K A T H Y B R U N I,

a witness called on behalf of the Defendant, having been first duly sworn in by the Court Officer, was examined and testified On her oath as follows:

THE WITNESS: Katy Bruni.

THE COURT OFFICER: Please spell your names.

THE WITNESS: Kathy, K-a-t-h-y. Bruni, B, as in boy, r-u-n-i.

THE COURT OFFICER: Please state your address for the record.

THE WITNESS: 237 Hightale (Phonetic) Drive, Torrington, Connecticut.

THE COURT OFFICER: Thank you. You may be seated.

THE COURT: Good afternoon, Ms. Bruni.

THE WITNESS: Good afternoon.

THE COURT: Please have a seat. And when you're ready, Mr. Barber.

ATTY. BARBER: Yes.

DIRECT EXAMINATION BY ATTY. BARBER:

Q. Ms. Bruni, where are you employed?

A. I'm employed at the Department of Social Services.

Q. And what's your title?

A. I'm the Director of the Home and Community Based Services Unit.

Q. And what does that involve?

A. That involves oversight of 11 Medicaid waiver programs for the state, as well as the nursing home preadmission

screening program.

Q. And is one of those waiver programs that you have oversight and responsibility for the acquired brain injury waiver program?

A. Yes, there's two brain injury waiver programs. Yes.

Q. Okay. And we've been referring to 17b-260a-16.

ATTY. BARBER: If I, if I may show the witness the --

THE COURT: Yes.

ATTY. BARBER: -- the court exhibit, Your Honor? Thank you very much.

Q. (BY ATTY. BARBER) And, first, referring to subsection (a). Are those the record documentation requirements to support a claim for payment?

A. Yes.

Q. And referring down to subsection (d). The requirement to spend monthly reports. What is a monthly report?

A. That we request of the providers to give us a status update on the client. How, how they've progressed or not progressed toward their goals.

Q. And is there a form that's been developed by the department for providers to submit monthly reports?

A. Yes. Yes.

Q. And what does that -- type of information does that form call for?

A. Goals, changes, problems to report, concerns, any need to adjust the service plain.

Q. Is there any requirement that the monthly report

document the extent of services provided for which there is a Medicaid claim, including such things as date of service, the name of the client -- well, the provider's name, start date, end date of service and description of what services were provided on that day?

A. I believe that it includes the provider's name, the type of service provided, but not the start date, end date or hours.

Q. Or date of service, for example?

A. No, I don't think so.

Q. So it includes the provider's name and the individual's name. I mean that's, that's obvious --

A. The provider's name, the individual's name, yes, and, and the categories.

Q. And a description of how the individual is, is doing? What their progress has --

A. Yes.

Q. -- been?

A. Yes.

Q. But not specific documentation of dates of service or quantity of service?

A. I have not seen one in a while, and I can't swear to that. I can't swear to that. I know it doesn't ask for specific hours, but...

Q. And have you seen the monthly reports submitted by Mr. Abdulaziz?

A. I have seen some, yes.

Q. And have you reviewed them?

A. I have reviewed them.

Q. And could you describe the report that you reviewed?

A. I would describe the reports as cookie cutter. The report for --

ATTY. MARDER: Your Honor, I would object. I've been very silent, but I think that kind of a characterization doesn't answer the question.

THE COURT: I'll let the witness complete her answer, and you may cross-examination. I'll overrule the objection. Go ahead.

A. The reports from client to client look identical. The goals are the same, the date that the goals are to be achieved are the same, it looks like it's just cut and pasted from one document to another.

Q. (BY ATTY. BARBER) And in terms of ongoing billings by Mr. Abdulaziz, are you aware of his monthly billings going back over various periods of time?

A. Yes, I am.

Q. And including his billings from various -- prior to April 1 of '13, and his billings to the present?

A. Yes.

Q. And approximately what are the magnitude of those billings?

A. Calendar year 2012, he billed in excess of -- it was paid in excess of $328,000 dollars; in 2013, in excess of $369,000 dollars; in 2014, in excess of $329,000 dollars. And

up through the first ten months of 2015, approximately $285,000 dollars, which puts him on a pace to achieve approximately --

ATTY. MARDER: Objection, Your Honor. I think that's being a bit speculative in terms of what pace he's on.

THE COURT: Well, I assume this is just what we might call simple math.

THE WITNESS: It's simple math, Your Honor.

THE COURT: Right.

THE WITNESS: It's eight -- 83 percent of the year has been completed --

THE COURT: Right. I'll, I'll --

THE WITNESS: -- through October --

THE COURT: -- allow the arithmetic --

A. Approximately $343,000 dollars if the billings stay the way they have been.

Q. (BY ATTY. BARBER) Thank you.

ATTY. BARBER: No further questions.

THE COURT: All right. Cross-examination.

ATTY. MARDER: Yes, Your Honor.

CROSS-EXAMINATION BY ATTY. MARDER:

Q. Ms. Bruni, you said you -- you're employed by DSS. How long have you been employed?

A. Since 2004.

Q. And have you been in the capacity as Director of Home and, and Community Base Services as 2004?

A. No, I came in as an manager in the social work division, and then later came to the home and community base

services unit.

Q. Okay. So how long have you been in the home and community based service as the director?

A. I became the director January of this year, but was in a position of manager since 2007.

Q. Okay. So you're the director since January 2015?

A. Yes.

Q. Now with respect to your description of the reports, you don't have any -- do you have any information as to what it has taken to respond to those reports irrespective of your characterization? Do you know any -- do you have any information as to what it took in terms of to work up to respond to those reports? It's yes or no.

A. I don't think I understand the question.

Q. Okay. That's fair enough. Let me try to repeat it.

Do you -- in reading the report that you got from the plaintiff, do you have any idea of what it took for him to gather the information to respond in a way that he did on that report?

A. Since they all looked the same, the ones that I saw, it didn't look like it took anything at all to complete those.

ATTY. MARDER: Your Honor, I -- I would ask that, that answer be stricken as nonresponsive.

THE COURT: I think it was responsive. I think you asked for any idea, and, and she gave her idea.

ATTY. MARDER: Sure.

THE COURT: I can see you phrasing it differently, though.

Q. (BY MR. MARDER) Do you know how much work went into responding to the --

A. No.

Q. -- to gather -- okay. So you don't know -- you don't have any idea as to what work the plaintiff took in order to gather information to respond to that report? You don't have any idea of what it took for him -- the work, the work --

A. Based on what I saw, I have an idea, but...

Q. Do you have any personal knowledge?

A. No.

Q. Okay. Now you said that the forms required a listing of goals, changes, progress, the -- some extent of services.

Do you have any personal knowledge as to what went into the form that you reviewed regarding work by Mr. -- by the plaintiff in terms of the goals for any individual client, any changes that were required by an individual client, any progress or lack of progress? Do you have any personal knowledge of that?

A. The goals I saw were identical with the same date.

Q. Do you have any personal knowledge of what those goals that he -- the information that was -- that that information -- that that form was based on? Do you have any personal knowledge of that?

A. No.

Q. Now the services that he needs to put into the monthly report -- those are monthly. They're not yearly, they're not quarterly. Am I correct?

A. They're monthly.

Q. So every month he needs to file the reports?
A. Submit the report to the social worker.
Q. Okay. And are you familiar with paragraph 9 of Provider Agreement that Mr. Tariq Abdulaziz or the plaintiff was working on since 2004 to 2014?
A. I am.
Q. Okay. Did those require any monthly reports?
A. No.
Q. So whatever the monthly reports were and whatever -- there was time involved on his part in completing them under the proposed regulations. Am I correct? It was just -- do you expect that he spent time?
A. Yes.
Q. Those were not -- that -- since they were not required as part of the original paragraph in the original Provider Agreement, there was no time spent under paragraph 9 with respect to providing monthly reports. Would that be a fair statement?
A. I'm not sure.
Q. Okay. You said you've seen some monthly reports. Have you seen a monthly report from Mr. Tariq Abdulaziz or his company since April 1st of 2013 on -- for every single month?
A. The only ones I saw were the ones my staff brought to me.
Q. Okay. So there may have been others that you didn't see. Is that correct?
A. Correct.
Q. And others may have contained different, different

information than the ones you saw. Am I correct?

A. It's possible.

Q. Okay?

A. But...

ATTY. MARDER: May I just confer with my client --

THE COURT: Of course.

ATTY. MARDER: -- for a moment, Your Honor?

Q. (BY ATTY. MARDER) The reports -- the monthly reports that he's asked to provide, do -- are, are there certain requirements in -- that he report in those reports that -- that directly go to a person's eligibility?

A. I honestly don't know the answer to that. I'm not sure what you mean by "eligibility".

Q. Well, a patient has to be eligible for the ABI --

A. Well, they have, there's -- there's multiple levels of eligibility. He's certainly not attesting to their financial eligibility.

Q. Right.

A. We're looking at the functional eligibility, but I don't believe that's part of the report.

Q. Okay. And you don't have any personal knowledge as to what, how much would -- is the cost that he's estimated to be incurring in order to complete the monthly reports for 120 patients -- excuse me. A 120 clients. Do you have any personal knowledge about that?

A. Personal knowledge --

Q. Yes.

A. -- or an opinion.

Q. Personal knowledge.

A. No personal knowledge.

Q. Thank you.

ATTY. MARDER: No further questions, Your Honor.

THE COURT: Redirect?

ATTY. BARBER: Nothing on redirect.

THE COURT: You may step down, Ms. Bruni. Thank you very much. Bruni. I apologize.

ATTY. BARBER: Mr. McCormack.

JOHN McCORMACK,

a witness called on behalf of the defendant, having been first duly sworn in by the Court officer, was examined and testified on his oath as follows:

THE WITNESS: John McCormack. J-o-h-n, M-c-C-o-r-m-a-c-k.

THE COURT OFFICER: Please state your address for the record.

THE WITNESS: 29 Smallwood Road, West Hartford Connecticut.

THE COURT OFFICER: All right. Thank you. You may be seated.

THE COURT: Good afternoon, sir.

THE WITNESS: Good afternoon.

THE COURT: Please have a seat. And when you're ready, Mr. Barber.

ATTY. BARBER: Yes. Thank you, Your Honor.

DIRECT EXAMINATION BY ATTY. BARBER:

Q. Mr. McCormack, where are you employed?

A. The Connecticut Department of Social Services.

Q. And what is your job title?

A. I am the Director of the Office of Quality Assurance.

Q. And what are your job responsibilities as Director of Quality Assurance?

A. The overall program integrity, function of the department is with us, and we have several unique divisions that handle those functions.

Q. All right. It's been referenced in this matter to a review that was conducted by the Department of Social services in June of 2014 of Mr. Abdulaziz' records. Are you generally aware with -- of, of the matter?

A. Yes, I am.

Q. And was that review conducted under your auspices?

A. It was.

Q. And can you briefly describe what that review consisted of?

A. Certainly. We have -- our investigations division received a complaint that --

ATTY. MARDER: Your Honor, I would object to that question as being unresponsive. He asked what did the record review consist of.

THE COURT: Right. I'm, I'm not going to admit it for the truth of the matter, but only to explain the witness' actions. So you may continue.

A. Could you ask the question again, please?

Q. (BY ATTY. BARBER) Right. Well, there's, there's been a debate between the parties here between a record review and an audit. Can you advise the Court of what the distinction is?

A. Sure. An audit is -- first of all, is performed by our audit division. And an audit is in most cases we select a provider for audit. We'll take a random sample of claims paid to the provider over a 3-year period. We'll go out and we'll request records to review the, the supporting documentation supporting the claims paid by the department.

Once that's done, we issue a draft audit report to the provider. The provider has an opportunity to come in and discuss the draft audit report and provide any additional information.

Once the additional information is reviewed, a final audit report issued. And we issue several audit reports a year, and that's done by our audit division. In this case this was a review.

Q. Let me ask the next --

A. Yup.

Q. -- question.

A. Sure.

Q. Can you distinguish an audit from a document review?

A. Certainly. An audit is that. It follows a procedure. It follows 17b-99 of the Connecticut General Statutes.

A document review is a review that's done for, for many reasons, whether it's based upon a complaint, it's based upon claim analysis. It is that we'll request information to review supporting claims paid by the department.

Q. Okay. And the review that was conducted in this instance, I believe you briefly referred to a complaint, but can you inform the Court -- what was the origin and the review, how was it conducted?

A. We received a complaint, and the complaint alleged that Mr. Abdulaziz was billing for services not rendered. So our next step on that was to go out and review documentations in his file to see if he had documentation to support the billings

that were made to the department, and as discussed here and those -- that review was made by Allison Case, and so we did that. We did that review.

Q. And, and now you testified earlier as to the distinction between an audit and a document review.

A. Correct.

Q. Was this review done in accordance with audit protocols?

A. Audit protocols pertain to audits. This wasn't done by audit, our audit staff. It's our investigation staff is separate and unique from the audit division.

Q. And what period of time did this review cover?

A. Oh, I -- I can't give the exact dates. I know it was done in, in approximately June of 2014.

Q. Would you know -- if, if I could refresh your, your recollection, did the audit period precede, both precede and, and subsequent to the April 1, '13 effective date of the amended --

A. I believe it was --

Q. -- 17b-10 regs?

A. I think it was -- expand that date before and after.

Q. Both before and after?

A. Yes.

Q. And do you recall how many records you reviewed?

A. The -- I believe it was over a hundred.

Q. And have you informed Mr. Abdulaziz the result of, of your review?

A. I do not believe so.

Q. And what, what -- generally, what were your findings?

A. The findings were that the billings were not supported by documentation.

ATTY. MARDER: Your Honor, I would object. I mean now we're going into --

THE COURT: Right.

ATTY. MARDER: -- information that we don't have an opportunity --

THE COURT: I understand.

ATTY. MARDER: -- to respond.

THE COURT: I don't really see the relevance of the, of the finding.

ATTY. BARBER: Well, the question --

THE COURT: To the question of aggrievement.

ATTY. BARBER: I mean there is a question that I -- I mean the allegation -- the pertinent allegation, paragraph 7, is that an audit was conducted.

THE COURT: Right.

ATTY. BARBER: He's already testified there was no audit.

THE COURT: Right.

ATTY. BARBER: It was something else.

THE COURT: Right.

ATTY. BARBER: So it's -- I believe it's relevant to the one and only allegation in the complaint as to aggrievement.

THE COURT: Well, he, he does allege that he has not

been notified of the audit results.

ATTY. BARBER: Mmm-hm.

THE COURT: You've asked about that. But I don't see how the review results are relevant quite honestly. Unless, unless you can tell me what I'm missing, I'm going to sustain the objection.

ATTY. BARBER: Well, aggrievement, as you know, Your Honor -- my argument --

THE COURT: Mmm-hm.

ATTY. BARBER: -- requires showing of injury of a specific, personal and legal interest.

The allegation here was that, is that he was aggrieved as a result of audit protocol. I'm inquiring as -- whether, whether there was an audit, what was the protocol, how is he, how is he aggrieved. If you don't think it's relevant, we'll stop there.

THE COURT: Well, I think could you inquire as to what the plaintiff might have been asked to do as a result of the review, but a finding that he did or did not comply with the regulations or the statute I don't think is relevant.

ATTY. BARBER: And if I ask the witness if he's been imposed -- I think, I think it's -- all right. Never mind. I withdraw the question.

Q. (BY ATTY. BARBER) Thank you, Mr. McCormack.

ATTY. BARBER: Nothing further.

THE COURT: All right. Cross-examination.

ATTY. MARDER: Thank you, Your Honor.

CROSS-EXAMINATION BY ATTY. MARDER:

Q. Mr. McCormack, you said your office reviewed over a hundred record -- these are individual, individual client files?

A. They are. There should be an individual client file for each client.

Q. So --

A. So I don't know if there was or there wasn't. I don't know if there was a file at all. So I don't know.

Q. But your testimony was it was over a hundred?

A. Correct.

Q. Okay.

ATTY. MARDER: May I, Your Honor?

THE COURT: Yes.

ATTY. MARDER: May I have just one --

Q. (BY ATTY. MARDER) Did, did the plaintiff cooperate in that audit? Well, I -- you, you call it a review. I call it an audit. Did he cooperate?

A. Did he cooperate?

Q. Yes.

A. I think no. Not originally, no.

Q. When you say, "not originally," what was, what was --

A. He wouldn't grant access to his records.

Q. I'm sorry?

A. He would not grant access to his records.

Q. And did he give you a reason?

A. I don't believe so.

Q. Didn't he indicate to you that he wanted to hire an

attorney at that point?

A. You know, I wasn't there.

Q. Okay.

A. But he -- all(s) I know is he did not grant access to his records.

Q. All right. So, but you don't know his reason why?

A. That wasn't the question. I don't know.

Q. I --

A. He did not grant access to his record.

Q. But you don't know why. That's the, my -- that's my question.

A. I have no, no idea why he would not.

ATTY. MARDER: I have no further questions of this witness, Your Honor.

THE COURT: All right. Any redirect?

ATTY. BARBER: No redirect.

THE COURT: Thank you very much, Mr. McCormack. You may step down. Further witnesses, Mr. Barber?

ATTY. BARBER: No further witnesses.

THE COURT: All right. Any rebuttal, Mr. Marder?

ATTY. MARDER: Yes.

THE COURT: Okay.

ATTY. MARDER: I recall --

THE COURT: All right.

ATTY. MARDER: -- Tariq Abdulaziz, Your Honor.

THE COURT: You can have a seat, sir. You're still under oath.

DIRECT EXAMINATION BY ATTY. MARDER

Q. Tariq, you heard Kathy Bruni indicate that there was certain repetitive responses in your reports that she reviewed, although she acknowledged she didn't review all of them.

Could you indicate, from your knowledge, in terms of preparing those, what portions of the reports in your, in your opinion are repetitive?

A. The program has a -- has a number of requirements. One of them of course you have to have a brain injury. The other is that you have to have at least, what we call two ADL needs, and ADLs are activities of daily living, and there are five activities of daily living in the program: Bathing, dressing, feeding, toileting, transfers. So you have to have needs in at least two of those five.

In addition to those ADLs, we have something called instrumental activities of daily living. Those would be things such as meal preparation, homemaking, housekeeping, cleaning and hygiene. These ADLs, IADLs, I include them in every report, because they're essential to the client's eligibility for the program, and I feel that it's imperative that I speak to those because the truth of the matter, from a, from a political standpoint, there's, there's a need to speak to each one of those for every client because they're relevant to every client. And, actually, those categories are categories created by DSS. And so I'm, I was surprised that Mrs. Bruni was unaware that the activities of daily living and instrumental activities of daily living wouldn't be relevant for every client, every month.

Q. And the other portions of that form might be, you know, might be similar in response?

A. I, the category for, for strategies, you know, I use a number of different strategies. So those are there, but everything else is, is, is tied to the individual client, and I have to evaluate, you know, just to be able to -- I have to evaluate what I have in front of me data-wise in order to make a determination regarding the client's performance.

Q. And her testimony was that she didn't review every single submission of yours?

A. Correct.

Q. Okay. And with respect to the, your efforts, she kind of minimized what her opinion was relative to your efforts --

A. Mmm-hm.

Q. -- in responding to those reports.

A. Mmm-hm.

Q. What would you respond to that?

A. Well, she can -- I invite Mrs. Bruni to come spend a day with me. That's, that's all I can say.

Q. And are those efforts that you indicate still are representative of those hours and times that you put in your test -- you testified to about and also your effort?

A. Absolutely. You know, all I can do is, is respond to the form, but there's a lot of work that goes into coming up with an answer to the questions that are in their form.

Q. With respect to Mr. McCormack, he indicated that you didn't make the records available. I believe I quoted him

correctly -- at first.

A. Mmm-hm.

Q. Could you indicate to the Court what was the sequence of events that occur -- that started with the notice about a -- in their terms, a record review being requested?

A. I received a phone call from Allison Case asking to review the records. Maybe she called me toward the -- she called me after the middle of the week, maybe on a Thursday or a Friday for them wanting to come by on a Tuesday. And in that, in that time, you know, I told her I'd have to get back to her, and I --

Q. Now wait. In that time had you -- had you been represented by counsel?

A. I was not represented by counsel.

Q. Okay. Keep, keep going.

A. I went to our website -- a state website and determined that I was to be given at least 30 days, a minimum of at least 30 days before I had to submit to have my records reviewed. And I told Mrs. Case that earlier in the week, the next week. And, you know, that, later that week, I approached you about, you know, having representation, and that was the only reason that there was any type of delay.

She did not inform me, which I guess she's not required to, that I should be given at least 30 days.

Q. Okay. And then with counsel was a date, a mutual date and time agreed upon between DSS and counsel?

A. Yes.

Q. And did it take place on the data agreed upon?

A. Yes.

ATTY. MARDER: No further questions.

THE COURT: Okay. Cross-examination, Mr. Barber?

ATTY. BARBER: No questions, Your Honor.

THE COURT: All right. Thank you, Mr. Abdulaziz.

THE WITNESS: Thank you.

THE COURT: You may step down. Any further evidence, Mr. Marder?

ATTY. MARDER: No further evidence, Your Honor.

THE COURT: Or Mr. Barber?

ATTY. BARBER: Nothing further, Your Honor.

THE COURT: All right. Do you want to make brief statements on the proof? I mean, I've, I've heard it, but I, I'll listen to any comments you have.

ATTY. MARDER: I appreciate that. We -- the plaintiff submits that, yes, perhaps the, you know, the -- well, the language in the complaint, and when viewed and interpreted in a, as prescribed on dealing with the motion to dismiss, as we -- we feel that we have met both burdens, and one -- that, one, Mr. Tariq Abdulaziz' company have a specific interest, a legal interest that is attributable to, to him, and that the regulations -- it's the regulations that were approved by the commissioner, and the regulations that he determined were approved properly are the ones that -- that strive to change the relationship between the plaintiff and the state of -- and, and DSS through their regulation

requirements for recordkeeping.

The gentleman has an agreement with the state. It's been operated on under, with -- for many years, and the testimony, I think is, we contend clearly states that there has been a substantial difference between the previous, or the Provider Agreement and the new regulations, and the -- the, the direct consequence or the affect, the financial affect on the plaintiff by the new regulations is dramatic.

And the testimony is un-refuted, and so I believe that we've complied with and met our burden with respect to all of the prongs of being -- approving the elements of aggrievement, including the ability to prove that in furhter proceedings.

And I appreciate Your Honor's patients in hearing this matter. Thank you.

THE COURT: Certainly. Mr. Barber.

ATTY. BARBER: Thank you, Your Honor. I'd just like to briefly reiterate our -- our claims as to the sufficiency of the allegations in the complaint.

Again, particular, specific factual obligations are required as to the impact on specific, personal and legal interest, and the broad conclusory allegations are insufficient, and the broad conclusory allegation in paragraph 7 of the complaint that Tariq is aggrieved by the audit protocol being used by DSS in said audit is insufficient to demonstrate the particular factual aggrievement required.

As to the facts, Mr. McCormack has testified that, indeed, no audit was conducted. There's been testimony as to the impact of the monthly report requirement. That is a requirement of the, of the new regs that did not previously exist, but there's been no testimony or no evidence that that is in any way related to record-retention requirements. The document services provided. It was relevant to the claim of aggrievement in the complaint; namely, aggrieved by audit protocol.

There's no testimony, as a matter of fact, that the record retirement -- record-retention requirements, which are more specific clearly in the amended regs are in fact any more onerous than what would have been required anyway by operation of the Provider Agreement in order to, to document sufficiently that services were provided, that qualify for, for Medicaid payment.

So that's what we're left with. A broad conclusory allegation of aggrievement and a claim -- as the monthly reports, which, which is mentioned nowhere in the complaint, and a claim that, that has physical costs. And pulling it altogether, the plaintiff has neither pled sufficiently nor proven that he's aggrieved by the requirements of the regs that the agency is operating under and, therefore, does not have standing to challenge the agency's operation under the said regs.

THE COURT: All right. Thank you, sir. Anything further, Mr. Marder?

ATTY. MARDER: Oh, I'm sorry. The only other comment I can make is, again, the attempt by the state to extract from the declaratory ruling of the commissioner. I think that approved and, and, and -- and indicated that all, all of the proposed regulations not just the, all -- I'm sorry. All of the proposed regulations that he claimed were, were approved properly are in effect, and that the letters from Attorney Smiga that are in the record, the letter that we submitted just today, Plaintiffs' Exhibit 1, all indicate that the regulations, the proposed regulations in their entirety will be applied to this party, to the plaintiff. And that in the complaint, we did allege that he was advised that the proposed regulations would apply to him. That's Attorney Smiga's letter. And, certainly, as of January of 2015, they're still requiring him to make reports.

You can't distinguish, and that's what the state has attempted to say, distinguish recordkeeping from reports. The, the recordkeeping might be the same, but the reports is the additional element, and I believe there was sufficient pleading and the addition of the reasonable facts to be established by a reasonable implicate and, and -- that can be found through reasonable implications from the, from the facts that are pled in the complaint. I have no other comments, Your Honor.

THE COURT: All right. Thank you. One moment. I'm prepared to rule.

I've considered the pleadings, the memoranda, the

evidence produced today and the arguments of counsel, and for the following reasons, the motion to dismiss is granted.

The plaintiff has the burden of alleging and proving aggrievement and must do both. I'll address both, but, clearly, in my view, the plaintiff did not sufficiently allege aggrievement.

The only allegation in the complaint that directly addresses the issue of aggrievement is paragraph 7, wherein the plaintiff alleges Tariq is aggrieved by the audit protocol being used by DSS in said audit. This is a general allegation of aggrievement. It doesn't say how the plaintiff is aggrieved, in what way the plaintiff is, is harmed, and it certainly doesn't link any unspecified aggrievement to the declaratory ruling, which is what the plaintiff must do. The plaintiff must allege in, at some greater level of specificity how he, how they are harmed by the declaratory ruling. It does not do this.

This is exactly the type of situation addressed in many cases. I'll cite one of the more recent. *Connecticut Independent Utility Workers, Local 12924 v. Department of Public Utility Control*, 312 Conn. 265 at 275 to 276, when our Supreme Court stated that the mere statement that the appellant is aggrieved without supporting allegations as to the particular nature of the aggrievement is insufficient, and it goes on, but that, that is essentially what we have here.

I've considered the plaintiff's theory, and I've, I

have applied, I think a liberal construction of the complaint, but there's no way from reading this complaint that the reader would know that, of plaintiffs' theory that section 16 of the regulations impose more onerous and costly reporting and recordkeeping requirements than did the provider agreement.

There's no specific mention of paragraph 16 in the complaint. There's no way of knowing from the complaint that, that section 16 causes more harm than did paragraph 9 of the Provider Agreement, and there's no way in reading the complaint that any such harm was the result of the declaratory ruling. So even construing the complaint liberally, I just cannot discern plaintiffs' theory from what they have alleged.

If anything, if I read paragraph 6 of the complaint, it seems that plaintiff claims -- or plaintiffs. There are two. Claim that they were harmed because they were audited by DSS, and they were harmed by the audit protocol being used by DSS in this audit. That's perhaps the most specific thing that the plaintiff alleges. It does not at all allege that the plaintiff was harmed by paragraph 16 and more onerous and costly reporting and disclosure requirements. So I find that plaintiff has not sufficiently alleged aggrievement, and for that reason alone, lacks standing and the court lacks jurisdiction.

I will go on to address the issue of proof because there was evidence here, and in the event that it becomes

relevant, I, I do want to address it. I do find that the plaintiff proved that he was harmed, or they were harmed by section 16 in that the reporting and disclosure requirements are more onerous and costly than what was required under paragraph 9 of the Provider Agreement, and I rely primarily on the plaintiffs', on, on Mr. Abdulaziz' testimony in that regard.

I'm not convinced that, that it amounted to 120 hours of extra work, that's, that -- that would certainly be a grievous harm. That would leave little time to do anything else. But I am convinced, at least by a preponderance of the evidence, that the plaintiff has proven harm from section 16 of the proposed regulations.

I will add, however, that this is not -- there's no way I can read the complaint to make that sort of harm relevant to what's alleged in the complaint. If anything, again, the plaintiff has alleged that he was harmed by, by the audit protocol being used by DSS in an audit, and I do accept the testimony and evidence that the plaintiff was, the plaintiffs were not audited. It was not an audit. And, therefore, the plaintiffs could not have been harmed by an audit protocol being used in an audit.

So, although, the plaintiff has shown some harm from the new regulations, it's, it's not within the scope of the complaint, and that makes it technically irrelevant. But, again, the plaintiff -- we, we -- I don't have to get that far, because I don't believe that the plaintiff has

sufficiently alleged aggrievement. Therefore, the motion to dismiss is granted. And at this time, I will not take up the other pending matters.

I do thank counsel for their efficiency and courtesy and corporation. Is there anything else that we need to do on the record?

ATTY. BARBER: Nothing further, Your Honor.

THE COURT: All right.

ATTY. MARDER: Nothing further, Your Honor.

THE COURT: Thank you very much. We'll stand adjourned. Everyone have a good holiday.

(Court adjourned 12:57:11 PM).

No: HHBCV15-6029943 S	:	SUPERIOR COURT
NEUROSTRATEGIES, INC. And TARIQ ABDULAZIZ, Ph.D, M.S., MBA	:	JUDICIAL DISTRICT OF NEW BRITAIN
v.	:	AT NEW BRITAIN, CONNECTICUT
CONNECTICUT DEPARTMENT OF SOCIAL SERVICES, RODERICK l. BREMBY, COMMISSIONER OF SOCIAL SERVICES	:	November 25, 2015

C E R T I F I C A T E

I hereby certify that the foregoing pages are a true and correct transcription of the audio recording of the above-referenced case, heard in Superior Court, Judicial District of New Britain, New Britain, Connecticut, before the Honorable Carl J. Schuman, Judge, on the 25th day of November, 2015.

Dated this 4th day of December, 2015, in New Britain, Connecticut.

Donna L. Peluso,
Court Recording Monitor

State of Connecticut Judicial Branch

Civil / Family / Housing Inquiry

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HHB-CV16-6034437-S **NEUROSTRTAEGIES, INC. Et Al v. CT DEPARTMENT OF SOCIAL SERVICES Et Al**

Prefix/Suffix: [none] **Case Type:** A90 **File Date:** 08/08/2016 **Return Date:** 08/23/2016

Case Detail Notices History Scheduled Court Dates E-Services Login Screen Section Help

To receive an email when there is activity on this case, click here

Information Updated as of: 02/28/2017

Case Information

Case Type: A90 - Appeals - All other
Court Location: NEW BRITAIN JD
List Type: ADMINISTRATIVE APPEALS (AA)
Trial List Claim: 08/09/2016
Last Action Date: 01/25/2017 (The "last action date" is the date the information was entered in the system)

Disposition Information

Disposition Date: 09/22/2016
Disposition: JUDGMENT OF NONSUIT BEFORE TRIAL COMMENCED
Judge or Magistrate: HON GEORGE LEVINE

Party & Appearance Information

Party		No Fee Party	Category
P-01	**NEUROSTRTAEGIES, INC.** **Attorney:** MICHAEL T KOGUT (419933) File Date 08/08/2016 75 MARKET PLACE SPRINGFIELD, MA 011031640		Plaintiff
P-02	**TARIQ ABDULAZIZ, PH.D., M.S., M.S., MBA** **Attorney:** MICHAEL T KOGUT (419933) File Date 08/08/2016 75 MARKET PLACE SPRINGFIELD, MA 011031640		Plaintiff
D-01	**CT DEPARTMENT OF SOCIAL SERVICES** **Attorney:** AAG HUGH BARBER (085484) File Date 08/30/2016 ATTY GEN-HEALTH PO BOX 120 HARTFORD, CT 061410120		Defendant
D-02	**RODERICK L. BREMBY** **Attorney:** AAG HUGH BARBER (085484) File Date 08/30/2016 ATTY GEN-HEALTH PO BOX 120 HARTFORD, CT 061410120		Defendant

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case is Any documents protected by law or by court order that are not open to the public cannot be viewed online and can only be viewed in person at the clerk's office where the file is located by those authorized by law or court order to see them

Motions / Pleadings / Documents / Case Status

Entry No	File Date	Filed By	Description	Arguable
	08/30/2016	D	APPEARANCE Appearance	
100 30	08/08/2016	P	SUMMONS AND COMPLAINT	No
101 61	08/09/2016	C	CERTIFICATE OF CLOSED PLEADINGS AND CLAIM FOR TRIAL LIST	No
102 00	09/08/2016	D	CERTIFIED LIST OF PAPERS IN THE RECORD PB 14-7A(b)/14-7B(b)	No
103 00	09/08/2016	D	NOTICE OF SUBMISSION OF THE RECORD	No
104 00	09/08/2016	D	RECORD IN ADMINISTRATIVE APPEALS	No
105 00	09/14/2016	D	RECORD IN ADMINISTRATIVE APPEALS Record Pages 501-1959	No
105 50	09/22/2016	C	ORDER *RESULT* Order 9/22/2016 HON GEORGE LEVINE	No
106 00	09/22/2016	C	**JUDGMENT OF NONSUIT BEFORE TRIAL COMMENCED** *RESULT* HON GEORGE LEVINE	No
107 00	01/13/2017	P	MOTION TO OPEN JUDGMENT *RESULT* Denied 1/25/2017 HON SHEILA HUDDLESTON	No
107 10	01/25/2017	C	ORDER *RESULT* Denied 1/25/2017 HON SHEILA HUDDLESTON	No
108 00	01/24/2017	D	MEMORANDUM IN OPPOSITION TO MOTION Defendants' Memorandum in Opposition to Plaintiffs' Motion to Open Judgment *RESULT* Sustained 1/25/2017 HON SHEILA HUDDLESTON	No
108 10	01/25/2017	C	ORDER *RESULT* Sustained 1/25/2017 HON SHEILA HUDDLESTON	No

Scheduled Court Dates as of 02/27/2017

HHB-CV16-6034437-S - **NEUROSTRTAEGIES, INC. Et Al v. CT DEPARTMENT OF SOCIAL SERVICES Et Al**

#	Date	Time	Event Description	Status
			No Events Scheduled	

Judicial ADR events may be heard in a court that is different from the court where the case is filed To check location information about an ADR event, select the **Notices** tab on the top of the case detail page

Matters that appear on the Short Calendar and Family Support Magistrate Calendar are shown as scheduled court events on this page The date displayed on this page is the date of the calendar

All matters on a family support magistrate calendar are presumed ready to go forward

The status of a Short Calendar matter is not displayed because it is determined by markings made by the parties as required by the calendar notices and the civil or

family standing orders Markings made electronically can be viewed by those who have electronic access through the Markings History link on the Civil/Family Menu in E-Services Markings made by telephone can only be obtained through the clerk's office If more than one motion is on a single short calendar, the calendar will be listed once on this page You can see more information on matters appearing on Short Calendars and Family Support Magistrate Calendars by going to the Civil/Family Case Look-Up page and Short Calendars By Juris Number or By Court Location.

Periodic changes to terminology that do not affect the status of the case may be made

This list does not constitute or replace official notice of scheduled court events

Disclaimer: For civil and family cases statewide, case information can be seen on this website for a period of time, from one year to a maximum period of ten years, after the disposition date If the Connecticut Practice Book Sections 7-10 and 7-11 give a shorter period of time, the case information will be displayed for the shorter period Under the Federal Violence Against Women Act of 2005, cases for relief from physical abuse, foreign protective orders, and motions that would be likely to publicly reveal the identity or location of a protected party may not be displayed and may be available only at the courts

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Page Created on 2/28/2017 at 1 06 30 PM

RETURN DATE: AUGUST 23, 2016	:	SUPERIOR COURT
NEUROSTRATEGIES, INC. AND TARIQ ABDULAZIZ, Ph.D., M.S., M.S., MBA	:	J. D. OF NEW BRITAIN
VS.	:	AT NEW BRITAIN
CT DEPARTMENT OF SOCIAL SERVICES; RODERICK L. BREMBY, COMMISSIONER DEPARTMENT OF SOCIAL SERVICES	:	AUGUST 8, 2016

ADMINISTRATIVE APPEAL

Pursuant to Section 4-183(a) of the Connecticut General Statutes, plaintiffs/appellants NeuroStrategies, Inc. and Tariq Abdulaziz, Ph.D., M.S., M.S., MBA (hereinafter referred to collectively as "Plaintiffs"), as aggrieved parties to a Connecticut agency decision, hereby appeal the final decision of the defendant/appellee, Department of Social Services made through its designee Roderick L. Bremby, Commissioner of the Department of Social Services all collectively referred to as the "Department" as set forth in its Declaratory Ruling date June 24, 2016.[1]

1. In its declaratory ruling, DSS stated that effective July 1, 2016 a provider signature only needs to be obtained once. Plaintiffs appeal this declaratory ruling relative to the Department's interpretation of its regulations adopted April 1, 2013. The Department's regulation, 17b-260a-16(a)(1), at best, is vague. Plaintiffs have spent a tremendous amount of time attempting to obtain signatures on an ongoing basis. Plaintiff, Tariq Abdulaziz, Ph.D., M.S., M.S., MBA has spent a tremendous amount of time and money in an attempt to obtain signatures as vaguely described and acknowledged by DSS in its ruling. (See 17b-260a-16(a)(1) below):

Sec. 17b-260a-16. Client Documentation and Provider Reporting

(a) Providers are required to retain records to document services submitted for Medicaid reimbursement for at least five years from the date the service or item was provided. Documentation shall include the following:

[1] All references contained in this administrative appeal refer and relate to the Department's "Declaratory Ruling" signed by Commissioner Roderick L Bremby, dated June 22, 2016 and post marked by the United States Postal Service on June 24, 2016.

(1) Individual's name and the signature of the individual or their legal representative:

(2) provider's name and signature;

(3) dates of service;

(4) start time for each visit;

(5) end time for each visit; and

(6) a brief description of duties performed.

(a) Upon written request presented to the provider, the department or its authorized agent may be given immediate access to, and permitted to review and copy any and all records and documentation used to support claims billed to Medicaid.

(b) For purposes of subsection (b) of this section, "immediate access" means access to records at the time the written request is presented to the provider.

(d) The provider shall submit monthly reports and written updates on the individual's progress in a form that is set forth by the department.

(e) The failure of a provider to comply with subsections (a) to (e), inclusive, of this section, may result in the nonpayment of the services.

2. The Department in its declaratory ruling erroneously determined that the regulations adopted on April 1, 2013 were properly adopted which required the plaintiffs to document information that the plaintiffs were never required to document according to the plaintiffs' provider agreement. The provider agreement signed January 2004 required the following;

I WILL MAINTAIN RECORDS THAT FULLY DISCLOSE GOODS AND SERVICES RENDERED AND I WILL MAKE RECORDS AVAILABLE TO REPRESENTATIVES OF THE DEPARTMENT UPON REQUEST

The April 1, 2013 policies required the following documentation

(1) Individual's name and the signature of the individual or their legal representative:

(2) provider's name and signature;

(3) dates of service;

(4) start time for each visit;

(5) end time for each visit; and

(6) a brief description of duties performed.

The plaintiffs were never required to document these items and spent tremendous time and money documenting the information outlined in the April 1, 2013 regulations.

3. The January 2004 regulations did not require the plaintiffs to provide monthly reports and written updates. The April 1, 2013 regulations required written updates and monthly reports and providers were not allowed to invoice for the reports. In addition, plaintiffs have been informed that they will be terminated from the program if they do not provide written updates and reports

4. The department misled the Center for Medicaid and Medicare Services ("CMS"), the federal agency granting such waiver, the plaintiffs, and the superior court in the original administrative appeal when it indicated that it conducts audits. The question from CMS was in the ABI Waiver application. It was not a general question about other waiver programs or any other DSS program but was very specific to the ABI Waiver program. The plaintiffs had an "ad hoc" review or records review which was conducted by DSS. Which explained as follows:

These audits include ad hoc reviews when the Department's fiscal intermediary or DSS Social Work Services staff alert QA to potential issues.
(ABI I Renewal Application, October 6, 2006. Petitioner's Exhibit 51)[2]

John McCormick, Director of the department's Office of Quality Assurance, ("QA") in a deposition held July 20, 2016 at the Office of the Connecticut Attorney General, testified under oath, that the records review conducted of the plaintiffs on June 16, 2014 was conducted in response to a report from the fiscal intermediary of a high frequency of billing. In November 2015 the New Britain District of the Superior Court ruled that this was a "records review" and not an audit.

These audits include ad hoc reviews when the Department's fiscal intermediary or DSS Social Work Services staff alert QA to potential issues.
(ABI I Renewal Application, October 6, 2006. Petitioner's Exhibit 51)

The plaintiffs properly acted based on the information in the department's application for the ABI Waiver. In addition, despite the departments' claim that it does not have audit regulations, the department conducted audits of providers on the ABI Waiver (Exhibits 65A-65H). In addition, DSS employed CGS 17b-99 and used extrapolation against these providers and exacted fines.

[2] References to Exhibits refer to those on file in Administrative Appeal Docket No.. HHB-CV15-6029943-S in New Britain Superior Court.

The plaintiffs reasonably believed that the records review as indicated by the department were audits as in their words "audits" include "ad hoc" reviews or so-called "record reviews."

The plaintiffs, herein, were aggrieved and continue to be aggrieved by the arbitrary and capricious actions against them and as petitioners to this court, have been aggrieved as follows:

1. The department, by adopting new regulations which changed the documentation requirements in item number nine of the new provider agreement within the regulations, without proper notice and without a hearing in violation of state and federal law;

2. The department, by requiring these plaintiffs to pursue signatures that were not required prior to the illegal and unlawful adoption of the new regulations in violation of state and federal law;

3. The department, by unlawfully and arbitrarily requiring the documentation of "time in and out" which had never been required previous to the promulgation of the newly and unlawfully adopted regulations;

4. The department, by requiring completion of monthly reports and written updates which, again, had never been required previous to the promulgation of the newly and unlawfully adopted regulations;.

Tariq Abdulaziz, Ph.D., M.S., M.S., MBA (Individually)

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(860) 377-0641 Voice/(860) 831-1044 Fax
tariqabdulaziz@neurostrategies.info

Tariq Abdulaziz, Ph.D., M.S., M.S., MBA
Duly appointed representative of NeuroStrategies, Inc.

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Waterbury, Connecticut 06705
(860) 377-0641 Voice/(860) 831-1044 Fax
tariqabdulaziz@neurostrategies.info

CERTIFICATION

I, Tariq Abdulaziz, Ph.D., M.S., M.S., MBA hereby certify that, individually and as duly appointed representative of NeuroStrategies, Inc., caused this appeal of a final agency decision/declaratory ruling to be served upon the parties in this action by certified mail, return receipt requested, postage prepaid with the United States Postal Service in accordance with C.G.S. Sec. 4-183(c) on August 7, 2016.

Tariq Abdulaziz, M.S., M.S., MBA

ORDER 409665

DOCKET NO: HHBCV166034437S

SUPERIOR COURT

NEUROSTRTAEGIES, INC. Et Al
V.
CT DEPARTMENT OF SOCIAL SERVICES
Et Al

JUDICIAL DISTRICT OF NEW BRITAIN
AT NEW BRITAIN

9/22/2016

ORDER

The following order is entered in the above matter:

ORDER:

A judgment of nonsuit has been entered for plaintiff's failure to attend the 9/22/16 pretrial, which was noticed on 9/2/16.

Judicial Notice (JDNO) was sent regarding this order.

409665

Judge: GEORGE LEVINE
Processed by: Stephen Goldschmidt

DOCKET NO.: HHB-CV16-6034437-S	:	SUPERIOR COURT
NEUROSTRATEGIES, INC. AND TARIQ ABDULAZIZ, Ph.D., M.S., M.S., MBA	:	J. D. OF NEW BRITAIN
VS.	:	AT NEW BRITAIN
CT DEPARTMENT OF SOCIAL SERVICES; RODERICK L. BREMBY, COMMISSIONER DEPARTMENT OF SOCIAL SERVICES	:	January 13, 2017

MOTION TO OPEN JUDGMENT

NOW comes the above-named plaintiffs and, pursuant to Conn. P.B. 24-31, hereby moves this Honorable Court to open judgment for nonsuit entered on September 22, 2016. Plaintiffs state that the motion to open judgment for nonsuit is within the four (4) month period allowed by Conn. P.B.

CERTIFICATION

The undersigned counsel hereby certifies that a copy of the foregoing motion to open judgment was served upon Assistant Attorney General Hugh Barber, counsel of record for the defendants, electronically at hugh.barber@ct.gov.

/s/ Michael T. Kogut

Michael T. Kogut

ORDER 434440

DOCKET NO: HHBCV166034437S

SUPERIOR COURT

NEUROSTRTAEGIES, INC. Et Al
V.
CT DEPARTMENT OF SOCIAL SERVICES
Et Al

JUDICIAL DISTRICT OF NEW BRITAIN
AT NEW BRITAIN

1/25/2017

ORDER

ORDER REGARDING:
01/13/2017 107.00 MOTION TO OPEN JUDGMENT

The foregoing, having been considered by the Court, is hereby:

ORDER: DENIED

Short Calendar Results Automated Mailing (SCRAM) Notice was sent on the underlying motion.

434440

Judge: SHEILA HUDDLESTON

DOCKET NO. HHB-CV16-6034437-S	:	SUPERIOR COURT
NEUROSTRATEGIES, INC. AND	:	JUDICIAL DISTRICT OF
TARIQ ABDULAZIZ, PH.D., M.S., M.S., MBA	:	NEW BRITAIN AT NEW BRITAIN
Plaintiffs	:	
v.	:	
CONNECTICUT DEPARTMENT OF SOCIAL SERVICES RODERICK L. BREMBY, COMMISSIONER DEPARTMENT OF SOCIAL SERVICES	:	
Defendants	:	JANUARY 24, 2017

DEFENDANTS' MEMORANDUM IN OPPOSITION TO PLAINTIFFS' MOTION TO OPEN JUDGMENT

The defendants, Connecticut Department of Social Services and Roderick L. Bremby, Commissioner, Department of Social Services (hereinafter "defendants") file this Memorandum in Opposition to object to plaintiffs' legally deficient Motion to Open Judgment.

In support thereof, the defendants represent that this Court issued a notice requiring the parties to appear for a pretrial on September 22, 2013. The notice specifically advised the parties that "Failure to comply with the terms of this order may result in sanctions, including nonsuit or default." Exhibit A. Plaintiffs failed to attend the pretrial. Upon information and belief, court personnel were unable to contact plaintiffs' counsel to inquire about his whereabouts. This Court (Levine, J.) then entered a Judgment of Nonsuit, sua sponte, on September 22, 2016 as a result of plaintiffs' failure to appear at the scheduled pretrial.

No contact was received from plaintiffs on the Judgment of Nonsuit until a few days before January 13, 2016 (about a week shy of the four month limitation on opening

Judgments of Nonsuit) when plaintiffs sought the consent of defendants' counsel on opening the Judgment – which consent was denied under the circumstances.

On January 13, 2017 plaintiffs' filed a "Motion to Open Judgment." Said motion indicates that it is made "pursuant to P.B. 24-31" and only recites that "the motion to open judgment for nonsuit is within the four (4) month period allowed by Conn. P.B. [24-31]." No other justification is provided. Specifically, plaintiffs' Motion to Open Judgment fails to specify the reason for their failure to appear at the pretrial or demonstrate that such reason contributes "reasonable cause." Plaintiffs further fail to explain their inexplicable delay in seeking to open the Judgment of Nonsuit, and fail to assert that they had a good cause of action. Furthermore, none of the required (but absent) representations are made under oath.

Plaintiffs' motion to open must be denied because is it wholly legally insufficient to meet the requirements of the Practice Book section that actually applies to this Motion for Judgment. The Practice Book section erroneously relied upon by plaintiffs, only applies to Small Claims Judgments. P.B. 17-43 is the section of the Practice Book that actually applies to this Motion to Open Judgment. P.B. § 17-43 sets forth a number of requirements that must be satisfied before a Judgment of Nonsuit can be opened – none of which are satisfied in this case. Specifically, P.B. 17-43 requires a written motion that is verified under oath "particularly setting forth the reason why the plaintiff . . . failed to appear," shows both "reasonable cause" for the failure to appear and

represents that a "good cause of action" existed at the time of the entry of the nonsuit. Plaintiffs' motion makes no attempt to satisfy any of these requirements.[1]

The failure of plaintiffs' motion to open to meet the requirements of P.B. 17-43 and Conn. Gen. Stat. § 52-212 is, by itself, sufficient to deny the Motion to Open Judgment. Water Pollution Control Authority of New Haven v. OTP Realty, LLC, 76 Conn. App. 711 (2003), Fontaine v. Thomas, 51 Conn. App. 77, 83 (1998). Note also, had a "particular reason" been proffered under oath as required by the rule and statute, the Connecticut courts have been rather strict in insisting that the proffered reason constitute "reasonable cause." Inadvertence or negligence does not constitute "reasonable cause." Weinstein and Wisser, P.C. v. Cornelius, 151 Conn. App. 174 (2014); Berzins v. Berzins, 105 Conn. App. 648 (200*).

Moore v. Brancard, 89 Conn. App. 129 (2005) is particularly on point to this case because a Judgment of Nonsuit entered as a result of plaintiff's failure to attend a pretrial. The Appellate Court held that the bald assertion that "good cause" exists wholly failed to satisfy the pre-requisites of P.B. 17-43 and Conn. Gen. Stat. § 52-212. In this case, plaintiffs do not even make the bald assertion that "good cause" exists.

Furthermore, Judgments of Nonsuit "may be set aside" by the Court only "within four months succeeding the date on which notice was sent," P.B. 17-43, Conn. Gen. Stat. § 52-212, which period has now expired since notice of the nonsuit was sent on September 22, 2016, more than four months ago. Doc. 105.50. Accordingly, even if plaintiffs' motion met the requirements of the Practice Book section that actually applies,

[1] The requirement of P.B. 17-43 mirror statutory requirements for opening judgments of nonsuit that are set forth in Conn. Gen. Stat. § 52-212.

P.B. 17-43, this Court could not set aside the nonsuit because the four month limitation on the Court's authority to act has expired.[2]

CONCLUSION

Plaintiffs' Motion to Open Judgment must be denied.

Respectfully submitted,

DEFENDANTS

CONNECTICUT DEPARTMENT OF SOCIAL SERVICES, RODERICK L. BREMBY, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES

GEORGE JEPSEN
ATTORNEY GENERAL

BY: 085484
Hugh Barber
Assistant Attorney General
Juris No.085484
55 Elm Street, P.O. Box 120
Hartford, CT 06141-0120
Tel: (860) 808-5210
Fax: (860) 808-5385
Email: hugh.barber@ct.gov

[2] Since no reason for plaintiffs' failure to attend the pretrial has been proffered, it is not necessary to consider whether any proffered reason constitutes "reasonable cause."

CERTIFICATION

I hereby certify that a copy of the foregoing Notice of Submission of the Administrative Record was mailed; first class postage prepaid this 24th day of January, 2017 to:

Michael T. Kogut, Esq.
75 Market Place
Springfield, MA 01103-1640

085484
Hugh Barber
Assistant Attorney General

CLERK, SUPERIOR COURT
JUDICIAL DISTRICT OF NEW BRITAIN
20 FRANKLIN SQUARE
NEW BRITAIN, CT 06051

AAG HUGH BARBER
ATTY GEN-HEALTH
PO BOX 120
HARTFORD, CT 06141

Docket Number: **HHB-CV-16-6034437-S** Notice Issued: 09/02/2016

Case Caption: **NEUROSTRTAEGIES, INC. Et Al v. CT DEPARTMENT OF SOCIAL SERVICES Et Al**

JDNO NOTICE Sequence #: 1

THIS CASE IS ASSIGNED FOR A PRETRIAL CONFERENCE ON 9/22/16 AT 3:30 P.M. PLEASE REPORT TO ROOM 310, 20 FRANKLIN SQUARE, NEW BRITAIN.
AS TO EACH PARTY REPRESENTED BY COUNSEL, THE ATTORNEY WHO WILL TRY THE CASE, AS WELL AS THE ATTORNEY HAVING ULTIMATE AUTHORITY TO MAKE A RECOMMENDATION TO THE CLIENT (IF THEY ARE DIFFERENT), ARE REQUIRED TO ATTEND. IF A PARTY IS AN INDIVIDUAL, THE PARTY MUST ATTEND. IF A PARTY IS A CORPORATION OR OTHER TYPE OF LEGAL ENTITY, A PERSON WHO HAS ULTIMATE AUTHORITY TO NEGOTIATE A SETTLEMENT MUST BE PRESENT ON BEHALF OF THE PARTY. "ULTIMATE AUTHORITY" MEANS THE ABILITY TO MEET ANOTHER PARTY'S POSITION, WITHOUT CONSULTING WITH ANY OTHER PERSON IN HIS OR HER ENTITY IF PERSUADED IT IS IN THE ENTITY'S BEST INTEREST TO DO SO. SOMEONE WITH AUTHORITY TO NEGOTIATE A SETTLEMENT ONLY ON A PREESTABLISHED BASIS DOES NOT HAVE "ULTIMATE AUTHORITY." IF THIS DATE IS INCONVENIENT, PLEASE SELECT ALTERNATE DATES WITH ALL COUNSEL/PRO SE PARTIES AND E-FILE A REQUEST FOR CONTINUANCE WITH PROPOSED DATES. FAILURE TO COMPLY WITH THE TERMS OF THIS ORDER MAY RESULT IN SANCTIONS, INCLUDING NONSUIT OR DEFAULT.
BY ORDER OF THE HONORABLE GEORGE LEVINE, JTR.
TAX AND ADMINISTRATIVE APPEALS SESSION 9/2/16
STEPHEN GOLDSCHMIDT, COURT OFFICER 860-515-5145

Exhibit A

State of Connecticut Judicial Branch
Civil and Family E-Services

Attorney/Firm: AAG HUGH BARBER (085484) E-Mail: hugh.barber@ct.gov Logout

HHB-CV15-6029943-S NEUROSTRATEGIES, INC. Et Al v. CT DEPARTMENT OF SOCIAL SERVICES Et Al

Prefix/Suffix: [none] **Case Type:** A64 **File Date:** 07/10/2015 **Return Date:** 07/28/2015

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[Print]

Confirmation of E-filed Transaction (print this page for your records)

Docket Number: HHB-CV-15-6029943-S
Case Name: NEUROSTRATEGIES, INC v CT DEPARTMENT OF SOCIAL SERVICES
Type of Transaction: Appearance
Date Filed: Jul 20 2015
Appearance by: 085484 AAG HUGH BARBER

Appearance for this Party(ies)

Party #	Party Name
D-01	CT DEPARTMENT OF SOCIAL SERVICES
D-02	RODERICK L BREMBY, COMMISSIONER, DEPT OF SOCIAL SERVICES

Document Filed: JD-CL-12 Appearance
Date and Time of Transaction: Jul 20 2015 1:11:08 PM

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APPEARANCE

JD-CL-12 Rev 1-12
P B §§ 3-1 thru 3-6 3-8, 10-13, 25A-2

STATE OF CONNECTICUT
SUPERIOR COURT
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Instructions — *See Back/Page 2*

Notice To Self-Represented Parties

A self-represented party is a person who represents himself or herself. *If you are a self-represented party and you filed an appearance before and you have since changed your address, you must let the court and all attorneys and self-represented parties of record know that you have changed your address by checking the box below*

☐ *I am filing this appearance to let the court and all attorneys and self-represented parties of record know that I have changed my address. My new address is below*

Return date	Docket number
Jul-28-2015	HHB-CV-15-6029943

Name of case *(Full name of Plaintiff vs. Full name of Defendant)*

NEUROSTRATEGIES, INC. Et Al v. CT DEPARTMENT OF SOCIAL SERVICES Et Al

☒ Judicial District ☐ Housing Session ☐ Small Claims ☐ Geographic Area number ____

Address of Court *(Number, street, town and zip code)*: **20 FRANKLIN SQUARE NEW BRITAIN, CT 06051**

Scheduled Court date *(Criminal/Motor Vehicle Matters)*

Please Enter the Appearance of

Name of self-represented party *(See "Notice to Self-Represented Parties" at top)*, or name of official firm, professional corporation, or individual attorney: **AAG HUGH BARBER**

Juris number of attorney or firm: **085484**

Mailing Address *(Number street) (Notice to attorneys and law firms - The address to which papers will be mailed from the court is the one registered or affiliated with your juris number That address cannot be changed in this form.)*: **ATTY GEN-HEALTH PO BOX 120**

Post office box:

Telephone number *(Area code first)*: **860-808-5210**

City/town	State	Zip code	Fax number *(Area code first)*	E-mail address
HARTFORD	CT	06141	860-808-5385	hugh.barber@ct.gov

In the case named above for *("x" one of the following parties, if this is a Family Matters case, also indicate the scope of your appearance)*

- ☐ The Plaintiff *(includes the person suing another person)*
- ☐ All Plaintiffs
- ☐ The following Plaintiff(s) only: ____
- ☐ The Defendant *(includes the person being sued or charged with a crime)*
- ☐ The Defendant for the purpose of the bail hearing only *(in criminal and motor vehicle cases only)*
- ☒ All Defendants
- ☐ The following Defendant(s) only ____
- ☐ Other *(Specify)*. ____
- ☐ This is a Family Matters case and my appearance is for *("x" one or both)*
  - ☐ matters in the Family Division of the Superior Court ☐ Title IV-D Child Support matters

Note. If other counsel or a self-represented party has already filed an appearance for the party or parties "x'd" above, put an "x" in box 1 or 2 below.

1 ☐ This appearance is in place of the appearance of the following attorney, firm or self-represented party on file *(P.B. Sec 3-8)* ____ *(Name and Juris Number)*

2 ☐ This appearance is in addition to an appearance already on file.

I agree to accept papers (service) electronically in this case under Practice Book Section 10-13 ☒ **Yes** ☐ **No**

Signed *(Individual attorney or self-represented party)*	Name of person signing at left *(Print or type)*	Date signed
▶ 085484	AAG HUGH BARBER	Jul 20 2015

Certification

I certify that a copy of this document was mailed or delivered electronically or non-electronically on *(date)* **Jul 20 2015** to all attorneys and self-represented parties of record and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery

Name and address of each party and attorney that copy was mailed or delivered to*: **MARDER ROBERSON & DEFELICE LAW OFFICES L - 76 SOUTH FRONTAGE ROAD/VERNON, CT 06066**

For Court Use Only

Signed *(Signature of filer)*	Print or type name of person signing	Date signed	Telephone number
▶ 085484	AAG HUGH BARBER	Jul 20 2015	860-808-5210

*If necessary, attach an additional sheet or sheets with the name of each party and the address which the copy was mailed or delivered to

Continuation of JDCL12 Appearance Form for HHB-CV-15-6029943-S

Submitted By AAG HUGH BARBER (085484)

Additional Party(ies) (Continued from JDCL12)

For these party(ies)

Pty# D-01 CT DEPARTMENT OF SOCIAL SERVICES

Pty# D-02 RODERICK L. BREMBY, COMMISSIONER, DEPT. OF SOCIAL SERVICE

******* End of Party List *******

State of Connecticut Judicial Branch
Civil and Family E-Services

Attorney/Firm: AAG HUGH BARBER (085484) E-Mail: hugh.barber@ct.gov Logout

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You have successfully e-filed!

Instructions: The information about the item you filed is on this confirmation page You must print a copy of this page for your records Choose **Print This Page** at the top of the page to print your copy

Choose **E-File Another Pleading/Motion/Other on this Case** to go back to the **Select a Motion** page to choose another document name and file another document.

Choose **Return to Civil/Family Menu** to go back to the menu page

Choose **Return to Case Detail** to look at the documents filed in this case or to file a reclaim in this case

Print This Page

Confirmation of E-filed Transaction (print this page for your records)

Docket Number:	HHB-CV-15-6029943-S
Case Name:	NEUROSTRATEGIES, INC Et Al v CT DEPARTMENT OF SOCIAL SERVICES Et Al
Type of Transaction:	Pleading/Motion/Other document
Date Filed:	Jul-20-2015
Motion/Pleading by:	AAG HUGH BARBER (085484)
Document Filed:	103.00 REQUEST FOR ACTION ADMINISTRATIVE AND TAX APPEALS (JD-CV-114)
	Notice of Appearance
Date and Time of Transaction:	Monday, July 20, 2015 1 19 36 PM

E-File Another Pleading/Motion/Other document on this Case

Return to Civil / Family Menu | Return to Case Detail

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REQUEST FOR ACTION —
ADMINISTRATIVE AND TAX APPEALS —
NOT FOR USE IN LAND USE APPEALS
JD-CV-114 Rev 4-13
Practice Book Section 14-5 et seq

For Court Use Only
REQACTA

Instructions

1 File this form immediately after filing an Appearance or motion in an administrative or tax appeal, not for use in land use appeals.
2 If you are filing this form because you have filed a motion, fill out and file one form for each motion that you want decided

Judicial District of	Name of case		Docket number
New Britain	**Neurostrategies, Inc., et al. v. Department of Social Services, et al.**		**HHB-CV15-6029943-S**
Title of motion that you want decided		Date of motion	Motion entry number

1 Are you filing this form because you have filed an Appearance? ☐ No ☒ Yes

If you checked No, answer 2-5

2 Is oral argument requested? ☐ No ☐ Yes

3 Is testimony required? ☐ No ☐ Yes

4 Does opposing counsel object to this motion? ☐ No ☐ Yes

5. Has an objection already been filed? ☐ No ☐ Yes

If yes, please provide the date of objection _____ and the entry number _____

Certification

I certify that a copy of this document was mailed or delivered electronically or non-electronically on *(date)* **07/20/2015** to all attorneys and self-represented parties of record and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery

Name and address of each party and attorney that copy was mailed or delivered to*
T. Ryan McNeil, Law Offices of Marder Roberson & DeFelice, 76 South Frontage Road, Vernon, CT 06066
Tariq Abdulaziz, Ph.D., M.S., MBA, 23 Kate Way, Windsor Locks, CT 06096

*If necessary, attach additional sheet or sheets with name and address which the copy was mailed or delivered to

Signed *(Signature of filer)*	Print or type name of person signing	Date signed
▶	**Hugh Barber**	**07/20/2015**
Mailing address *(Number, street, town, state and zip code)*		Telephone number
55 Elm Street, P.O. Box 120, Hartford, CT 06141-0120		**860-808-5210**

The Judicial Branch of the State of Connecticut complies with the Americans with Disabilities Act (ADA) If you need a reasonable accommodation in accordance with the ADA, contact the court clerk of the Judicial District above *www.jud.ct.gov/ADA/*

State of Connecticut Judicial Branch
Civil and Family Inquiry

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HHB-CV15-6029943-S NEUROSTRATEGIES, INC. Et Al v. CT DEPARTMENT OF SOCIAL SERVICES Et Al

Prefix/Suffix: [none] **Case Type:** A64 **File Date:** 07/10/2015 **Return Date:** 07/28/2015

Case Detail Notices History Scheduled Court Dates E-Services Login Screen Section Help

To receive an email when there is activity on this case, click here.

Information Updated as of: 07/20/2015

Case Information

Case Type: A64 - Appeals - Social Services Commission
Court Location: NEW BRITAIN
List Type: ADMINISTRATIVE APPEALS (AA)
Trial List Claim: 07/10/2015
Referral Judge or Magistrate:
Last Action Date: 07/10/2015 (The "last action date" is the date the information was entered in the system)

Disposition Information

Disposition Date:
Disposition:
Judge or Magistrate:

Party & Appearance Information

Party	No Fee Party
P-01 **NEUROSTRATEGIES, INC.**	
Attorney: MARDER ROBERSON & DEFELICE LAW OFFICES L (103095) File Date 07/10/2015 NEW 76 SOUTH FRONTAGE ROAD VERNON, CT 06066	
P-02 **TARIQ ABDULAZIZ**	
Attorney: MARDER ROBERSON & DEFELICE LAW OFFICES L (103095) File Date 07/10/2015 NEW 76 SOUTH FRONTAGE ROAD VERNON, CT 06066	
D-01 **CT DEPARTMENT OF SOCIAL SERVICES** Non-Appearing	
D-02 **RODERICK L. BREMBY, COMMISSIONER, DEPT. OF SOCIAL SERVICES** Non-Appearing	

Viewing Documents on Civil Cases:

- Documents, court orders and judicial notices in 2014 and future civil cases are available publicly over the internet.*
- For cases filed prior to 2014, court orders and judicial notices that are electronic are available publicly over the internet. Orders can be viewed by selecting the link to the order from the list below Notices can be viewed by clicking the **Notices** tab above and selecting the link *
- If there is an in front of the docket number at the top of this page, then the file is electronic. Documents and court orders can be viewed at any judicial district courthouse and at some geographical area courthouses during normal business hours *
- You can view pleadings or other documents that are not electronic during normal business hours at the Clerk's Office in the Judicial District where the case is located *
- Viewing of documents protected by law or court order may be limited

* unless otherwise restricted

Motions / Pleadings / Documents / Case Status

Entry No	File Date	Filed By	Description	Arguable

100 30	07/10/2015	P	SUMMONS AND CITATION ! NEW	No
100 31	07/10/2015	P	APPEAL TO JD SUPERIOR COURT ! NEW	No
101 00	07/10/2015	P	RETURN OF SERVICE ! NEW	No
102 61	07/10/2015	C	CERTIFICATE OF CLOSED PLEADINGS AND CLAIM FOR TRIAL LIST ! NEW	No

Scheduled Court Dates as of 07/17/2015

HHB-CV15-6029943-S - NEUROSTRATEGIES, INC. Et Al v. CT DEPARTMENT OF SOCIAL SERVICES Et Al

#	Date	Time	Event Description	Status
No Events Scheduled				

Judicial ADR events may be heard in a court that is different from the court where the case is filed To check location information about an ADR event, select the **Notices** tab on the top of the case detail page

Short Calendar and family support magistrate calendar matters are shown as scheduled court dates If there are multiple motions on a single short calendar, the calendar will be listed once You can see more information on matters appearing on short calendars and family support magistrate calendars by going to the Civil/Family Case Look-Up page and Short Calendars By Juris Number or By Court Location

Periodic changes to terminology that do not affect the status of the case may be made

This list does not constitute or replace official notice of scheduled court events

Disclaimer: For civil and family cases statewide, case information can be seen on this website for a period of time, from one year to a maximum period of ten years, after the disposition date If the Connecticut Practice Book Sections 7-10 and 7-11 give a shorter period of time, the case information will be displayed for the shorter period Under the Federal Violence Against Women Act of 2005, cases for relief from physical abuse, foreign protective orders, and motions that would be likely to publicly reveal the identity or location of a protected party may not be displayed and may be available only at the courts

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