A GUIDE TO THE INHERENT POWERS OF CONNECTICUT COURTS

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INTRODUCTION

When a people adopt a constitution that vests the "judicial power" in a particular branch of government, the courts thereby created possess certain powers which inhere in their very nature as courts. That is, these powers exist independent of any powers that a legislative branch grants expressly or impliedly. As the United States Supreme Court has explained, "[i]t has long been understood that [c]ertain implied powers must necessarily result to our Courts of justice from the nature of their institution, powers which cannot be dispensed with in a Court, because they are necessary to the exercise of all others."[1]

The doctrine of inherent powers is not limited to our federal courts. The inherent powers of the Connecticut courts have been described simply as "those which are necessary to the exercise of all others."[2]

The purpose of this article is to provide the bench and bar with a catalogue, if you will, of the inherent powers of the Superior, Supreme and Appellate courts of the State of Connecticut. It

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[1] *Chambers* v. *NASCO, Inc.*, 501 U.S. 32, 43, 111 S. Ct. 2123, 115 L. Ed. 2d 27 (1991) (internal quotation marks omitted) (quoted in *Maurice* v. *Chester Housing Associates Ltd. Partnership*, 188 Conn. App. 21, 25-26, 204 A.3d 71, cert. denied, 331 Conn. 923, 206 A.3d 765 (2019)).

[2] *State* v. *Abushaqra*, 164 Conn. App. 256, 265, 137 A.3d 861 (2016) (internal quotation marks omitted); *Srager* v. *Koenig*, 42 Conn. App. 617, 620, 681 A.2d 323, certs. denied, 239 Conn. 935, 936, 684 A.2d 709 (1996).

is not intended as a scholarly work. However, such works are readily available in law review articles and other secondary sources to anyone inclined to study this issue in greater detail.[3]

The organization of this article is straightforward. The inherent powers of the Superior Court are presented in Part I; the powers unique to the Supreme and Appellate courts are presented in Part II. Within each part the inherent powers are organized into categories (and occasionally subcategories), which are arranged alphabetically.

Two important preliminary notes. First, that a particular judicial power is inherent does not necessarily mean that it is *exclusively* within the control of the courts. "A statute violates the constitutional mandate for a separate judicial magistracy only if it represents an effort by the legislature to exercise a power which lies exclusively under the control of the courts . . . or if it establishes a significant interference with the orderly conduct of the Superior Court's judicial functions."[4] Under Connecticut's somewhat relaxed separation of powers jurisprudence, the powers of the three branches of government occasionally overlap.[5]

Second, many inherent powers have been codified and are embodied in the Practice Book. Yet it is important to remember that the Practice Book is not the source of inherent

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[3] E.g., Felix F. Stumpf, "Inherent Powers of the Courts: Sword and Shield of the Judiciary," National Judicial College (1994).

[4] *Bartholomew* v. *Schweizer,* 217 Conn. 671, 676, 587 A.2d 1014 (1991) (internal quotation marks omitted.) Accord *Persels & Associates, LLC* v. *Banking Commissioner*, 318 Conn. 652, 669, 122 A.3d 592 (2015); *State* v. *McCahill*, 261 Conn. 492, 505, 811 A.2d 667 (2002).

[5] "The rule of separation of governmental powers cannot always be rigidly applied. . . . There are activities in which both the legislature and the judiciary may engage without violating the prohibitions of the constitution. [The] great functions of government are not divided in any such way that all acts of the nature of the functions of one department can never be exercised by another department. Such a division is impracticable, and, if carried out, would result in the paralysis of government. Executive, legislative, and judicial powers of necessity overlap each other, and cover many acts which are in their nature common to more than one department." (Citation omitted; internal quotation marks omitted.) *State* v. *Clemente,* 166 Conn. 501, 510, 353 A.2d 723 (1974).

powers. As the Connecticut Supreme Court has observed, "[t]he trial court's power to set aside a verdict is inherent; the Practice Book merely lays out an advisable manner of exercising it."[6] Although this particular statement concerned the inherent power to set aside a verdict, the Court's observation applies to inherent powers generally.

I. INHERENT POWERS OF THE SUPERIOR COURT

1. Access/Control of Courtrooms

Trial courts have the inherent power to control and administer activities occurring within the courtroom.[7] This includes the power to lock the doors of the courtroom to avoid disruption when charging the jury, while allowing those already present to remain.[8]

2. Attorneys, Regulation of

It is well established that the Superior Court has the inherent authority to regulate the bar, which includes regulating admission to the bar and disbarment, as well as investigating and disciplining attorney misconduct.

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[6] *State* v. *Avcollie*, 178 Conn. 450, 455, 423 A.2d 118 (1979), cert. denied, 444 U.S. 1015, 100 S. Ct. 667, 62 L. Ed. 2d 645 (1980). See also W. Maltbie, Connecticut Appellate Procedure (2d Ed. 1957) § 181, p. 222 ("The trial court has an inherent power to set verdicts aside, even without a motion . . . .")

[7] See *State* v. *Herring*, 210 Conn. 78, 100, 554 A.2d 686, cert. denied, 492 U.S. 912, 109 S. Ct. 3230, 106 L. Ed. 2d 579 (1989) ("The right to a public trial has always been recognized as subject to *the inherent power of trial courts to administer the activities of the courtroom*.") (Emphasis added; internal quotation marks omitted.)

[8] Id.

Admission of Attorneys. The court has the inherent authority to admit attorneys to practice and disbar them,[9] to promulgate rules for admission of attorneys,[10] to fix the qualifications of those who are admitted,[11] and to define what constitutes the practice of law.[12]

Investigation and Discipline of Attorneys. The judicial branch has the inherent authority to investigate the conduct of an officer of the court, and to discipline attorneys for misconduct.[13]

Sanctioning Attorneys for Litigation Misconduct. The Superior Court has the inherent authority to impose sanctions against an attorney and her client for misconduct during litigation.[14]

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[9] *In re Application of Griffiths*, 162 Conn. 249, 252, 294 A.2d 281 (1972), rev'd on other grounds, 413 U.S. 717, 93 S. Ct. 2851, 37 L. Ed. 2d 910 (1973); *Heiberger* v. *Clark*, 148 Conn. 177, 185-86, 169 A.2d 652 (1961); *In re Durant*, 80 Conn. 140, 147, 67 A. 497 (1907).

[10] See *Heiberger* v. *Clark*, supra, 148 Conn. 185-86; *State Bar Assn.* v. *Connecticut Bank & Trust Co.*, 145 Conn. 222, 232, 140 A.2d 863 (1958).

[11] *In re Application of Griffiths*, supra, 162 Conn. 252; *Heiberger* v. *Clark*, supra, 148 Conn. 185-86.

[12] *State Bar Assn.* v. *Connecticut Bank & Trust Co.*, supra, 145 Conn. 232.

[13] E.g., *Massameno* v. *Statewide Grievance Committee*, 234 Conn. 539, 553, 663 A.2d 317 (1995) ("It is well established that the judicial branch has the inherent power to investigate the conduct of an officer of the court."); *Pinsky* v. *Statewide Grievance Committee*, 216 Conn. 228, 232, 578 A.2d 1075 (1990) ("Judges of the Superior Court possess the inherent authority to regulate attorney conduct and to discipline members of the bar.") (Internal quotation marks omitted.)

[14] *CFM of Connecticut, Inc.* v. *Chowdhury*, 239 Conn. 375, 393, 685 A.2d 1108 (1996), overruled in part on other grounds, *State* v. *Salmon*, 250 Conn. 147, 154-55, 735 A.2d 333 (1999). See also *Fattibene* v. *Kealey*, 18 Conn. App. 344, 358-60, 558 A.2d 677 (1989); *Millbrook Owners Assn., Inc.* v. *Hamilton Standard*, 257 Conn. 1, 9, 776 A.2d 1115 (2001) ("We have long recognized that, apart from a specific rule of practice authorizing a sanction, the trial court has the inherent power to provide for the imposition of reasonable sanctions, to compel the observance of its rules.") (Internal quotation marks omitted.)

Retaining/Charging Liens. A court has the inherent authority to enforce an attorney retaining lien.[15] Courts also have inherent power to order an attorney to release property in his possession in the interest of fairness and equity.[16]

Attorney's Fees for Bad Faith Conduct. "[S]ubject to certain limitations, a trial court . . . has the inherent authority to impose sanctions against an attorney and his client for a course of claimed dilatory, bad faith and harassing litigation conduct, even in the absence of a specific rule or order of the court that is claimed to have been violated."[17]

3. Case and Docket Management Authority

The case management power is one of the most important, and perhaps broadest, inherent powers of the Superior Court. "The case management authority is an inherent power necessarily vested in trial courts to manage their own affairs in order to achieve the expeditious disposition of cases. . . . The ability of trial judges to manage cases is essential to judicial economy and justice."[18] "The trial court has a responsibility to avoid unnecessary interruptions, to maintain the orderly procedure of the court docket, and to prevent any interference with the fair administration of justice. . . . In addition, matters involving judicial economy, docket

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[15] *Marsh, Day & Calhoun* v. *Solomon*, 204 Conn. 639, 649 n.5, 529 A.2d 702 (1987) ("It has been said that a court has inherent power to enforce retaining liens and that such power arises out of its ability to control and protect its officers.")

[16] Id.

[17] *Hirschfeld* v. *Machinist*, 131 Conn. App. 364, 369, 27 A.3d 395, cert. denied, 302 Conn 947, 30 A.3d 1 (2011). See also *CFM of Connecticut, Inc.* v. *Chowdhury*, supra, 239 Conn. 393 (trial courts have inherent authority to impose sanctions against attorney and his client for course of claimed dilatory, bad faith and harassing litigation conduct, even absent specific rule or order of court that is claimed to have been violated.)

[18] *State* v. *Jones*, 314 Conn. 410, 420, 102 A.3d 694 (2014). See also *Rosenfeld* v. *Rosenfeld*, 115 Conn. App. 570, 571, 974 A.2d 40 (2009) ("Trial courts have inherent power to manage their caseloads in order to achieve the expeditious disposition of cases."); *In re Mongillo*, 190 Conn. 686, 690, 461 A.2d 1387 (1983), overruled in part on other grounds, *State* v. *Salmon*, supra, 250 Conn. 155.

management [and control of] courtroom proceedings . . . are particularly within the province of a trial court."[19] "Our judicial system cannot be controlled by the litigants and cases cannot be allowed to drift aimlessly through the system. To reduce delay while still maintaining high quality justice, it is essential that we have judicial involvement in managing cases."[20] Appellate courts take note: "Deference is afforded to the trial court in making case management decisions because it is in a much better position to determine the effect that a particular procedure will have on both parties."[21]

The case management authority has also been cited as supporting the trial court's power to:

- Determine the means by which the jury examines submitted exhibits.[22]
- Grant or deny continuances, even when doing so may deny a party of counsel of his own choice.[23]
- Craft procedures by which the court may entertain threshold issues in order to avoid unnecessary delays and to conserve judicial resources.[24]
- Revisit judicial decisions made at an earlier stage of the case.[25]

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[19] *Micalizzi* v. *Stewart*, 181 Conn. App. 671, 700, 188 A.3d 159 (2018) (citing *Bobbin* v. *Sail the Sounds, LLC*, 153 Conn. App. 716, 724–25, 107 A.3d 414 (2014), cert denied, 315 Conn. 918, 107 A.3d 961 (2015)).

[20] *Barnes* v. *Connecticut Podiatry Group, PC*, 195 Conn. App. 212, 225-26, 224 A.3d 916 (2020) (internal quotation marks omitted.)

[21] *Krevis* v. *Bridgeport*, 262 Conn. 813, 819, 817 A.2d 628 (2003).

[22] E.g., *State* v. *Jones*, supra, 314 Conn. 419-24 (affirming trial court decision to allow jury to watch video submitted in evidence during jury deliberation process).

[23] *Rosenfeld* v. *Rosenfeld*, supra, 115 Conn. App. 577-78.

[24] *Disciplinary Counsel* v. *Hickey*, 328 Conn. 688, 704, 182 A.3d 1180, (2018).

[25] *Fiano* v. *Old Saybrook Fire Company No. 1*, 180 Conn. App. 717, 732, 184 A.3d 1218 (2018), aff'd, 332 Conn. 93, 209 A.3d 629 (2019) ("It is a power inherent in every court of justice . . . to correct that which has been wrongfully done by virtue of its process. . . . This inherent power

- Preclude a party from disclosing additional expert witnesses on eve of trial, particularly after deadline for disclosure has passed.[26]
- Decide a dispositive question of law that had been presented previously in writing to the court but had not been ruled on because of untimeliness.[27]

4. Contempts, Civil and Criminal

"[I]t is firmly established that the power to punish for contempts is inherent in all courts. . . . This power reaches both conduct before the court and that beyond the court's confines, for the underlying concern that gave rise to the contempt power was not . . . merely the disruption of court proceedings. Rather, it was disobedience to the orders of the Judiciary, regardless of whether such disobedience interfered with the conduct of trial."[28]

The penalties which may be imposed for contempts arise from the inherent power of the court to coerce compliance with its orders.[29]

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includes the authority to revisit prior decisions pertaining to summary judgment.") (Citation omitted; internal quotation marks omitted.)

[26] *Barnes* v. *Connecticut Podiatry Group, PC*, supra, 195 Conn. App. 225-27.

[27] See *McNamara* v. *Tournament Players Club of Connecticut, Inc.*, 270 Conn. 179, 193, 851 A.2d 1154 (2004) (trial court, in exercise of its case management authority, has discretion, as trial is about to begin, to decide dispositive question of law that had been presented in writing previously to court but had not been ruled on because of untimeliness).

[28] *Maurice* v. *Chester Housing Associates Ltd. Partnership*, supra, 188 Conn. App. 26, 204 A.3d 71, *cert. denied*, 331 Conn. 923, 206 A.3d 765 (2019). See also *Papa* v. *New Haven Federation of Teachers*, 186 Conn. 725, 737, 444 A.2d 196 (1982) ("The court's authority to impose civil contempt penalties arises not from statutory provisions but from the common law."); *Potter* v. *Board of Selectmen*, 174 Conn. 195, 197, 384 A.2d 369 (1978); *Welch* v. *Barber*, 52 Conn. 147, 156 (1884); *Huntington* v. *McMahon*, 48 Conn. 174, 196 (1880).

[29] *AvalonBay Communities, Inc.* v. *Plan & Zoning Commission*, 260 Conn. 232, 796 A.2d 1164 (2002) ("the language in *Papa* suggests . . . that the contempt power arises from the court's inherent power to vindicate prior judgments") (citing *Papa* v. *New Haven Federation of Teachers*, supra, 186 Conn. 737). [The author respectfully disagrees with this assessment. Properly understood, the contempt power and the power to coerce compliance with prior orders are one in

Significantly, unlike a formal finding of civil contempt, which requires proof of wilfulness,[30] the Superior Court's inherent power to coerce compliance with prior orders does not require such proof; this power permits a court to make a party whole for harm caused by a violation of a court order, even when the trial court does not find the offending party in wilful contempt.[31] This critical distinction is discussed in greater detail below, under "Effectuation/Vindication of Judgments."

The contempt power extends to criminal contempts, including those committed beyond the court's presence.[32]

5. Court Records

The Superior Court has the inherent power to maintain proper and accurate records of trial court proceedings.[33] This includes the power to correct, sua sponte, any errors appearing in a transcript of court proceedings.[34]

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the same. See Klau, D.J. (2020). Rethinking Wilfulness as an Element of Civil Contempt under Connecticut Law (unpublished article).]

[30] E.g., *O'Brien* v. *O'Brien*, 326 Conn. 81, 98, 161 A.3d 1236 (2017).

[31] Id., 99 (even absent finding of wilful contempt, trial court has inherent authority to make party whole for harm caused by violation of court order).

[32] *State* v. *Murray*, 225 Conn. 355, 362, 623 A.2d 60, cert. denied, 510 U.S. 821, 114 S. Ct. 78, 126 L. Ed. 2d 46 (1993) ("At issue in this case is the power of the trial court to act under § 986 (4) in a nonsummary fashion by punishing, as criminal contempt of court, conduct occurring outside of the court's presence, by a 'person disobeying in the course of a civil or criminal proceeding any order of a judicial authority.' We conclude that the court has such inherent power, and that the legislature has not abrogated it by any legislative enactment.")

[33] *Ruggiero* v. *Ruggiero*, 55 Conn. App. 304, 307-308, 737 A.2d 997 (1999); *Appeal of Dunn*, 81 Conn. 127, 133, 70 A. 703 (1908) ("Every court of record has inherent power to make the history which it keeps of its proceedings speak the truth.")

[34] *Ruggiero* v. *Ruggiero*, supra, 55 Conn. App. 307-308.

Trial courts also have the inherent authority to enter appropriate orders to "halt . . . [the] unintended dissemination of . . . highly sensitive documents."[35]

6. Discovery

The inherent powers of the Superior Court also pertain to various aspects of the discovery process. For example, the authority to issue protective orders against discovery, although reflected in Practice Book § 13-5, is actually an inherent trial court power.[36]

Trial courts also have the inherent power to enter a judgment of dismissal if a plaintiff fails to comply with discovery orders.[37]

Additionally, the power to enforce discovery is "one of the original and inherent powers of a court of equity."[38] Likewise, the bill of discovery is within the inherent power of a court of equity.[39] Given the longstanding consolidation of courts of equity and law, the distinctions above may be of historical interest only.

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[35] *State* v. *Abushaqra,* supra, 164 Conn. App. 265-66 ("we conclude that the court's inherent authority is broad enough to allow it to preclude use of the defendant's FBI rap sheet and NCIC report, and to order these documents to be placed in the custody of the court.")

[36] *Peatie* v. *Wal-Mart Stores, Inc.*, 112 Conn. App. 8, 14, 961 A.2d 1016 (2009); *Rosado* v. *Bridgeport Roman Catholic Diocesan Corp.*, 276 Conn. 168, 221 n.59, 884 A.2d 981 (2005).

[37] *Millbrook Owners Assn., Inc.* v. *Hamilton Standard,* supra, 257 Conn. 14.

[38] *State* v. *Clemente,* supra, 166 Conn. 516 ("The power to enforce discovery is one of the original and inherent powers of a court *of equity* [but not a court of law]. *Peyton* v. *Werhane,* 126 Conn. 382, 388, 11 A.2d 800; *Skinner* v. *Judson,* 8 Conn. 528, 533. *Carten* v. *Carten,* 153 Conn. 603, 611, 219 A.2d 711; *Katz* v. *Richman,* 114 Conn. 165, 171, 158 A. 219.") (Emphasis added.)

[39] *Berger* v. *Cuomo,* 230 Conn. 1, 6, 644 A.2d 333 (1994) ("The bill of discovery is an independent action in equity for discovery, and is designed to obtain evidence for use in an action other than the one in which discovery is sought. . . . As a power to enforce discovery, the bill is within the inherent power of a court of equity that has been a procedural tool in use for centuries.") (Citation omitted.)

7. Dismissals

The Superior Court's inherent power to manage its dockets and prevent unnecessary delays includes the power to render judgments of dismissal.[40] Courts also have the inherent power to sanction a party who has failed to pursue a motion with reasonable diligence by dismissing the motion.[41] And, as previously noted, a trial court has the inherent power to dismiss a case for failure to comply with discovery.[42]

8. Effectuation/Vindication of Judgments

As previously noted, trial courts have the inherent power to hold a party in civil contempt for the wilful disobedience of a clear and unambiguous court order. This power arises from a trial court's inherent power to effectuate and vindicate its judgments.[43]

Significantly, not all exercises of the inherent power to vindicate judgments require proof of wilfulness. In *O'Brien* v. *O'Brien*,[44] the Connecticut Supreme Court explained:

> Rather, [i]n a contempt proceeding, even in the absence of a finding of contempt, a trial court has broad discretion to make whole any party who has suffered as a result of another party's failure to comply with a court order. . . . Because the trial court's

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[40] *Miller* v. *Appellate Court*, 320 Conn. 759, 771, 136 A.3d 1198 (2016).

[41] *Ill* v. *Manzo-Ill*, 166 Conn. App. 809, 825, 142 A.3d 1176 (2016).

[42] See supra, n. 36.

[43] *AvalonBay Communities, Inc.* v. *Plan & Zoning Commission*, supra, 260 Conn. 241 ("We conclude, instead, that the trial court's continuing jurisdiction [to effectuate prior judgments] is not separate from, but, rather, *derives* from, its equitable authority to vindicate judgments. Moreover, we hold that such equitable authority does not derive from the trial court's contempt power, but, rather, from its inherent powers.") (Emphasis in original; footnote omitted.) See also *O'Brien* v. *O'Brien*, supra, 326 Conn. 96 ("It has long been settled that a trial court has the authority to enforce its own orders. This authority arises from the common law and is inherent in the court's function as a tribunal with the power to decide disputes."); *Middlebrook* v. *State*, 43 Conn. 257, 268 (1876) ("A court of justice must of necessity have the power to preserve its own dignity and protect itself."); *Tyler* v. *Hamersley*, 44 Conn. 393, 412 (1877) ("Every court must of necessity possess the power to enforce obedience to its lawful orders").

[44] *O'Brien* v. *O'Brien*, supra, 326 Conn. 81.

power to compensate does not depend on the offending party's intent, the court may order compensation even if the violation was not wilful.[45]

9. Evidence, Rules of

Although the Judicial Branch formally adopted a code of evidence through the rule-making process, the Supreme Court held that "the adoption of the code did not divest this court of its inherent common-law adjudicative authority to develop and change the rules of evidence on a case-by-case basis."[46]

Trial courts also have the inherent power to exclude inadmissible evidence "whether or not objected to by counsel."[47]

10. Family Courts, Inherent Powers of

Certain inherent powers are unique to family courts, which are courts of equity. "The power to act equitably is the keystone to the [family] court's ability to fashion relief in the infinite variety of circumstances which arise out of the dissolution of a marriage. Without this wide discretion and broad equitable power, the courts in some cases might be unable fairly to resolve the parties' dispute. . . . These powers, although not expressly given to the court by statute, have been held to be inherent powers of the trial court."[48]

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[45] Id., 99. (Citations omitted; internal quotation marks omitted.) Cf. *DeMartino* v. *Monroe Little League, Inc.*, 192 Conn. 271, 279, 471 A.2d 638 (1984) ("[s]ince the purpose is remedial, it matters not with what intent the [offending party] did the prohibited act.") (Internal quotation marks omitted.)

[46] *State* v. *DeJesus*, 288 Conn. 418, 439, 953 A.2d 45 (2008).

[47] *Associates Financial Services of America, Inc.* v. *Sorensen*, 46 Conn. App. 721, 732, 700 A.2d 107 (1997), appeal dismissed, 245 Conn. 168, 710 A.2d 769 (1998) (internal quotation marks omitted), quoting C. Tait & J. LaPlante, Connecticut Evidence (2d Ed. 1988) § 3.2.1.

[48] *Febbroriello* v. *Febbroriello*, 21 Conn. App. 200, 208, 572 A.2d 1032 (1990) (internal quotation marks omitted.) See also *LaBow* v. *LaBow*, 13 Conn. App. 330, 351, 537 A.2d 157, cert. denied, 207 Conn. 806, 540 A.2d 374 (1988); *Darak* v. *Darak*, 210 Conn. 462, 478, 556 A.2d 145 (1989).

As courts of equity, family courts have been "deemed to possess the inherent power to adjudicate the property rights of the parties before [them]."[49]

Family courts also have the inherent power to "make an allowance for counsel fees and expenses of litigation in matters pertaining to actions for divorce . . . ."[50] This includes the power to award an allowance to defend an appeal.[51]

11. Injunctions

"[C]ourts have inherent power to change or modify their own injunctions where circumstances or pertinent law have so changed as to make it equitable to do so."[52]

12. Judgments

The inherent power of the Superior Court to open, modify, and/or vacate a judgment is well established. Trial courts have the inherent power to open and vacate a judgment procured by fraud *at any time*.[53] Moreover, the court may exercise this power sua sponte.[54]

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[49] *Rubin* v. *Rubin*, 204 Conn. 224, 228, 527 A.2d 1184 (1987). However, "the power of a court to transfer property from one spouse to the other must rest upon an enabling statute." Id., 229 (citing *Connolly* v. *Connolly*, 191 Conn. 468, 476, 464 A.2d 837 (1983); *Valante* v. *Valante*, 180 Conn. 528, 532, 429 A.2d 964 (1980)).

[50] *Krasnow* v. *Krasnow*, 140 Conn. 254, 261, 99 A.2d 104 (1953). See also *Stoner* v. *Stoner*, 163 Conn. 345, 357, 307 A. 2d 146 (1972) ("Since Connecticut follows the common law of England in allowing counsel fees and expenses of litigation in divorce matters as an inherent power of the trial court, we hold that *detective fees* also may be awarded to a wife under appropriate circumstances at the judicial discretion of the court.") (Emphasis added.)

[51] *Benson* v. *Benson*, 5 Conn. App. 95, 100, 497 A.2d 64 (1985); *Friedlander* v. *Friedlander*, 191 Conn. 81, 87, 463 A.2d 587 (1983).

[52] *Adams* v. *Vaill*, 158 Conn. 478, 482, 262 A.2d 169 (1969).

[53] E.g., *Masters* v. *Masters*, 201 Conn. 50, 59, 513 A.2d 104 (1986); *Kenworthy* v. *Kenworthy*, 180 Conn. 129, 131, 429 A.2d 837 (1980).

[54] *Masters* v. *Masters*, supra, 201 Conn. 59 ("it is beyond dispute that the trial court has the inherent power to open, sua sponte, a judgment which has been procured by fraud . . . .")

Trial courts also have the inherent power to open, correct, and modify judgments even absent fraud, although this power is time limited.[55] Historically, when trial courts sat during designated "terms" or sessions of the year, they had the inherent authority to open the judgment for any reasons during the term or session. "During the continuance of a term of court the judge holding it has, in a sense, absolute control over judgments rendered; that is, he can declare and subsequently modify or annul them."[56] Today, this inherent power is reflected in Practice Book § 17-4 and General Statutes § 52-212a, which state that a trial court may exercise this authority within four months of the entry of judgment.

A trial court has the inherent authority to open a judgment that was entered in the absence of jurisdiction.[57]

Trial courts also have the inherent power to enter judgment by stipulation.[58]

13. Judicial Branch Funding

Courts cannot perform their constitutionally and statutorily-mandated functions without funding for their operations, i.e., money to pay salaries for personnel and to pay for capital expenses, such as court buildings, etc. But while courts have many inherent powers, levying taxes on citizens is not one of them. (Court fees are a different question.) As Alexander Hamilton

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[55] *State* v. *Wilson*, 199 Conn. 417, 436-37, 513 A.2d 620 (1986); *Steve Viglione Sheet Metal Co.* v. *Sakonchick*, 190 Conn. 707, 710, 462 A.2d 1037 (1983); *Tyler* v. *Aspinwall*, 73 Conn. 493, 497, 47 A. 755 (1901); *Hall* v. *Paine*, 47 Conn. 429, 430 (1880); *Wilkie* v. *Hall*, 15 Conn. 32, 37 (1842).

[56] *State* v. *Wilson*, supra, 199 Conn. 436. (Internal quotation marks omitted.).

[57] *General Motors Acceptance Corp.* v. *Pumphrey*, 13 Conn. App. 223, 228, 535 A.2d 396 (1988) ("A trial court's authority to open such judgments does not arise from General Statutes § 52-212(a) or Practice Book § 326 but from its inherent power to open a judgment rendered without jurisdiction.")

[58] *Bryan* v. *Reynolds*, 143 Conn. 456, 460, 123 A.2d 192 (1956) ("The Superior Court, having had jurisdiction of the subject matter, had inherent power to enter judgment by stipulation.")

wrote in Federalist No. 78, "[t]he judiciary . . . has no influence over either the sword or the purse." Thus, the judicial branch must depend on the legislative and executive branches of government to fund court operations.

What happens if those branches do not provide the judicial branch with sufficient funding? Many scholarly articles have addressed this question. For the purpose of this article, however, the Connecticut Supreme Court provided the answer in *Pellegrino* v. *O'Neill*:[59] "The principle has been widely recognized that the judiciary, as an independent branch of government, has inherent power to direct other governmental agencies to provide such funds as may be necessary for the reasonably efficient operation of the courts."[60]

The Connecticut judicial branch has never actually exercised this power. In the political realm, it is often enough to state that a certain power exists and may be invoked in the future.

14. Jury Selection

A trial court has the inherent power to compel a party to attend jury selection.[61]

15. New Causes of Action

It is well established that the courts have inherent power to recognize new causes of action.[62]

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[59] 193 Conn. 670, 480 A.2d 476, appeal dismissed, 469 U.S. 875, 105 S. Ct. 236, 83 L. Ed. 2d 176 (1984).

[60] Id., 675. Notably, while recognizing the inherent power to compel funding, the Supreme Court held that the courts could not compel the governor to nominate, and the legislature to confirm, more judges. Id., 678-79.

[61] *Wasko* v. *Farley*, 108 Conn. App. 156, 163, 947 A.2d 978, cert. denied, 289 Conn. 922, 958 A.2d 155 (2008).

[62] *Ferri* v. *Powell-Ferri*, 317 Conn. 223, 229, 116 A.3d 297 (2015); *Binette* v. *Sabo*, 244 Conn. 23, 33, 710 A.2d 688 (1998) ("It cannot be doubted that we have the inherent power to recognize new tort causes of action, whether derived from a statutory provision . . . or rooted in the common law.") (Citation omitted.)

16. Pleadings

Superior Courts "have an inherent power to disregard sham or frivolous pleadings which have been interposed for the purpose of thwarting the orderly progress of a case."[63]

17. Reargument/Reconsideration

Because "[i]t is a power inherent in every court of justice . . . to correct that which has been wrongfully done by virtue of its process," trial courts have the inherent power to reconsider prior decisions.[64] This inherent power includes the authority to revisit prior decisions pertaining to summary judgment.[65]

18. Rulemaking

The Superior Court has the inherent power to make rules governing trial court practices and procedures.[66] This power "is an inheritance from the common-law practice in England."[67]

As previously noted, inherent powers are not necessarily exclusive powers. Under some circumstances the legislative branch may enact rules governing practice and procedure in the courts without violating the separation of powers.[68]

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[63] *Friedlander* v. *Friedlander*, 191 Conn. 81, 91, 463 A.2d 587 (1983) (internal quotation marks omitted); *Burritt Mutual Savings Bank of New Britain* v. *Tucker*, 183 Conn. 369, 373, 439 A.2d 396 (1981); *Tolland Bank* v. *Larson*, 28 Conn. App. 332, 336, 610 A.2d 720 (1992).

[64] *Fiano* v. *Old Saybrook Fire Company No. 1*, supra, 180 Conn. App. 732 (internal quotation marks omitted); *K.A. Thompson Electric Co.* v. *Wesco, Inc.*, 24 Conn. App. 758, 759, 591 A.2d 822 (1991).

[65] *Fiano* v. *Old Saybrook Fire Company No. 1*, supra, 180 Conn. App. 732.

[66] *State* v. *King*, 187 Conn. 292, 297, 445 A.2d 901 (1982); *State* v. *Clemente*, supra, 166 Conn. 514; *State Bar Assn.* v. *Connecticut Bank & Trust Co*., supra, 145 Conn. 232; *In re Appeal of Dattilo*, 136 Conn. 488, 492, 72 A.2d 50 (1950); *Fattibene* v. *Kealey*, supra, 18 Conn. App. 344.

[67] *In re Appeal of Dattilo*, supra, 136 Conn. 493.

[68] See discussion and cases, supra, p. 2.

19. Seized Property

Trial courts have the inherent power to direct that property seized and detained as evidence in a criminal case be returned to its owner upon the conclusion of a criminal case.[69]

20. Settlement Agreements, Enforcement of

A trial court has the inherent power to enforce summarily a settlement agreement as a matter of law when the terms of the agreement are clear and unambiguous.[70] "Agreements that end lawsuits are contracts, sometimes enforceable in a subsequent suit, but in many situations enforceable by entry of a judgment in the original suit. A court's authority to enforce a settlement by entry of judgment in the underlying action is especially clear *where the settlement is reported to the court during the course of a trial or other significant courtroom proceedings*."[71]

21. Speedy Trials

A trial court has the inherent power to suspend the running of the thirty day speedy trial period if the reason for the failure to commence the trial within that period is that the defendant's attorney is engaged in another criminal trial.[72]

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[69] *State* v. *Perugini*, 154 Conn. App. 405, 410, 105 A.3d 939 (2014) ("Our Superior Court historically has possessed inherent and common-law authority to dispose of property seized and detained as evidence in a criminal case."); *Bruchal* v. *Smith*, 109 Conn. 316, 320-21, 146 A. 491 (1929) (courts have inherent power to direct that property seized as evidence in criminal cases "be returned to the owner, delivered up on his order, or otherwise disposed of, when it is no longer required for the purposes of justice.")

[70] *Audubon Parking Associates Ltd. Partnership* v. *Barclay & Stubbs, Inc.*, 225 Conn. 804, 811, 626 A.2d 729 (1993).

[71] Id. (quoting *Janus Films, Inc.* v. *Miller*, 801 F.2d 578, 583 (2d Cir. 1986) (emphasis added; internal quotation marks omitted.) The author emphasized the text regarding settlements reported to the court during trial or other proceedings because that is the factual context in which the *Audubon* case arose. The extent to which *Audubon* permits summary enforcement of a settlement agreement that was not reported to the court is unclear.

[72] *State* v. *Brown*, 242 Conn. 389, 405, 699 A.2d 943 (1997).

22. Sentencing

"[T]he power to stay the execution of a sentence, in whole or in part, in a criminal case, is inherent in every court having final jurisdiction in such cases, unless otherwise provided by statute."[73]

23. Verdicts

Trial courts have the inherent power to set aside verdicts because of "palpable and harmful error in [the court's] charge to the jury,"[74] or because the verdict is against the weight of the law or the evidence.[75] A court may exercise the power to set aside a verdict sua sponte.[76]

24. Witnesses, Examination of

Even in the context of a criminal trial, wherein defendants have rights under the Confrontation Clause, courts have the inherent power "to impose reasonable limits on such cross-examination based on concerns about, among other things, harassment, prejudice,

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[73] *Copeland* v. *Warden*, 225 Conn. 46, 50, 621 A.2d 1311 (1993); *State* v. *Taylor*, 153 Conn. 72, 80, 214 A.2d 362 (1965), cert. denied, 384 U.S. 921, 86 S. Ct. 1372, 16 L. Ed. 2d 442 (1966).

[74] *Trainor* v. *Frank Mercede & Sons, Inc.*, 152 Conn. 364, 366-67, 207 A.2d 54 (1964) ("The inherent power of a trial court to set aside a verdict *because of palpable and harmful error in its charge to the jury* is well settled. *Munson* v. *Atwood*, 108 Conn. 285, 288, 142 A. 737 [1928]; *Libero* v. *Lumbermens Mutual Casualty Co.*, 143 Conn. 269, 273, 121 A.2d 622 [1956].") (Emphasis added.)

[75] *Palomba* v. *Gray*, 208 Conn. 21, 23-24, 543 A.2d 1331 (1988); *O'Brien* v. *Seyer*, 183 Conn. 199, 208, 439 A.2d 292 (1981).

[76] *State* v. *Avcollie*, supra, 178 Conn. 455 ("In *Belchak* v. *New York, N.H. & H. R. Co.*, 119 Conn. 630, 637, 179 A. 95 (1935), it was held that '[t]he trial court has inherent power to set aside the verdict, even though no motion has been made.' See also *Munson* v. *Atwood*, 108 Conn. 285, 288, 142 A. 737 (1928); *Brown* v. *New Haven Taxi Cab Co.*, 92 Conn. 252, 255-56, 102 A. 573 (1917). Furthermore, it was held in *Casey* v. *McFarlane Bros. Co.*, 83 Conn. 442, 76 A. 515 (1910), that the trial court need not have a motion before it as a prerequisite to setting a verdict aside if one is eventually made. See also Maltbie, Conn. App. Proc. § 181. . . . The trial court's power to set aside a verdict is inherent; the Practice Book merely lays out an advisable manner of exercising it.")

confusion of the issues, the witness' safety, or interrogation that is repetitive or only marginally relevant."[77]

25. Witnesses, Limitation on Number of

Trial courts have the inherent authority to exclude evidence that is more prejudicially cumulative than probative. This includes the power "to limit the number of witnesses who may be called for a particular purpose."[78]

Significantly, "[i]n excluding evidence on the ground that it would be only 'cumulative,' care must be taken *not* to exclude merely because of an *overlap* with evidence previously received. To the extent that evidence presents new matter, it is obviously not cumulative with evidence previously received."[79]

II. INHERENT POWERS OF THE SUPREME AND APPELLATE COURTS

1. Rulemaking

Just as the Superior Court has the inherent power to make rules governing trial court practices and procedures, so too does the Supreme Court have the power to promulgate rules of appellate practice and procedure.[80]

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[77] *State* v. *Lee*, 229 Conn. 60, 70, 640 A.2d 553 (1994) (internal quotation marks omitted.)

[78] *State* v. *Parris*, 219 Conn. 283, 293, 592 A.2d 943 (1991) (citing *State* v. *DeMatteo,* 186 Conn. 696, 702–703, 443 A.2d 915 (1982)).

[79] Id., 293 (emphasis in original; internal quotation marks omitted.)

[80] *State Bar Assn*. v. *Connecticut Bank & Trust Co.*, supra, 145 Conn. 232 ("The Supreme Court of Errors, established by the state constitution, likewise has the inherent power, independent of and despite any statute, to make rules governing procedure before it.")

2. Inherent Supervisory Authority over the Administration of Justice

Our state appellate tribunals have "certain inherent supervisory authority over the administration of justice."[81] The Connecticut Supreme Court expressly invoked this inherent power for the first time in 1983 to set aside a verdict and order a new trial based on intentional prosecutorial misconduct even though the misconduct did not rise to the level of a constitutional violation of a defendant's due process right to a fair trial.[82] It was subsequently invoked as grounds for the Supreme Court's decision to set aside a verdict based on the prosecution's failure to disclose evidence to the defendant.[83]

The Supreme Court has also invoked its inherent supervisory powers over the administration of justice to direct trial courts to adopt certain judicial procedures, to be applied prospectively, such as requiring trial judges to remain present throughout voir dire, requiring judicial inquiry into allegations of juror misconduct, and requiring bifurcation of jury proceedings in certain death penalty cases.[84]

More recently, the Supreme Court has held that the inherent supervisory authority over the administration of justice permits an appellate tribunal to consider claims raised for the first time on appeal, i.e., unpreserved claims, under certain circumstances.[85] Moreover, the court may

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[81] *State* v. *Ubaldi*, 190 Conn. 559, 570, 462 A.2d 1001, cert. denied, 464 U.S. 916, 104 S. Ct. 280, 78 L. Ed. 2d 259 (1983) (quoting *United States* v. *Butler*, 567 F.2d 885, 893 (9th Cir. 1978)) (internal quotation marks omitted.)

[82] *State* v. *Ubaldi*, supra, 190 Conn. 572-75.

[83] *State* v. *Cohane*, 193 Conn. 474, 499-500, 479 A.2d 763, cert. denied, 469 U.S. 990, 105 S. Ct. 397, 83 L. Ed. 2d 331 (1984).

[84] See *State* v. *Santiago*, 245 Conn. 301, 333-34, 715 A.2d 1 (1998) (listing cases in which Supreme Court had invoked its inherent supervisory powers to establish rules of judicial procedure on prospective basis); see also *In re Yasiel R.*, 317 Conn. 773, 789-90, 120 A.3d 1188 (2015).

[85] *Blumberg Associates Worldwide, Inc.* v. *Brown & Brown of Connecticut*, 311 Conn. 123, 155-61, 84 A.3d 840 (2014).

invoke this power sua sponte.[86] The precise nature and scope of this power has been the subject of considerable debate.[87]

[86] Id., 161-64.

[87] E.g., *State* v. *Carrion*, 313 Conn. 823, 854-62, 100 A.3d 361 (2014) (*Zarella, J.*, concurring).