

CONNECTICUT APPELLATE COURT

Ancona v. Eller

Ancona · No. AC 48197 · Decided June 30, 2026

SUMMARY

The Connecticut Appellate Court affirmed the trial court’s judgment granting Fauna J. Eller’s special motion to dismiss under Connecticut’s anti-SLAPP statute, General Statutes § 52-196a. The court held that the plaintiffs’ argument concerning Eller’s status as a town official was unpreserved and that their public-forum argument was not relevant to the trial court’s ruling, which was based on the right to petition the government.

CASE DETAILS

COURT	Connecticut Appellate Court
WRITING FOR THE COURT	Westbrook, J.; Cradle, C. J.; Elgo, J.
JURISDICTION	Connecticut Appellate Court
DECIDED	June 30, 2026
DOCKET	AC 48197
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from the Superior Court's judgment granting Fauna J. Eller's special motion to dismiss under Connecticut's anti-SLAPP statute, General Statutes § 52-196a, and dismissing the claims directed against her.
STANDARD OF REVIEW	De novo. Appellate review of a decision on a special motion to dismiss is identical to the trial court's review because it involves consideration of pleadings, affidavits, and other submitted materials without factual findings or credibility determinations; those materials are considered in the light most favorable to the plaintiffs.
PRECEDENTIAL VALUE	published
PARTIES	Benjamin Ancona, Jr., Jennifer Ancona, Maria Pane, Beth DelBuono, Scott DelBuono, Domenic Pane, Michael Camillo v. Fauna J. Eller, Stephen Clark, Stuart Topliff, Town of Newington

TOPICS

motions to dismiss

civil procedure

appellate procedure

preservation of error

statutory interpretation

PRACTICE AREAS

civil procedure

appellate procedure

defamation

constitutional law

statutory interpretation

QUESTIONS PRESENTED

1. Whether the plaintiffs could obtain appellate review of their claim that Eller, as a government official, was not entitled to invoke the protections of General Statutes § 52-196a when that argument was first raised in a postappeal motion for reconsideration.
2. Whether the plaintiffs' public-forum argument required reversal of the anti-SLAPP dismissal when the trial court based its ruling on Eller's exercise of the right to petition the government rather than the right of free speech.

HOLDINGS

1. The court declined to review the plaintiffs' claim that Eller was not entitled to anti-SLAPP protection because she was a government official, because the claim was not raised in opposition to the special motion to dismiss or during the trial-court hearing and was first raised in a postappeal motion for reconsideration.
2. The plaintiffs' argument that Eller's statements were not made in a public forum did not warrant reversal because the trial court's ruling rested on the right to petition the government, and § 52-196a does not expressly require a public forum for conduct implicating that right.
3. Review of a special motion to dismiss under § 52-196a is de novo, based on the pleadings, affidavits, and other submitted materials, viewed in the light most favorable to the nonmoving party.

KEY QUOTATIONS

"It is also well settled that motions for reargument and reconsideration cannot properly be utilized to have a 'second bite of the apple,' and raising an issue for the first time in a motion to reargue, whether pre- or post-appeal, will not ensure appellate review of the merits of that issue." (Part I)

FACTUAL BACKGROUND

Fauna J. Eller, a former Newington town tax assessor, sent an August 25, 2023 email to Benjamin Ancona, Jr., town officials, and the town's labor attorney accusing various town officials of misconduct, conflicts of interest, political influence, and creating a hostile work environment. She later repeated or elaborated on those allegations in an ethics complaint to the Newington Board of Ethics and a grievance complaint to the Statewide Grievance Committee. The plaintiffs commenced an action asserting claims arising from those communications, and Eller moved to dismiss under Connecticut's anti-SLAPP statute.

PROCEDURAL HISTORY

The plaintiffs brought an action in the Superior Court for damages and other relief, including claims for defamation, intentional infliction of emotional distress, negligent infliction of emotional distress, violations of

the town code of ethics, and related derivative claims. The trial court granted Stephen Clark's special motion to dismiss and later granted Eller's special motion to dismiss, concluding that the claims against Eller arose from her exercise of the right to petition the government on a matter of public concern and that the plaintiffs failed to establish probable cause that they would prevail. The plaintiffs appealed, but did not amend their appeal to challenge the denial of their postappeal motion for reconsideration.

DISPOSITION

affirmed

CASES CITED

- Lafferty v. Jones, 336 Conn. 332, 337 n.4, 246 A.3d 429 (2020), cert. denied, ___ U.S. ___, 141 S. Ct. 2467, 209 L. Ed. 2d 529 (2021)
- Doe 1 v. Board of Education, 213 Conn. App. 22, 56–57, 277 A.3d 164 (2022)
- Lamar v. Brevetti, 173 Conn. App. 284, 291, 163 A.3d 627 (2017)
- State v. Godbout, 229 Conn. App. 231, 235–36, 326 A.3d 1142 (2024)
- S. A. v. D. G., 198 Conn. App. 170, 192, 194, 232 A.3d 1110 (2020)
- C. B. v. S. B., 211 Conn. App. 628, 631, 273 A.3d 271 (2022)
- Harvey v. Dept. of Correction, 337 Conn. 291, 303, 253 A.3d 931 (2020)
- Aguilar v. Eick, 234 Conn. App. 281, 284–85, 321–22, 344 A.3d 263, cert. granted on other grounds, 353 Conn. 925, 345 A.3d 811 (2025)
- Priore v. Haig, 344 Conn. 636, 658–59, 280 A.3d 402 (2022)
- Howard-Arnold, Inc. v. T.N.T. Realty, Inc., 145 Conn. App. 696, 714, 77 A.3d 165 (2013), aff'd, 315 Conn. 596, 109 A.3d 473 (2015)
- White v. Mazda Motor of America, Inc., 313 Conn. 610, 634, 99 A.3d 1079 (2014)
- J. C.-S. v. J. G., 230 Conn. App. 651, 653 n.2, 331 A.3d 175, cert. denied, 351 Conn. 924, 333 A.3d 795 (2025)
- R. H. v. M. H., 219 Conn. App. 716, 751, 296 A.3d 243 (2023), rev'd in part on other grounds, 350 Conn. 432, 324 A.3d 720 (2024)
- Worth v. Commissioner of Transportation, 135 Conn. App. 506, 508 n.2, 43 A.3d 199, cert. denied, 305 Conn. 919, 47 A.3d 389 (2012)
- Field v. Kearns, 43 Conn. App. 265, 276, 682 A.2d 148, cert. denied, 239 Conn. 942, 684 A.2d 711 (1996)
- Smith v. Supple, 346 Conn. 928, 964 n.32, 293 A.3d 851 (2023)
- Robinson v. V. D., 229 Conn. App. 316, 338, 328 A.3d 198 (2024)
- Beecher v. Mohegan Tribe of Indians of Connecticut, 282 Conn. 130, 133 n.4, 918 A.2d 880 (2007)