

**SBC Internet Services, Inc. v. City of Bridgeport; SNET Diversified Group, Inc. v. City of Bridgeport, SNET America, Inc. v. City of Bridgeport, AT&T Services, Inc. v. City of Bridgeport**

**CV066000412S, CV066000411S, CV066000408S, CV066000413S**

**SUPERIOR COURT OF CONNECTICUT, JUDICIAL DISTRICT OF FAIRFIELD AT BRIDGEPORT**

**2008 Conn. Super. LEXIS 367**

**February 15, 2008, Decided  
February 14, 2008, Filed**

**NOTICE:** THIS DECISION IS UNREPORTED AND MAY BE SUBJECT TO FURTHER APPELLATE REVIEW. COUNSEL IS CAUTIONED TO MAKE AN INDEPENDENT DETERMINATION OF THE STATUS OF THIS CASE.

**JUDGES:** [\*1] Edward F. Stodolink, Judge Trial Referee.

**OPINION BY:** Edward F. Stodolink

**OPINION**

*MEMORANDUM OF DECISION RE MOTIONS FOR SUMMARY JUDGMENT*

The above entitled cases arise out of a dispute as to the meaning of the word "file" contained in C.G.S. §12-41(d), that states in part "Any person who fails to *file* a declaration of personal property on or before the first day of November . . . shall be subject to a penalty equal to twenty-five percent of the assessment of such property." (Emphasis added.)

The parties have stipulated that all of the declarations in these matters were mailed and postmarked on October 31, 2005, and were de-

livered to the Assessor's Office on November 3, 2005.

The plaintiffs claim that they have met the filing requirements by having their declarations postmarked and mailed on October 31, 2005, "before the first day of November."

The Bridgeport tax assessor claims that the plaintiffs did not "file" their declarations in compliance with §12-41(d) since the declarations were not physically present in his office on or before November 1, 2005, a regular business day for his office, and based on this claim of each plaintiffs' failure to arrange for each declaration to be physically present in his office [\*2] on or before November 1, 2005, he assessed the twenty-five percent penalty provided in §12-41(d).

Connecticut General Statutes §1-2z provides, "The meaning of a statute shall, in the first instance, be ascertained from the text of the statute itself and its relationship to other statutes. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered."

This court has been unable to find any case interpreting the meaning in said statute of the word "file."

An examination of the legislative history of said statute gives no indication of a legislative intent to give the word "file" anything but its ordinary meaning.

The dictionary definition of file is "to deliver (as a legal paper or instrument) after complying with any condition precedent (as a payment of a fee) to the proper officer for keeping on file or among the records of his office. Webster's Third New International Dictionary."

"It may be presumed that the legislature intended a word to have its ordinary meaning in the English language, as gleamed from the [\*3] context of its use." *Bortner v. Town of Woodbridge*, 250 Conn. 241, 267, 736 A.2d 104 (1999).

Thus it would appear that a failure to deliver a declaration to the office on or before November 1, 2005 would invoke the penalty provisions of this statute.

In considering the validity of this interpretation the court notes the provisions of §12-42 which states in part, "When the first day of November is a Saturday or Sunday, the declaration may be filed *or postmarked* on the next business day following." (Emphasis added.)

If "file" in §12-41(d) is to be interpreted as deliver or postmark a declaration, then the words "or postmarked" in §12-42 would be superfluous. There is no relevant legislative history for the inclusion in P.A. 99-189 of the phrase "or postmarked."

"[I]n the absence of persuasive evidence to the contrary, we may presume that a word used in different parts of the same statutory scheme has the same meaning." *State v. Ehlers*, 252 Conn. 579, 590, 750 A.2d 1079.

"No word in a statute should be treated as superfluous." *Winchester v. State Board of La-*

*bor Relations*, 175 Conn. 349, 355, 402 A.2d 332.

"[N]o part of a legislative enactment is to be treated as insignificant or unnecessary and there is a presumption of purpose behind every [\*4] sentence, clause or phrase in a legislative enactment." *Charlton Press, Inc. v. Sullivan*, 153 Conn. 103, 109, 214 A.2d 354.

"[T]he legislature is always presumed to have created a harmonious and consistent body of law."

"Where a statute with reference to one subject contains a given provision, the omission of such provision from a similar statute concerning a related subject . . . is significant to show that a different intention existed. That tenet of statutory construction is well grounded because the General Assembly is always presumed to know all the existing statutes and the effect that its action or non-action will have upon any one of them." *M. DeMatteo Construction Co. v. New London*, 236 Conn. 710, 717, 674 A.2d 845.

The plaintiffs have not pointed to any statute related to taxation that does not contain the additional phrase "or postmarked" to meet the requirement of a timely filing. As an example, Policy Statement PS 2005(4) of the Connecticut Department of Revenue Services states in part, "Generally, a document is considered filed and a payment is considered made when it is received. Conn. Gen. Stat. §12-39aa provides special rules that apply when a document is required to be filed with or a payment is [\*5] required to be made to DRS within a prescribed period or on or before a prescribed date. Conn. Gen. Stat. §12-39aa provides that if any document required to be filed with DRS, or any payment required to be made to DRS, is delivered by the U.S. mail to DRS in a postage prepaid, properly addressed envelope or other appropriate wrapper (envelope) after the date prescribed by law, the date of the U.S. postmark stamped by the U.S. Postal Service on the en-

velope in which the document or payment is mailed is considered the date of delivery or the date of payment as long as the document or payment was deposited in the mail in the U.S."

The official declaration forms for the City of Bridgeport for the year 2005 do not contain the phrase "or postmarked on or before November 1, 2005" as did the official declaration forms for municipalities such as Stamford, Hartford, Trumbull and Farmington. The actions of the assessors in those municipalities can not be the basis for a valid claim that the plaintiffs should enjoy similar treatment in Bridgeport even though the official declaration form for Bridgeport did not contain the postmark language. The assessor required strict compliance with the language [\*6] of §12-41(d).

For the foregoing reasons Summary Judgment may enter in favor of the defendant and against each plaintiff in the above entitled cases.

STODOLINK, Judge Trial Referee