

VERMONT SUPERIOR COURT
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CIVIL DIVISION
Case No. 24-CV-05445

George Zahringer III v. Wilmington Board Of Civil Authority

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

This matter is a property valuation appeal pursuant to 32 V.S.A. § 4467. Appeals of this kind are de novo proceedings to determine the fair market value of the subject property as of the relevant date, here April 1, 2024, to find a homestead value where appropriate, and to ensure that the listed value is equalized so that the subject property is listed comparably to similar properties in town. 32 V.S.A. § 4467; *Boivin v. Town of Addison*, 2010 VT 67, ¶ 6. “The goal of a property tax appraisal is to list all properties at fair market value so that no property owner pays more than his or her share of the tax burden.” *Vosinek v. Maidstone*, 2020 WL 6551080, at *1 (Vt. Nov. 6, 2020) (unpub. mem.). See also *Cashman Fairfield Farm Tr. v. Town of Fairfield*, 2024 WL 5207207, at *1 (Vt. Dec. 20, 2024) (unpub. mem.).

I. Hearing

A hearing was held in this matter on April 28, 2026, at the Windham County Courthouse in Newfane. Plaintiff-Appellant George Zahringer, III, appeared and was represented by Attorney Robert Fisher. Defendant-Appellee the Wilmington Board of Civil Authority was represented by Attorney Edward Adrian. Plaintiff testified and presented testimony from David Buckley. Defendant presented testimony from Russell Beaudoin. A number of exhibits were admitted.

II. Findings of Fact

On January 5, 2024, Jill Remick – the Director of the Property Valuation and Review (PVR) Division at the Vermont Department of Taxes – wrote to the Wilmington Town Clerk regarding the 2023 Equalization Study.

Education Grand List (from 411):	\$780,480,737
Equalized Education Grand List (EEGL):	\$1,118,690,034
Common Level of Appraisal (CLA):	69.77% or 0.6977
Coefficient of Dispersion (COD):	27.11%

Excerpt from Exhibit # 4

The letter noted:

The **common level of appraisal (CLA)** is determined by dividing the education grand list by the equalized education grand list (32 V.S.A. § 5401). A number over 100% indicates that property in your town is generally listed for more than its fair market value. A number less than 100% indicates that property is generally listed for less than its fair market value. A CLA below 85% or over 115% necessitates a reappraisal (32 V.S.A. § 4041a). The homestead and nonhomestead tax rates in your town will be adjusted by your town's CLA (32 V.S.A. § 5402).

...
The **coefficient of dispersion (COD)** is a measure of how fairly distributed the property tax is within your town. It is calculated as the average of the (absolute) difference of each sales ratio (list price divided by sales price) in the study from the median ratio. That result is then divided by the median ratio to get the COD, which is expressed as a percent (32 V.S.A. § 5401). A high COD means that within your town many taxpayers are paying more than their fair share, and many are paying less than their fair share. A COD over 20% necessitates a reappraisal (32 V.S.A. § 4041a).

Id. (emphasis in original). Based on both the CLA and COD from the 2023 equalization study a townwide reappraisal was required. A town-wide reappraisal was conducted.

On December 26, 2024, Dir. Remick sent a letter to the Town regarding the 2024 Equalization study:

Education Grand List (from 411):	\$1,147,111,116
Equalized Education Grand List (EEGL):	\$1,255,336,633
Common Level of Appraisal (CLA):	91.38% or 0.9138
Coefficient of Dispersion (COD):	18.23%
2024 Statewide Adjustment (SA):	72.36% or 0.7236
2024 SA Applied to Your Tax Rates:	$[0.9138]/[0.7236] = \mathbf{126.29\% \text{ or } 1.2629}$

Excerpt from Exhibit # 5.

Plaintiff George Zahringer, and Natalia Mironchouk own property in the Town of Wilmington¹ located at 21 Aldrich Road. In 2024 Wilmington conducted a required town-wide reappraisal. The assessor valued the property at about \$ 938,000.00. Plaintiff appealed this decision to the Board of Civil Authority. The appeal was denied.

Plaintiff timely sought de novo review in the Windham Superior Court. 32 V.S.A. § 4467.² Plaintiff challenges both the fair market value of the property and the equalization of the property.

¹ A town in Windham County. 24 V.S.A. § 14.

A 2024 equalization study by Property Valuation and Review at the Vermont Department of Taxes established a common level of appraisal for the Town of Wilmington of 91.38% and a coefficient of dispersion of 18.23%.

Plaintiff bought the property in 2020 for \$ 675,000.00. The property consists of about 44 acres in current use and a single-family contemporary home with four bedrooms and three bathrooms. Two of the bedrooms are upstairs and have pitched ceilings. The stairway leading up to these bedrooms is very narrow. The property card shows a finished area of 3,402 sq. ft.³ The home was built in the late 1970's and is about one and a half miles from town. The property includes a garage attached to the house by an unheated breezeway and a tennis court. Although the tennis court is presently unusable because it has not been maintained.

The property card shows the change in assessed value over time.

Assessment Year		04/01/2019	04/01/2020	04/01/2020	04/01/2022	04/01/2024
Reason for Change		2019	2020 Reval	BCA	2022	2024 Reval
VALUATION	I	0	146460	146460	174090	238090
2024 Market	B	625000	578540	528540	528540	700020
	T	625000	725000	675000	702630	938110

Excerpt from Exhibit # 1.

Plaintiff has made a number of renovations or improvements to the property – some before the reassessment and some after. These include replacement of the cedar shingle roof which is approximately 70 % complete, replacement of windows, interior and exterior painting, replacement of shades and replacement of the cooktop and refrigerator. A black mold issue in the home has been remediated.

² Court records show that on or about December 18, 2024, Plaintiff filed a notice with the Wilmington Town Clerk stating

I would like to appeal to the Windham Superior Court the Wilmington Town Board of Civil Authority (BCA) decision rejecting my appeal of the April 1, 2024 change in my assessment.

I believe that my property (21 Aldrich Rd.) was assessed higher than comparable properties and does not reflect fair market value as of April 1, 2024.

Further, I presented to the BCA an appraisal of the property prepared by a licensed real estate appraiser. BCA did not question the appraisal and did not provide any evidence or facts to show that the report was not accurate.

Nonetheless the BCA upheld the town's assessors valuation.

See Town of Wilmington filing dated December 23, 2024.

³ David Buckely's appraisal report noted that the property had a "gross living area above grade" of 3,334 sq. feet. Plaintiff, however, testified that the house was "small" consisting of 1,500-1,700 sq. ft.

In January 2025 Plaintiff⁴ wrote to Dir. Remick raising concerns about the 2024 townwide reappraisal. Plaintiff asked that PVR order (1) “a new re-appraisal of the town of Wilmington,” and (2) “the Town to re-instate the Board of Listers recently removed by the town select board.” Exhibit # 14. Dir. Remick responded:

I am not able to order a new reappraisal for Wilmington, nor do I have any authority to override a decision by the Selectboard in the matter of removing the board of listers.

In 2023, the Vermont Legislature implemented a six-year reappraisal cycle effective for 2025. We are implementing that new cycle, in addition to continuing to uphold existing reappraisal orders under 32 V.S.A. § 4041a. Therefore, at this point Wilmington will be under order for 2030.

According to our recent Reappraisal Evaluation, Wilmington conducted a satisfactory reappraisal, ensuing at least 95 percent of all parcels show a change in listed value, and the percentage change in the listed value is approximately equal for both sold and unsold properties.

Plaintiff retained David Buckley as an expert. Mr. Buckley has been licensed as a certified general real estate appraiser since 1991. He has served on the Vermont Board of Real Estate Appraisers, been appointed a State Appraiser, is the Assessor for the Town of Bridgewater, was formerly as state appeals officer for the PVR Division and has testified on numerous occasions.

In an appraisal report dated April 1, 2024, Mr. Buckley determined the fair market value of the subject property to be \$ 715,000.00. Mr. Buckley inspected the property and noted various points: it was 1970s construction; built on a slab and over a crawl space; the interior was generally similar to what it was at the time of construction; there were no railings on steps; and, there was limited storage because it was built on a slab. Mr. Buckley testified that the appraisal process is a “measure of buyer and seller behavior.” He used a sales comparison approach to determine fair market value. Mr. Buckley identified sales that occurred within one year to 18 months prior to the assessment. The comparables were “roughly” within five miles of the subject property. In identifying comparables Mr. Buckley testified that “anybody can do it.” The report makes the following adjustments which Mr. Buckley characterized as a “subjective attempt to narrow a range”:

Subject Property	Comp # 1	Comp # 2	Comp # 3	Comp # 4
Quality of Construction Average Adjustment	Average 0	Average Plus ⁵ -20,000	Average Plus 0	Average 0

⁴ Plaintiff was one of two signatories to the letter to Dir. Remick. The other signatory – Zdzislaw Zyskowski – also appealed his assessment to this court.

⁵ This is not a USPAP standard for quality grade.

Room Count					
Total	9	8	7	7	8
Bedrooms	4	4	3	3	4
Bathrooms	3	3	2	2.5 ⁶	3
Adjustment		0	+10,000	0	0
Gross					
Living Area	3,334	2,592	2,144	2,454	1,942
Adjustment		+15,000	+30,000	+22,000	0

In comparing the properties, Mr. Buckley noted that the subject property was functionally a two-bedroom residence “for comfort purposes.” He noted the steep stairway to the second floor and that the upstairs bedrooms were under the eaves. However, Mr. Buckley did not make adjustments in his appraisal report based on his opinion about the usefulness of the upstairs bedrooms. The adjustments that Mr. Buckley made to the comparable properties show no consistency and appear to be subjective.

Mr. Buckley also conducted what he characterized as an analysis to determine what he believed would be an appropriate equalization ratio. This initially consisted of a review of all real estate sales in Wilmington from October 2024 through May 31, 2025. Mr. Buckley’s data included the price the property sold for and the Grand List appraisal for the property. Based on the data and spreadsheets he prepared, Mr. Buckley calculated a CLA of 70.28 % and a COD of more than 20%. The data used by Mr. Buckley and his analysis was flawed. For example, Mr. Buckley used inaccurate grand list amounts. He also included vacant lots and commercial properties in his calculations despite clear precedent that such calculations must be by property type. When asked to explain these inaccuracies he responded that “they were the numbers available.” In another spreadsheet Mr. Buckley only looked back four months rather than a year. When asked to explain why he responded, “no reason.” Mr. Buckley refused to accept personal responsibility for clear and obvious errors in his appraisal report. The court finds his testimony to have involved both dissembling and obfuscation and his analyses to be misleading and without persuasive value.

Russell Beaudoin is the Assessor for Wilmington, Barre and Eden. He has many years of experience with reappraisals.

Mr. Beaudoin determined an appreciation ratio for single family residences in the Town of Wilmington between 2020 and 2024. Use of a median ratio in such circumstances is a standard practice. Sales data reveals a 66% increase in median sales price for such single-family homes between 2020 and 2024.⁷ Mr. Beaudoin determined that using this approach the 2024 market value of the subject property would be about \$ 1,120,00.00.⁸

⁶ According to Mr. Buckley, half bathrooms “are not worthy of adjustment.”

⁷ Plaintiff’s fair market value calculation of \$ 715,000 would mean that the value of the property had appreciated a mere 6% between 2020 and 2024.

Mr. Beaudoin also completed a market adjusted cost approach. This approach revealed a fair market value of \$ 950,000.00. These results are congruent. Mr. Beaudoin persuasively explained how each analysis was conducted and why the results are persuasive.

III. Conclusions of Law

“A taxpayer or the selectboard members of a town aggrieved by a decision of the board of civil authority ... may appeal the decision of the board to ... the Superior Court of the county in which the property is located.” 32 V.S.A. § 4461(a). Upon appeal, the “court shall proceed de novo and determine the correct valuation of the property” 32 V.S.A. § 4467(a). If the “court finds that the listed value of the property subject to appeal does not correspond to the listed value of comparable properties within the town, the . . . court shall set the property in the list at a corresponding value.” 32 V.S.A. § 4467(c)(1).

Establishing the correct value of a property is a two-step process:

First, the fair market value (FMV) of the property is ascertained. Next, this value is “equalized” to insure that the property is listed comparably to corresponding properties in town.” *Kachadorian v. Town of Woodstock*, 144 Vt. 348, 350 (1984) (citations omitted). Equalization is necessary because we recognize that a town cannot feasibly list all property at its FMV every year, particularly in a rising real-estate market. *Allen v. Town of W. Windsor*, 2004 VT 51, ¶ 2, 177 Vt. 1. Thus, we have held that a difference between listed and fair market values of real property is permissible as “long as the ratio between listed and fair market values is consistent among properties.” *Id.* (explaining that need for uniformity derives from constitutional command that “no taxpayer pays a disproportionate share of the public tax burden”). “The burden of persuading the trier of fact that his property is over-assessed, which is the underlying issue, remains with the taxpayer throughout the entire proceeding.” *Kruse v. Town of Westford*, 145 Vt. 368, 372 (1985); see also *New England Power Co. v. Town of Barnet*, 134 Vt. 498, 508 (1976) (“It is to be emphasized ... that the burden of persuasion as to the contested issues in a § 4467 hearing remains at all times with the taxpayer.”).

Dewey v. Town of Waitsfield, 2008 VT 41, ¶ 2, 184 Vt. 92. “The burden of persuasion as to all contested issues remains with the taxpayer.” *Green v. Town of Manchester*, 2024 WL 4194642, at *1 (Vt. Sept. 13, 2024) (unpub. mem.).

Thus, the first step is determining the fair market value of the property. The fair market value is the price which the property will bring in the marketplace taking into consideration its availability, use and limitations; making adjustments for location, type of land, accessibility, and sale price of comparable property where appropriate.

⁸ \$ 675,000.00 multiplied by 1.66.

Kachadorian v. Woodstock, 149 Vt. 446, 448 (1988); 32 V.S.A. § 3481(1)(A). See also *Barrett v. Town of Warren*, 2005 VT 107, ¶ 6 (quoting § 3481).

Vermont law “does not prescribe the method nor limit the manner in which evidence of fair market value may be presented.” *Sondergeld v. Town of Hubbardton*, 150 Vt. 565, 567 (1988). In property appraisal disputes, the court is “free to weigh any competent, relevant, and probative evidence of valuation.” *Scott Const., Inc. v. City of Newport Bd. of Civ. Auth.*, 165 Vt. 232, 237 (1996). “It [is] within the superior court’s discretion to determine the credibility of the valuation method used” *In re Bilmar Team Cleaners*, 2015 VT 10, ¶ 15. “In the past, “[t]he court has noted that the cost approach, the income approach, and the market data approach offer the parties means of determining fair market value.” *Lake Morey Inn Golf Resort, Ltd. P’ship v. Town of Fairlee*, 167 Vt. 245, 248 (1997) (quoting *New England Power Co. v. Town of Barnet*, 134 Vt. 498, 505 (1976)).⁹ This is not an exhaustive list of methods of determining fair market value. *Id.* “Any and all” methods are “appropriate subjects” for expert testimony before the court. *Id.*

In a taxpayer appeal under § 4467, when a town produces evidence of fair market value, there is a basic presumption that a town’s appraisal is “valid and legal.” *Kruse v. Town of Westford*, 145 Vt. 368, 371 (1985). “This is a bursting bubble presumption” *Vanderminden, A Family Ltd. P’ship v. Town of Wells*, 2013 VT 49, ¶ 8. This “locative” presumption places the initial burden of coming “forward with evidence” on taxpayers challenging a town’s appraisal, but they “are without any independent probative value.” *Rutland Country Club, Inc. v. City of Rutland*, 140 Vt. 142, 145 (1981). Taxpayers therefore have the initial procedural burden of overcoming this presumption by producing “evidence fairly and reasonably tending to show that [their] property was [appraised] at more than fair market value.” *Jeffer v. Town of Chester*, 138 Vt. 478, 480 (1980). The hearing officer must determine only whether the taxpayer has produced admissible evidence that affords “a basis for a rational inference of the fact to be proved.” *City of Barre v. Town of Orange*, 152 Vt. 442,

⁹ The Court has stated that “The statute does not mandate any particular method to determine estimated fair market value,” but “when a recent bona fide sale exists to illustrate fair market value, no method of estimation is needed.” *Barrett/Canfield, LLC v. City of Rutland*, 171 Vt. 196, 198 (2000). Additionally,

The “market data approach” and the “income approach” are appropriate “means of determining fair market value.” *New Eng. Power Co. v. Town of Barnet*, 134 Vt. 498, 505, 367 A.2d 1363, 1368 (1976). “In the market approach, the appraiser finds similar properties that have been sold recently, and extrapolates a value for the subject property by comparing it to those recent sales.” *State Hous. Auth. v. Town of Northfield*, 2007 VT 63, ¶ 15, 182 Vt. 90, 933 A.2d 700. The income approach, on the other hand, determines “market value by converting the future benefits of property ownership into an expression of present worth.” *Beach Props., Inc. v. Town of Ferrisburg*, 161 Vt. 368, 372, 640 A.2d 50, 52 (1994) (quotation omitted).

Jackson Gore Inn v. Town of Ludlow, 2020 VT 11, ¶ 4.

444 (1989) (quotation omitted). Because the applicable standard concerns the admissibility, rather than credibility, of the facts used to overcome the presumption, “[t]he evidence required to burst the bubble is ... modest.” *In re Bilmar Team Cleaners*, 2015 VT 10, ¶ 11.

Jackson Gore Inn v. Town of Ludlow, 2020 VT 11, ¶ 35. Stated simply, “if the taxpayer presents evidence that the property was appraised above fair market value, then the presumption disappears and ‘it is up to the town to introduce evidence that justifies its appraisal.’” *Cashman Fairfield Farm Tr. v. Town of Fairfield*, 2024 WL 5207207, at *1 (quoting *Adams v. Town of West Haven*, 147 Vt. 618, 619-20 (1987)). See also, *Meyer v. Town of Putney*, 2026 WL 2474338, at *2 (Vt. Aug. 21, 2026) (unpub. mem.) (“[i]f the taxpayer presents evidence that the property was appraised above fair market value, then the presumption disappears and ‘it is up to the town to introduce evidence that justifies its appraisal.’”)

Plaintiff has not presented evidence that fairly and reasonably tends to show that his property was appraised at more than fair market value. Mr. Buckley’s appraisal was not persuasive or reliable. The subjective adjustments to the allegedly comparable properties and Mr. Buckley’s own inconsistent testimony establishes that Mr. Buckley’s report is *not* competent evidence of fair market value. The court acknowledges that it must not make a credibility determination in the first step of this first stage of its analysis. *City of Barre*, 152 Vt. at 444. However, the court must exercise a gate-keeping function with respect to expert testimony – and the testimony here is indubitably of matters subject to V.R.E. 702. *USGen New England, Inc. v. Town of Rockingham*, 2004 VT 90, ¶¶ 25-26. In exercising this gate-keeping function at a bench trial a court may admit expert testimony or evidence and then exclude or disregard it if it does not meet standards of reliability. *In re Salem*, 465 F.3d 767, 777 (7th Cir. 2006); *SD3, LLC v. Rea*, 71 F. Supp. 3d 189, 196 (D.D.C. 2014). Mr. Buckley’s testimony and evidence fail to establish that his opinions are the result of reliable principles and methods. In fact, the obfuscatory manner in which he testified leads this court to conclude that he is not applying any discernible principles and methods in support of his calculations. Since Plaintiff has not presented admissible and reliable evidence on the fair market value of the property the bubble has not burst and he has not met his burden in this appeal from the Town’s assessment of the fair market value of 21 Aldrich Road as of April 1, 2024.¹⁰

¹⁰ Vermont law provides that “[a]n owner of real property is competent to testify as to the value of the property. *Atwood v. Hill*, 2024 WL 4583268, at *4 (Vt. Super. Ct., Rut. Civ. Div. Sep. 05, 2024) (Burke, Supr. J.) (citing 12 V.S.A. § 1604). See also *Snelgrove v. LeBlanc*, 2018 WL 6167392, at *3 (Vt. Nov. 21, 2018) (unpub. mem). Mr. Buckley is not an owner of the subject property and, thus, the statute does not render him competent to provide an opinion as to the value of the property. Vermont law, however, is flexible regarding the competency of witnesses to testify as to value.

Any person who knows the property and has an opinion of its value may give that opinion in evidence for what it is worth. It is enough if the witness is shown to have some peculiar means of forming an intelligent judgment as to the value, beyond that possessed by men in general.

Labounty v. Lafleur, 113 Vt. 226, 227 (1943). See also *New England Power Co. v. Town of Barnet*, 134 Vt. 498, 504 (1976) (“[t]he opinions of well-informed persons based upon the

“The second step of the two-step process strives to establish uniformity of taxation and is derived from the constitutional command that ‘no taxpayer pays a disproportionate share of the public tax burden.’” *Geddes v. Town of Bolton Bd. of Civ. Auth.*, 2019 WL 1507799, at *1 (Vt. Apr. 5, 2019) (unpub. mem.) (quoting *Allen v. Town of W. Windsor*, 2004 VT 51, ¶ 2). This is equalization. The “overriding goal” of this process is

to ensure that, whatever the fair market value of a property might be, its listed value corresponds with the listed value of comparable properties so that no taxpayer pays more than his or her fair share of the property tax burden. Generally speaking, “comparable properties” for purposes of calculating an ER include “all properties within the class of property to which the subject property belongs.

Dewey, 2008 VT 41, ¶ 18 (citations omitted). See also *Alexander v. Town of Barton*, 152 Vt. 148, 156 (1989) (taxing statutes contemplate equalizing values of properties in the same class and not across classes). “By statute, each year a common level of appraisal (CLA) is established for every Vermont town. towns are statutorily required to submit fair market values to PVR, which then uses these values to arrive at a CLA ratio.” *Boivin v. Town of Addison*, 2010 VT 67, ¶ 17. The CLA is “the ratio of the aggregate value of local education property tax grand list to the aggregate value of the equalized education property tax grand list.” 32 V.S.A. § 5401(3). In *Boivin* the Court concluded that

There is no indication that the Town here did anything but what it was statutorily required to do—that is, submit its grand list values to PVR. It was, therefore, entirely reasonable for the Town and the trial court to rely on the CLA derived from statewide equalization studies, and taxpayers have offered no reason to suggest otherwise.

2010 VT 67, ¶ 17, 188 Vt. 571. “[T]here is a basic presumption that a town’s appraisal is ‘valid and legal.’” *Jackson Gore Inn*, 2020 VT 11, ¶ 34 (quoting *Kruse v. Town of Westford*, 145 Vt. 368, 371 (1985)). See also *Snelgrove v. Leblanc*, 2018 WL 6430734, at *4 (Vt. Super. Ct., Orl. Civ. Div. Feb. 09, 2018) (Rainville, Supr. J.) (“Equalization through use of the common level of appraisal is a reasonable method for determining fair market value”). The taxpayer has the burden of bringing forth evidence to demonstrate that the town-wide common level of appraisal was erroneous. *Geddes*, 2019 WL 1507799, at *3. “[A]lthough taxpayers are free to present sufficient evidence on the fair market value of comparable properties to provide the court with a more specific equalization ratio, if no such information is provided, then the town-wide CLA can be used.” *Wilson, Tr. v. Town of Wilmington*, 2026 WL 2474464, at *2 (Vt. Aug. 21, 2026) (unpub. mem.) (citing *In re Milot*, 151 Vt. 615, 617 (1989)).

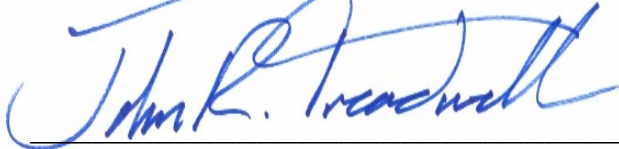
purposes for which the property is suited are to be considered in arriving at fair market value”). The weight to be accorded such opinions is entirely for the court. *Id.* The court declines to adopt Mr. Buckley’s lay opinion as to the fair market value of the subject property for the same reasons it declines to credit his expert opinion. The foundation for the opinion – whether lay or expert – is entirely lacking.

Plaintiff's calculations are based on incomplete and inaccurate data and are not limited to comparable classes of property. Plaintiff has not met his burden to establish that the CLA for the Town of Wilmington was erroneous.

IV. ORDER

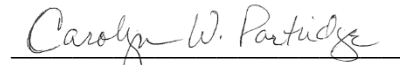
Plaintiff having failed to meet his burden on appeal, the decision as to the fair market value of 21 Aldrich Road as of April 1, 2024 is AFFIRMED. Additionally, the challenge to the Town's use of the CLA for equalization is DENIED.

Electronically signed: 9/1/2026 11:31:02 AM pursuant to V.R.E.F. 9(d)



John R. Treadwell
Superior Court Judge

As to the facts:



Carolyn Partridge
Assistant Judge



Lamont Barnett
Assistant Judge