ZARELLA, J., with whom McLACHLAN, J., joins, concurring. I agree with the majority's conclusion that General Statutes § 37-3a does not provide for the automatic award of interest when a court enters an installment payment order pursuant to General Statutes § 52-356d. I write separately for two reasons. First, I clarify that the majority opinion should not be read as altering this court's precedent concerning the application of General Statutes § 37-1, which allows for parties to agree to nonusurious rates of postjudgment interest. Second, I express my disagreement with the majority's reliance on the reasoning and holding of *Discover Bank* v. *Mayer*, 127 Conn. App. 813, 17 A.3d 80 (2011), as being determinative of the issue presented by the certified questions. In particular, I am concerned that the language in *Discover Bank* on which the majority relies inaccurately portrays the operation of our interest and postjudgment procedure statutes.

I

The first certified question before this court is whether § 52-356d (e) provides for the automatic accrual of postjudgment interest on any judgment for which an installment payment order has been entered.[1] As the majority correctly concludes, the answer to that question must be no. Simply put, § 52-356d (e) merely informs the parties and the court that, when a judgment is accompanied or modified by an installment payment order, it does not affect any interest accruing on the judgment.[2] In more practical terms, the statute requires a debtor to continue paying postjudgment interest even under an installment payment order. This response, however, does not fully address the underlying issue presented by the certified questions—when does postjudgment interest apply? The majority opinion comprehensively addresses our recent decisions concerning the nature of when interest may be awarded as damages under § 37-3a (a).[3] Apart from the majority's reliance on *Discover Bank*, I generally agree with the majority's reasoning and conclusion. Nevertheless, I believe that an analysis of the relationship between interest and installment payment orders requires this court to address § 37-1.[4] As I explain in this opinion, § 37-1 and our related precedents clearly delineate certain instances in which interest attaches to, and accrues automatically on, a judgment. If a judgment with accompanying postjudgment interest under § 37-1 is subject to an installment payment order, that order does not affect the initial interest award, just as it would not affect damages in the form of postjudgment interest under § 37-3a. Simply put, it is either the parties' agreement and § 37-1, or a court's discretionary award of interest as damages, that determines whether and at

what rate interest accrues on a money judgment, not any provision in § 52-356d.[5] Section 52-356d (e) merely informs the court and the parties that, as to installment payment orders, interest continues to accrue only on the unpaid portion of the money judgment, as diminished over time by each installment payment.

Before proceeding, I address the majority's contention that analyzing § 37-1 exceeds the scope of our review because "at no time during the litigation of this matter, either in the [United States] District Court or in this court, has the defendant ever argued that § 37-1 supports its claim of entitlement to postjudgment interest under the facts of this case."[6] Footnote 10 of the majority opinion. I do not dispute that the defendant has relied on § 37-3a (a), but I do not agree that the certified question prevents us from clarifying the proper application of § 37-1 and its relationship to § 52-356d (e). Indeed, the first certified question is, by its own wording, open-ended. The question asks only whether § 52-356d (e) provides for interest. The simple answer, as noted previously, is no. Yet, it cannot be that the District Court would expect this court to refrain from expanding on that answer. By addressing § 37-1, I engage in the same analysis of the interplay between § 52-356d (e), our statutes and precedents governing interest on judgments as the majority does in addressing § 37-3a (a). I fail to understand how answering the question presented by the District Court, on a matter of statutory interpretation over which we exercise plenary review, constitutes an "expansion of the certified questions . . . serv[ing] no useful purpose . . . ."[7] Id.

In sum, I address § 37-1 to offer a complete analysis of all statutes relevant to the certified questions presented by the District Court's amended certification order: "[T]he [District] Court departs from its preferred practice in this case for three reasons [and certifies a question of law to the Connecticut Supreme Court notwithstanding a disagreement between the parties over the issue presented]. First, despite the parties' inability to cooperate, there is essentially no disagreement about the underlying facts of this case. Second, the questions raised by the parties' [summary judgment] motions are important *and potentially affect thousands of cases pending in and already decided by Connecticut courts*.[8] In each of those cases, collectors seeking to collect interest on court judgments could face liability under the [federal Fair Debt Collection Practices Act (act), 15 U.S.C. § 1692 et seq.] if the court [in each case had] entered an installment payment order. Third, the [District] Court is confident that if it were to decide this issue itself and the losing party were to take an appeal, the Second Circuit would certify the questions in this case to the Connecticut Supreme Court." (Emphasis added.) *Ballou* v. *Law Offices Howard Lee Schiff, P.C.*, 713 F. Sup. 2d 79, 80 (D. Conn. 2010); see also id., 82 ("[b]efore this [c]ourt holds that every

collector who added interest to a judgment to be paid in installments is in violation of Connecticut law, and thus the [act] if within the one-year statute of limitations, the [c]ourt seeks to clarify this unsettled question of Connecticut law by certifying it to the Connecticut Supreme Court"). Accordingly, I find it necessary to address certain additional issues of law and statutory construction.

A brief review of our decisions regarding interest, damages and judgments is necessary to shed additional light on the issues presented by the certified questions. For more than 200 years, Connecticut has allowed parties to include nonusurious interest in contracts. See, e.g., *Selleck* v. *French*, 1 Conn. 32, 33 (1814) ("[i]nterest by our law is allowed on the ground of some contract express or implied to pay it, or as damage for the breach of some contract, or the violation of some duty"). Although usury laws limited the maximum rate of interest, parties were otherwise free to set interest rates among themselves. See, e.g., *Little* v. *United National Investors Corp.*, 160 Conn. 534, 537, 280 A.2d 890 (1971) ("the General Assembly [has] recognized the right of the parties to agree on interest rates, subject to the limitations imposed by the usury statutes"). For agreements that contemplate interest but do not specify an interest rate, the legislature long has provided for a legal rate of interest. General Statutes § 37-1; see, e.g., *Hubbard* v. *Callahan*, 42 Conn. 524, 527 (1875) ("[i]f no rate of interest is specified, [6 percent] is the legal rate; but if the parties agree [on] the rate in writing, then the agreed [on] rate becomes the legal rate in that case"). For example, in *Hubbard*, the court determined the validity of a contract providing for interest at a rate of 15 percent after maturity of the promissory note. See id. The court, faced with the issue of whether parties could contract to set interest after maturity at a rate greater than the legal rate, responded: "Why not? If we may take the language of the statute [governing the legal rate of interest] in its common acceptation, no one would entertain a doubt that the parties could contract for a rate of interest after the money is due and while it remains unpaid, as well as before. There is no exception, qualification or limitation in the statute." Id. We have reiterated this general proposition on various occasions since *Hubbard*; see, e.g., *Little* v. *United National Investors Corp.*, supra, 537–38; *Globe Investment Co.* v. *Barta*, 107 Conn. 276, 279–80, 140 A. 202 (1928); and there has been no legislative response to the contrary. Indeed, the current embodiment of this rule is manifest in § 37-1, which has endured largely unchanged from previous versions of the statute.

"The language of [the] predecessor statutes [to § 37-1] and the construction placed on them by this court confirms the clearly expressed intention of the legislature in the enactment of these statutes. As distinguished from prohibitions against usury, the legal rate of interest

appears to have been first set in chapter 16 of the Public Acts of 1872. [The statute] provided: 'When there is no agreement for a different rate of interest of money, the same shall be at the rate of six dollars [on] one hundred dollars'. In 1874 this statute was amended solely to change the rate from 6 percent to 7 percent. Public Acts 1874, c. 108. In 1877, the rate was changed back to 6 percent and the language was altered to [provide]: 'The compensation for [the] forbearance of property loaned at a fixed valuation, or for money, shall in the absence of any agreement to the contrary be at the rate of six per cent a year'. Public Acts 1877, c. 151. This provision has continued without change and is the present § 37-1 [a] of the General Statutes defining 'legal interest'." *Little* v. *United National Investors Corp.*, supra, 160 Conn. 538. Since *Little* was decided, the legislature has amended the legal rate of interest under § 37-1, raising the rate to the current rate of 8 percent in 1979. Public Acts 1979, No. 79-364, § 1.

In addition to allowing prematurity and postmaturity interest on agreements to loan property or money, "Connecticut has . . . long provided for interest on judgments. . . . [T]he common-law impediment to interest on judgments does not exist in Connecticut. The common-law principle was predicated on the theory that the note or contract [that] was the subject of [the action] merged in the judgment and technically there could be no agreement concerning the judgment. . . . [General Statutes (Rev. to 1968) § 52-349, however] expressly provides for legal interest on judgments and § 37-1 expressly provides [for a] legal rate of interest . . . 'in the absence of any agreement to the contrary.' . . . Implicit in § 37-1 is the provision that if the parties have agreed on a rate of interest not prohibited by the usury law then that rate is the legal rate and only in the absence of such an agreement is it [the legal rate established by § 37-1]." (Citation omitted.) *Little* v. *United National Investors Corp.*, supra, 160 Conn. 537–38.

In *Little*, the court considered the aforementioned statutes and precedents, and concluded that, "since the agreement of the defendant [judgment debtor] was that 'interest shall accrue at the rate of [9 percent] per annum on unpaid principal balances, before and after maturity, by acceleration or otherwise' the rate of 'legal interest' was thus fixed by the agreement of the parties and under the provisions of General Statutes [(Rev. to 1968) §] 52-349[9] and [§] 37-1 the plaintiffs were entitled to *interest on the judgment at that rate*." (Emphasis added.) Id., 542.

This result has since been codified by the legislature, which resolved any potentially lingering ambiguities. Following *Little*, § 37-1 was amended by adding subsection (b); see Public Acts 1971, No. 783, § 1; which specifically provides: "Unless otherwise provided by agreement, interest at the legal rate from the date of maturity

of a debt shall accrue as an addition to the debt." General Statutes § 37-1 (b). Thus, when viewed through the proper lens of relevant precedent and predecessor statutes, the current version of § 37-1 embodies two basic principles long espoused by this court and the legislature. First, parties may always contract to provide any nonusurious rate of interest as compensation for the forbearance of property or money, which may accrue before and after the date of maturity, including any postjudgment period. Second, if the agreement contemplates interest, explicitly or implicitly, but the parties fail to define a rate, § 37-1 provides the legal rate of interest, currently at 8 percent, which may accrue before and after the date of maturity.

II

Separate and distinct from interest pursuant to agreements are awards of damages for the wrongful detention of money, which the majority addresses in its analysis of § 37-3a. In addition to the majority's analysis, the following discussion serves to explain the difference between our interest and damages statutes.

In *Beckwith* v. *Trustees of Hartford, Providence & Fishkill Railroad*, 29 Conn. 268 (1860), we stated that "interest can only be claimed under a contract to pay it, either express or implied"; id., 270; and, in an action to recover money wrongfully detained by another, "the sum recoverable for such detention is treated as damages for the breach of the contract, rather than interest for the money loaned . . . ." Id. Some fifteen years after *Beckwith* and a change in the relevant statutes relating to interest on debts and judgments, we further outlined the distinction between actions to recover interest and those to recover damages on debts past due: "[I]nterest may be recovered [on] the arrears of interest due, if there is an express promise to pay such interest. . . .

"In these cases it is called interest and not damages. But there are cases [in which] interest is allowed 'by way of,' or 'in the nature of' damages.

* * *

"This rule of allowing interest as damages originated in the desire of the courts to adhere to certain technical rules [at common law precluding interest on judgments], and at the same time [to] do justice to the parties. *Interest could only be allowed on the ground of an express or an implied contract to pay it.* In case therefore of an express written contract covering the subject matter, but which was silent as to interest, the express contract could not be enlarged by adding a promise to pay interest, and there was no ground or right to imply such a promise. But as it was extremely unjust to allow the defendant to have the use of the money loaned without compensation, interest was allowed, in the nature of damages, *for the detention of*

the money.

"But it is a perversion or misapplication of this principle to apply it to an express written promise to pay interest after maturity. . . . [W]here, in a bill or note, interest after maturity is expressly reserved, *it is treated as interest* . . . and *never as damages*." (Citations omitted; emphasis added.) *Hubbard* v. *Callahan*, supra, 42 Conn. 529–30.

In that connection, we have defined the proper application of General Statutes (Rev. to 1962) § 37-3,[10] the predecessor statute to § 37-3a: "The statute is applicable to '*damages* for the detention of money after it becomes payable' in those cases in which the contract makes no provision as to the rate of interest after maturity but is not applicable [to] those in which . . . a rate of interest, otherwise lawful, is prescribed as applying from and after the time when the principal becomes payable." (Emphasis added.) *Little* v. *United National Investors Corp.*, supra, 160 Conn. 540. Section 37-3a effected no substantive change of its predecessor and, therefore, no deviation from its application, as defined in *Little*, is necessary.

III

The foregoing analysis makes clear that the two primary situations in which postjudgment interest may accrue is either pursuant to an agreement or to a court-ordered award.[11] As I noted previously, the majority focuses on the specific relationship between § 52-356d (e) and court-ordered awards of interest as damages under § 37-3a, in large part because the parties in this case have litigated the matter by relying on § 37-3a. In doing so, the majority adopts much of the reasoning from the Appellate Court's decision in *Discover Bank* v. *Mayer*, supra, 127 Conn. App. 813. Although I agree with the majority insofar as it concludes that a party is not entitled to automatic postjudgment interest pursuant to § 37-3a when a court enters an installment payment order, I disagree with the majority's reliance on *Discover Bank* to reach this result. In particular, I disagree with certain sweeping language and reasoning in *Discover Bank*'s holding as well as the majority's conclusion that it is wholly applicable to the facts and circumstances of the present case.

In reaching its conclusion in *Discover Bank*, the Appellate Court determined that (1) the use of the language " '[i]nterest . . . shall continue to accrue' " in § 52-356d (e) presupposes an award of interest on a money judgment; id., 817; (2) General Statutes § 52-350f, which concerns the enforcement of money judgments, governs the application of § 52-356d (e); see id., 818; and (3) because § 52-350f requires that interest in connection with enforcement of a money judgment be imposed "as provided by chapter 673,"[12] the "interest referred to in § 52-356d (e) is derived from an award

of interest pursuant to § 37-3a . . . and [a] decision to deny or grant postjudgment interest is primarily an equitable determination and a matter lying within the discretion of the trial court." (Internal quotation marks omitted.) Id. The Appellate Court thus concluded that "[t]he plain language of § 52-356d (e), as well as its relationship with other statutes, makes clear that a judgment creditor may request postjudgment interest to accrue on a money judgment pursuant to § 37-3a, and that such interest, if awarded, shall continue to accrue on the unpaid portion of a money judgment in cases [in which] installment payments have been ordered by the court." Id., 818–19.

I disagree with this analysis and, therefore, with the majority's partial reliance on it.[13] First, the interest provision set forth in § 52-350f applies to certain enforcement procedures applicable to money judgments but not necessarily to installment payment orders.[14] General Statutes § 52-350f specifically provides that a "money judgment may be *enforced, by execution or by foreclosure of a real property lien* . . . ." An installment payment order is not an execution or foreclosure but "the fixing by the court of a sum to be paid periodically by the judgment debtor until satisfaction of a money judgment." General Statutes § 52-350a (9). This distinction is evident not only from the foregoing language defining an installment payment order but from language in General Statutes § 52-356d (b), which provides that "compliance with [an] installment payment order . . . shall stay any property execution or foreclosure pursuant to [the] judgment . . . ." Section 52-356d, by definition, is one of the *post*judgment procedures provided for by the General Statutes. See General Statutes § 52-350a (15) (defining " '[p]ostjudgment procedure' " as "a discovery procedure, a placing of a lien on property, a modification or discharge of a lien, a property execution . . . a turnover order, *an installment payment order*, a wage execution, a modification of a wage execution, a compliance order, a protective order or a determination of exemption rights" [emphasis added]). In other words, when a court enters an installment payment order under § 52-356d, it is effectively providing a court sanctioned delay to the full satisfaction of the judgment by the judgment debtor. Accordingly, the directive in § 52-350f that interest may be imposed on money judgments "as provided by chapter 673" is inapplicable to the present analysis, and the majority's conclusion to the contrary is without support.[15]

IV

The foregoing analysis can be summarized through the following conclusions. First, contracting parties can agree to nonusurious rates of interest on loans of property or money; this interest may accrue before and after the date of maturity of the loan. Unless otherwise provided, the postmaturity interest will continue to

accrue on any judgment rendered on the contract or note. Second, if contracting parties agree to or contemplate interest but fail to set a rate of interest, § 37-1 (a) provides that interest will accrue at the legal rate of 8 percent up to the date of maturity, and § 37-1 (b) provides that interest will continue to accrue at the legal rate of 8 percent from the date of maturity. Third, when a party has wrongfully detained money, and the parties have not contemplated interest on the transaction, the court, in its discretion, may award damages in the form of interest, up to a rate of 10 percent on the judgment, under § 37-3a (a).[16] Such an award is properly considered damages, and not interest, as evidenced both by the language of the statutes and our precedent.[17]

With this understanding of interest on money judgments, it is unquestionably evident that installment payment orders entered pursuant to § 52-356d do not affect the rate of postjudgment interest. The proper analysis for determining whether a judgment carries interest postjudgment is to look for an underlying agreement between the parties and apply the foregoing principles, grounded in our precedent and § 37-1. If the parties have contemplated or agreed to have interest continue to accrue after a debt matures, that interest will further continue to accrue postjudgment, at the rate agreed on by the parties or, in the absence of an agreed on rate, the legal rate set forth in § 37-1. If there is no agreement, or the agreement does not contemplate interest, a party may seek an award of interest under § 37-3a in the form of damages. The court, in its discretion, may choose to award interest on the judgment, up to the rate provided by statute. In that connection, the sole purpose of § 52-356d (e) is to direct the court and the parties that, when an installment payment order is entered, postjudgment interest will continue to accrue *only* on the unpaid portion of the money judgment, as diminished by each installment payment. The phrase, "[i]nterest on a money judgment" in § 52-356d (e) refers to the fact that the interest must be awarded on the sum of the money judgment itself, not the individual installments or any other figure. Similarly, "shall continue to accrue . . . on such portion of the judgment as remains unpaid" means that the interest must continue to accrue on the balance of the money judgment, not the individual payments. General Statutes § 52-356d (e). Section 52-356d does not otherwise alter or affect the rate of interest on the judgment. Accordingly, I concur in the majority's answer to the first certified question only to the extent that it stands for the proposition that § 52-356d (e) does not itself provide for an award of interest on a judgment.

[1] The first certified question is: "Does . . . § 52-356d (e) provide for the automatic accrual of [postjudgment] interest on all judgments [for] which an installment payment order has been entered by the court?" The second certified question is: "If [the first] question . . . is answered in the affirmative, what rate of [postjudgment] interest applies?"

[2] In that connection, I note: "When construing a statute, [o]ur fundamental objective is to ascertain and give effect to the apparent intent of the legisla-

ture. . . . In other words, we seek to determine, in a reasoned manner, the meaning of the statutory language as applied to the facts of [the] case, including the question of whether the language actually does apply. . . . In seeking to determine that meaning, General Statutes § 1-2z directs us first to consider 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. . . . The test to determine ambiguity is whether the statute, when read in context, is susceptible to more than one reasonable interpretation. . . . When a statute is not plain and unambiguous, we also look for interpretive guidance to the legislative history and circumstances surrounding its enactment, to the legislative policy it was designed to implement, and to its relationship to existing legislation and common law principles governing the same general subject matter . . . ." (Internal quotation marks omitted.) *Commissioner of Public Safety* v. *Freedom of Information Commission*, 301 Conn. 323, 338, 21 A.3d 737 (2011).

[3] General Statutes § 37-3a (a) provides in relevant part: "[I]nterest at the rate of ten per cent a year, and no more, may be recovered and allowed in civil actions . . . *as damages* for the detention of money after it becomes payable. . . ." (Emphasis added.)

[4] General Statutes § 37-1 provides: "(a) The compensation for forbearance of property loaned at a fixed valuation, or for money, shall, in the absence of any agreement to the contrary, be at the rate of eight per cent a year; and, in computing interest, three hundred and sixty days may be considered to be a year.

"(b) Unless otherwise provided by agreement, interest at the legal rate from the date of maturity of a debt shall accrue as an addition to the debt."

[5] In stating this, I do not mean to foreclose the possibility that there may be instances in which a judgment creditor can obtain interest pursuant to both §§ 37-1 and 37-3a, as we apparently have not yet reached that issue.

[6] On the basis of the record provided to this court in this case, the majority limits its statutory analysis to § 37-3a (a). This court, however, is not limited to the factual record when reviewing a pure issue of statutory construction of Connecticut law presented by a federal court. See, e.g., *Board of Education* v. *St. Paul Fire & Marine Ins. Co.*, 261 Conn. 37, 41 n.3, 801 A.2d 752 (2002) ("We point out [in deciding the certified question] that the issue of whether the bus driver was in fact negligent ultimately will be decided by the trier of fact. [Thus] [o]ur analysis is based on the allegations of the . . . complaint [in a separate case seeking to recover damages from the bus driver's employer] and not on the likelihood that the [plaintiffs in that separate case] will prevail at trial."); *Perodeau* v. *Hartford*, 259 Conn. 729, 734–63, 792 A.2d 752 (2002) (answering pure questions of law without regard to underlying facts of case before United States District Court); *C. R. Klewin, Inc.* v. *Flagship Properties, Inc.*, 220 Conn. 569, 579–84 and n.8, 600 A.2d 772 (1991) (deciding certified questions with extensive analysis of common law, and noting, without expressing opinion on, fact that "one of the issues before the Second Circuit was whether there was a genuine issue of material fact as to whether the oral agreement [at issue] could have been performed within a year"); see also *Teresa T.* v. *Ragaglia*, 272 Conn. 734, 742, 865 A.2d 428 (2005) ("[i]ssues of statutory construction present questions of law, over which we exercise plenary review"). Significantly, although the District Court has provided this court with a stipulation of certain facts that it believes are relevant to the certified questions, as well as a limited record of the prior proceedings, the District Court has not asked us to apply our law to the facts of the underlying case.

[7] A review of the purpose of answering certified questions of Connecticut law presented by a federal court is additionally helpful in this regard. When a federal court must decide an issue based on an area of Connecticut law for which there is no clear precedent, that court may certify a question to this court in order to understand the proper application of our law. See General Statutes § 51-199b (d) ("[t]he Supreme Court may answer a question of law certified to it by a court of the United States or by the highest court of another state or of a tribe, *if the answer may be determinative of an issue in pending litigation in the certifying court and if there is no controlling appellate decision, constitutional provision or statute of this state*" [emphasis added]). Indeed, the Court of Appeals for the Second Circuit, in which the United States District Court for the District of Connecticut sits, has expressly stated that, in certifying questions of law to this court, this court should not be constrained by the formulation of the question, but rather

should address any and all issues presented by the certified question. *Arrowood Indemnity Co.* v. *King*, 605 F.3d 62, 65, 80 (2d Cir. 2010) ("We conclude that this case requires us to resolve significant questions concerning the appropriate construction of the relevant policy language, involving interpretation of Connecticut insurance law and implicating public policy considerations for Connecticut. For these reasons and those that follow, we certify . . . several questions to the Supreme Court of Connecticut. . . . *In formulating the questions for certification as we have, we do not mean to limit the Connecticut Supreme Court's response. The certified questions may be expanded to cover any further pertinent questions of Connecticut law that the Supreme Court deems appropriate to answer in connection with these issues. The Connecticut Supreme Court's guidance is welcomed on any state law issues presented by this appeal.*" [Emphasis added.]).

The scope of our analysis of Connecticut law is particularly important in this case, in which the underlying complaint in federal court arises out of a claim under the federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. In such a claim, the exact nature of the debt, including the amount of interest, if any, owed thereon, may be dispositive of the outcome. In order for the District Court to properly adjudicate these claims, which may, in some cases, involve a determination of whether the debt continued to accrue interest pursuant to an agreement, a complete and thorough analysis of all relevant areas of Connecticut law on interest and judgments is necessary. See 15 U.S.C. § 1692f (2006) ("[a] debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section: [1] [t]he collection of any amount [*including any interest,* fee, charge, or expense incidental to the principal obligation] *unless such amount is expressly authorized by the agreement creating the debt or permitted by law*" [emphasis added]). Again, I reiterate that, because the defendant has not relied on § 37-1 during the litigation of this matter, it is unlikely that the statute is applicable in this case. The foregoing reasoning, however, demonstrates the importance of providing the District Court with a clear analysis of the operation of our statutes governing interest. My goal, as I stated at the outset of this opinion, is to ensure that the District Court fully understands, in this case and in future cases, the interplay between our laws on interest and postjudgment procedures.

Finally, I note that, although the defendant did not address § 37-1, the plaintiff's attorney, pursuant to Practice Book § 67-10, filed a supplemental letter with this court, on September 19, 2011, specifically citing *Little* v. *United National Investors Corp.*, 160 Conn. 534, 537, 280 A.2d 890 (1971), as providing additional legislative history on postjudgment interest in Connecticut under both §§ 37-1 and 37-3a.

[8] This statement particularly evinces the District Court's expectation of an analysis that is broad in scope, signaling to this court that we should not limit our response to the narrow question presented if doing so would leave related issues unanswered. Indeed, when viewed through the lens of judicial economy, it becomes even more crucial to provide a thorough analysis of the law. Federal courts in Connecticut will certainly face other legally similar, though not necessarily factually similar, claims raised under the act. The analysis herein provides the federal courts in Connecticut with additional tools to resolve future disputes under the act that implicate Connecticut law on interest and judgments.

[9] General Statutes (Rev. to 1968) § 52-349 has since been repealed; however, General Statutes § 52-350f, which I discuss in detail in part III of this opinion, is substantively similar in that both statutes allow judgments to be enforced with interest.

[10] General Statutes (Rev. to 1962) § 37-3 was repealed in 1971. See Public Acts 1971, No. 783, § 2.

[11] There are, of course, other specific situations envisioned in title 37 of the General Statutes that involve an award of postjudgment interest. See, e.g., General Statutes § 37-3b (mandatory postjudgment interest in negligence actions). I focus on § 37-1 because it speaks directly to interest on which the parties agree, as opposed to interest mandated by statute or awarded in a court's discretion.

[12] Chapter 673 of the General Statutes comprises title 37, of which § 37-3a is a part.

[13] The majority alters some of the language that it quotes from *Discover Bank* in order to clarify the nature and scope of the holding in that case. Nevertheless, this partial remedy does not address the other problems pre-

sent in the court's analysis in *Discover Bank*, which I discuss in the text of this opinion.

[14] General Statutes § 52-350f provides in relevant part: "The money judgment may be enforced, *by execution or by foreclosure of a real property lien*, to the amount of the money judgment with (1) all statutory costs and fees as provided by the general statutes, (2) *interest as provided by chapter 673* on the money judgment and on the costs incurred in obtaining the judgment, and (3) any attorney's fees allowed pursuant to section 52-400c." (Emphasis added.) As I noted elsewhere in this opinion, chapter 673, which is also title 37 of the General Statutes, provides for a "legal rate" of interest unless otherwise provided by the parties' agreement; General Statutes § 37-1 (b); as well as a rate when awarding "damages for the detention of money after it becomes payable." General Statutes § 37-3a (a).

[15] Even if it is assumed that § 52-350f applies, the court in *Discover Bank* improperly restricts the meaning of the statutory language "interest as provided by chapter 673" to interest under § 37-3a and neglects to address the other statutes within that chapter that provide interest under varying circumstances, in particular, § 37-1. The court in *Discover Bank* does not explain why § 37-3a is exclusively the relevant statute in chapter 673, insofar as the application of § 52-350f is concerned. Only a thorough reading of *Discover Bank* and the briefs filed in connection with that case suggests that the Appellate Court based its reasoning on the parties' reliance on § 37-3a as the only relevant statutory provision providing for postjudgment interest. That may explain the court's somewhat conclusory statement that "[t]he relevant statute in chapter 673 is § 37-3a." *Discover Bank* v. *Mayer*, supra, 127 Conn. App. 818. It does not, however, necessarily lead to the broader holding in *Discover Bank* that "the interest referred to in § 52-356d (e) is derived from an award of interest pursuant to § 37-3a." Id.

In addition to ignoring the plain language of the statutes, the court, in reasoning as it did, also failed to address the distinction between interest pursuant to an agreement and discretionary, court awarded damages. See, e.g., *Middlesex Mutual Assurance Co.* v. *Walsh*, 218 Conn. 681, 701–702, 590 A.2d 957 (1991) ("[i]n accordance with the permissive language of § 37-3a . . . we have stated that [t]he allowance of interest *as an element of damages* is primarily an equitable determination and a matter within the discretion of the trial court" [citation omitted; emphasis added; internal quotation marks omitted]); *Cecio Bros., Inc.* v. *Feldmann*, 161 Conn. 265, 275, 287 A.2d 374 (1971) ("[t]he real question in each case is whether the detention of money is or is not wrongful under the circumstances"). Under this interpretation, the statute would provide that "damages awarded on a money judgment under § 37-3a shall continue to accrue . . . ." This is simply not the language of the statute as written. Even if one were to ignore the confusion over interest and damages, such a result cannot be accepted. Rather, the most appropriate reading of § 52-356d (e) would not alter any interest that may attach to a money judgment.

[16] An example may help illustrate when § 37-3a is clearly applicable. Consider a divorce proceeding in which the wife is required to transfer a liquidated sum of money to the husband as part of the divorce settlement. If the wife fails to effect the transfer within the specified period, and the husband brings an action against her, the husband may seek, and the court may award, damages for the wife's wrongful detention of money, namely, interest at a rate of up to 10 percent on the value of the judgment under § 37-3a (a). See, e.g., *Sosin* v. *Sosin*, 300 Conn. 205, 210, 14 A.3d 307 (2011) ("[w]e conclude that the Appellate Court properly determined that the trial court's order directing the plaintiff to pay the defendant $3,828,081 did not constitute an improper modification of the original judgment and that the trial court had the discretion to award interest pursuant to § 37-3a because it reasonably could have concluded that the plaintiff had wrongfully withheld payment of the $3,828,081 to the defendant").

[17] The distinction between interest and damages is more than semantics. Interest, pursuant to § 37-1 and our case law, as described in this opinion, is not discretionary but, rather, based on the underlying transaction and agreement between the parties. By comparison, an award of damages is inherently discretionary in nature, and, in the case of § 37-3a, requires a court to determine whether there was a wrongful detention of money. See footnote 15 of this opinion.