22-6028

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

JOHN ALAN SAKON — PETITIONER

VS.

JAMES N. SAKONCHICK; DONALD M. SAKONCHICK; LINDA T. KOLPAK; STEPHEN SAKONCHICK II; JOHN JOSEPH SAKON; TERESA ROSE SAKON; HECHT, KEVIN J. — RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CONNECTICUT

PETITION FOR WRIT OF CERTIORARI

9/24/2022

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QUESTION(S) PRESENTED

In 1992, the elderly parents created a Trust. Controversy arose when the petitioner had a child which extended the life of the trust to the year 2036. In 2011, the 84-year old mother was committed to an Alzheimer's and Dementia home. The father died on 06/09/2012. On 08/30/2012, the siblings of petitioner had their mother sign a Codicil to her Will and a revocation of the Trust. The mother died on 05/08/2016. The petitioner challenged the codicil and revocation of Trust in the Conn. Superior Court.

On 06/17/2016, Conn. Superior Court Judge Cynthia Swienton arbitrated a "**Court Settlement Agreement**" declared as *".... an agreement of the parties enforceable by the Court"*. Later on 08/19/2016, in written memorandum, Judge Swienton ruled: *"The court does, however, find that there was a clear and unambiguous settlement reached between the plaintiff and his four siblings."*

Thereafter the petitioner filed complaint seeking specific performance of the 06/17/2016 agreement. Superior Court Judge Julia Aurigemma dismissed the complaint for lack of subject matter jurisdiction. The Connecticut Appellate Court affirmed without issuing a memorandum of decision. The petitioner moved for the Appellate Court to specially set forth such facts on which it found its final judgment and decree to appear on the record as required by CT Gen Stat § 52-231 (2018). The Appellate Court dismissed the Motion for Articulation and denied the petitioner's Motion for Reconsideration En Banc again without the required written memorandum. The Connecticut Supreme Court denied certification. The questions presented are:

1. Did Superior Court Judge Aurigemma err in not finding subject matter jurisdiction to enforce a Court Settlement Agreement which was declared a clear and unambiguous agreement enforceable by the court?

2. Did the Superior Court Judge Aurigemma violate the petitioner's due process rights by dismissing his legal action by allowing a "talking" motion to dismiss, by considering allegations of facts outside the complaint and by failing to decide jurisdiction of the court by the complaint alone?
3. Did Superior Court, the Connecticut Appellate Court and the Connecticut Supreme Court violate its own case law by refusing to enforce a **Court Settlement Agreement** after it was determined in a prior court ruling *"that there was a clear and unambiguous settlement reached between the plaintiff and his four siblings..."* ?
4. Did Superior Court, the Connecticut Appellate Court and the Connecticut Supreme Court violate the principal of *res judicata* by refusing to enforce a **Court Settlement Agreement** despite a prior court ruling *"that there was a clear and unambiguous settlement reached between the plaintiff and his four siblings"* when no party took an appeal of this prior court ruling?
5. Did the Connecticut Appellate and Supreme Court violate the petitioner's due process rights by failing to resolve two apparently opposing judicial opinions in the Connecticut Superior Court as to the validity of the settlement?
6. Did the Connecticut Appellate and Supreme Court violate the petitioner's statutory rights by not setting forth such facts on the record on which it found its final judgements and decrees pursuant to CT Gen Stat § 52-231 (2018)?
7. Did the Connecticut Appellate and Supreme Court violated the petitioner's due process rights by not setting forth such facts on the record on which it found its final judgements and decrees pursuant to the United States Constitution?

LIST OF PARTIES

Petitioner is John Alan Sakon, pro se, 28 Fenwick Drive, Farmington, Connecticut 06032; 860-793-1000; 860-675-4600 (Fax); johnsakon@yaho.com;

Respondents are

- James Sakonchick, 1272 Notch Road, Cheshire, CT 06410;
- Stephen Sakonchick II; 6502 Canyon Wren Drive; Austin, TX 78746;
- Donald Sakonchick, 37 Cold Spring Road, Avon, CT 06001;
- Linda Sakonchick Kolpak, 333 Spruce Street, Cheshire, CT 06410;

Parties to the proceeding in the court whose judgment is also the subject of this petition as follows:

- Kevin j. Hecht, Esq., 220 South Main Street, Cheshire, CT 06410;
    - Petitioner claims this party received a beneficial distribution of monies from the estate contrary to the Court Settlement Agreement.
- John Joseph Sakon, Room 809, 4 Washington Place, New York, NY 10003;
    - Petitioner claims this party received beneficial distribution of monies from the estate contrary to the Court Settlement Agreement.
- Teresa Rose Sakon Meserve, Apt 309, 5 East Monroe Avenue; Alexandra, Virginia 22301;
    - Petitioner claims this party received beneficial distribution of monies from the estate contrary to the Court Settlement Agreement.

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **state courts**:

The *John Sakon v. STJKBJ Trust et al*; HHB-CV-13-5015852 Memorandum of Decision of 08/19/2016 finding that there was a clear and unambiguous Court Settlement Agreement reached between the plaintiff and his four siblings (Swienton J.) appears at Appendix A110-A114 to this petition and is unpublished.

The *John Sakon v. James N. Sakonchick et al;* HHB-CV-18-5023514 Memorandum of Decision of 11/26/2018 for a Judgment of Dismissal (Aurigemma J.) ruling the Court Settlement Agreement between the plaintiff and his four siblings is unenforceable appears at Appendix A117-A124 to this petition and is unpublished.

The *John Sakon v. James N. Sakonchick et al*; 02/01/2022 Order AC 43405 affirming the decision of the trial court in HHB-CV-18-5023514 without a written memorandum appears at Appendix A127 to this petition and is published at 210 Conn. App. 903 (2022).

The *John Sakon v. James N. Sakonchick et al* 02/01/2022 Order AC 213096 dismissing the motion of the plaintiff-appellant for articulation found at Appendix A128-A130 pursuant to CGS 52-531[1] in AC 43405 appears at Appendix A131 to this petition and is unpublished.

The *John Sakon v. James N. Sakonchick et al*; 04/28/2022 Order AC 213373 denying plaintiff-appellant's Motion for Reconsideration En Banc in AC 43405 requesting an issuance of a written decision resolving the opposing opinions of Judge Swienton in HHB-CV-13-5015852 and Judge Aurigemma HHB-CV-18-5023514 pursuant to CT Gen Stat § 52-231 (2018) appears at Appendix A141 to this petition and is unpublished.

The *John Sakon v. James N. Sakonchick et al*; 06/28/2022 Order PSC-210442 denying plaintiff-appellant's Petition for Certification to Appeal to the Supreme Court of Connecticut in AC 43405 to review the merits appears at Appendix A153 to this petition and is unpublished.

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[1] While the caption the motion and order AC 213096 incorrectly cites CGS 52-531, the legal grounds cited in the body of the motion [Appendix A128-A130] was correctly cited as CT Gen Stat § 52-231 (2018).

JURISDICTION

The date on which the highest state court decided my case was 06/28/2022, Order PSC-210442 denying my Petition for Certification to Appeal to the Supreme Court of Connecticut in AC 43405 to review the merits appears at Appendix A153.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Petitioner relies upon Connecticut General Statute 52-231(2018) which states:

> *"Each court shall keep a record of its proceedings and cause the facts on which it found its final judgments and decrees to appear on the record; and any such finding if requested by any party shall specially set forth such facts."*

This case involves the Fourteenth Amendment to the United States Constitution, which reads in relevant part as follows:

> .....No state shall ..... deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

In 1992, Stephen Sakonchick Sr. and M. Teresa Sakonchick (hereinafter parents) created the STJKBJ Investment Trust ("Trust") which provided for their elderly care and for the education of their grandchildren. The Trust was to dissolve at the later date of the deaths of the parents and/or when their youngest grandchild reached the age of 25. Upon the termination of the trust, the remaining monies were to be equally distributed to their five children who were the petitioner John Alan Sakon ("Sakon") and his siblings Stephen Sakonchick II, James N. Sakonchick, Donald M. Sakonchick, and Linda T. (Sakonchick) Kolpak (collectively "siblings").

Controversy arose when John Alan Sakon became a father to a son in 2011, which extended the life of the trust until the year 2036. In fall 2011, the 84-year old mother was committed to Harmony Place of Mulberry Gardens of Southington, Connecticut which is a secure locked ward for people with advanced Alzheimer's and Dementia and where admission required a doctor's diagnosis of dementia and certification of need. The father died in June 9, 2012. On August 30, 2012, the siblings had their mother sign a Codicil to her will and a Revocation of the 1992 Trust at the Alzheimer's home with the assistance of a friendly notary and without the assistance of independent counsel. The Codicil and Revocation of Trust effectively disinherited Sakon, provided additional monies to the siblings and to Attorney Kevin Hecht; passed token monies onto petitioner's adult children John Joseph Sakon and Teresa Rose Sakon; and deprived petitioner's 11-year old son of the benefits of an education financed by the trust. When the mother died on May 8, 2016, the Codicil and Revocation of Trust were revealed.

In a series of court and probate actions, Sakon challenged the Codicil and Revocation of Trust. On June 17, 2016, the parties appeared before Connecticut Superior Court Judge Cynthia K. Swienton in *Sakon v. STJKBJ Investment Trust et al,* Superior Court docket HHB-CV-13-5015852, who successfully arbitrated a Court Settlement Agreement (hereinafter "**Court Settlement Agreement**") on the record. The **Court Settlement Agreement** was *".... an agreement of the parties enforceable by the Court".* See *Sakon v. STJKBJ Investment Trust et al,* Conn. Superior Court of New Britain; HHB-CV-13-5015852-S; Transcript Court Settlement Agreement of 06/17/2016; Appendix A13, A107.

The **Court Settlement Agreement** required the preparation of a Mutual Distribution Agreement ("Mutual Distribution Agreement") to serve as a vehicle to allow the settlement monies between the parties to be dispersed in probate. *Ibid, Sakon v. STJKBJ Investment Trust et al,* Appendix A13, A95 (Transcript Page 82). The sibling's attorney Kevin Hecht was to draft the Mutual Distribution Agreement. *Ibid,* Appendix A13, A103 (Transcript Page 90). Once prepared, the **Court Settlement Agreement** required the parties to sign a written Settlement Agreement [Mutual Distribution Agreement] as a written agreement was required by law for probate. Issue arose when the petitioner questioned why the draft Mutual Distribution Agreement had no provision for an accounting of the estate or the Trust of the parents.

The siblings then filed motion in *Sakon v. STJKBJ Investment Trust et al;* submitted the draft Settlement Agreement prepared by Attorney Hecht in evidence, and inquired whether the **Court Settlement Agreement** was binding. Judge Swienton held an additional hearing in *Sakon v. STJKBJ Investment Trust et al*, to

determine whether a settlement had been reached pursuant to Connecticut custom as detailed in *Audubon Parking Associates Ltd. Partnership v. Barclay & Stubbs, Inc.*, 225 Conn. 804 (2006), and in an August 19, 2016 Memorandum of Decision ruled: "*The court does, however, find that there was a clear and unambiguous settlement reached between the plaintiff and his four siblings.*" Judge Swienton's Memorandum of Decision of August 19, 2016 is found in Appendix A110-A114. Unfortunately, Judge Swienton also ruled "*The court lacks jurisdiction at this time to enter an order which is binding on either of these entities which were not parties to the stipulations, even though the real parties at interest were present.*" *Ibid,* Appendix A114.[2] Judge Swienton ordered her decision to be forwarded to the Hon. Matthew J. Jalowiec, judge of the court of probate, Cheshire-Southington District, *Ibid,* Appendix A114. Judge Jalowiec ignored the ruling.

[The following paragraph is deemed irrelevant, but is submitted for informational purposes only]. After the *Audubon Hearing* and Judge Swienton's ruling, the petitioner signed the Mutual Distribution Agreement prepared by the sibling's attorney on September 29, 2016, at sufferance to the omitted language, and submitted it to the Probate Court in compliance to the **Court Settlement Agreement.** When the siblings did not sign the Mutual Distribution Agreement and submit it to probate, the petitioner filed suit in the Connecticut Superior Court at New Britain, *John*

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[2] While the siblings were present at the hearing, the siblings were not named parties in *Sakon v. STJKBJ Investment Trust et al*; therefore the court had no jurisdiction at that time to order compliance to the Court Settlement Agreement otherwise ruled binding by Judge Swienton. Hence the instant suit to enforce the settlement.

Alan Sakon v. James N. Sakonchick et al, HHB-CV-17-6037688-S to compel his siblings to sign and submit the Mutual Distribution Agreement to probate as agreed. However, when the siblings filed a Motion to Dismiss CV-17-6037688-S, the petitioner found himself falsely incarcerated by multiple criminal complaints made by members of his family. The siblings, one of who was an attorney, did not inform the court that petitioner was incarcerated and the Motion to Dismiss was granted without objection by Judge Young by reason that petitioner had filed no objection (as he was incarcerated) and [dicta] the court had no jurisdiction to enforce the **Mutual Distribution Agreement** as the siblings had not signed the document. See Order of CV-17-6037688-S; 07/18/2017 - Judgment of Dismissal (Young J.) Appendix A115-A116. In his ruling on the motion to dismiss, Judge Young was completely unaware of the **Court Settlement Agreement** of June 17, 2016 or Judge Swienton's August 19, 2016 Audubon rulings. **[The above paragraph is submitted for informational purposes only. The ruling of Judge Young as to the enforcement of a Mutual Distribution Agreement in probate is not relevant to the enforcement of the Court Settlement Agreement]**.

While the petitioner was incarcerated for failure to make his $1,150,000 bond (further details to follow), the siblings then probated the estate and dispersed the petitioner's monies to themselves, to their attorney Kevin Hecht, and left a token of the remainder to the petitioner's children John Joseph Sakon and Teresa Rose Sakon Meserve. The petitioner received no monies from the settlement or from his parent's estate. The petitioner was subsequently cleared of all crimes at trial.

The instant action, *John Alan Sakon vs. James N. Sakonchick, Donald M. Sakonchick, Linda T. Kolpak and Stephen Sakonchick II et al*, Connecticut Superior Court at New Britain HHB-CV-18-5023514-S was commenced by John Alan Sakon to enforce the **Court Settlement Agreement** of June 17, 2016 against his siblings as it was "*.....was a clear and unambiguous settlement reached between the plaintiff and his four siblings.*" The complaint filed in HHB-CV-18-5023514-S is found in Appendix A3-A12.

Stephen Sakonchick II, a sibling who was an attorney, filed a "talking" Motion to Dismiss HHB-CV-18-5023514-S for subject matter jurisdiction citing allegations found outside the pleadings of the complaint. Superior Court Judge Julie Aurigemma granted his *Motion to Dismiss* for lack of subject matter jurisdiction by accepting the allegations found outside the complaint. Judge Aurigemma, with full knowledge of Judge Swienton's prior rulings and without the benefit of testimony or evidence, then ***reversed*** Judge Swienton's rulings, and found the **Court Settlement Agreement** of June 17, 2016 was unenforceable, due paradoxically to Sakon's *breach of the* ***[Court Settlement Agreement]*** *agreement* and as Sakon had not signed the written **Settlement Agreement** [aka Mutual Distribution Agreement] prepared by sibling's attorney and had objected to the probating of the will of M. Teresa Sakonchick.[3] It is

[3] This court should take firm notice of this alleged fact. In her Memorandum of Decision, Judge Aurigemma made a finding of fact (in a Motion to Dismiss) that Sakon did not sign the Mutual Distribution Agreement. See *Sakon v. Sakonchick et al,* HHB-CV-085023514; Memorandum of Decision, November 26, 2018, p. 7. In fact, any evidentiary hearing would have determined that Sakon did sign the Mutual Distribution Agreement and submitted it to

clear that Judge Aurigemma was confused and did not understand the difference between the binding nature of the **Court Settlement Agreement** of June 17, 2016 entered on the record before Judge Swienton and the unsigned **Settlement Agreement** [aka Mutual Distribution Agreement], which was merely the agreed upon vehicle required in probate to distribute the settlement monies under the terms of the earlier **Court Settlement Agreement**. It is clear from her Memorandum of Decision that Judge Aurigemma did not accept the material facts alleged in the complaint as true, Judge Aurigemma did not draw all reasonable inferences in favor of the plaintiff, and further failed to decide whether it is plausible that plaintiff had a valid claim for relief based upon the complaint alone. See *John Alan Sakon vs. James N. Sakonchick, Donald M. Sakonchick, Linda T. Kolpak and Stephen Sakonchick II et al*, Connecticut Superior Court at New Britain; HHB-CV-18-5023514-S; Memorandum of Decision - Judgment of Dismissal (Aurigemma J.); 11/26/2018; Appendix A117-A124.

[The following paragraph is deemed to be irrelevant, but is submitted for informational purposes only]. After John Sakon became a whistleblower of municipal corruption, he found himself subject to 9 criminal arrests for 18 felonies and 3 misdemeanors by the police force of very municipality he claimed were corrupt. In highly publicized arrests, Sakon was incarcerated on a $400,000 Bail for sending an email to Little League asking an address be added to a team list; and was later

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the Probate Court on September 29, 2016 and Sakon only objected to the probating of the Will of M. Teresa Sakonchick as the siblings had not signed the Mutual Distribution Agreement prepared by their attorney as required by the terms of the **Court Settlement Agreement.**

incarcerated at a SuperMax Prison for his arrest and failure to post his $1,150,000 Bail for giving his son a [real] $100 bill to purchase a pair of sneakers. Sakon was again arrested for filing a false complaint against the driver of a truck who hit Sakon from the rear while Sakon was riding his bicycle. The truck was being driven by a Sworn Officer of the same aforementioned municipality and Sakon is now permanently disabled due to his injuries. [You cannot make this stuff up!]. Sakon, facing over 151 years in prison, turned down a minor plea bargain and contested all charges by jury trial. On 11/05/2018, in front page news, a jury found the defendant Sakon *not-guilty* on the first eight felonies after a mere 18 minutes of deliberations. https://bit.ly/3BzWXXa . This court can take judicial notice that the time of Judge Aurigemma's decision on 11/26/2018 the remaining criminal trials of John Sakon were proceeding in the same highly publicized manner. This included an arrest upon complaint of James N. Sakonchick. On 01/03/2019, the state's prosecutor dropped all but one of the remaining charges declaring a conviction on any of the charges unlikely. *See State v. Sakon;* H12M-CR16-0256989-S; H12M-CR16-0257222-S; H12M-CR16-0257478-S; H12M-CR16-0257732-S; H12M-CR17-0259330-S; H12M-CR17-0260018-S; H12M-CR17-0260475-S; H12M-CR18-0264343-S; H12M-CR18-0265434-O. https://bit.ly/3fhbMqf . After Sakon was cleared of ***all*** criminal charges, newspaper editorials raised issues of gross judicial and prosecutorial impropriety for the prosecution of Little League Emails and $100 bills when murder cases were not advanced on the docket. Subsequently, several key prosecutors were sacked or demoted including the Chief State's Attorney for Hartford, Gail P. Hardy by the

Criminal Justice Commission.[45] After 21 false criminal charges, and a $1,150,000 bail, and a destruction of his business, Sakon has filed suit (and is suing) the State of Connecticut, a number of municipalities, several Judges and prosecutors. **[The above paragraph is submitted for informational purposes only. It is included to show that politics may have influenced the aforementioned lawsuit]**.

As the opinion of Judge Swienton that there *".....was a clear and unambiguous settlement reached between the plaintiff and his four siblings...."* was *Res Judicata,* the plaintiff Sakon appealed the dismissal of his case due to subject matter jurisdiction. As the record clearly shows, the preparation of the Mutual Distribution Agreement (entitled Settlement Agreement by Attorney Hecht) was a stipulated term of the **Court Settlement Agreement** and any failure in its preparation by any of the parties was a breach of the **Court Settlement Agreement.** The appellate court refused to take up the paradoxical ruling of Judge Aurigemma that Sakon was in *breach* of the very agreement which she ruled unenforceable as the siblings had not signed the agreement. By announcing, it its ruling, that Sakon was in breach of an agreement, the jurisdiction of the court was invoked and Judge Aurigemma's ruling appears illogical, but political. Plaintiff Sakon appealed this

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[4] The Criminal Justice Commission is an autonomous body constitutionally charged with appointing all state prosecutors employed in the Division of Criminal Justice.

[5] In November of 2019, then chief state's attorney Kevin Kane recommended to the commission that Hardy.... that a meeting take place to discuss her management of cases and consider disciplinary action. https://bit.ly/3Sxe6rc . Hardy was later suspended. https://bit.ly/3S9ZpuH

illogical conclusion of Judge Aurigemma and her refusal to acknowledge the binding nature of the **Court Settlement Agreement** of June 17, 2016.

The Appellate Court of the State of Connecticut affirmed the illogical trial court decision of Judge Aurigemma, and the ignored the *res judicata* decision of Judge Swienton without a Memorandum of Decision. *Sakon v. Sakonchick et al,* **210 Conn. App. 903; 267 A.3d 369 (2022)**. *See Appendix A127.* The Appellate court then dismissed [Appendix A131] appellant's Motion for Articulation [Appendix A128-A130] to specially set forth such facts on the record on which it found its final judgments and decrees as required by Connecticut General Statutes § 52-231.[6] The Appellate Court then denied [Appendix 141] the appellant's Motion for Reconsideration En Banc [Appendix A132-A140] which requested the appellate court to specially set forth such facts on the record on which it found its final judgments and decrees as required by Connecticut General Statutes § 52-231 (2018). On June 8, 2022, the appellant filed a Petition for Certification to Appeal [Appendix A142-A152] to the Supreme Court of the State of Connecticut for the same reasons cited above and to require the Appellate Court to set forth such facts on the record on which it found its final judgements and decrees as required by the United States Constitution, the Connecticut Constitution and Connecticut General Statutes § 52-231.

On June 28, 2022, the Supreme Court of the State of Connecticut denied the Petition for Certification to Appeal. [Appendix A153].

From the decision of the Appellate Court of the State of Connecticut and the

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[6] While the caption incorrectly cites CGS 52-531, the legal grounds upon which the motion was based was correctly cited as CT Gen Stat § 52-231 (2018).

Supreme Court of the State of Connecticut, the petitioner files this **PETITION FOR WRIT OF CERTIORARI** for the violation of his due process rights protected by the United States Constitution, the Connecticut Constitution and the Connecticut General Statutes.

In his complaint, Sakon clearly made claim as to the existence of the **Court Settlement Agreement** of June 17, 2016. The Connecticut Courts clearly had jurisdiction to hold evidentiary hearings to resolve the controversy and determine whether a breach of contract of the June 17, 2016 **Court Settlement Agreement** occurred. The ruling that the **Court Settlement Agreement** was binding on the parties was *res judicata,* the decision of Judge Aurigemma was nonsensical, as she acknowledged a breach of an agreement which she then ruled did not exist. The Appellate and Supreme Courts of Connecticut had a statutory duty to resolve the conflicting decisions of its Superior Court Judges by written decision.

REASONS FOR GRANTING THE PETITION

1. THE CONNECTICUT COURTS HAVE A DUTY TO ENFORCE A DULY CONCLUDED SETTLEMENT AGREEMENT

[***The Court Settlement Agreement*** of June 17, 2016] "*It's an agreement of the parties enforceable by the Court.*" Decree of Honorable Cynthia K. Swienton; *Sakon v. STJKBJ Investments Trust*, HHB- CV13-5015852-S, Transcript of June 17, 2016, p. 94. See Appendix A13, A107.

The Case Law of the State of Connecticut as enumerated by its Supreme Court and Appellate Court has repeatedly stated that once reached, a settlement agreement cannot be repudiated by either party. Whether the parties in fact concluded a

settlement agreement is determined by the intention of the parties manifested by their words and acts.' *Hess v. Dumouchel Paper Co.*, 154 Conn. 343, 347, 225 A.2d 797 (1966). The **Court Settlement Agreement** was made on the record. As such it need not be signed or in writing to be enforceable. *Nanni v. Dino Corp.*, 117 Conn.App. 61, 66, 978 A.2d 531 (2009). Further, [t]he Connecticut Supreme Court has recognized that settlement agreements, voluntarily and fairly made, should be held valid and enforced by the Courts. *Tallmadge Brothers, Inc. v. Iroquois Gas Transmission System, L.P.*, 252 Conn. 479, 746 A.2d 1277 (2000)." However, while it is clear a ***Court Settlement Agreement*** was entered into between the parties on June 17, 2016 by evidence of the transcript attached hereto, the Connecticut Courts have summarily dismissed a subsequent attempt to enforce the agreement. As to Question #1, *the Court Settlement Agreement was an agreement of the parties enforceable by the court.* The fact that the Connecticut Courts subsequently refused jurisdiction as to the enforcement action of the settlement is a violation of the due process rights of the petitioner; in violation of the long established case law of the State of Connecticut, is an arbitrary decision in gross abuse of the Court's discretion and for these reasons this petition should be granted.

2. **ANY CHALLENGE TO THE *COURT SETTLEMENT AGREEMENT* IS RES JUDICATA.**

Issue arose as to whether it was the intention of the parties to conclude a settlement on June 17, 2016. As is the custom in the State of Connecticut, a hearing to determine the intention of the parties was held by the Honorable Judge Cynthia K. Swienton pursuant to the Connecticut Supreme Court precedent found in *Audubon*

Parking Associates Ltd. Partnership v. Barclay & Stuffbs, Inc., 225 Conn. 804, 811-12; 626 A.2d 279 (1993). In her Memorandum of Decision, Judge Swienton determined the **Court Settlement Agreement** was *".....a clear and unambiguous settlement reached between the plaintiff and his four siblings." Ibid.* See *Sakon v. STJKBJ Investment Trust (HHB-CV-13-5015852-S);* Memorandum of Decision August 19, 2016. Appendix A110, A114. Whether the parties in fact concluded a settlement agreement is determined by the intention of the parties manifested by their words and acts.' *Hess v. Dumouchel Paper Co.*, 154 Conn. 343, 347; 225 A.2d 797 (1966). Judge Swienton made a finding of fact that a settlement agreement was concluded by the parties. No appeal was made of this ruling by any party. It is therefore the law of the case.

In their *talking* Motion to Dismiss as to the enforcement of the **Court Settlement Agreement**, the respondents should have been precluded from challenging the existence of the **Court Settlement Agreement of 06/17/2019** by the prior *Audubon* ruling. When Judge Aurigemma granted the Motion to Dismiss the enforcement action, when the Connecticut Appellate Court affirmed her decision and when the Connecticut Supreme Court denied the Petition for Certification to Appeal of the petitioner, they not only violated their own clear precedent found in *Audubon Parking,* the Connecticut Courts conducted a wholesale violation of the due process rights of the petitioner by re-litigating the same claims settled in the *Audubon ruling.* The *Audubon* ruling found there was *".....a clear and unambiguous settlement reached between the plaintiff and his four siblings." Ibid.* Appendix A114. The fact that the Connecticut Courts subsequently refused jurisdiction as to the enforcement

action of the settlement is a violation of the due process rights of the petitioner, is a violation of the doctrine of *Res Judicata* and is a violation of all established case law in the Connecticut Courts. The fact that the Connecticut Courts subsequently dismissed the petitioner's case for subject matter jurisdiction is an arbitrary decision in gross abuse of the Court's discretion and for these reasons this petition should be granted.

3. UNDER THE CONNECTICUT RULES OF PRACTICE, A MOTION TO DISMISS ONLY CONTESTS THE JURISDICTION OF THE COURT. THE COURT CLEARLY HAD JURISDICTION AS TO THE ENFORCEMENT ACTION.

In Connecticut, *"(a) A motion to dismiss shall be used to assert; (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; and (4) insufficiency of service of process."* Connecticut Practice Book Sec.10-30 (2022).

In the instant case John Alan Sakon, sought to enforce the **Court Settlement Agreement** of June 17, 2016. A court considering a Motion to dismiss must accept the material facts alleged in the complaint as true, draw all reasonable inferences in favor of the plaintiffs, and decide whether it is plausible that plaintiffs have a valid claim for relief. *Ashcroft v. Iqbal,* 556. U.S. 662, 678-79 (2009); *Bell Atl. Corp. v. Twombly,* 550 U.S. 544, 555-56 (2007); *Leeds v. Meltz,* 85 F.3d 51, 53 (2d Cor. 1996). A prior court ruled [***The Court Settlement Agreement*** of June 17, 2016] *"It's an agreement of the parties enforceable by the Court." Ibid, Sakon v. STJKBJ Investment Trust et al,* Appendix A13, A107.

As such, the jurisdiction of the court to settle the issue for enforcement of the contractual agreement of 06/17/2016 was clearly invoked by the pleadings of plaintiff.

A court deciding a motion to dismiss is additionally limited to considering facts alleged in the complaint, and generally may not look to evidence outside the pleadings.

When matters outside the pleadings are presented in a Motion to Dismiss, a court must exclude the additional material and decide the motion on the complaint alone or convert the motion to one of summary judgment. *Friedl v. City of New York,* 210 F.3d 79, 83 (2d Cir. 2000). It is clear by a reading of her ruling, Judge Aurigemma considered a host of issues outside of the complaint. When she looked outside the pleadings found in the complaint in the determination of a Motion to Dismiss, Judge Aurigemma committed fundamental procedural error and improperly shifted an impossible burden of proof on the plaintiff to refute outside allegations without any hearing in evidence. *Argumento,* in HHB-CV-17-6037688-S, Sakon sought to enforce the presentation of the [Mutual Distribution Agreement] of 9/19/2016 in probate. The ruling of Judge Young granting a Motion to Dismiss in HHB-CV-17-6037688-S as to the enforcement of the 9/19/2016 agreement in probate was not relevant to a Motion to Dismiss in proceedings to enforce the **Court Settlement Agreement of 6/17/2016** in Superior Court. In his ruling on the motion to dismiss, Judge Young appears completely unaware of the **Court Settlement Agreement** of June 17, 2016 or Judge Swienton's August 19, 2016 Audubon rulings. Further, a plaintiff becomes powerless to advance any such argument by such a fundamental procedural error when the court limits his submission of evidence refuting alleged facts not in the complaint. If the defendant wished to advance such a defense, they were required to do so in a Motion for Summary Judgment or by means of a Special Defense. The court took up a Motion to Dismiss on jurisdictional grounds and issued a Memorandum of Decision citing evidence outside the complaint. Judgment was made in error and is an arbitrary decision in gross abuse of the Court's discretion and for these reasons this petition should be granted.

In addition, the Motion to Dismiss of the 09/19/2016 agreement in HHB-CV-17-6037688-S was granted pursuant to the Practice Book as it was not opposed by the plaintiff due to his incarceration. However, while Judge Young [dicta] ruled the court had no jurisdiction to enforce the 09/19/2016 Agreement as it was not signed by the parties, he was talking about the Mutual Distribution Agreement. In his ruling on the motion to dismiss a complaint as to the enforcement of the Mutual Distribution Agreement in Probate, Judge Young was completely unaware of the **Court Settlement Agreement** of June 17, 2016 or Judge Swienton's August 19, 2016 Audubon rulings. His ruling is not a bar to the enforcement of the **Court Settlement Agreement** which was *".....a clear and unambiguous settlement reached between the plaintiff and his four siblings." Ibid.* The *Audubon* ruling of Judge Swienton clearly invokes the jurisdiction of the court as to a later enforcement action of the **Court Settlement Agreement** of 6/17/2016 for breach of contract.

Judge Aurigemma ignored the well pleaded complaint to enforce the **Court Settlement Agreement** of June 17, 2016. The assertion by Judge Aurigemma that the **09/19/2016 Agreement [Mutual Settlement Agreement]**, by the plaintiff's own admission, was not "signed" by the parties is irrelevant. Judge Swienton found there was *".....a clear and unambiguous settlement reached between the plaintiff and his four siblings"* on June 17, 2016 and the validity of the **Court Settlement Agreement** is Res Judicata. *Ibid.* The fact that the 06/17/2019 settlement agreement was not reduced to writing or signed by parties does not preclude agreement from binding parties if terms are clear and unambiguous; Aquarion *Water Co. of Connecticut v. Beck Law Products & Forms, LLC*, 98 Conn. App. 234, 239, 907 A.2d 1274 (2006). It is clear from the court

record that the petitioner and his four siblings assented on the record to the Court Settlement Agreement on July 17, 2016. [A] "settlement in principle on entire matter" bound parties to terms, even though unsigned, if assent was otherwise indicated.; *Sicaras v. Hartford*, 44 Conn. App. 771, 778, 692 A.2d 1290 (parties bound to terms of unsigned contract if assent was otherwise indicated), cert. denied, 241 Conn. 916, 696 A.2d 340 (1997). Thus, trial courts in Connecticut have declared repeatedly that a valid settlement agreement need not be in writing and that oral settlement agreements are enforceable as have the courts of other jurisdictions. See *Dillard v. Starcon International, Inc.*, 483 F.3d 502, 506 (7th Cir. 2007); *Chaganti & Associates, P.C. v. Nowotny*, 470 F.3d 1215, 1221-23 (8th Cir. 2006); *Quint v. A.E. Staley Mfg. Co.*, 246 F.3d 11, 15 (1st Cir. 2001), cert. denied, 535 U.S. 1023, 122 S. Ct. 1618, 152 L. Ed. 2d 631 (2002).

When Judge Aurigemma further ruled Sakon objected to the probating of the Will *"thereby reneging on a key point of the agreement"* is paradoxical. Sakon did object to the probating of the will as the siblings had not signed the Mutual Distribution Agreement. Judge Aurigemma must have acknowledged some form of agreement in fact existed to come to this conclusion. By allowing a "speaking" Motion to Dismiss which asserted facts not in evidence and by failing to hold an evidentiary hearing as to what comprised the *"agreement"* sought to be enforced, the court violated the due process rights of the petitioner. It is clear from her ruling that Judge Aurigemma *refused to* understand the underlying facts of the case. The **Court Settlement Agreement** was *".....a clear and unambiguous settlement reached between the plaintiff and his four siblings"* on June 17, 2016. *Ibid.* Appendix A114. The court had clear jurisdiction to enforce the unambiguous settlement of 06/17/2016; Judgment of Dismissal was made in error; is an arbitrary

decision in gross abuse of the Court's discretion and for these reasons this petition should be granted.

4. The Connecticut Appellate and Supreme Court violated the petitioner's due process rights by failing to resolve two apparently opposing judicial opinions in the Connecticut Superior Court.

[***The Court Settlement Agreement*** of June 17, 2016] "*It's an agreement of the parties enforceable by the Court.*" Decree of Honorable Cynthia K. Swienton; *Sakon v. STJKBJ Investments Trust*, HHB- CV13-5015852-S, Transcript of June 17, 2016, p. 94. Appendix p. 18-114; Exhibit E.

The **Court Settlement Agreement** of June 17, 2016 was *".....a clear and unambiguous settlement reached between the plaintiff and his four siblings." Ibid. Sakon v. STJKBJ Investment Trust (HHB-CV-13-5015852-S);* Memorandum of Decision August 19, 2016. Appendix A110, A114.

"*To the extend the complaint seeks to enforce the Court Agreement, this action is dismissed for the same reasons advanced by Judge Young and referred to above; the court had no jurisdiction to enforce an agreement which, by the plaintiff's own admission, was not executed." Sakon v. Sakonchick et al (instant case),* Connecticut Superior Court at New Britain HHB-CV-18-185023514-S; Order - Judgment of Dismissal (Aurigemma J.). Issued 07/18/2017. See Appendix A117, A124.

It is clear that the decisions of Judge Swienton and Judge Aurigemma are contradictory. It is therefore incumbent upon the Appellate and Supreme Courts of Connecticut to resolve the conflicting decisions. In her ruling, Judge Aurigemma refused to accept the material facts alleged in the complaint as true, refused to draw all reasonable inferences in favor of the plaintiff, and refused to conclude that was plausible that plaintiff

had a valid claim for relief. As such Judge Aurigemma violated the principles of a Motion to Dismiss as found in *Ashcroft v. Iqbal,* 556. U.S. 662, 678-79 (2009); *Bell Atl. Corp. v. Twombly,* 550 U.S. 544, 555-56 (2007); *Leeds v. Meltz,* 85 F.3d 51, 53 (2d Cor. 1996).

When a pro se plaintiff claims [and proves] fundamental error in a decision by a very experienced and seasoned senior member of the judiciary is a great cause of discomfort for any Appellate Court. By refusing to take up the issue and then to affirm the decision of Judge Aurigemma without setting forth such facts on the record on which it found its final judgements and decrees is clear error. For this reason, this **PETITION FOR WRIT OF CERTIORARI** should be granted.

5. **The Connecticut Appellate and Supreme Court violated the petitioner's statutory rights and Constitutional Rights by not setting forth such facts on the record on which it found its final judgements and decrees pursuant to CT Gen Stat § 52-231 (2018) and the 14th Amendment to the United States Constitution.**

In refusing to take up the issue and then to affirm the decision of Judge Aurigemma without setting forth such facts on the record on which it found its final judgements and decrees is great error.

Connecticut General Statute 52-231 which states: *"Each court shall keep a record of its proceedings and cause the facts on which it found its final judgments and decrees to appear on the record; and any such finding if requested by any party shall specially set forth such facts."* On 02/01/2022, the plaintiff requested the Appellate Court of the State of Connecticut to specially set forth such facts upon which it based its affirmation of Judge Aurigemma's dismissal of the underlying action. See Motion for Articulation Appendix A128-A130. On 02/01/2022, the Appellate court then dismissed appellant's Motion for Articulation to specially set forth such facts on the record on which it found its final judgments and decrees as required by Connecticut General Statutes § 52-231. See

Appendix A131.

The Appellate Court then denied [Appendix A141] the appellant's Motion for Reconsideration En Banc [Appendix A132-A140] which once again requested the appellate court to specially set forth such facts on the record on which it found its final judgments and decrees as required by Connecticut General Statutes § 52-231 (2018).

On June 8, 2022, the petitioner filed a Petition for Certification to Appeal [Appendix A142-A152] to the Supreme Court of the State of Connecticut for the same reasons cited above and to require the Appellate Court to set forth such facts on the record on which it found its final judgements and decrees as required by the United States Constitution, the Connecticut Constitution and Connecticut General Statutes § 52-231. The Supreme Court of Connecticut denied the Petition for Certification. [Appendix A153].

The refusal of the Connecticut Appellate Court and the Connecticut Supreme Court to specially set forth such facts on the record as required by both State Statute and Constitutional law is a wholesale attempt to side step an inconvenient, embarrassing and illegal decision of a very Senior Superior Court Judge. As evidenced by the numerous false arrests of the petitioner in the Connecticut Criminal Courts, this gives an appearance of an the exercise of politics and not the exercise of law. For this reason, this **PETITION FOR WRIT OF CERTIORARI** should be granted.

CONCLUSION

[***The Court Settlement Agreement*** of June 17, 2016] "*It's an agreement of the parties enforceable by the Court.*" Decree of Honorable Cynthia K. Swienton; *Sakon v. STJKBJ Investments Trust*, HHB- CV13-5015852-S, Transcript of June 17, 2016, p. 94. See Appendix A13, A107.

The **Court Settlement Agreement** of June 17, 2016 was *".....a clear and unambiguous settlement reached between the plaintiff and his four siblings." Ibid. Sakon v. STJKBJ Investment Trust (HHB-CV-13-5015852-S);* Memorandum of Decision August 19, 2016. Appendix A110, A114.

In the instant case John Alan Sakon, sought to enforce the **Court Settlement Agreement** of June 17, 2016. The rulings of Judge Swienton were pleaded in the complaint. A court considering a Motion to dismiss must accept the material facts alleged in the complaint as true, draw all reasonable inferences in favor of the plaintiffs, and decide whether it is plausible that plaintiffs have a valid claim for relief. *Ashcroft v. Iqbal,* 556. U.S. 662, 678-79 (2009); *Bell Atl. Corp. v. Twombly,* 550 U.S. 544, 555-56 (2007); *Leeds v. Meltz,* 85 F.3d 51, 53 (2d Cor. 1996). Petitioner clearly presented a valid claim for relief and Judge Aurigemma's granting of a Motion to Dismiss was in error.

A court deciding a motion to dismiss is additionally limited to considering facts alleged in the complaint, and generally may not look to evidence outside the pleadings. When matters outside the pleadings are presented in a Motion to Dismiss, a court must exclude the additional material and decide the motion on the complaint alone or convert the motion to one of summary judgment. *Friedl v. City of New York,* 210 F.3d 79, 83 (2d Cir. 2000). By reviewing the pleadings of *John Alan Sakon v. James N. Sakonchick et al,* HHB-CV-17-6037688-S, the court of Judge Aurigemma erred by looking outside the pleadings.

Connecticut General Statute 52-231 which states: *"Each court shall keep a record of its proceedings and cause the facts on which it found its final judgments and decrees to appear on the record; and any such finding if requested by any party shall specially set forth such facts."* On 02/01/2022, the plaintiff requested the Appellate Court of the State of

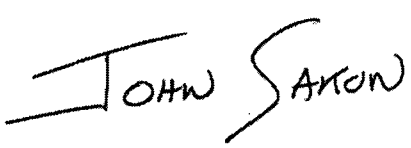
Connecticut to specially set forth such facts upon which it based its affirmation of Judge Aurigemma's dismissal of the underlying action. On 02/01/2022, the Appellate court then dismissed appellant's Motion for Articulation to specially set forth such facts on the record on which it found its final judgments and decrees as required by Connecticut General Statutes § 52-231. By doing so, the Appellate Court violated the Statutory Rights of the Petitioner.

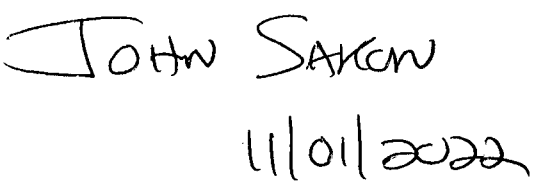
The Appellate Court then denied the appellant's Motion for Reconsideration En Banc which once again requested the appellate court to specially set forth such facts on the record on which it found its final judgments and decrees as required by Connecticut General Statutes § 52-231 (2018). By doing so, the Appellate Court violated the Statutory Rights of the Petitioner.

On June 8, 2022, the petitioner filed a Petition for Certification to Appeal to the Supreme Court of the State of Connecticut for the same reasons cited above. The Supreme Court of Connecticut denied the Petition for Certification and by doing so violated the due process rights of the Petitioner as required by the 14th Amendment to the United States Constitution, the Connecticut Constitution and Connecticut General Statutes § 52-231.

For these reasons, this **PETITION FOR WRIT OF CERTIORARI** should be granted.

Respectfully submitted,





John Alan Sakon - Date: 9/24/2022