Fairfield*
0620146
(appeal dismissed)

Final Decision. Complaint dismissed. The complainant alleged that she was denied a promotion for the position of zoning inspector as a consequence of her gender. She further alleged that the respondent failed to follow the collective bargaining agreement (CBA).

Held: The complainant failed to present a prima facie case in that she failed to satisfy the element that she was qualified for the position. Further, even if the complainant had sustained her burden of being qualified, she was not the best candidate in the field of three females and one male. As to the complainant's claims that the CBA was not followed, no credible evidence was submitted to believe that the respondent used the complainant's gender in determining how to interpret the CBA.

***Austin, 6/13/08***
*Perri, Dennis v George Peluso*
0750113

Motion to dismiss denied. The respondent alleged that because the complaint that was filed beyond the 180 day filing requirement, it was untimely filed and the commission subject matter jurisdiction. Held: the 180 day filing requirement does not confer subject matter jurisdiction but is more similarly related to a statute of limitation subject to equitable tolling. Based on the actions taken by the CHRO investigator, the filing by the complainant Sonia Perri was subject to equitable tolling.

***Austin, 11/14/08***
*Peterson, Dana v City of Hartford, Police Dept.*
0410049
(appeal pending)

Final decision. Judgment for the respondent. The complainant alleged she was discriminated against as a consequence of her gender and disabilities (transsexual/physical and mental/gender dysphoria disorder). She further alleged that as a consequence of her having previously opposed an alleged discriminatory employment practice, she was retaliated against by the respondent. Held: The complainant and commission failed to establish a prima facie case under the pretext model of analysis on most of the complainant's claims. As to the claims where the complainant successfully presented a prima facie case the legitimate business reason produced by the respondent for its decision was not proven to be a pretext for discrimination.

***Austin, 12/15/09***
*Parker-Bair, Florence v. Dept. of Motor Vehicles*
0510486

Motion to dismiss granted. Held: The respondent moved to dismiss complaint's allegations of retaliation for having previously opposed discrimination due to the lack of jurisdiction. The basis for the respondent's motion was that the commission's investigator did not find reasonable cause as to the claim of retaliation. Not only was there no reasonable cause found, the investigator opined that filing with the commission resulted in the complainant's promotion. There being no reasonable cause found to believe that retaliation may have occurred deprives this tribunal of jurisdiction to hear this claim.

**Austin, 5/25/10**
*Jackson, Gloria v. Debra Lutkowski and Paul Pixbey*
0950094 & 0950095

Hearing in Damages. The complainant had alleged that she was harassed due to her race and color by her neighbors (the respondents). The complainant was awarded damages for emotional distress (anxiety along with loss of weight and sleep) and for damage caused to her car.

**Austin, 10/22/10**
*Czuchra, Roger A. v. Pace Motor Lines*
0820039

The respondent's motion to subpoena witness to a deposition denied. The respondent argued that CGS 51-85 authorized the issuance of a subpoena to depose a witness it intended to call at trial. The respondent further proffered that given that the intended witness gave testimony that conflicted with a previously sworn to affidavit, good cause existed to issue a subpoena. Held: CGS 51-85 does not authorize the issuance of a subpoena to depose a witness in agency proceedings and that the conflict between the testimony and affidavit can be brought out at trial.

***FitzGerald, 5/14/99***
*Rountree, Maria S. v. Seafood Peddler*
9830387

Motion to amend complaint denied. Provides criteria for amending complaints to add complainants/respondents.

***FitzGerald, 6/22/99***
*Turner, Laurie v. Ritz Realty, Quality Towing*
9920135, 9920136

Hearing in damages. Criteria for emotional distress damages. One complainant is awarded $125.00 in economic damages.

***FitzGerald, 9/29/99***
*Maier, Martin H. v. City of Norwalk*
9320024
*Maier, Martin H. v. Norwalk Municipal Employees Assoc.*
9320026

Final decision. Judgment for he respondents. The complainant failed to prove *prima facie* case and intentional age discrimination.

***FitzGerald, 10/15/99***
*Callado, Orlando v. Town of Fairfield*
9420437

Final decision. Judgment for the complainant. The respondent discriminated against the complainant on the basis of age in denying him participation in its pension plan.

***FitzGerald, 10/26/99***
*Shea, Kathleen M. v. David M. Spruance*
9640243

Final decision. Judgment for the complainant. Held*:* (1) The complainant failed to prove that sexual harassment was sufficiently pervasive or severe to create an abusive work environment. (2) The complainant proved retaliation claim. Although the complainant did not prove sexual harassment claim, she demonstrated good faith belief in the underlying challenged actions. The complainant proved he respondent's business reason was pretextual by showing that the reason was not worthy of credence.

***FitzGerald, 11/1/99***
*Rose, Sheron v. Payless Shoesource, Inc.*
9920353

Hearing in damages. Employee terminated from employment on the basis of national origin and ancestry, and for opposing the respondent's discriminatory employment practice. The complainant was awarded front pay, backpay, and other equitable remedies.

***FitzGerald, 2/28/00***
*Carter, Joseph v. C.N. Flagg Power, Inc.*
8840227

Final decision. Judgment for the complainant. Held*:* (1) termination of employment due to physical disability (cancer). The complainant proved discrimination by both the direct and inferential evidence standards. The respondent failed to show a bona fide occupational qualification and the complainant showed that the respondent's claims of essential job function were not worthy of credence; and (2) the complainant proved that the respondent aided and abetted in his termination.

***FitzGerald, 3/20/00***
*Scott, Juliet v. Robert Jemison*
9950020

Hearing in damages. The complainant's motion for default for failure to file an answer was granted. The respondent's motions to dismiss and set aside default were denied. Case proceeded to a hearing in damages. The complainant was awarded $6,000 for emotional distress and $25,296.44 for attorney's fees and costs. The complainant alleged her landlord physically and verbally assaulted and harassed her, denied her equal services, and

threatened her with eviction in violation of General Statutes § 46a-64c(a)(2) and (3) on the basis of her race and color. She also alleged retaliation for the filing of her complaint in violation of § 46a-60(a)(4).

***FitzGerald, 4/6/00***
*Jankowski, Laurence v. City of Meriden*
9730288

Final decision. Judgment for the respondent. The complainant, a firefighter, alleged a violation of General Statutes § 46a-60(a) on the basis of age (65) when the respondent involuntarily retired him under its mandatory retirement policy. Held*:* The respondent's mandatory retirement age of 65 for its firefighters is a per se statutory bona fide occupational qualification under §§ 7-430 and 46a-60(b)(1)(C). The complaint is dismissed.

***FitzGerald, 4/24/00***
*Flood, Robert v. American Can Company*
8220420

Final decision. Judgment for the respondent. The complainant alleged that he was the victim of age discrimination that occurred when the respondent, undergoing a reduction in force, failed to transfer the complainant into a lateral job position. Held*:* the complainant failed to prove his prima facie case, that the respondent's reason was pretextual, and that he was the victim of intentional age discrimination.

***FitzGerald, 8/18/00***
*Doyle, Claire T. v. State of Connecticut*
9730257

Motion to dismiss a portion of the complaint that was incorporated by an amendment is granted. The amendment alleges essentially the same facts as a subsequent complaint filed by the complainant against the respondent. Because the complainant obtained a release of jurisdiction under §§ 46a-100 and –101 of the subsequent complaint, General Statutes § 46a-101(d) waives the commission's jurisdiction as to allegations for which the release was obtained, proscribes the commission from continuing to prosecute the allegations, and requires the dismissal of the allegations in whatever form the allegations may take.

***FitzGerald, 9/15/00***
*Doyle, Claire T. v. State of Connecticut*
9730257

Motion to dismiss granted. The commission moved for an administrative dismissal pursuant to a request by the complainant for a release of jurisdiction.

***FitzGerald, 2/1/01***
*Pingle, V.R. Reddi v. Dept. of Environmental Protection*
9910114

Final decision. Judgment for the respondent. The complainant alleged that he was terminated at the end of his probationary period because of his national origin, color, and ancestry. Held*:* (1) the complainant offered no direct evidence of discriminatory motivation; (2) the complainant also did not show, under the McDonnell Douglas-Burdine analysis that he was qualified for the position, circumstances giving rise to an inference of discrimination, or that the respondent's articulated legitimate business reason was a pretext for discrimination or otherwise lacking in credibility.

***FitzGerald, 2/5/01***
*Okonkwo, Francis v. Bidwell Healthcare Center*
9940144

Motion to dismiss denied in part, granted in part. The respondent filed a motion to dismiss for lack of jurisdiction based on reasonable cause findings. The respondent claimed that the investigator (1) found no reasonable cause to believe that the complainant had been sexually harassed; and (2) improperly found reasonable cause for an allegation, disparate treatment, not alleged in the complaint. Held*:* (1) motion granted as to the sexual harassment claim because the investigator concluded that the investigation did not support the complainant's allegations of sexual harassment; and (2) denied as to the disparate treatment claim because the complaint alleged sufficient facts to put the respondent on notice that the allegation would reasonably fall within the scope of the investigation.

***FitzGerald, 4/26/01***
*Charette, Lisa v. Dept. of Social Services*
9810371, 9810581

Final decision. Judgment for the he respondents. The complainant alleged harassment based on disability, retaliation, sexual harassment, and failure to provide reasonable accommodation for her disability. Held: (1) Upon motion to dismiss by the respondents for lack of jurisdiction, the allegations for which no reasonable cause was found (harassment based on disability and retaliation) were dismissed at the commencement of the public hearing. (2) The sexual harassment allegation was dismissed. Evidence alleging the conduct occurred was not credible. Alternatively, the conduct, even if it occurred, did not rise to the level of actionable harassment. Also, the complainant unreasonably failed to utilize the employer's complaint procedure and to cooperate in the employer's investigation. (3) The allegation of failure to provide reasonable accommodation was dismissed. Reasonable accommodation is required under state antidiscrimination law. The complainant rejected the respondents' offer of a reasonable accommodation relative to the complainant's arrive time to work. The complainant failed to participate in the requisite good faith interactive process to determine the necessity of the requested private office, job restructuring, and special light bulbs.

***FitzGerald, 7/27/01***
*Smith, Alex v. Tony Lee d/b/a Better Built Transmissions*
0130212

Hearing in damages. The complainant alleged racial discrimination by his employer resulting in disparate treatment, hostile work environment, and constructive discharge. The complainant was awarded $48,496 in back pay and front pay, together with prejudgment and postjudgment compounded interest.

***FitzGerald, 1/04/02***
*Bernd, Robert* (9710052); *Bielanski, John* (9710053) *& Perry, Richard* (9710063) *v. Hamilton Sundstrand Corp.*

Motion to dismiss denied. Held: (1) whether the complainant applied for a position is a question of fact; (2) the public hearing is not an opportunity to challenge the adequacy of precertification investigation; (3) commission has jurisdiction to adjudicate ADEA claims; (4) failure of investigator to comply with "date certain" for issuance of reasonable cause finding pursuant to General Statutes § 46a-82 does not result in the dismissal of the complaint; (5) complaint is not necessarily preempted by Labor Management Act.

***FitzGerald, 4/22/02*** (on remand)
*Aguiar, Deborah v. Nancy and Ralph Frenzilli*
9850105

Motion to set aside default denied with a hearing in damages to be scheduled. Following the entry of a default and a hearing in damages, the commission and complainant brought an enforcement action in Superior Court. The case was remanded with instructions to hold a hearing on setting aside the default and a hearing in damages. The respondents lacked both a good defense and/or reasonable cause for failure to timely raise their defense.

***FitzGerald, 6/4/02***
*Kondratowicz, Stephen v. Pleasant Valley Mobile Home Park*
0250051

Motion to amend complaint granted. The commission's motion granted to amend complaint adding three respondents and an additional act of retaliation. The commission's motion was timely filed, no showing of prejudice to he respondents, and the additional respondents will enable a complete determination of the issues.

***FitzGerald, 7/1/02***
*Haley, Mary v. City of Hartford*
0010273
(appeal withdrawn)

Final decision. Judgment for the complainant. Held: (1) The complainant established that she was discriminated against in promotional opportunities on the basis of her race. The

respondent's articulated non-discriminatory reason found to be pretextual. The discrimination constituted a continuing violation. The complainant's failure to formally apply for a promotion excused as her application would have been a futile. The complainant is awarded back pay and a promotion retroactive to September 13, 1998. (2) The complainant's claim of discrimination based upon her disability was dismissed.

***FitzGerald, 7/31/02***
*Walley, Terry v. Dept. of Correction*
0020470

Motion to amend the complaint to add a claim of retaliation denied. The proposed amendment repeated allegations of retaliation contained in a subsequent complaint filed by the complainant. This subsequent complaint was dismissed by the investigator who found that the allegations of retaliation were not supported by the record. The commission then issued a release of its jurisdiction over the subsequent complaint and the allegations therein.

***FitzGerald, 8/30/02***
*Ward, Carol v. Black Point Beach Club Association, Inc.*
0150047
(following appeal, stipulated judgment)

Final decision. Held: The complainant established that she was physically disabled, the Zoning Board of Appeals (ZBA) was aware of her disability, her request for a variance to attach her detached garage to her house was a reasonable accommodation and the ZBA denied the request. She also established that the denial was a continuing violation based upon the ZBA's ongoing, and incorrect, policy that federal and state disability/fair housing laws do not supersede zoning restrictions. The ZBA failed to establish that the complainant's proposed accommodation was unreasonable. The complainant failed to engage in good faith, interactive dialogue with the respondents on alternative locations for the construction of her garage that would have reasonably accommodated her disability without requiring a variance. The ZBA was ordered to grant the complainant a variance to attach the garage to her house. The complainant's request for emotional distress and attorney's fees was denied.

***FitzGerald, 12/02/02***
*Schoen, Sandra J. v. Grace Christian School* 0120163
(on appeal, remanded by stipulation)

Motion to dismiss granted. The complainant alleged that the respondent terminated her employment, harassed her, and discriminated against her in the terms and conditions of her employment in violation of Title VII and §§ 46a-60(a)(1) and 46a-60(a)(4) in retaliation for her refusal to ask her minister if he was a homosexual. Ruling: the commission lacked subject matter jurisdiction because sexual orientation is not an enumerated protected class within Title VII or § 46a-60(a)(1), opposing a discriminatory employment practice is not protected by § 46a-81c, the respondent is exempt under § 46a-81p from § 46a-81c, and/or

there is no employment relationship between the respondent and the complainant's minister.

***FitzGerald, 3/12/03***
*Haley, Mary v. City of Hartford*
0010273

Supplement to final decision. Itemization of monetary damages.

***FitzGerald, 04/11/03***
*Negron, Lishka v. DSMA Enterprises*
0110448

Motion to dismiss the complainant because of the complainant's failure to appear at a hearing conference was granted. Section 46a-54-88a(d) of the Regulations of Connecticut State Agencies and case law authorize the presiding referee to dismiss a complaint for the complainant's failure to attend a hearing or conference without just cause. Neither the commission nor the complainant offered any reason for the complainant's absence. The attendance of counsel for the commission is not an adequate substitute for the presence of the complainant, who is an independent party not represented by the commission.

***FitzGerald, 4/29/03***
*Slootskin, Inessa v. John Brown Engineers & Construction, Inc.*
9320176

Final decision after remand. The final decision was issued by the hearing officer in 1999. On appeal, the matter was remanded as to damages. On remand, the case was reassigned to a human rights referee who awarded front pay, prejudgment and post-judgment interest, and additional back pay and fringe benefits.

***FitzGerald, 08/07/03***
*L'Annunziata, Paul v. New Horizons Learning Center*
0210153

Motion to amend complaint granted. Complaint may be amended to change a date and to add he respondent's parent corporation as a respondent.

***FitzGerald, 08/07/03***
*Abildgaard, William v. New Horizons Computer Learning Center*
0110495

Motion to amend complaint granted. Complaint may be amended to correct an address, change a date and to add he respondent's parent corporation as a respondent.

***FitzGerald, 05/10/04***
*Blinkoff, Holly v. City of Torrington*
9530406
(remanded by Court of Appeals)

Motion for summary judgment granted and the case dismissed. The complainant filed her complaint with the commission in 1995. In 1997, the commission's motion for stay was granted because the complainant had filed an action in federal court in which she raised the same state discrimination claims appearing in her CHRO complaint. In the federal action, the complainant's state claims were dismissed because she failed to obtain a release from the commission. Held: The complainant had an adequate opportunity to have her state claims adjudicated in federal court. The federal dismissal of her state discrimination claims was due to her own voluntary decision either not to proceed with those claims in federal court and/or not to seek a release from the commission.

***FitzGerald, 05/25/04***
*Bray-Faulks, Carla v. The Hartford Financial Services Group, Inc.*
0210354

Motion to dismiss is denied and the complaint is remanded to the investigator to attempt conciliation. The respondent filed a motion to dismiss the complaint in its entirety because the investigator did not attempt conciliation prior to her certification of the complaint. The respondent claimed that § 46a-83(f) mandates that an investigator attempt conciliation, and that the investigator's failure in this case to attempt conciliation resulted in the commission losing subject matter jurisdiction over the complaint. Held: (1) an attempt to conciliate is mandatory under § 46a-83(f), (2) this statutory requirement to attempt conciliation is a condition precedent to certification and public hearing, not an issue of subject matter jurisdiction; and (3) because subject matter jurisdiction is not lost if the attempt at conciliation is held more than 50 days after a finding of reasonable cause [see § 46a-82e(a)], the complaint is remanded to the investigator to attempt conciliation, and, if conciliation is unsuccessful, to then certify the complaint for public hearing. As the complaint is being remanded, the respondent's arguments to dismiss portions of the complaint as untimely need not be addressed at this time.

***FitzGerald, 6/8/04***
*Payton, Meredith v. Dept. of Mental Health & Addiction Services*
0220394

Motion in limine denied for failure to explain its legal position and to provide supporting documentation and affidavits.

***FitzGerald, 06/28/04***
*Blinkoff Holly v. City of Torrington*
9530406

On June 7, 2004, the commission filed a motion for articulation of the May 10, 2004 order dismissing the complaint. Ruling: the order of dismissal adequately articulated the basis for the dismissal.

***FitzGerald, 7/6/04***
*Payton, Meredith v. Dept. of Mental Health & Addiction Services*
0220394

Motion to dismiss instead treated where appropriate as a motion for summary judgment and a motion to strike, granted. The complainant alleged that the respondent discriminated against him on the basis of religion. The complainant did not establish an adverse employment action or that similarly situated co-workers were being treated differently. The complainant's proposed relief would have required the respondent to violate the Establishment Clauses of the federal and state constitutions.

***FitzGerald, 12/27/04***
*Kennedy, Valerie v. Eastern Connecticut State University*
0140203

Final decision. Judgment for the respondent. The complainant alleged that the respondent terminated her employment because of her sex, her disability, and in retaliation for her requesting accommodations for her disability. Held*:* the commission and the complainant failed to establish that the respondent's articulated business reason was a pretext for discrimination. Also, a violation of Title VII or the Rehabilitation Act is a violation of § 46a-58(a) and would entitle the commission and the complainant to the remedies available under § 46a-86(c).

***FitzGerald, 01/28/05***
*Kennedy, Valerie v. Eastern Connecticut State University*
0140203

Motion to reconsider the final decision denied.

***FitzGerald, 08/02/05***
*McWeeny, Robert v. City of Hartford*
0410314
(appeal dismissed)

Final decision. Complaint dismissed. The respondents paid a pension to the complainant's spouse, a retired city employee. When the complainant's spouse died, the respondents paid a spousal allowance to the complainant, who had never been employed by the

respondents. The respondents terminated the spousal allowance upon the complainant's remarriage. The complainant alleged that the termination of the allowance constituted discrimination against him on the basis of his marital status. There was no evidence that the respondents had discriminated against the employed spouse. Held: (1) employee status is a prerequisite to maintaining a complaint of employment discrimination and (2) complaint dismissed because the complainant never had employee status with any of the respondents.

***FitzGerald, 08/29/05***
*Davis, Keith A. v. Mama Bears LLC*
0430103

Motion to amend the complaint to add a respondent denied without prejudice because there was no verification that the motion and proposed amendment had been received by the proposed respondent. As a matter of due process, the proposed respondent is entitled to notice and opportunity to be heard on the motion.

***FitzGerald, 08/31/05***
*Dexter, Frank v. Dept. of Correction*
0320165

Final decision. Judgment for the respondent. The respondent terminated the complainant's employment as a correction officer because he violated the administrative directive against undue familiarity with inmates by using his personal cell phone to make calls on behalf of inmates. The complainant, an African-American, alleged that the respondent did not terminate non-African Americans who had been cited for undue familiarity. Held: the complainant failed to establish a prima facie case because of his repeated violations of the administrative directive and because the non-African American correction officers to whom he compared himself were not similarly situated as their conduct were not as severe as the complainant's. Even if the prima facie elements were established, the complainant did not prove by a preponderance of the evidence that the respondent's business reason was a pretext for actual discrimination.

***FitzGerald, 09/07/05***
*Crebase, John v. Procter & Gamble Pharmaceuticals*
0330171

Motion for sanctions granted. The respondent moved that the complainant be sanctioned for failure to comply with the presiding human rights referee's order to produce documents. The complainant is sanctioned as follows: (1) it is established that the respondent did not terminate the complainant's employment because of his mental disorder; (2) no evidence shall be introduced that the respondent terminated the complainant's employment because of his mental disorder and (3) no evidence shall be introduced that the complainant has a mental disorder.

***FitzGerald, 11/15/05***
*Ballard, Chillon v. Cheshire Bd. of Ed.*
9830294

Amended ruling re: the respondent's motion to vacate. The respondent requested reconsideration of an order granting the commission's motion to compel. The respondent claimed that producing the documents would violate the federal Family Educational Rights and Privacy Act. The respondent's motion denied as the requested documents were within statutory exceptions.

***FitzGerald, 11/18/05***
*Baker, Michael v. Lowe's Home Centers, Inc.*
0430307

Motion to amend the complaint to add claims of retaliation and national origin discrimination denied. The complaint alleged that the respondent terminated the complainant's employment because of his age. The allegations of retaliation and national origin discrimination had not been alleged in the complaint, investigated by the commission during or raised by the complainant during the pre-certification factfinding investigation, or supported by any factual findings in the reasonable cause finding. The motion is denied because the requirement under § 46a-83, that the investigator list the factual findings on whether there is reasonable cause to believe that retaliation and national origin discrimination occurred, is a condition precedent to a hearing on those allegations.

***FitzGerald, 11/28/05***
*Ramseur, Cecil v. Colonial Chimney & Masonry, Inc.*
0440130
(stipulated agreement on appeal)

Hearing in damages. The complainant alleged he was terminated because of his age. The respondent defaulted for failure to appear at the hearing conference and for failure to file an answer. The complainant awarded back pay of $35,535.99 and additional relief.

***FitzGerald, 12/5/05***
*Garceau, Mary Beth v Yale University*
0530073

Motion to compel granted in part. Inter alia, the respondent, pursuant to General Statutes § 31-128f (2), was ordered to produce disciplinary records.

***FitzGerald, 12/12/05***
*Ballard, Chillon v. Cheshire Bd. of Ed.*
9830294

Motion for sanctions and to dismiss the complaint granted in part, denied in part. The complainant failed to comply with order to produce documents responsive to the respondent's production request. Because the requested documents were not relevant to the parties' burden of proof as to whether a discriminatory act occurred, the complaint was not dismissed. Because the requested documents were relevant as to the impact of the alleged discriminatory act on the complainant as his claim for emotional damages, the complainant and the commission are prohibited from introducing any oral or documentary evidence that the complainant sought and/or received treatment for emotional distress as a result of the alleged discriminatory act and they are prohibited from introducing any oral or documentary evidence of the impact the alleged discriminatory act had on the complainant's subsequent educational and employment performance after he withdrew from Cheshire High School.

**FitzGerald, 12/30/05**
*Ramseur, Cecil v. Colonial Chimney & Masonry, Inc.*
0440130
(stipulated agreement on appeal)

Motions to stay, to reconsider back pay calculation and to reopen default judgment were denied. Back pay was properly calculated from date of discriminatory termination to date of judgment, less mitigation. The length of the complainant's employment with the respondent and his separation from subsequent employment do not preclude the accrual of back pay. The respondent failed to show mistake, accident or other reasonable cause to justify setting aside the default judgment.

***FitzGerald, 01/23/06***
*Baker, Michael v. Lowe's Home Centers, Inc.*
0430307

Motion to compel denied for failure to articulate an explanation of how the requested documents were relevant and material to the facts of the case.

***FitzGerald, 01/23/06***
*Baker, Michael v. Lowe's Home Centers, Inc.*
0430307

Motion to compel denied. The respondent's requested documents to contest the commission's finding of reasonable cause. However, the public hearing is a hearing on the merits and not an appeal of the commission's pre-certification processing of the complaint. General Statutes § 46a-84 (b).

***FitzGerald, 07/12/06***
*Crebase, John v. Procter & Gamble Pharmaceuticals, Inc.*
0330171
(appeal withdrawn)

Final decision. Judgment for the complainant. The complainant established that the respondent violated General Statutes §§ 46a-58 (a) (Title VII) and 46a-60 (a) when it terminated his employment because of his age, sex and mental disability. The complainant was awarded damages including two years of back pay, reinstatement, pre-and post-judgment interest, and emotional distress.

***FitzGerald, 07/26/06***
*Saex, Randall v. Wireless Retail, Inc.*
0410175

Hearing in damages. The respondent defaulted for failure to appear at a settlement conference. The complainant alleged, in part, that the respondent harassed him and terminated his employment because of his age, religion and sex. The complainant was awarded damages including back pay, front pay, reimbursement of medical expenses, pre- and post-judgment interest, and emotional distress.

***FitzGerald, 10/16/06***
*Azam, Qazi v. Yale University*
0430623

Motion to compel granted in part. Inter alia, the respondent, pursuant to General Statutes § 31-128f (2), was ordered to produce documents submitted by the successful candidates for the job positions the complainant had applied for.

***FitzGerald, 02/09/07***
*Genovese, Lisa v. Ultimate Billiards*
0530337

Hearing in damages. The executive director defaulted the respondent for failing to respond to the commission's pre-certification interrogatories (General Statutes § 46a-54). The complainant was awarded back pay, front pay, reimbursement of medical costs that would have been paid through the respondent's employee medical benefit package, and pre- and post-judgment interest.

***FitzGerald, 06/29/07***
*Cosme, Edgardo v. Sunrise Estates, LLC*
0510210

Final decision. Judgment for the complainant. Held: the respondent failed to reasonably accommodate the complainant's mental disability; discriminated against the complainant in the terms, conditions and privileges of his employment because of his mental disability; and

terminated his employment because of his mental disability. The complainant awarded relief including $36,696 in back pay; $45,136 in front pay (four years); and pre- and post-judgment interest.

***FitzGerald, 07/17/07***
*Blinkoff, Holly v City of Torrington*
9530406

Motion to dismiss denied. The complainant alleged that the respondent retaliated against her for filing a complaint with the commission. The respondent moved to dismiss arguing that no employment relationship existed between the complainant and the respondent. Held: under § 46a-60 (a) (4), a claim for retaliation can arise either from an employment relationship or from the filing of a complaint with the commission.

***FitzGerald, 03/19/08***
*McIntosh-Waller, Marcia v Donna & David Vahlstrom*
0750080

Motion to reopen public hearing denied. The public hearing was held on February 20, 2008 and February 26, 2008. The respondents, represented by counsel, did not testify at the public hearing because, although they were listed on the commission's proposed witness list, the commission chose not to call them and because they were not listed on their own witness list. On March 4, 2008, the respondents moved to re-open the hearing to permit them to testify. Held*:* General Statute § 4-177c and §§ 46a-54-78a and 46a-54-90a of the Regulations of Connecticut State Agencies provide that a party's participation in a contested case is a reasonable opportunity subject to oversight by the presiding referee, not an unrestricted right. The hearing conference summary and order of May 1, 2007 placed all parties on clear and unequivocal notice that they were to file and serve a list of the party's proposed witnesses and that witnesses not listed, except for impeachment and rebuttal, may not be permitted to testify except for good cause shown. The respondents filed a witness list but did not list themselves as witnesses and failed to file a motion to amend their list to include themselves. The requirement that all potential witnesses, including parties, be identified on the proffering party's witness list is not unreasonable and the respondents did not show that good cause existed for their failures to include themselves on their witness list.

***FitzGerald, 4/15/08***
*Ferri, Susan v Darien Barber Shop*
0520471

Motion to dismiss denied. The respondent claimed the commission lacked subject matter jurisdiction because the complaint was brought against a trade name. Held: Courts have held that a trade name may be named as a defendant in an action. Further, by entering an appearance, an attorney acknowledges that the party named on the appearance form is an accurate legal designation of the party for purposes of the trial

***FitzGerald, 6/6/08***
*McIntosh-Waller, Marcia v. Donna & David Vahlstrom*
0750080

Final decision. Complaint dismissed. The complainant alleged that the respondents, her neighbors, discriminated against her on the basis of her color and ancestry and created a hostile housing environment in violation of 42 U.S.C. § 1982, Title VIII and General Statutes SS 46a-58 (a) and 46a-64c (a) (9). Held: (1) the respondents did not violate 42 U.S.C. § 1982, Title VIII or § 46a-58 (a) because they did not engage in violence or threaten violence; (2) § 46a-64c (9) prohibits discriminatory interference with any person in the person's post-acquisition exercise or enjoyment of his or her property. Prohibited interference includes severe, pervasive and grossly offensive nonviolent conduct directed against a person because of his or her protected status; (3) members of a household have a cause of action for actual interference in their own exercise and enjoyment of their property against a neighbor for the neighbor's severe, pervasive and grossly offensive nonviolent conduct toward any member of the household because of the member's protected status; and (4) the commission failed to prove by a preponderance of the evidence that the respondents' conduct toward the complainant and her sons was (a) because of the complainant's race or ancestry and (b) sufficiently severe or pervasive to alter the complainant's living conditions and to create a hostile housing environment for the complainant.

***FitzGerald, 8/25/08***
*Blinkoff, Holly v City of Torrington*
9530406
(appeal pending)

Final decision. The commission and the complainant established by a preponderance of the evidence that the respondents retaliated against the complainant (1) in 1995 when they filed a lawsuit against her seeking injunctive relief and (2) when they scheduled her special exceptions permit application in January 1997 rather than December 1996. Nevertheless, no monetary damages are awarded as the commission and the complainant failed to establish that these retaliatory actions resulted in monetary damages to the complainant.

***FitzGerald, 10/16/08***
*Ocana, Holger v. Metro-North Railroad Co.*
0630645
(appeal dismissed)

Motion to dismiss granted. The complainant alleged that the respondent violated General Statutes §§ 46a-58 (a) and 46a-60 (a) (1) and also Title VII and the Age Discrimination in Employment Act when it failed to promote him because of his age and national origin. The respondent filed a motion to dismiss claiming that the commission lacked subject matter jurisdiction. The respondent argued that it is a wholly-owned subsidiary of the Metropolitan Transportation Authority, organized under the laws of the State of New York. As a result of a compact between Connecticut and New York, codified in General Statutes §§ 16-343 and

16-344, the respondent operates a commuter rail service in Connecticut and is exempted by Connecticut's legislature from state regulation, including exemption from Connecticut's anti-discrimination laws.

Held: the respondent is in the business of providing mass transportation and railroad service pursuant to the Connecticut – New York compact and is the beneficiary of the exemption in § 16-344 (a). Its promotion of employees involved in its mass transportation and railroad service is within its routine and normal business operations. Based on the Connecticut Supreme Court's decision in *Greenwich v Connecticut Transportation Authority*, 166 Conn. 337(1974), the exemption in § 16-344 (a) applies to this case. Therefore, the commission lacks subject matter jurisdiction of this claim and the motion to dismiss is granted.

***FitzGerald, 10/16/08***
Vidal, Robert v. Metro-North Railroad Co.
0630646
(appeal dismissed)

Motion to dismiss granted. The complainant alleged that the respondent violated Title VII and General Statutes §§ 46a-58 (a) and 46a-60 (a) (1) when it failed to promote him because of his national origin and color. The respondent filed a motion to dismiss claiming that the commission lacked subject matter jurisdiction. The respondent argued that it is a wholly-owned subsidiary of the Metropolitan Transportation Authority, organized under the laws of the State of New York. As a result of a compact between Connecticut and New York, codified in General Statutes §§ 16-343 and 16-344, the respondent operates a commuter rail service in Connecticut and is exempted by Connecticut's legislature from state regulation, including exemption from Connecticut's anti-discrimination laws.

Held: the respondent is in the business of providing mass transportation and railroad service pursuant to the Connecticut – New York compact and is the beneficiary of the exemption in § 16-344 (a). Its promotion of employees involved in its mass transportation and railroad service is within its routine and normal business operations. Based on the Connecticut Supreme Court's decision in *Greenwich v Connecticut Transportation Authority*, 166 Conn. 337 (1974), the exemption in § 16-344 (a) applies to this case. Therefore, the commission lacks subject matter jurisdiction of this claim and the motion to dismiss is granted.

***FitzGerald, 12/10/08***
*Andrees, JoAnn v. Raymond & Sylvia Rinaldi*
0650116

Final decision. Judgment for the respondents. The complainant alleged that the respondents discriminated against her in violation of 42 U.S.C. §§ 1981, 1982 and Title VIII and also General Statutes §§ 46a-58 (a) and 46a-64c (a) (1) and (2) when they refused to rent a condominium unit to her because of her race and color. Held: The commission and the complainant cannot establish their prima facie case and/or cannot establish by a preponderance of the evidence that the respondents intentionally discriminated against the

complainant because of her race and color because they failed to provide credible persuasive evidence that the respondents knew the complainant was black.

***FitzGerald, 3/18/09***
*Caruso, Jr., John v. Western Connecticut State University*
0620214

Motion to dismiss granted in part. The complainant is employed by the respondent as a professor. On November 3, 2005, he filed an affidavit with the commission alleging that because of his participation on behalf of his wife's discrimination claim against the respondent, the respondent thereafter retaliated against him. The complainant identified three retaliatory acts, one of which occurred in 2004. (The 2004 retaliatory act was also included in a prior affidavit the complainant had filed with the commission in 2004. The commission dismissed the 2004 affidavit after finding no reasonable cause). Following an unsuccessful conciliation conference on December 12, 2008, the complainant filed an amended affidavit that included as a fourth alleged retaliatory act a failure to hire claim that arose in 2005. Held: the 2004 allegation was dismissed as untimely filed and as precluded by the res judicata effect of the commission's dismissal of the 2004 complaint. The 2005 failure to hire claim was not saved by the "relate back" doctrine and was dismissed as untimely.

***FitzGerald, 06/30/09***
*Carlson, Rose Ann v. Town of Fairfield*
0620142

"Motion to preclude relitigation of factual findings in *O'Halloran v. Fairfield* and to preclude relitigation of certain legal issues as a result of the *O'Halloran v. Fairfield* decision" is denied. The respondent argued that the doctrine of collateral estoppel should apply so as to preclude the relitigation of the factual and legal findings determined in connection with the final decision issued in *O'Halloran*. Collateral estoppel is inapplicable for at least three reasons. First, the presiding referee concluded that O'Halloran did not prove discrimination; he did not conclude that the respondent did not discriminate. Second, in *O'Halloran*, the presiding referee specifically noted that: he did not intend his findings in *O'Halloran* to be applied to the merits of this case. Finally, under the facts of this case, the policies underlying collateral estoppel and the anti-discrimination statutes favor not applying collateral estoppel.

***FitzGerald, 06/30/09***
*Gabriel, Betty v. Town of Fairfield*
0620141

"Motion to preclude relitigation of factual findings in *O'Halloran v. Fairfield* and to preclude relitigation of certain legal issues as a result of the *O'Halloran v. Fairfield* decision" is denied. The respondent argued that the doctrine of collateral estoppel should apply so as to preclude the relitigation of the factual and legal findings determined in connection with the final decision issued in *O'Halloran*. Collateral estoppel is inapplicable for at least three

reasons. First, the presiding referee concluded that O'Halloran did not prove discrimination; he did not conclude that the respondent did not discriminate. Second, in *O'Halloran*, the presiding referee specifically noted that: he did not intend his findings in *O'Halloran* to be applied to the merits of this case. Finally, under the facts of this case, the policies underlying collateral estoppel and the anti-discrimination statutes favor not applying collateral estoppel.

***FitzGerald, 06/30/09***
*Carlson, Rose Ann v. Town of Fairfield*
0620142

Motion in limine is granted to preclude evidence of qualifications unknown to the decision-maker at the time of the hiring decision. Under the "after-acquired evidence" doctrine, information that was unknown to the decision-maker at the time he made his decision could not have influenced his decision and, therefore, is irrelevant as to his motivation in choosing whom to hire.

***FitzGerald, 06/30/09***
*Gabriel, Betty v. Town of Fairfield*
0620141

Motion in limine is granted to preclude evidence of qualifications unknown to the decision-maker at the time of the hiring decision. Under the "after-acquired evidence" doctrine, information that was unknown to the decision-maker at the time he made his decision could not have influenced his decision and, therefore, is irrelevant as to his motivation in choosing whom to hire.

***FitzGerald, 06/30/09***
*Carlson, Rose Ann v. Town of Fairfield*
0620142

Motion in limine seeking to preclude the introduction of evidence regarding any emotional distress damages is denied. The complainant alleged that the respondent violated Title VII and General Statutes §§ 46a-58 (a) and 46a-60 (a) (1) when it refused to hire her for the position of zoning inspector because of her sex. Although emotional distress damages are not available for a violation of § 46a-60, the complainant's damage claims also arise from the respondent's alleged unlawful practices under Title VII, which would constitute a violation of § 46a-58 (a) and afford the complainant the relief, including emotional distress damages, available under General Statute § 46a-86 (c).

***FitzGerald, 06/30/09***
*Gabriel, Betty v. Town of Fairfield*
0620141

Motion in limine seeking to preclude the introduction of evidence regarding any emotional distress damages is denied. The complainant alleged that the respondent violated Title VII

and General Statutes §§ 46a-58 (a) and 46a-60 (a) (1) when it refused to hire her for the position of zoning inspector because of her sex. Although emotional distress damages are not available for a violation of § 46a-60, the complainant's damage claims also arise from the respondent's alleged unlawful practices under Title VII, which would constitute a violation of § 46a-58 (a) and afford the complainant the relief, including emotional distress damages, available under General Statute § 46a-86 (c).

***FitzGerald, 06/30/09***
*Carlson, Rose Ann v. Town of Fairfield*
0620142

Motion for reconsideration of the ruling sustaining the respondent's in limine objection to the testimony of Josephine O'Halloran is denied. First, as proffered by the commission, O'Halloran's proposed testimony offered no obvious or logical connection to the issue of the respondent's alleged discriminatory conduct toward the complainant. Second, O'Halloran is not a "similarly situated" witness. Third, the commission provided no specific as to the discriminatory treatment of the complainant that O'Halloran personally observed and also provided no specific information as to what testimony O'Halloran could corroborate that would both need corroboration and also not be unduly repetitious.

***FitzGerald, 06/30/09***
*Gabriel, Betty v. Town of Fairfield*
0620141

Motion for reconsideration of the ruling sustaining the respondent's in limine objection to the testimony of Josephine O'Halloran is denied. First, as proffered by the commission, O'Halloran's proposed testimony offered no obvious or logical connection to the issue of the respondent's alleged discriminatory conduct toward the complainant. Second, O'Halloran is not a "similarly situated" witness. Third, the commission provided no specific as to the discriminatory treatment of the complainant that O'Halloran personally observed and also provided no specific information as to what testimony O'Halloran could corroborate that would both need corroboration and also not be unduly repetitious.

***FitzGerald, 12/03/09***
*Milton, Michele v. Pulte Homes, Inc.*
0630188
(appeal withdrawn)

Final decision. The complainant alleged that the respondent, her former employer, violated General Statutes §§ 46a-58 (a) and 46a-60 (a) (1) and Title VII when she was harassed, received unequal pay and was subsequently terminated because of her age and sex. Held: the commission did not establish by a preponderance of the evidence that that the complainant was harassed or terminated because of her sex or her age. The commission, though, did establish by a preponderance of the evidence that the complainant received less compensation than similarly situated non-basis sales managers because of her sex and/or age and relief awarded.

***FitzGerald, 11/18/09***
*Young, Claude v. City of Stamford Police Dept.*
0720418

Motion to dismiss for lack of subject matter denied. The complainant alleged that the respondent violated § 46a-58 (a) and 46a-64 and the equal protection clause of the 14th amendment when he was subjected to excessive use of force, police brutality, verbally abusive language and racial slurs. Held: the respondent is a public accommodation for purposes of § 46a-64, and the complaint may be amended to allege additional facts to show an equal protection violation enforceable through § 46a-58 (a).

***FitzGerald, 12/28/09***
*Carlson, Rose Ann v. Town of Fairfield*
0620142

Final decision. Complaint dismissed. The complainant was one of four applicants (three females and one male) for the position of zoning inspector. The respondent hired the male applicant for the position. The complainant alleged that she was not hired because of her sex. Held: the commission did not establish by a preponderance of the evidence that the respondent discriminated against the complainant on the basis of her sex when it did not hire her for the position of zoning inspector.

***FitzGerald, 12/28/09***
*Carlson, Rose Ann v. Town of Fairfield*
0620142

Final decision. Complaint dismissed. The complainant was one of four applicants (three females and one male) for the position of zoning inspector. The respondent hired the male applicant for the position. The complainant alleged that she was not hired because of her sex. Held: the commission did not establish by a preponderance of the evidence that the respondent discriminated against the complainant on the basis of her sex when it did not hire her for the position of zoning inspector.

***FitzGerald, 06/28/10***
*Pappy, John v. Southern Connecticut State University*
0730288

Motion to compel denied. The respondent sought all medical records from 1997 to date because the complainant claims damages for emotional distress. The respondent also sought personnel records from the complainant's employers prior to the respondent hiring the complainant in 1989. Ruling: (1) the medical records are exempt from disclosure because the complainant is alleging "garden variety" emotional distress, and psychological and mental conditions are not elements in a claim for garden variety emotional distress and (2) employment records from over twenty years ago are not relevant and material to the

employment conditions alleged by the complainant or to the defenses raised by the respondent in its answer.

***FitzGerald, 06/28/10***
*Standard, Tracy A. v. Esposito Design Associatesf, Inc.*
0820445

Objection to defendant corporation proceeding pro se overruled. When the attorney for the respondent corporation withdrew its appearance, the non-lawyer officer of the corporation filed notice that he would be proceeding on behalf of the corporation. The commission's objection to the respondent appearing pro se is overruled as the commission's regulations permit a respondent to appear pro se in an administrative proceeding.

***FitzGerald, 7/23/10***
*Nemeth, Sandor v Wesport Big & Tall, Inc*
0920337
(appeal pending)

The presiding referee dismissed the complaint sua sponte for the complainant's failure to appear. Neither the complainant nor his attorney attended the hearing conference.

***FitzGerald, 09/13/10***
*Ellis, John v. ACE International (ACE American Ins. Co.)*
0620473

Motion to dismiss granted in part and denied in part. The complainant's § 46a-58 (a), Title VII retaliation and ADEA claims dismissed. Commission lacks jurisdiction because retaliation and age are not enumerated as protected bases under § 46a-58 (a). Motion dismissed as to the complainant's § 46a-60 (a) (4) retaliation claim as (1) the claim is not time-barred and (2) whether the alleged acts would dissuade a reasonable worker from making or supporting a charge of discrimination is an evidentiary matter not a jurisdictional defect.

***FitzGerald, 10/12/10***
*Pappy, John v. Southern Connecticut State University*
0730288

Motion to dismiss granted in part and denied in part. The complainant alleged that the respondent violated Title VII and §§ 46a-58 (a) (1) and (4), and 46a-60 (a) and 46a-70 (a) and (e). Motion granted as to the § 46a-58 (a) retaliation claim; motion denied as to the § 46a-58 (a) race and national origin claims. Motion denied, without prejudice, as to the claim of untimeliness.

***FitzGerald, 10/25/10***
*Ellis, John v. ACE International (ACE American Ins. Co.)*
0620473

Motion to dismiss denied. The respondent asserted lack of subject matter jurisdiction, lack of personal jurisdiction and improper extraterritorial application of state's anti-discrimination laws. Held: (1) the commission has subject matter jurisdiction under § 46a-60 over a claim that an employee was terminated because of his age an in retaliation for his opposition to discriminatory employment practices; (2) a decision made in Connecticut that has extraterritorial effect does not make the application of the law extraterritorial and Connecticut's anti-discrimination laws may, in some cases be applied extraterritorially; and, (3) the commission and the complainant established that the commission's exercise of personal jurisdiction satisfies statutory and constitutional requirements.

***Giliberto, 2/19/99***
*Brown, Kim v. Olsten Services, Inc.*
9920046
(appeal dismissed 11/10/99, following appeal, stipulated judgment)

Motion to open default granted. Held*:* (1) human rights referee have authority at default hearing to open default entered by acting executive director and (2) matter referred back to investigative office.

***Giliberto, 7/15/99***
*Ballard, Chillon v. Cheshire Bd. of Ed.*
9830294
(rev'd and remanded by Supreme Ct)

Motion to dismiss granted in part. Held: (1) the commission does not have jurisdiction over claims pursuant to §10-15c; (2) public schools are not public accommodations; (3) the commission does not have concurrent jurisdiction with the Dept of Education pursuant to §46a-58 and §46a-64(a)(2). On appeal, Superior Court vacated the referee's dismissal, found that the commission does have jurisdiction to hear complaints of discrimination against students in public schools, and remanded the case for further proceedings.

***Giliberto, 7/22/99***
*DeRosa, Barbara G. v. Dr. Fredric Rosen*
9830057

Motion to dismiss denied. Motion to amend granted in part. Held*:* (1) Complaint may be amended to correct statutory bases for discrimination; (2) General Statutes § 46a-60(a)(1) imposes individual liability; (3) complaint may be amended to cite in the proper respondent; and (4) claim pursuant to § 46a-60(a)(5) may not be added to the complaint.

***Giliberto, 7/29/99***
*Volpintesta, Lou v. International Athletic Association of Basketball Officials*
9910120

Hearing in damages. Part-time high school basketball referee awarded: (1) back pay (2) front pay (3) membership dues; and (4) various equitable remedies.

***Giliberto, 8/17/99***
*DeRosa, Barbara G. v. Dr. Fredric Rosen*
9830057

Motion to dismiss federal claims granted in part. Federal claims under ADEA and ADA are dismissed due to employer having less than minimum number of employees.

***Giliberto, 8/20/99***
*DeRosa, Barbara G. v. Dr. Fredric Rosen*
9830057

Motion to stay pending declaratory ruling from the commission denied. Held*:* (1) executive director cannot file motions as she is represented by the commission counsel; (2) chief human rights referee performs administrative function and cannot rule in place of presiding human rights referees; (3) human rights referees have duty to address matters in more expedient fashion than the court system; and (4) declaratory rulings are no more binding than final decisions in other contested cases and do not require halt to all potentially related proceedings.

***Giliberto, 8/20/99***
*Johnson, Mary L. v. Dept. of Correction*
9740163

Motion to stay pending declaratory ruling from the commission denied. Held*:* (1) executive director cannot file motions as she is represented by the commission counsel; (2) chief human rights referee performs administrative function and cannot rule in place of presiding human rights referees; (3) human rights referees have duty to address matters in more expedient fashion than the court system; and (4) declaratory rulings are no more binding than final decisions in other contested cases and do not require halt to all potentially related proceedings.

***Giliberto, 9/30/99***
*Duarte, James v. Hamilton Standard*
9610553

Motion to dismiss denied in part. Held*:* (1) The complainant alleged facts sufficient to establish a *prima facie* case of disability discrimination; (2) Employers have a duty under state law to make reasonable accommodations; (3) General Statutes § 46a-58(a) does not

apply to discriminatory employment practices that fall under the federal statutes; and (4) the commission does have jurisdiction over federal claims of discrimination.

***Giliberto, 10/26/99***
*Nicolosi, Patricia v. Johnny's Pizza*
9840466

Order of dismissal due to the complainant's failure to cooperate. Pro se complainant failed to attend scheduling conference and settlement conference without excuse or explanation.

***Giliberto, 11/16/99***
*Brown, Bradley, Sr. v. Creative Management Realty Co.*
9850062, 9850063, 9850064, 9850065, 9850068, 9850069

Motion to dismiss granted in part. Held*:* (1) motion to dismiss is treated as a motion to strike; (2) § 46a-64c(a)(2) protects against discriminatory practices after the initial sale or rental transaction; (3) § 46a-64c(a)(3) does not apply solely to discrimination in advertising and includes verbal statements; (4) family members of disabled individuals are protected from discriminatory practices pursuant to § 46a-64c(a)(6)(B) and (C); (5) the discriminatory acts alleged against the respondent management company and the respondent property manager do not constitute "residential real-estate-related transactions" pursuant to § 46a-64(a)(7); and (6) white persons are protected from racial discrimination under the state and federal fair housing laws.

***Giliberto, 3/9/00***
*Johnson, Mary L. v. Dept. of Correction*
9740163

Final decision. Judgment for the respondent. Held*:* (1) The complainant is an "individual with a disability" due to her physical impairments of asthma and degenerative arthritis which are found to substantially limit the major life activities of breathing and walking; (2) The complainant was not qualified to perform the essential functions of her job and therefore failed to set forth a prima facie case under the ADA and the Rehabilitation Act; (3) the complainant's impairments of asthma and degenerative arthritis meet the definition of "physically disabled" under state law and the complainant established a prima facie case under state law; (4) the respondent proved the safety defense and her physical disabilities prevent her from performing her job.

***Giliberto, 3/13/00***
*Brown, Bradley, Sr. v. Creative Management Realty Co.*
9850062, 9850063, 9850064, 9850065, 9850068, 9850069

Final decision. Judgment for the respondents. Held*:* All of the parties failed to appear for the public hearing, therefore the complainants and the commission failed to establish a prima facie case.

***Giliberto, 5/31/00***
*Ballard, Chillon v. Cheshire Bd. of Ed.*
9830294
(rev'd and remanded by Supreme Ct)

Motion to dismiss granted. Held*:* (1) General Statutes § 46a-75 does not apply to public schools; and (2) the commission through the human rights referee does not have the authority to transfer this matter to the State Board of Education. On appeal, Superior Court vacated the referee's dismissal, found that the commission does have jurisdiction to hear complaints of discrimination against students in public schools, and remanded the case for further proceedings.

***Giliberto, 7/31/00***
*Intagliata, Debra J. v. Wal-Mart Stores, Inc.*
9740381

Final decision. Judgment for the respondents. Held*:* (1) The complainant failed to establish a prima facie case of retaliation due to her failure to prove she complained about discriminatory employment practices and failure to prove any adverse action; and (2) The complainant failed to establish a prima facie case of gender discrimination due to her failure to prove that the male employee that replaced her was similarly situated and failure to prove any adverse action or inference of salary discrimination due to gender.

***Giliberto, 9/27/00***
*Scarfo, Dominic C. v. Hamilton Sundstrand Corp.*
9610577

Final decision. Judgment for the respondent. Held*:* (1) General Statutes § 46a-58(a) encompasses ADA claims; (2) human rights referees have authority to adjudicate federal claims, including the ADA; (3) Prior adverse arbitration decision is not entitled to receive substantial weight by this tribunal and does not preclude the complainant from receiving remedies; (4) the complainant's state claims of discrimination are not preempted by § 301 of the Labor-Management Relations Act; (5) the respondent did not regard the complainant as disabled under the ADA; (6) the complainant was not entitled to reasonable accommodations under the ADA based on his "regarded as" claim; (7) General Statutes § 46a-60(a)(1) includes perceived disability claims; (8) the respondent did not perceive the complainant to be disabled under § 46a-60(a)(1); (9) the *McDonnell Douglas* model of analysis applies to the facts in this matter; and (10) there is no duty to provide reasonable accommodations for perceived disability claims under state law.

***Giliberto, 11/15/00***
*Rosado, Nestor v. United Parcel Service, Inc.*
0020469

Hearing in damages. Both the complainant and the respondent failed to appear. Order of relief included: (1) a cease and desist order against the respondent; and (2) the respondent was ordered to place posters, to be supplied by the commission at all of its Connecticut locations.

***Kerr, 03/08/05***
*Sanchez, Maria v. Atlantic Communications, Corp.*
0430462
Kerr, 03/08/05

Hearing in damages. The complainant filed her affidavit of discriminatory practice on March 12, 2004, alleging sexual harassment and wrongful termination (on the basis of her sex) in violation of General Statutes §§ 46a-58(a) and 46a-60(a)(1) and Title VII. The respondent was defaulted on January 5, 2005 for failure to file an answer and a hearing in damages was held on February 17, 2005. The respondent was ordered to cease and desist in further sexual harassment, to pay the complainant $8,402.70 in back pay, to reimburse the state $3, 718.00 in unemployment compensation benefits paid to the complainant, and to pay pre- and postjudgment interest on both amounts at the rate of 10% per annum.

***Kerr, 12/01/05***
*Sperow, Joyce v. Regional School District No. 7*
0130607

Motion to dismiss granted in part, denied in part. Teacher termination matter based upon sex (female) age and religion (Methodist). Motion predicated on res judicata and collateral estoppel as a result of termination being upheld by impartial state hearing panel (General Statutes 10-151) and superior court on appeal from panel ruling. Motion granted as to claims under General Statutes 46a-60(a)(1) and the ADEA. Motion denied as to claims under General Statutes 46a—58(a) and Title VII.

***Kerr, 01/04/07***
*Sperow, Joyce v. Regional School District No. 7* 0130607

Motion for reconsideration denied. Held: The request did not meet the statutory standards warranting reconsideration and grossly mischaracterized the final decision by not recognizing that while certain of the complainant's claims were found to be barred by issue preclusion (back pay, reinstatement), others (injunctive relief) were protected by the provisions of the Civil Rights Act of 1991 and the matter could proceed on the limited basis authorized therein.

***Kerr, 04/17/06***
*Maher, Stacy v. New Britain Transportation Co*.
0330303

Final decision. Case dismissed. The complainant claimed discrimination as a result of her gender in her rate of pay, being passed over for promotion, being offered a promotion on lesser terms than males, having her hours reduced and being constructively discharged. The complaint was brought under CFEPA, Title Vll and the Equal Pay Act. After full hearing the complaint was dismissed for failure to establish a prima facie case as some allegations did not constitute adverse employment actions and others were under circumstances where no improper animus could be inferred.

***Kerr, 06/01/06***
*Duncan, Clive v CT Trane*
0410319

Motion to stay denied. The motion to stay was predicated on the filing of an action in federal court one month prior to the complaint's certification. The motion claimed that a stay was necessary to preserve (from the threat of preclusion) a right to a federal jury trial and to avoid duplication of effort. The motion was denied because the dual filing was at the complainant's option, preclusion issues could arise whether the stay was granted or not and because no compelling reason was advanced to indefinitely disenfranchise the commission from its statutory obligation to prosecute discrimination complaints.

***Kerr, 9/12/06***
*DiMicco, Rosa v. Neil Roberts, Inc.*
0420438

Hearing in damages. Default entered for failure to answer in employment termination case predicated upon sexual harassment and retaliatory dismissal. The complainant was awarded back pay ($7,220), lost benefits ($3,699), emotional distress ($6,000) and prejudgment interest ($4,740).

***Kerr, 11/06/06***
*Daniels, Jeffrey v Andre Ruellan*
0550012

Final decision. The complainant alleged that he was discriminated against in being denied rental housing on the basis of disability and source of income. The respondent denied the claim based on disability and rebutted the source of income claim by stating that his denial was predicated on the permissible consideration of insufficient income. Held: The disability claim was dismissed for lack of evidence and judgment for the complainant was entered on the source of income claim. The formula the respondent had used to determine insufficient income was legally flawed, and could be applied so as to eliminate virtually all Section 8 applicants. The complainant was awarded $4275 plus interest for all claims (which sum

included a small award for emotional distress) and complainant's counsel was awarded a discounted attorney's fee in the amount of $10,150.

***Kerr, 11/16/06***
*DiMicco, Rosa v Neil Roberts, Inc.*
0420438

Final decision on reconsideration. The complainant requested a reconsideration of the final decision dated September 12, 2006, wherein the referee declined to award attorney's fees because the complainant supplied inadequate documentation to support an award. Held: After granting the motion to reconsider, and reviewing a detailed itemized bill with proposed hourly rates, the referee awarded $10,369.39 in attorney's fees, rejecting the proposed lodestar fee of $17,282.31 as unreasonable and out of proportion with the effort put forth and the result obtained.

***Kerr, 05/03/07***
*Pinto, Angela v. Edith Engelhard*
0550113

Final decision. The complainant alleged that she was discriminated against in being denied rental housing on the basis of her section 8 source of income, in violation of General Statutes § 46a-64c (a) (1). The respondent alleged that the denial was based on unsatisfactory credit and failing to comply with her last minute demand that the complainant provide proof of good funds for first month's rent and security two days prior to the lease inception. It was found that there was evidence of the respondent having stated that the cause of the rejection was her husband's refusal to accept the governmental involvement (in the form of section 8 paperwork and including submission of IRS form W-9) section 8 participation requires. This conclusion was supported by several exhibits (some executed by both parties), which confirmed a meeting of the minds on all rental details. The *Price Waterhouse* model was applied and it was found that the respondent did not meet her burden of establishing that she would have denied the complainant rental housing even in the absence of the complainant's section 8 source of income. The complainant was awarded $5,000 for emotional distress and an attorney's fee award was made in the amount of $10,500.

***Kerr, 10/03/07***
Rajtar, *Donald J. v. Town of Bloomfield*
0510115

Motion to dismiss denied. Held: An arbitration panel's finding that the complainant (a police officer) had been untruthful during an investigation and subsequent disciplinary action, and a subsequent superior court ruling that the complainant could not be returned to duty by the panel as a matter of public policy, did not preclude the commission from considering whether the complainant's termination was an impermissible discriminatory act. The decision reasoned that discriminatory animus had not been considered by the town, panel or court, and that the complainant should be afforded the opportunity to establish that the

finding of untruthfulness was pretext for a termination impermissibly predicated on the basis of his age. This case was distinguishable from *Sperow v. Regional School District No. 7,* CHRO No. 0130607).

***Kerr, 10/03/07***
Rajtar, *Donald J. v. Town of Bloomfield*
0510115
(appeal withdrawn)

Final decision. Judgment for the complainant. The complainant alleged that he had been wrongfully terminated as a police officer by the respondent on the basis of age. The respondent's decision to terminate had been set aside by an arbitration panel, which had found the complainant had been untruthful during an investigation and subsequent disciplinary hearing but had reduced the termination to a 200 workday suspension. The complainant maintained that the charges against him, the disciplinary proceedings and his discharge were pretext for age discrimination. There was evidence of tolerated and department wide disparagement of older patrol officers, of disparate discipline predicated on age, and of an investigation of the complainant's alleged dishonesty so one sided and perfunctory as to lend substantial credence to the complainant's assertion that the disciplinary process, finding of dishonesty and resultant termination were but pretext for a wrongful termination predicated on age. The complainant was awarded $80,369.34 for back pay, accrued time in the amount of 687.97 hours, $19,792. for medical expenses incurred as a result of loss of insurance, prejudgment interest from January 9, 2006, post judgment interest and other equitable relief.

***Kerr, 11/08/07***
*Rajtar, Donald J. v Town of Bloomfield*
0510115
(appeal withdrawn)

Petitions for reconsideration. The respondent, the complainant and the commission filed petitions to reconsider. The respondent's petition to reconsider the earlier denial of its motion to dismiss was denied. The complainant's and respondent's petitions to reconsider the final decision were granted. Held: The final decision was affirmed and clarified to provide that the complainant be reinstated to full duty as a Bloomfield officer and that the final decision be implemented independent of any disposition in *Town of Bloomfield v. United Electrical Radio & Machine Workers of America*, 2006 WL 3491719 (Conn. Super.) because that matter is proceeding on a finding that the complainant (Rajtar) had been untruthful, which finding was rejected in the final decision as pretext advanced to impermissibly justify a termination effectuated because of age discrimination.

**Kerr, 4/10/08**
*Recupero, Guy v. L.G. Defelice, Inc.*
0530022

Hearing in damages. Default entered for failure to answer in employment termination case predicated upon unlawful dismissal based upon mental disability (bipolar disorder). After hearing held damages awarded under CFEPA in the amount of $164,059.93, plus prejudgment interest, post judgment interest and $12,703 in reimbursement of unemployment compensation payments received. Request for front pay award denied.

**Kerr, 6/12/08**
*Couture, Alan v. Waterbury Republican*
0630390
(on appeal, final decision vacated and appeal withdrawn)

Motion to dismiss granted. Held: The respondent newspaper refused to publish an unpaid announcement (with photograph) of the complainant's same sex civil union with those of marriages similarly submitted. The complainant alleged a denial of a public accommodation under General Statutes § 46a-64 on the basis of sexual orientation and marital status. The respondent claimed First Amendment protection in the exercise of its editorial discretion. Held*:* while there have been legally recognized encroachments on a newspaper's First Amendment rights so as to advance other competing governmental and public interests, such encroachments have not been found in Connecticut (or elsewhere) to extend to the content of unpaid public/personal announcements in a newspaper under the theory that it is a public accommodation. Without a basis for determining that the respondent was a public accommodation for these purposes, the complainant was found to have failed to establish subject matter jurisdiction.

**Kerr, 6/12/08**
*McDonald, Robert v. Waterbury Republican*
0630389
(on appeal, final decision vacated and appeal withdrawn)

Motion to dismiss granted. The respondent newspaper refused to publish an unpaid announcement (with photograph) of the complainant's same sex civil union with those of marriages similarly submitted. The complainant alleged a denial of a public accommodation under General Statutes § 46a-64 on the basis of sexual orientation and marital status. The respondent claimed First Amendment protection in the exercise of its editorial discretion. Held*:* while there have been legally recognized encroachments on a newspaper's First Amendment rights so as to advance other competing governmental and public interests, such encroachments have not been found in Connecticut (or elsewhere) to extend to the content of unpaid public/personal announcements in a newspaper under the theory that it is a public accommodation. Without a basis for determining that the respondent was a public accommodation for these purposes, the complainant was found to have failed to establish subject matter jurisdiction.

***Kerr, 12/09/08***
*Doe, Jane v. Claywell Electric*
0510199

Hearing in damages. Default entered for failure to answer in employment termination case predicated upon sexual discrimination/harassment and constructive discharge. The complainant was awarded back pay ($3,120), emotional distress ($15,000) and prejudgment interest ($1,310).

***Kerr, 1/29/09***
*Swindell, Jennifer v. Lighthouse Inn*
0840137

Hearing in damages. Default entered for failure to answer in an employment case claiming retaliation and termination on the basis of race (African-American) and having opposed discrimination. The complainant was awarded back pay ($8,000), emotional distress ($1,000) and prejudgment and postjugment interest.

**Kerr, 4/21/10**
*Kinder, Anthony v. Dept. of Children and Families*
0730367

Final decision. Complaint dismissed. The complainant alleged that he was discriminated against in being denied a promotion to the position of social work supervisor because of his race (African-American) and color (black), in violation of General Statutes § 46a-58 (a), 46a-60 (a) (1) and Title Vll. Because of the manifold safety valves built in to the interview and selection process by the respondent to safeguard against discriminatory animus interjecting itself into the selection process, the racial and ethnic composition of the interview panels and the diversity and qualifications of the successful candidates, the complainant was unable to establish a prima-facie case.

***Knishkowy, 6/11/99***
*O'Neill, Eileen v. J.P. Dempsey's, Inc.*
9430534

Ruling on discovery motions. Held*:* (1) There is no authority for interrogatories at the CHRO; (2) human rights referees may grant or deny motions to compel on specific discovery issues.

***Knishkowy, 7/23/99***
*Malizia, Angela v. Thames Talent, Ltd.*
9820039
(appeal dismissed)

Motion to dismiss denied. Held*:* (1) corporate officer/shareholder/director who performs traditional employee duties on a full-time basis is counted as an "employee" to meet the three-employee requirement of General Statutes §46a-51(10) and (2) corporate officers cannot claim to be de facto partners in order to avoid their responsibilities under the Fair Employment Practices Act.

***Knishkowy, 9/1/99***
*Little, Ronald v. Stephen Clark*
9810387

Motion to dismiss as to one of 3 respondents denied. Motion did not include affidavits or other supporting documents other than excerpts from investigator's reasonable cause finding. Held*:* (1) Although commission investigator had found no reasonable cause as to him, the entire complaint was certified for public hearing; therefore the Referee cannot rely upon the investigator's findings as a basis for dismissing the case. Once a complaint is certified for public hearing, the Referee must conduct *de novo* proceeding on the merits; and (2) if evidence exists to exonerate him, it must be presented at the public hearing.

***Knishkowy, 10/13/99***
*Grant, Sharyn L. v. Yale-New Haven Hospital*
9530477

Final decision. Judgment for the respondent. The complainant failed to prove that her discharge was the result of unlawful discrimination based on race, color, or disability. The respondent articulated—and convincingly proved—a legitimate, nondiscriminatory reason for the discharge; i.e., the complainant could not perform her essential job duties even with reasonable accommodation, and there were no other positions to which she could reasonably be assigned. Furthermore, the respondent satisfied its duty to reasonably accommodate the complainant.

***Knishkowy, 11/18/99***
*Vendryes, Kathrine v. Roadway Package Systems, Inc.*
9830539

Ruling on Interrogatories. Interrogatories not allowed in administrative proceedings. Discovery limited by Uniform Administrative Procedure Act and the rules of practice to requests for production.

***Knishkowy, 12/16/99***
*Malizia, Angela v. Thames Talent, Ltd.*

9820039
(appeal dismissed)

Ruling on Interrogatories. Held: Interrogatories not allowed in administrative proceedings. Discovery is limited by the Uniform Administrative Procedure Act and the rules of practice to requests for production.

***Knishkowy, 12/20/99***
*Perry, Claude v. Town of Ansonia*
9730481

Motion to dismiss denied. Held*:* Although the commission investigator found reasonable cause on one allegation in the complaint, and no reasonable cause on the other three allegations, the entire complaint was certified for public hearing in accordance with the plain and unambiguous language of § 46a-84. Once a complaint is certified, the Referee must conduct a de novo hearing on the entire complaint and not rely upon the investigator's report as a basis for dismissal.

***Knishkowy, 1/4/00***
*McNeal-Morris, Malisa v. Czeslaw Gnat*
9950108

Hearing in damages. After the complainant negotiated purchase of residential property from the respondent landowner, the respondent changed his mind several times, resulting in a series of postponements for the closing. More than two months after the original closing date, the respondent decided he would not sell to complainant at all. The respondent's liability established by order of default. After hearing in damages, complainant awarded: (1) economic damages for various expenses needlessly incurred in preparation for the closing and move ($3,995), and (2) emotional distress damages ($6,500).

***Knishkowy, 4/12/00***
*Green, Devon v. SNET Co.*
9420217

Ruling on Interrogatories. Held*:* interrogatories not allowed in administrative proceedings. Discovery is limited by the Uniform Administrative Procedure Act and the rules of practice to requests for production.

***Knishkowy, 5/4/00***
*Smith, Eunice v. Dept. of Correction*
9710718

Parties' third joint motion to extend deadline for legal briefs (on discovery issue) denied after two previous continuances had been granted. Even though parties are engaged in settlement negotiations, they remain obligated to meet previously-established deadlines set by human rights referee. For the same reason, deadline for exchange of witness lists and

exhibit lists extended for only 4 business days. Extension of prehearing conference and hearing dates denied.

***Knishkowy, 6/9/00***
*Secondo, Frank v. Hartford Housing Authority*
9710713

Final decision. Judgment for the respondent. Held*:* (1) Entire complaint, as certified, properly before human rights referee, even though commission investigator found no reasonable cause on several of the allegations. (2) Because the respondent chose not to re-fill vacant foreman position in 1997, the complainant did not prove that the respondent's failure to promote him to foreman was motivated by his physical disabilities. Even if the respondent had filled the position, the complainant was not qualified. (3) The respondent did not harass the complainant because of his disabilities. (4) The respondent did not deny overtime opportunities to the complainant because of his disabilities. (5) The respondent did not unlawfully withhold reasonable accommodations from the complainant. For some time, the complainant was able to perform the essential functions of his job without need for reasonable accommodations. After a work-related injury, there were no reasonable accommodations that would allow the complainant to perform the essential functions. (6) The respondent did not retaliate against the complainant for challenging promotional decisions made in 1995 and 1997.

***Knishkowy, 6/30/00***
*Malizia, Angela v. Thames Talent, Ltd.*
9820039
(appeal dismissed)

Final decision. Judgment for the complainant. The complainant proved that her supervisor, the respondent's president, sexually harassed her and created a hostile work environment, with strict liability imputed to the respondent. The complainant was terminated from her job shortly after she complained to her supervisor about the harassment. She proved that her termination was in retaliation for opposing his behavior and demonstrated that the respondent's proffered reason—poor attitude and work performance—was a pretext and was the direct result of the supervisor's conduct. The complainant awarded backpay, prejudgment interest, costs of insurance coverage.

***Knishkowy, 8/2/00***
*Little, Ronald v. Stephen Clark*
9810387

Final decision. Judgment for the complainant. The complainant, who suffered from Parkinson's disease, brought action under state and federal fair housing statutes alleging that the respondents, teenage boys in the neighborhood, discriminated against him because of his disabilities. Held*:* the complainant proved that the respondents harassed him because of his disability and created a hostile housing environment. The respondents were found liable for property damage, costs, attorneys fees, and emotional distress.

***Knishkowy, 9/8/00***
*Benjamin, Uel v. Mediplex of Greater Hartford*
9910193

Motion to dismiss denied. Held*:* under certain circumstances, as in this case, a prior arbitration award adverse to the complainant does not bar the complainant from bringing a subsequent action with the commission and has no preclusive effect on the facts and issues raised therein.

***Knishkowy, 10/3/00***
*Chilly, John v. Milford Automatics, Inc.*
9830459

Final decision. Judgment for the complainant. The complainant was terminated from employment when he showed up for work with Bell's palsy. The respondent claimed it terminated the complainant for poor work quality and had been planning to do so for some time. Although the complainant failed to prove that he was disabled under the ADA or CFEPA, he did prove that the respondent regarded him as disabled under CFEPA. The complainant established a strong prima facie case and proved that, under the circumstances of the case, the respondent's proffered reason was unworthy of credence.

***Knishkowy, 1/22/01***
*Leftridge, Rachael v. Anthem Blue Cross & Blue Shield*
9830218

Final decision. Judgment for the respondent. African-American complainant alleged that the respondent failed to promote her because of her race. The complainant had worked for the respondent for nine years, yet the promotion was given to a white co-worker who had only worked for one year. Although the complainant was qualified for the promotion and met her prima facie case, the respondent justified its decision by demonstrating that the promoted employee was better qualified. The complainant failed to show that the respondent's reason lacked credence or that it masked an unlawful discriminatory motive.

***Knishkowy, 3/1/01***
*Williams, Robert v. M.N.S. Corporation*
0010124

Hearing In damages. The respondent's liability determined by entry of order of default. Award of back pay made to black employee who was terminated from truck-driving position and subsequently replaced by white driver.

***Knishkowy, 8/9/01***
*Saksena, Sharad v. Dept. of Revenue Services*
9940089
(appeal withdrawn)

Final decision. Judgment for the respondent. The complainant suffered from depression and sought, as accommodation, the ability to work at home. When his request was denied, he resigned. In this instance, working at home was not a reasonable accommodation. Furthermore, the respondent did provide other reasonable accommodations to complainant. The complainant also failed to prove constructive discharge because he was unable to prove that the respondent denied him a reasonable accommodation and because he was unable to show that the respondent intentionally created a work environment so intolerable that would force a reasonable person to resign voluntarily.

***Knishkowy, 2/14/02***
*Gill, Rosemarie v. Hartford Public Schools*
0010417

Ruling on interrogatories. Held*:* Interrogatories not allowed in administrative proceedings. Discovery is limited by the Uniform Administrative Procedure Act and the rules of practice to requests for production/disclosure of documents.

***Knishkowy, 2/15/02***
*Ceslik, Stephen v. Napoli Motors*
0030569, 0030586, 0030587

Motion to disqualify opposing counsel denied. Held: The law firm of a lawyer who represented the complainant many years ago now represents the respondents in the present action. The complainant moved to disqualify the firm and its members under Rule 1.9 and 1.10 of the Rules of Professional Conduct. Because the earlier representation bears no "substantial relationship"—in fact, no relationship at all—to the present matter, no violation of the Rules exists.

***Knishkowy, 3/15/02***
*Kowalczyk, Lynne v. City of New Britain*
9810482
(appeal dismissed)

Final decision. Judgment for the respondents. Three public school employees were transferred to other schools because their strained and volatile interpersonal relationships demonstrated a potential for disruption in the school where all three worked. The complainant brought this action against the city, the board of education, and two administrators, alleging that the transfer was based on her mental disability and her sexual orientation. Held: (1) complainant failed to meet her prima facie case for each claim, because her transfer was not an "adverse employment action;" (2) complainant failed to

demonstrate, for purposes of her prima facie burden, that she was transferred "because of" her disability; (3) complainant failed to demonstrate, for purposes of her prima facie burden, any circumstances giving rise to an inference of discrimination based on her sexual orientation; (4) individual respondents not liable, as matter of law, under ADA, General Statutes §46a-60(a)(1), or §46a-81c; (5) complainant failed to prove facts showing individual respondents aided or abetted discriminatory practice in violation of §46a-60(a)(5).

***Knishkowy, 3/21/02***
*Ceslik, Stephen v. Napoli Motors*
0030569, 0030586, 0030587

Motion to strike special defenses granted. The respondent raised two special defenses predicated upon prior findings and determination of the commission investigator as to some of the allegations in the complaint. However, the complaint was certified to hearing in its entirety, and thus, the referee must conduct a de novo hearing on the entire complaint; the respondent cannot successfully base special defenses solely on the investigator's report.

***Knishkowy, 12/5/02***
*Stevens, Lorraine v. Urban League*
0010328

Motion to dismiss denied. Motion to dismiss may be treated as a motion to strike, where the respondents challenge not jurisdiction, but the legal sufficiency of claim. The respondents moved to dismiss portion of complaint predicated upon §46a-58(a), asserting that it cannot co-exist with §46a-60(a) employment discrimination claim, pursuant to *CHRO v. Truelove & Maclean, Inc.*, 238 Conn. 337(1996). Notwithstanding the respondents' interpretation of *Truelove*, §46a-58(a) "has expressly converted a violation of federal antidiscrimination laws [here, Title VII] into a violation of Connecticut antidiscrimination laws." (*Trimachi v. Connecticut Workers Comp. Comm*., 2000 WL 872451 (Conn. Super.)) Motion to dismiss §46a-58(a) claim, when treated as a motion to strike, is denied.

***Knishkowy, 1/17/03***
*Nobili, Thomas v. David E. Purdy & Co.*
0120389

Motion to dismiss/motion for summary judgment denied. Motion to dismiss may be viewed as motion for summary judgment when the issue is one of facts, not of jurisdiction. In motion for summary judgment, the tribunal's role is not to resolve issues of fact, but to determine if any issue of material fact exists. The movant bears the burden of demonstrating there is no genuine issue of material fact. Based on conflicting affidavits from two physicians, whether complainant's sinusitis and rhinitis were chronic impairments under state law is a question of fact to be decided by the referee. Additionally, the respondent's allegation that it had no notice of complainant's need for accommodation was amply contradicted by the complainant's affidavit; thus, this is also a factual matter requiring full adjudication.

***Knishkowy, 2/6/04***
*Nobili, Thomas v. David E. Purdy & Co.*
0120389

Final decision. Judgment for the respondents. Held: the complainant, a certified public accountant, failed to prove 4th prong of prima facie case in his state law complaint alleging termination because of his disability, sinusitis. Even if he had proven his prima facie case, he could not meet his ultimate burden of proving that his termination was motivated by a discriminatory animus. The complainant also failed to satisfy the prima facie case for his "failure to accommodate" state law claim because he did not need an accommodation in order to perform the essential functions of his job. The complainant finally failed to prove that his termination and other adverse employment actions constituted unlawful retaliation in violation of state antidiscrimination law.

***Knishkowy, 7/21/04***
*Cordone, Angelo v. Bridgeport Board of Education.*
0420409

Motion to dismiss granted in part, denied in part. Held: (1) The complainant's first allegation was based on a discrete event occurring more than 180 days prior to the filing of the complaint. Although in certain circumstances the 180-day filing requirement may be excused for equitable reasons, the commission, in its response to the motion, provided no suggestion--much less any evidence--of any such reason. The motion to dismiss this portion of the complaint is granted. (2) The respondent challenged the second allegation by claiming that failure to transfer or promote the complainant to a certain position did not constitute an adverse employment action. Such determination is a matter of fact and thus requires full adjudication. The motion to dismiss this portion of the complaint is denied.

***Knishkowy, 09/21/04***
*Cordone, Angelo v. Bridgeport Board of Education*
0420409

Motion for leave to amend complaint denied In an age discrimination case, the complainant moved to amend his complaint by adding legal conclusions of disability discrimination. Although the complainant argues that the additional charges clarify the factual allegations in the original complaint and “conform the legal grounds for the complaint with the factual allegations,” such bald assertions are simply incorrect. Nothing in the original complaint so much as even alludes to any disability. (Note: The respondent’s failure to respond to the complainant’s motion does not mandate automatic approval of the motion; rather, the presiding officer must still determine if the proposed amendment is “reasonable.” See Regs. Conn. State Agencies, § 46a-54-80a(e).)

***Knishkowy, 11/28/05***
*Carretero, Stefan v. Hartford Public Schools.*
0310481

Two-part Motion for "Summary Disposition" denied. The complainant filed his initial complaint alleging that the non-renewal of his teaching contract was motivated by discrimination; in his amended complaint, he claimed that the respondent's refusal to replace the termination notice in his personnel file with a resignation letter was in retaliation for his initial complaint. Held*:* (1) the respondent's claim that complainant failed to exhaust administrative remedies raises a jurisdictional issue and thus is treated as motion to dismiss. The exhaustion doctrine applies when a party brings a complaint to the superior court without exhausting administrative remedies. In this case, the doctrine is not applicable; there is no legal justification, explicit or otherwise, or convincing policy argument for a complainant to exhaust remedies under Teacher Tenure Act (§10-151) before bringing a discriminatory termination claim to the CHRO. (2) The respondent also argues that the complainant has not demonstrated that he suffered an adverse employment action, and that allowing the complainant to substitute a resignation letter at this time would compromise the respondent's ability to defend against the initial claim. Whether the complainant suffered an adverse employment action is an issue of material fact whose resolution is premature without further evidence. While the legal defense argument has been recognized as valid by various court decisions, in this case further evidence is needed before this tribunal can rule conclusively, especially in light of allegation that the respondent stated that its refusal to change the personnel file was due to the filing of the initial complaint.

***Knishkowy, 3/16/06***
*Magda, Muriel v. Diageo North America*
0420213

Motion to dismiss denied. The respondent moved to dismiss two lesser allegations which the investigator had found to be untimely filed. The motion was unaccompanied by the investigator's report or any other pertinent documentation. The motion was denied because (1) the investigator certified the entire complaint—and not merely portions thereof--to public hearing, so the timeliness challenges will need to be addressed de novo at hearing; (2) the challenged allegations may be a part of a "continuing violation" and the complainant should have the opportunity to adduce evidence on this matter.

***Knishkowy, 5/23/06***
*Saddler, Tina v Margaret Landry dba*
0450057

Final decision. Judgment for the complainant. The complainant proved that the respondent, a real estate broker, denied her an apartment because of her lawful source of income (Section 8 assistance), in violation of § 46a-64c.

***Knishkowy, 6/30/06***
*Taranto, Jennifer v. Big Enough, Inc.*
0420316

Hearing in damages. By virtue of default, the respondent liable for sex discrimination when it terminated the complainant because of her pregnancy. The complainant recovered back pay, interest, and certain travel expenses associated with new job. However, back pay and travel expenses recoverable only until the time the respondent went out of business (a year prior to judgment), as complainant would have been lawfully dismissed at that time. Front pay disallowed for the same reason. Emotional distress damages awarded under §46a-86(c), based on the premise that a violation of Title VII constituted a violation of §46a-58(a) [following the CT Supreme Court's decision in *CHRO v. Board of Education of Town of Cheshire*, 270 Conn. 665 (2004)].

***Knishkowy, 10/5/06***
*Taranto, Jennifer v. Big Enough, Inc.*
0420316

Modified final decision on reconsideration. In initial final decision (6/30/06), the respondent's liability established by order of default, but back pay damages awarded only up until the time the respondent ceased business (one year before issuance of this decision). On reconsideration, the back pay award was increased by one week, in light of document showing the correct date of the respondent's dissolution.

***Knishkowy, 10/26/06***
*Hartling, Judy v. Jeffrey Carfi*
0550116

Hearing in damages. By virtue of default, the respondents liable for retaliation (in response to prior CHRO complaint) and for housing discrimination and harassment based on the complainant's sexual orientation. Pursuant to §46a-86(c) the referee awarded the complainant $1315 for various costs and $25,000 for emotional distress damages.

***Knishkowy, 03/15/07***
*Rhodes, Kevin v. Mortgage Company of America*
0630040

Hearing in damages. By virtue of default, the respondent liable for race discrimination for its treatment (i.e., "terms and conditions of employment") and ultimate termination of the complainant. Pursuant to §46a-86(b) the referee awarded the complainant $33,960 for back pay and unpaid commissions, along with compounded pre-judgment and post-judgment interest.

***Knishkowy, 3/22/07***
*Mejias, David v. Mortgage Company of America*
0630076

Hearing in damages. By virtue of default, the respondent deemed liable for national origin discrimination for its treatment (i.e., "terms and conditions of employment") and ultimate constructive discharge of the complainant. Pursuant to §46a-86(b), the referee awarded the complainant $43,214 for back pay and unpaid commissions, along with compounded pre-judgment and post-judgment interest.

***Knishkowy, 07/03/07***
*Brown, Johnmark & Clarissa v. Arlette Jackson*
0750001, 0750002

Ruling on request for production. Held: Notwithstanding the caption of this document, the respondent's pleading is, de facto, a set of interrogatories. Discovery is limited by the Uniform Administrative Procedure Act and the commission's regulations to requests for production. Absent express authorization, interrogatories are impermissible.

***Knishkowy, 08/27/07***
*Feroleto, Salvatore v. CT Dept. of Mental Retardation*
0510140

Motion to dismiss denied. The respondent employer moved to dismiss complaint (or portions thereof) as untimely because some of the alleged discriminatory acts occurred beyond the statutory filing period. The filing requirement is not jurisdictional, but is like a statute of limitations, with which one must comply absent factors such as waiver, consent or equitable tolling. (1) Although untimely discrete acts may be barred even if they are related to timely acts, the vaguely-asserted allegations in the complaint lack details and pertinent dates; only after further evidence can this tribunal determine which acts fall within, and which beyond, the filing period. (2) Because the complainant alleges ongoing harassment (due to his disability), he is entitled to adduce evidence at trial to demonstrate a hostile work environment, which would toll the filing requirement. (3) The complainant should also be allowed to adduce evidence to show that the other actions alleged in his complaint (e.g., ongoing unequal pay, ongoing denial of reasonable accommodations) constitute a "policy or practice" of discrimination, which might also toll the filing requirement.

***Knishkowy, 11/19/07***
*Szydlo, Adam v. EDAC Technologies*
0510366

Final decision. Judgment for complainant on CFEPA age discrimination claim; federal ADEA claim raised via General Statutes 46a-58(a) denied because referee has no authority to adjudicate federal age discrimination cases via 46a-58(a). The complainant was terminated during the respondent's reduction in work force (RIF). When the complainant

asked his supervisor if he (complainant) was selected for layoff because of his age, the supervisor stated, "Yes. We keep the younger people." Because of the direct nature of the credible evidence—the statement by the de facto decision maker at the time of and in the context of the termination—the case was analyzed under the Price-Waterhouse mixed motive paradigm. The complainant's satisfaction of his evidentiary burden, shifted the burden to the respondent to prove by a preponderance of the evidence that it nonetheless terminated the complainant for other valid reasons. The supervisor's credibility was damaged by his demeanor and attitude on the stand, his faulty memory, and inconsistencies with other testimony—both his own and that of others. The supervisor also did not follow the protocol established for the RIF process, further weakening his justification for the choices of who would be terminated and who would remain. The complainant awarded back pay plus interest.

***Knishkowy, 12/27/07***
*Szydlo, Adam v. EDAC Technologies*
0510366

Ruling on reconsideration. Back pay award increased (a) to correct a typographical error in final decision, and (b) to include complainant's out-of-pocket costs of obtaining health insurance for period of seven months. Inclusion of annual merit increases (had complainant not been terminated) in calculations was rejected as too speculative, since merit increases were subjective-based and in the past were not given every year.

***Knishkowy, 3/26/08***
*Robinson, Patricia v. Dept. of Mental Health*
0630292

Motion to dismiss is denied with one exception. (1) the respondent argued this employment discrimination claim was barred by doctrine of sovereign immunity. The respondent relied upon *Lyon v. Jones*, 104 Conn. App. 547 (2007), cert. granted, 285 Conn. 914 (2008) in support of assertion that this tribunal lacks jurisdiction because the complainant did not obtain permission to sue from the state claims commissioner. The respondent erred because General Statutes § 4-142 exempts from the claims commissioner's purview "claims for which an administrative hearing procedure otherwise is established by law." The CHRO administrative process for discrimination claims is precisely the type envisioned here. (2) The respondent also incorrectly claimed that this tribunal has no jurisdiction over federal claims. Case law has clarified that General Statutes § 46a-58 (a) expressly converts a violation of federal antidiscrimination law into a violation of Connecticut antidiscrimination laws. § 46a-58 (a) does not include "age" as one of the listed protected classes, so the federal Age Discrimination in Employment Act cannot be raised via 46a-58 (a) and must be dismissed. The complainant's federal race, color, physical disability, and retaliation claims remain viable through 46a-58 (a).

***Knishkowy, 11/17/08***
*Brown, Johnmark & Clarissa v. Arlette Jackson*
0750001, 0750002

Final decision. Judgment for complainants. Complainants husband and wife rented apartment from the respondent landlord. When husband lost his job after several months, he applied for rental subsidy. The respondent landlord refused to complete the requisite forms and husband ultimately could not complete his application to obtain the subsidy. The respondent offered myriad reasons for her refusal, many inherently inconsistent or simply not credible. Held: given liberal reading of fair housing statutes, and following logic of other cases, thwarting the complainant's ability to obtain subsidy is not meaningfully different than outright refusing to accept lawful subsidy. The landlord violated §46a-64c(a)(2). After refusing to help husband, the landlord engaged in a two month period of severe harassment of both complainants. Held: landlord's egregious, severe and pervasive actions and provocations were in retaliation for husband's attempt to obtain subsidy, and they created a hostile housing environment, violating both §§ 46a-64c(a)(2) and 46a-64c(a)(9).

***Knishkowy, 1/15/09***
*Langan, Kevin v. RCK Corp. dba JP Dempsey's*
0730256

Motion to compel granted. The complainant was terminated from his position as "bar manager" in the respondent restaurant, allegedly because of his disabilities (real and/or perceived). The commission filed request for production that included requests for information about other employees--information likely found in personnel files. The respondent objected to certain requests for disclosure as overly burdensome, not "germane" to the complaint, and protected by the privacy rights of other employees. Ruling: (1) a claim of "unduly burdensome" requires some explanation of the nature of the burden; mere recitation of the phrase is insufficient; (2) because the complainant/commission are comparing the respondent's treatment of the complainant with that of other employees, certain information about other employees may be relevant or, when disclosed, may lead to the discovery of relevant information; (3) Although General Statutes § 31-128f protects the confidentiality and integrity of personnel files, there are several narrow exceptions, one of which allows disclosure "pursuant to a lawfully issued administrative summons or judicial order . . . or in response to . . . the investigation or defense of personnel-related complaints against the employer."

***Levine, 6/5/2009***
*Barnes, Arnell v. Alan S. Goodman, Inc.*
0710395

Motion for summary judgment: denied. Held: (1) referees have the authority to rule on motions for summary judgment; and (2) issue of material issue of fact exists as evident by the complaint affidavit alleging discrimination based on color (black) and disparate

treatment, production compliance resulting in some documentation of disparate treatment and the respondent's vigorous denial of discrimination.

***Levine, 10/20/2009***
*Moore, John v. CT Dept. of Children & Families*
07310209

Motion to dismiss denied. Held: (1) General Statute 46a-58 (a) converts a violation of federal anti-discrimination laws into a violation of Connecticut anti-discrimination laws. The timing requirement for filing a complaint is that under state law. (2) It is premature to grant a motion to dismiss, given the generalized claims of sexual discrimination. (3) The issue is whether the complainant is entitled to offer evidence in support of his claim. (4) At this stage in the administrative proceedings, it is not possible to accurately assess the validity of the respondent's claims that there is no jurisdiction over the original complaint or the amendments. (5) The complainant's claims allege employment discrimination, not workplace violence, and there is no pre-emption of jurisdiction.

***Manzione, 3/3/99***
*Isler, Jacqueline v. Yale-New Haven Hospital*
9730024

Ruling on discovery motions. Held*:* (1) There is no authority for interrogatories at the CHRO; (2) human rights referees may grant or deny motions to compel on specific discovery issues.

***Manzione, 6/16/99***
*Sloss, George T. v. Ed-Mor Electric Company*
9930221

Hearing in damages. At a hearing in damages, where no one for the respondent appeared, the complainant was awarded $7,568.00 in back pay, $2,022.00 to reimburse the Department of Labor for unemployment compensation, $2,854.08 to reimburse the complainant's union for other benefits and $46.22/mo. For prejudgment interest for his claim of discrimination based on age

***Manzione, 6/17/99***
*Allen, Sheila v. Pollack's*
9710692

Motion to dismiss granted. At a public hearing, the human rights referee granted a motion to dismiss from the respondent's counsel (with the support of the commission) based on complainant's failure to cooperate. (The complainant was pro se and failed to respond to numerous communications from the commission counsel and the Office of Public Hearings).

***Manzione, 6/22/99***
*Onoh, Mystraine v. Sterling, Inc.*
9620499

Motion to dismiss denied. Held*:* (1) construing the facts in a light most favorable to the non-moving party, facts are in dispute, therefore, case is not ripe for a motion to dismiss; and (2) human rights referees have the authority to dismiss a complaint even absent a full evidentiary hearing on the merits.

***Manzione, 7/22/99***
*Henry, Robert v. Edwards Super Food Stores*
9510617

Motion to dismiss postponed for evidentiary hearing. Held*:* there are questions of fact as to whether the complaint against additional named respondents should be dismissed (i.e. whether "successor liability" should attach and whether to "pierce the corporate veil"). Accordingly, a conference call shall be scheduled to discuss limited discovery on this issue and set a date for an evidentiary hearing on this jurisdictional question.

***Manzione, 9/1/99***
*Henry, Robert v. Edwards Super Food Stores*
9510617

Respondents' motion to dismiss and the commission's motion for stay. Held*:* (1) a parent corporation may be dismissed from an action when allegations are brought against its subsidiary for discriminatory treatment based on disability where the corporate veil of the parent is not able to be pierced under either the "instrumentality" or "identity" rule; (2) successor liability does not attach to a company that purchased all of the assets of a predecessor company through a Purchase Agreement that specifically did not assume any liabilities and therefore said "successor" company is dismissed; and (3) a motion for stay is not granted based on the outcome of a pending declaratory ruling before the commission because the ruling has no more weight than a decision in a contested case proceeding and the timeliness of the outcome is uncertain.

***Manzione, 10/6/99***
*Hodge, Pamela v. Dept. of Public Health*
9710032
(appeal dismissed)

Final decision. Judgment for the complainant. Held*:* the respondent is ordered to promote the complainant and pay her backpay with simple interest. Although the complainant did not formally apply for the position when it was posted, she made enough efforts to find out about the position while she was out on a maternity/medical leave to meet the application requirement under *McDonnell Douglas*. She should have been considered for the position

and had she been considered, she would have been hired based on her education, training, experience and status as an affirmative action goal candidate.

***Manzione, 3/6/00***
*Massa, Berzeda v. Electric Boat Corporation*
9840265

Motion in limine. Held*:* once a complaint is certified to public hearing, it is viewed as a whole. Therefore, all allegations within it are the subject of the public hearing regardless of whether reasonable cause was found or conciliation attempted and failed with respect to each allegation within the complaint. (Note: A copy of the ruling is available by contacting the Office of Public Hearings.)

***Manzione, 5/3/00***
*Alston, Dawn on behalf of Terrel Alston v. East Haven Bd. of Ed.*
9830205
(on appeal stipulated judgment)

Motion to dismiss granted. Held*:* (1) public schools are not public accommodations under General Statutes § 46a-64(a); (2) the commission does not have jurisdiction over allegations of discrimination brought pursuant to General Statutes § 10-15c; and (2) General Statutes §§ 46a-75 and 46a-81m do not cover public schools.

***Manzione, 5/12/00***
*Ratner, Ira v. Home & Life Security, Inc.*
9930246

Motion to dismiss granted due to failure to cooperate. The complainant, who was represented by counsel, failed to comply with multiple orders. The complainant, himself, failed to attend a settlement conference without excuse or permission. The complainant also failed to file and serve a settlement conference report, failed to produce documents in compliance with a ruling on a motion to compel, filed to file and serve exhibit and witness lists, failed to bring exhibits to the prehearing conference and failed to return opposing counsel's telephone calls. Held*:* the human rights referee has authority to dismiss complaints pursuant to § 46a-54-101 of the Regulations. Also, the nature of the relationship between the attorney and his client is one of traditional agency. The acts of an attorney are ordinarily attributed to his client. Therefore, the severe inaction of the complainant or his attorney warrants dismissal of the complaint

***Manzione, 6/5/00***
*Amos, Barry E. v. Town of West Hartford*
9910041, 9910198, 9910199, 9910200, 9910201, 9910202

Motion for stay denied. Held*:* a matter scheduled for public hearing in six weeks will not be stayed pending the outcome of a possible declaratory judgment by a judicial authority because (1) the commission is charged with addressing complaints of discrimination; (2)

the commission declined to address this matter through a declaratory ruling and rather set the matter down for these "specified proceedings;" (3) the matter is ripe for adjudication because most of the pre-hearing matters have already occurred; and (4) proceeding with the public hearing, rather than staying it, will resolve the "real and substantial dispute between the parties."

***Manzione, 10/4/00***
*Alexsavich, Bruce & Ronald Ferguson v. Pratt & Whitney Aircraft*
9330373, 9330374

Final decision. Judgment for the respondent. Held*:* the complainants proved a prima facie case because they were members of a protected class under the ADEA (over age 40), qualified for the position, demoted under circumstances giving rise to an inference of age discrimination. They failed, however, to meet their ultimate burden of proving age discrimination because they did not prove that the respondent's legitimate, non-discriminatory reason of selection for the reduction in force (RIF) based on performance was pretextual.

***Manzione, 4/19/01***
*Mather, Jayantha v. Dept. of Transportation*
9810116
(rev'd on appeal)

Final decision. Judgment for the complainant. Held*:* The complainant proved a prima facie case that his failure to be promoted was discriminatorily based on his race and national origin (Sri Lankan). The respondent articulated two legitimate business reasons: not possessing the required Professional Engineers license and not being the candidate chosen by the interview panel. The complainant proved that these reasons were pretextual by showing that similarly situated white employees were treated differently. The complainant failed, however, to meet his burden of proving that the respondent did not promote him in retaliation for filing a prior CHRO complaint or serving as Chair of the internal affirmative action advisory committee. The respondent must pay $9,268.12 as compensation for back pay plus 10% compounded interest; promote the complainant to the next open appropriate position; pay the complainant as front pay an adjustment between his current salary and what he would have been earning had he been promoted, until he is promoted or retires, whichever comes first; credit the complainant with any vacation, personal or other days used for the hearing; and not engage in any retaliatory conduct as a result of these proceedings.

***Trojanowski, 5/7/99***
*Cuffee, Tampiepko Tion v. Nine West Group, Inc.*
9720038

Motion to dismiss granted. Human rights referee granted a joint motion from the commission and the respondent based on the complainant's failure to respond to written and telephonic conversations for over a year.

***Trojanowski, 9/1/99***
*Doe (1993) Jane v. Ice Cream Delight*
9310191

Hearing in damages. Part-time yogurt store worker who was sexually harassed and terminated requested monetary damages consisting of back pay, front pay and compound interest. Held*:* (1) the complainant is entitled to two years back pay which terminated when she obtained a higher paying job; (2) the complainant not entitled to front pay because she was made whole economically by the award of back pay; (3) the awarding of interest and whether it is compounded is in the discretion of the presiding human rights referee. Compound pre-judgment interest awarded on the award of backpay from the date of the discriminatory act; (4) Statutory post-judgment interest; and (5) Various equitable remedies.

***Trojanowski, 1/26/00***
*Gyurko, Nancy v. City of Torrington*
9730281, 9730280, 9730279, 9730278
(On appeal, dismissed in part and remanded to referee in part; see suppl. decision)

Final decision. Judgment for the respondent. Held*:* (1) the complainants failed to prove that they were paid less than certain male employees for equal work on jobs whose performance requires equal skill, effort and responsibility and which are performed under similar working conditions; (2) the respondent's Job Study, introduced by the complainants to prove their case, was disallowed because it only measured two of the statutory criteria required by the Equal Pay Act and did not measure effort or performance under similar working conditions; (3) the complainants failed to prove discriminatory intent by the respondent in paying them less than comparable male employees; and (4) the respondent's jurisdictional argument that the commission was precluded from considering the complainants' complaints because there have been prior arbitrator's decisions on the same or similar issues as those before the human rights referee, was denied because there was no written or verbal waiver of statutory rights to a hearing before the commission by the complainants or their collective bargaining agent.

***Trojanowski, 1/28/00***
*Gomez, Isabel v. United Security, Inc.*
9930490
(appeal dismissed)

Hearing in damages. Female security guard awarded: (1) back pay; (2) pre-judgment interest; and (3) statutory post-judgment interest.

***Trojanowski, 6/7/00***
*Shulman, Thomas E. v. Professional Help Desk*
9720041
(appeal dismissed)

Final decision. Judgment for the complainant. Held*:* (1) The complainant is an "individual with a disability" due to his physical impairment of being a wheelchair-bound paraplegic which was found to substantially limit the major life activities of walking and running; (2) The complainant was qualified to perform the essential functions of the job because of his educational background and prior work experience; (3) The complainant requested four reasonable accommodations in order to assist him in performing the essential functions of his job which the respondent never provided; (4) The respondent never introduced any evidence of undue hardship; (5) The complainant's impairment of being a wheelchair-bound paraplegic met both of the definitions of "physically disabled" as well as "reliance on a wheelchair" under state law; and (6) The complainant proved that he was retaliated against through his discharge for exercising his right to request reasonable accommodations under the ADA.

***Trojanowski, 8/14/00***
*Cooper, John & John C. Donahue v. City of Hartford Fire Dept.*
9710685, 9710637
(remanded decision on appeal; appeal withdrawn)

Final decision. Judgment for the respondent. The complainants did not establish a prima facie case proving that the failure of the respondent to promote them was based on intentional discrimination due to their race and gender. The complainants also failed to establish a prima facie case proving that the respondent retaliated against them for the exercise of their rights under Title VII and CFEPA. After appeal, decision was remanded. On remand, December 5, 2001, judgment for commission and complainant Donahue with relief as set forth in the decision. On December 10, 2001 a corrected final decision on remand issued to correct the calculation and award of damages.

***Trojanowski, 9/7/00***
*Cooper, John & John C. Donahue v. City of Hartford Fire Dept.*
9710685, 9710637

Petition for reconsideration denied. The commission filed a petition for reconsideration citing the existence of a "valid settlement agreement" as its good cause. The respondent filed an objection based on the fact that although there was a proposed agreement between counsel, the agreement had not been approved by the Hartford City Council, the only authority authorized by the City Charter to approve settlements proposed by the Corporation Counsel. When the final decision was rendered, the City Council had not acted to finalize the agreement. Thus, the proposed settlement was invalidated because the decision came out before the Council had acted.

***Trojanowski 4/11/01***
*Agvent, Rosa Maria v. Ace Tech, Inc. a.k.a. Applied Computer Engineering Technology*
0020042

Hearing in damages. Female computer worker awarded backpay, compound prejudgment interest, statutory postjudgment interest, and other equitable relief

***Trojanowski, 7/13/01***
*Gyurko, Nancy v. City of Torrington*
9730281, 9730280, 9730279, 9730278
(Supplemental decision)
(appeal dismissed)

The appeal was dismissed as to the presiding referee's dismissal of the complainants' EPA claim and remanded for further analysis of their Title VII and CFEPA claims. On remand, Held*:* Complaint dismissed. The complainant's failed to show the males to whom they compared themselves held similar or comparable jobs and failed to show discriminatory animus by the respondents.

***Trojanowski, 8/28/01***
*Weller-Bajrami, Catherine v. Lawrence Crest Cooperative, Inc.*
99500095, 9950096

Hearing in damages. Claim by a tenant of the respondent and her children that they were discriminated against because of her race, white, her sex, female, and her physical disability, chronic ulcerative colitis. The complainant's children were not awarded any damages. The complainant was awarded the following types of damages: security deposits, moving costs, rent differentials, the cost of alternative housing, utility (electric bill) differentials, $20,000 for her emotional distress and $6,562 for attorney's fees.

***Trojanowski, 9/12/03***
*Downes, Elizabeth v. zUniversity.com*
0210366

Hearing in damages. The complainant was terminated because of her sex, familial status and her pregnancy. Damages included back pay performance bonus, and money for medical coverage.

***Trojanowski, 9/30/03***
*Gillmore, Alexis v. Mothers Works, Inc.*
0330195

Hearing in damages. The complainant was terminated because of her gender, familial status and her pregnancy. Damages included back pay.

***Trojanowski, 1/23/04***
*Smalls, Kelly v. Waterbury Masonry & Foundation, Inc.*
0330386

Hearing in damages. Discrimination due to a physical disability, a “drop foot” condition, in violation of General Statutes § 46a-60(a)(1) as well as the American with Disabilities Act, 42 U.S.C. 12101 et seq. Awarded back pay and lost benefits, prejudgment interest and post-judgment interest.

***Trojanowski, 05/05/04***
*Caggiano, Caterina v. Doreen Rockhead*
0450017

Hearing in damages. Housing case. The complainant was awarded $210 in compensatory damages for medical care, $150 for attorney’s fees, $4,500 for emotional distress damages and post judgment interest of 10% per annum.

***Trojanowski, 10/18/04***
*Kelly, Brian v. City of New Britain*
0210359

Motion to dismiss denied. The respondent argued that (1) the complainant not physically disabled as defined under the ADA, Rehabilitation Act, or § 46a-60(a)(1) and (2) the complaint was barred by the statute of limitations because it was filed more than 180 days after the filing of the complaint. The respondent’s first argument is more properly a motion for summary judgment and was treated as such. The motion denied in its entirety.

***Trojanowski, 11/17/04***
*Daniels, Elbert v. U. S. Security Associates, Inc.*
0430286

Hearing in damages. The complainant alleged he had been discriminated against on the basis of his race. The complainant was awarded back pay and prejudgment interest. The respondent also ordered to reimburse the Department of Labor for unemployment compensation paid to the complainant.

***Trojanowski, 05/10/07***
*DeBarros, Paula v Hartford Roofing, Co., Inc.*
0430162

Hearing in damages. The complainant alleged sexual harassment because of her sex and constructive discharge because of the harassment. The complainant awarded back pay of $15,223.30; health insurance benefits of $8,254.82, and pre- and post-judgment interest.

***Trojanowski, 07/19/06***
*Melvin, Roderick v. Yale University*
0230320

Amended final decision. Complaint dismissed. The complainant alleged that he was discriminated against in the terms and conditions of his employment; given warnings, poor evaluations and unfairly disciplined; received unequal pay; retaliated against; not promoted; and terminated because of his having filed a complaint with the commission, and his race, color, and perceived disability. Held: The complainant was unable to show that the respondent's explanation for its actions (the complainant's history of poor work performance) was a pretext for its actions. The complainant was also unable to show that any harassment was so severe or pervasive as to create a hostile work environment.

***Wilkerson, 8/10/99***
*Dacey, Roberta A. v. The Borough of Naugatuck*
8330054

Order for relief on remand. Calculation of backpay. Held*:* (1) the complainant vigorously litigated her discrimination claim for damages and is entitled to full amount of backpay; (2) prejudgment interest is an appropriate element in a backpay award; and (3) fringe benefits are an appropriate element in a backpay award.

***Wilkerson, 9/2/99***
*Carey, Edward J. v. Imagineers, LLC*
9850104

Motion to stay denied. The commission moved for stay of the proceedings because the complainant had filed an action in federal court. The complainant joined and the respondent did not object. Held*:* Res judicata and collateral estoppel are not valid reasons to grant a stay of proceedings, no duplication of efforts, no unnecessary costs, and discovery by the commission may be used to effect discovery in the federal action. No plausible reason existed to grant stay of proceedings.

***Wilkerson, 11/8/99***
*Tavares, Cori v. Sam's Club, Wal-Mart Stores Inc.*
9730092
(decision vacated on appeal by stipulated judgment)

Final decision. Judgment for the respondent due to the complainant's failure to appear for the public hearing. Sanctions in the form of attorney fees and court reporter costs imposed against the complainant's attorney.

***Wilkerson, 1/14/00***
*Aguiar, Deborah & Raymond, v. Frenzilli, Nancy & Ralph*
9850105

Hearing in damages. The complainants attempted to rent a home from the respondents and the respondents would not allow the complainants to rent because they had small children. Discrimination based on family status. Award for emotional distress damages of $7,500 to the complainant wife and $3,500 to the complainant husband both with 10% post-judgment interest. Also awarded Attorney's fees of $8,236.25.

***Wilkerson, 2/2/00***
*Brelig, Diana Lee v. F&L Inc., d/b/a Luciano's Boathouse Restaurant*
9540683

Hearing in damages. Former waitress awarded: (1) Back pay in the amount of $37,616.08; and (2) prejudgment interest in the amount of $3,419.64.

***Wilkerson, 9/29/00***
*Saunders, John J. v. City of Norwalk, Board of Education*
9820124
(appeal dismissed)

Final decision. Judgment for the complainant. Held: (1) the complainant established prima facie case in failure to promote race, age, and color discrimination case and the respondent's proffered legitimate reasons were false thus pretextual; (2) the complainant teacher applied for the position/promotion of assistant principal and was denied position due to his race, age, and color; (3) the respondent did not satisfy its burden of proving the complainant failed to mitigate; (4) Award for back pay damages of $56,390.00 plus pre-and post-judgment interest and front pay of $18,796.67 per year until the respondent offers the complainant the next available assistant principal position or until retirement.

***Wilkerson, 1/25/01***
*Clark, Jeffrey v. Wal-Mart Stores, Inc.*
9830599
(appeal dismissed )

Final decision. Judgment for the respondent. The complainant filed a complaint claiming that he was demoted based on his disability. Held*:* the complainant did not establish a prima facie case under *McDonnell Douglas* proving that he was qualified by showing that he could perform the essential functions of his job with or without reasonable accommodations. The complainant also did not establish a prima facie case under *Price Waterhouse* analysis in that he did not prove that there was direct evidence of discrimination or rebut the respondent's reason for demoting the complainant.

***Wilkerson, 10/04/01***
*Filshtein, Herman v. West Hartford Housing Authority*
0050061

Final decision. Judgment for the complainant. Held*:* The respondent discriminated against the complainant who was disabled by failing to reasonably accommodate him in housing. The complainant proved a prima facie case of failure to reasonably accommodate. The respondent did not meet its burden to prove that the accommodation was unreasonable. The complainant was awarded $2,500 for emotional distress damages with post-judgment interest, $7,497 for back rental fees paid with pre- and post-judgment interest, and the complainant's attorney was awarded $5,850 for attorney fees with post-judgment interest. The complainant was also awarded $252 (differential rental fee) per month until the respondent grants him a Section 8 certificate for his current dwelling.

***Wilkerson, 11/14/01***
*Hansen, Joan B. v. W.E.T. National Relocation Services*
0020220

Final decision. Judgment for the complainant. Held*:* Under state law, the respondent discriminated against the complainant because of her age, 66, at the time of filing the complaint by terminating her employment. The complainant's federal claim was dismissed because the respondent did not employ at least 20 employees. The complainant proved a prima facie case of age discrimination in employment. The complainant proved that the respondent's proffered reason was unworthy of credence and therefore, pretexual. The complainant was awarded $14,493.00 for back pay with $1,449.00 for prejudgment interest and post-judgment interest at 10% for the unpaid balance.

***Wilkerson, 5/23/03***
*Eckhaus, Eddie, Shirley Banks v.*
0250115

Hearing in damages. The complainant who possessed a section 8 voucher attempted to rent a home from the respondent who refused to accept the voucher and would not allow the complainant to apply to rent the house. Discrimination based on lawful source of income and public advertising. The complainant awarded emotional distress damages of $4,500 and attorney fees.

***Wilkerson, 5/23/03***
*Eckhaus, Eddie, Phyllis Hansberry v.*
0250114

Hearing in damages. The complainant who possessed section 8 voucher attempted to rent a home from the respondent who refused to accept the voucher and would not allow the complainant to apply to rent the house. Discrimination based on lawful source of income

and public advertising. The complainant awarded emotional distress damages of $2,500, $931 for rent differential, $862.94 for storage costs and attorney fees.

***Wilkerson, 03/25/04***
*Matson, Joel v. Dept. of Mental Health & Addictions Services*
9930311

Motion for sanctions granted in part; denied in part. The commission on Human Rights and Opportunities requested sanctions imposed on the respondent for failure to comply with the Referee's ruling on a motion to compel which ordered the respondent to produce certain production requests during document discovery. The respondent did not respond to the Motion for Sanctions within the allotted fourteen days per Connecticut Rules of Practice nor did the respondent ever provide pertinent law to support its position not to comply with the order to produce the requested documents. The referee imposed sanctions on the respondent in that an order was entered finding: that the complainant was treated differently (less favorably) than similarly situated employees not in the complainant's protected class; that similarly situated employees not in the complainant's protected class were never placed on administrative leave for having filed work place violation reports; and that respondent is excluded from introducing into evidence documents or testimony regarding the complainant's alleged symptoms or patterns of retaliation and recrimination used as a defense.

***Wilkerson, 9/9/04***
*Samuel, Henrietta Lorraine Stevens v. Pond Point Health Care Center d/b/a Lexington Health Care*
0230332

Hearing in damages. The respondent was defaulted for failure to appear at a hearing conference and failure to file an answer. The respondent had terminated/suspended and harassed the complainant multiple times during her employment with the respondent. Discrimination and retaliation based on race, color (Black) and physical disability (hypertension cardiac). The complainant was awarded $17,788.95 for back pay and $1,778.89 for prejudgment interest and 10% per year for postjudgment interest.

***Wilkerson, 11/29/05***
*Dwyer, Erin v. Yale University*
0130315, 0230323

Final decision. Judgment, in part, for the complainant. The complainant alleged that the respondent discriminated against the complainant by 1) failing to respond to her continued reports of workplace harassment by both co-workers and management; 2) by treating her dissimilarly to other employees in trial periods; and 3) by suspending and ultimately terminating her because she is a transgendered woman with a mental disability who was, or was perceived to be homosexual, and in retaliation for participating in the University's grievance process and filing a CHRO complaint. Held*:* The respondent violated General Statutes § 46a-81c(1) by creating a hostile work environment based on the complainant's

sexual orientation or perceived sexual orientation during her employment at one of its facilities when it failed to take reasonable steps to remedy the hostile work environment. The respondent is liable to the complainant for her injuries. The complainant is entitled to an award of back pay along with 10% pre and post-judgment interest. The commission and the complainant failed to prove that the respondent discriminated, retaliated or aided and abetted discrimination against the complainant for the lost promotions, demotions, poor evaluations, being placed on probation, failure to accommodate, and the suspension and termination and those claims are dismissed.

***Wilkerson, 02/08/06***
*Graves, Jr., David v. Sno White Avenue Car Wash*
0330082

Final decision. Judgment for the respondent. Held: The complainant proved that the respondent's proffered business reason for terminating his employment was false, but he failed to prove that the false reason was a pretext for discrimination. The record revealed non-discriminatory reasons for the termination and, therefore, the complainant failed to prove by a preponderance of the evidence that the respondent terminated him because of his Puerto Rican ancestry.

***Wilkerson, 08/30/07***
*Lenotti, David L. v. City of Stamford*
0520402

Motion to dismiss denied. Held*:* an alleged discriminatory decision to deny the complainant an accommodation made prior to the 180 days of the filing of the complaint that was referenced in a second alleged discriminatory decision to deny an accommodation that was made within the 180 days of the filing the complaint shall not be dismissed as untimely. The allegation outside of the 180 days is relevant because it directly relates to the timely made allegations of the complaint and shows that the respondent engaged in a pattern of discriminatory practice.

***Wilkerson, 09/21/07***
*McIntosh-Waller, Marcia v. Donna & David Vahlstrom*
0750080

Motion to dismiss granted in part; denied in part. Held*:* the complainant has standing to bring a housing discrimination complaint against her neighbors alleging a hostile housing environment in which the respondents harassed and intimidated her and her family because of the complainant's race and ancestry. The complainant stated a claim for which relief can be granted as the only party complainant to this complaint. The complainant stated a cause of action under General Statutes § 46a-64c (a) (9), Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. § 3617); and 42 U.S.C. § 1982 for a violation of her rights to use and enjoy her property. The complainant did not state a cause of action under 42 U.S.C. § 1981 because she did not

allege that a contractual relationship existed between her and the respondents, which the respondents interfered with or prevented because of her race.

***Wilkerson, 11/14/07***
*Ali, Liaquiat v Bridgeport, City of,*
0750131 & 0750132

Motion to dismiss denied. The respondents (City of Bridgeport and Bridgeport planning and zoning commission) moved to dismiss the complaint for lack of subject matter jurisdiction as to the city arguing that the city had no authority to amend or enforce the zoning regulations. CHRO argued that the complaint against alleged discrimination in housing and was not an appeal of a zoning regulation. Held*:* the city shall remain a respondent because it is inferred that the planning and zoning commission is an authorized decision-maker for the city and acted as a policy maker for the city when it enforced the zoning regulations.

***Wilkerson Brillant, 04/08/08***
*Lenotti, David L. v City of Stamford*
0520402
(on appeal, stipulated judgment*)*

Final decision. Judgment for the complainant. Held: The respondent discriminated against the complainant by failing to accommodate the complainant's learning disability when it denied him a reasonable accommodation to take an exam. The respondent failed to engage in an interactive process with the complainant. The respondent did not prove its safety defense or its defense that the exam was job-related. The complainant's claims of failure to promote, denied raise and differential rate of pay are dismissed. The complainant was awarded the accommodation of additional time to take the captain promotional exam and if he obtained the required score, he was awarded the captain position. If no captain position is available, the respondent would pay the complainant the difference in the captain and lieutenant salaries.

***Wilkerson Brillant, 04/28/08***
*Correa, Jocelin v. La Casona Restaurant*
0710004

Hearing in damages. Held: pursuant to the default order, the respondents were liable for discriminating against the complainant because of her pregnancy when they discharged her from employment. The complainant was awarded $19,404.88 for back pay, 10% pre-judgment interest of $1940.49, $2500 in emotional distress damages and post judgment interest of 10% per annum from the date of the final decision. The discriminatory act was not done in public and was not highly egregious; the emotional distress was not long in duration; and the consequences of the discrimination were not found to be directly linked to the discriminatory act. The respondent was ordered to cease and desist from discriminatory practices, not to retaliate against the complainant and to post the commission's antidiscrimination posters in its workplace.

***Wilkerson Brillant, 07/16/08***
*Baroudjian, Philip v. North East Transportation Company, Inc.*
0430505
(appeal dismissed)

Final decision. Judgment for the respondent. The complainant alleged discrimination in the terms and conditions of his employment on the basis of his race, color, alienage, national origin and ancestry (Arabic). Held: The commission and the complainant failed to prove under both the mixed motive and pretext analyses that the respondent discriminated against the complainant by treating him differently than non-basis similarly situated employees because of his ancestry and national origin (Arabic) when it suspended him for one day and warned him.

***Wilkerson Brillant, 07/25/08***
*Collette, Yvonne v. University of Connecticut Health Center*
0610446

Motion to dismiss granted in part; denied in part. Held: (1) because the complaint was amended as a matter of right prior to the appointment of the undersigned presiding referee pursuant to § 46a-54-38a (a) of the Regulations of Connecticut State Agencies, the state law claims are not time-barred; (2) the complainant's basis for her § 46a-58 (a) claim is not a cause of action under § 46a-60 but is a cause of action under the federal ADA and, thus, the complainant's federal ADA claim has been converted to a claim under state law by way of § 46a-58 (a) and is a valid claim; (3) § 46a-70 applies to employment discrimination in state agencies and the respondent's alleged failure to provide a reasonable accommodation in order for the complainant to resume working is covered within § 46a-70; and (4) Section 46a-77 applies to services provided to the public by state agencies and does not apply to employment discrimination claims, therefore, the complainant does not state a valid claim under § 46a-77 and her claims pursuant to § 46a-77 are dismissed.

***Wilkerson Brillant, 12/29/08***
*Roberts, Cheryl v. Germania Lodge*
0640147

Motion to amend the complaint to add a respondent: denied without prejudice: Held: the named respondent, Germania Lodge, the employer, is separate and distinct from Germania Lodge, the membership organization that is a subordinate of the Order of Hermann's Sons. The complainant did not establish that the entity to be added as a respondent, Order of Hermann's Sons, met the criteria of the identity or instrumentality rules in order to pierce the corporate veil. There was no evidence that the Order of Hermann's Sons had control over the employer, Germania Lodge's finances and employment policies and/or business practices. Also, there was no evidence that there existed a unity of interest and ownership for the Order of Hermann's Sons and Germania Lodge as an employer. The evidence showed that as an employer, Germania Lodge is an independent entity with separate funds and policies to conduct its employment operations.

***Wilkerson Brillant, 03/03/09***
*Roberts, Cheryl v. Germania Lodge*
0640147

Motion to amend granted. The complainant alleged in her original complaint that the respondent violated General Statutes §§ 46a-60 (a) (1) and 46a-58 (a) when it discriminated against her because of her sex when it terminated her employment and denied her membership in its social club. She also alleged the respondent retaliated against her by terminating her because she applied for membership in its social club. The complainant requested that her complaint be amended to add violations of §§ 46a-63 and 46a-64 (a) (public accommodation and she also identified that the respondent as Germania Lodge. The respondent argued that the public accommodation claim had not been fully investigated prior to certification of the complaint and therefore its due process rights would be violated if the amendment were granted. The complaint had originally been dismissed by the investigator's finding of no reasonable cause which did include limited findings on the public accommodation issue. The complainant's reconsideration request was granted and the executive director's decision on reconsideration directed further investigations on the public accommodation claim. Subsequently, the investigator issued a finding of reasonable cause on the complainant's termination, public accommodation and retaliation claims.

Held*:* Because the claim of public accommodation discrimination was alleged in the original complaint and had been investigated and because there was, after reconsideration, a finding of reasonable cause on the entire complaint, the respondent was fully aware of the public accommodation discrimination claim. More importantly, the public hearing process is not to be used as an appeal of the investigator's processing of the complaint pursuant to Section 46a-84 (b). Therefore, the motion to amend is granted allowing the public accommodation claim. However, the complainant's retaliation claim is dismissed because her allegation that the respondent retaliated against her because she applied for membership in the respondent's social club is not protected activity pursuant to § 46a-60 (a) (4).

***Wilkerson Brillant, 05/19/09***
*Weichman, Ann D. v. Dept. of Environmental Protection*
0710348

Motion to dismiss granted in part; denied in part. The complainant alleged that the respondent failed to accommodate her disability, subjected her to unequal terms and conditions of employment and terminated her because of her physical disability and her age in violation of General Statutes §§ 46a-58 (a), 46a-60 (a) (1), 46a-70, and Title VII of the Civil Rights Act of 1964, as amended, and the Civil Rights Act of 1991, the Age Discrimination in Employment Act of 1967 (ADEA) and the American with Disabilities Act (ADA). The respondent moved to dismiss the complaint arguing this tribunal lacked subject matter jurisdiction because the doctrine of sovereign immunity bars the state claims, the § 46a-70 claim applies to named state officials, and that § 46a-58 (a) did not cover the

federal claims. Ruling: The complainant's state claims fall within the exceptions of §§ 4-142 (2) and (3), and § 46a-70 applies to employment discrimination in state agencies where no individual state officials are named defendants. The complainant's ADA and Title VII claims are covered under § 46a-58 (a), but age is not a protected class under § 46a-58 (a) and therefore complainant's ADEA claim is dismissed.

***Wilkerson Brillant, 07/1/09***
*Roberts, Cheryl v. Germania Lodge Building*
0640147

Motion for sanctions: granted in part; denied in part. The respondent moved for sanctions against the complainant for her failure to produce documents as ordered. The respondent was seeking documents, specifically income tax returns, pertaining to the complainant's damages calculation including her earned income from the respondent's employ and her mitigation obligation. The complainant had provided inconsistent reasons for not providing the documents as ordered. The commission and the complainant were precluded from introducing any evidence related to the complainant's income tax returns or relevant income information.

**Wilkerson Brillant, 11/13/09**
*Braffith, Samuel v. Peter Pan Bus Lines*
0540183

Motion in limine denied. The respondent moved to exclude evidence regarding the complainant's emotional distress damages because it posited that the commission does not have the authority to award emotional distress damages in employment discrimination cases where § 46a-60 is alleged. This tribunal awards emotional distress damages based on the premise that when a respondent has violated a federal law, e.g., Title VII, covered under § 46a-58 (a); then remedies under § 46a-86 (c), which include emotional distress damages, are available.

N. B. Decisions of the human rights referees and regulations of the commission can be accessed through the commission's website at: www.ct.gov/chro