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JONATHAN M. KELLER ET AL. *v.* ROZ-LYNN
BECKENSTEIN, EXECUTRIX (ESTATE OF
ROBERT J. BECKENSTEIN)
(SC 18689)

Rogers, C. J., and Norcott, Palmer, Zarella, McLachlan,
Eveleigh and Vertefeuille, Js.

Argued March 14—officially released June 26, 2012

Richard P. Weinstein, with whom was *Nathan A. Schatz*, for the appellants-appellees (plaintiffs).

Michael P. Berman, with whom was *Suzanne LaPlante*, for the appellee-appellant (defendant).

Opinion

ZARELLA, J. This certified appeal and cross appeal involve an issue of subject matter jurisdiction and statutory interpretation. The plaintiffs, Jonathan M. Keller and a group of business entities (Keller group),¹ argue that the trial court had subject matter jurisdiction over their complaint in this case, even though the underlying vexatious litigation claim against the defendant, Roz-Lynn Beckenstein, executrix of the estate of Robert J. Beckenstein, had yet to ripen into a cognizable claim, because General Statutes § 45a-363² conferred jurisdiction on the trial court for that type of claim. Accordingly, on appeal, the plaintiffs argue that the Appellate Court improperly determined that the trial court correctly had concluded that it lacked jurisdiction over the plaintiffs' complaint. The defendant responds that, although § 45a-363 sets forth the time period within which a party may bring a claim against an estate, it does not grant the trial court jurisdiction to act on those claims. Thus, the defendant argues, the trial court properly dismissed the plaintiffs' complaint for lack of subject matter jurisdiction because the claim was not ripe. The defendant further argues that the Appellate Court improperly vacated the trial court's judgment and remanded the case to the trial court for a determination of whether the claim had ripened during the pendency of the appeal. We agree with the plaintiffs that the Appellate Court improperly determined that the trial court correctly had concluded that it lacked subject matter jurisdiction over the plaintiffs' complaint at the time it was filed. We conclude that § 45a-363 provides the Superior Court a limited grant of jurisdiction over a complaint filed pursuant to that statute, even if the claim is not ripe when filed. We therefore need not reach the claim that the defendant raises in her cross appeal.

We adopt the following facts and procedural history set forth in the opinion of the Appellate Court. "On April 27, 2007, the Keller group filed a complaint against, inter alios, the defendant in which it sought damages for vexatious litigation [that led to the Appellate Court's decision in] *Beckenstein Enterprises-Prestige Park, LLC v. Keller*, [115 Conn. App. 680, 974 A.2d 764, cert. denied, 293 Conn. 916, 979 A.2d 488 (2009)].³ The trial court concluded that, because the Beckenstein group's⁴ appeal in that case was still pending before [the Appellate Court],⁵ the underlying allegedly vexatious litigation had not yet terminated in the Keller group's favor and its claim was not ripe for adjudication. Accordingly, the [trial] court [rendered judgment dismissing] the Keller group's action for lack of subject matter jurisdiction. The Keller group [did not] appeal from the [trial] court's judgment

"On April 11, 2008, while *Beckenstein Enterprises-Prestige Park, LLC v. Keller*, supra, 115 Conn. App. 680, was still pending before [the Appellate Court], the Keller

group filed a new action in the Superior Court [that is, the present action]. The Keller group once again sought damages for vexatious litigation stemming from *Beckenstein Enterprises-Prestige Park, LLC* In its complaint, the Keller group alleged that it had filed a notice of claim with the estate of Robert J. Beckenstein in the West Hartford Probate Court regarding the allegedly vexatious nature of *Beckenstein Enterprises-Prestige Park, LLC* The Keller group asserted that [the defendant rejected] this claim . . . on January 9, 2008. The Keller group argued that a statute of limitation contained in . . . § 45a-363 required it [either to file an action in the] Superior Court within 120 days of the defendant’s rejection of its claim or risk being time barred from seeking relief.⁶

“On May 15, 2008, the Keller group requested that the Superior Court stay its action until such time as *Beckenstein Enterprises-Prestige Park, LLC* . . . was decided by [the Appellate Court]. On May 22, 2008, the defendant filed a motion to dismiss the Keller group’s action. On September 30, 2008, the [trial] court granted the [defendant’s] motion to dismiss. The [trial] court concluded that the statutory limitation on the time period in which a plaintiff may pursue a claim in the Superior Court following a rejection of such claim by [the fiduciary of] an estate ‘does not imbue the Superior Court] with jurisdiction it does not otherwise have.’ As such, because *Beckenstein Enterprises-Prestige Park, LLC* . . . still had not been decided by [the Appellate Court], the trial court determined that the matter was not ripe for adjudication. Accordingly, the [trial] court once again concluded that it lacked subject matter jurisdiction over the Keller group’s [claim and rendered judgment dismissing the action].” (Citations omitted.) *Keller v. Beckenstein*, 122 Conn. App. 438, 440–42, 998 A.2d 838 (2010). The plaintiffs thereafter appealed to the Appellate Court from the trial court’s judgment.

The Appellate Court concluded that “the [trial] court correctly determined that the Keller group’s action was not ripe for adjudication *at the time the action was commenced*.” (Emphasis in original.) *Id.*, 439. Nevertheless, instead of affirming the trial court’s judgment, the Appellate Court noted that, “[d]ue to events that [had] occurred during the pendency of the Keller group’s appeal . . . there [was] . . . a question as to whether the Keller group’s claim [was] still not ripe for adjudication on the grounds relied on by the [trial] court.” *Id.* Accordingly, the Appellate Court “vacate[d] the judgment of the trial court and remand[ed] the case with direction to reconsider the motion to dismiss and to proceed in accordance with law.” *Id.*, 439–40.

With specific regard to the application of § 45a-363, the Appellate Court noted that “[§] 45a-363 is purely procedural in nature, governing the time within which to file [an action] against an estate when a claim has

been rejected by an executor or administrator. . . . The Keller group's argument, therefore, fails because § 45a-363 only sets a procedural limit on the time in which a party may pursue a cause of action stemming from a claim that was rejected by an estate; the statute does not independently create a cause of action or confer jurisdiction on the Superior Court Section 45a-363 (b) simply limits the period of time [within] which a plaintiff may pursue a cause of action over which the Superior Court would otherwise have jurisdiction. Accordingly, the [trial] court properly granted the defendant's motion to dismiss." (Citation omitted; internal quotation marks omitted.) *Id.*, 444–45.

Concerning the issue of ripeness, the Appellate Court stated that, "during the interval between the trial court's dismissal of the Keller group's complaint and oral argument before [the Appellate Court], certain events transpired that directly affect[ed] the ripeness of the Keller group's claim. On October 24, 2008, *Beckenstein Enterprises-Prestige Park, LLC v. Keller*, supra, 115 Conn. App. 680, the underlying allegedly vexatious litigation, was argued before the Appellate Court. . . . [O]n July 21, 2009, the Appellate Court affirmed the judgment in favor of the Keller group; *Beckenstein Enterprises-Prestige Park, LLC v. Keller*, supra, [115 Conn. App.] 683; and [the] Supreme Court . . . [denied certification to appeal]. [See] *Beckenstein Enterprises-Prestige Park, LLC v. Keller*, [293 Conn. 916, 979 A.2d 488 (2009)].

"We see no reason not to follow the rule, set forth in *Labbe [v. Pension Commission]*, 239 Conn. 168, 682 A.2d 490 (1996)], that it is the situation now rather than the situation at the time the matter was before the trial court that must govern [the court's] review of the ripeness of a claim. . . . Now that the Beckenstein group has exhausted its appeals [from] the trial court's judgment in *Beckenstein Enterprises-Prestige Park, LLC* . . . there is a question as to whether the Keller group's complaint is still unripe for adjudication on the grounds relied on by the [trial] court in . . . dismissing the complaint." (Citation omitted.) *Keller v. Beckenstein*, supra, 122 Conn. App. 446–47. Accordingly, the Appellate Court vacated the trial court's judgment and remanded the case for reconsideration of the defendant's motion to dismiss. *Id.*, 447.

The plaintiffs' certified appeal and the defendant's certified cross appeal followed.⁷ The plaintiffs contend that the Appellate Court improperly determined that the trial court correctly had concluded that it lacked jurisdiction over the plaintiffs' complaint. Specifically, the plaintiffs argue that the trial court had jurisdiction because § 45a-363 confers jurisdiction on the Superior Court over *any* case arising out of claims rejected by the fiduciary of an estate. In that connection, the plaintiffs argue that the judicially created doctrine of ripeness

must yield to the statute's grant of jurisdiction.⁸ The defendant responds by claiming that the Appellate Court properly determined that the trial court correctly had concluded that § 45a-363 is merely procedural and does not confer jurisdiction or create a cause of action and, accordingly, that the trial court lacked jurisdiction to entertain the plaintiffs' unripe claim.⁹ In her cross appeal, the defendant argues that the Appellate Court improperly applied *Labbe* in vacating the trial court's judgment. The plaintiffs respond to the defendant's cross appeal by claiming that the Appellate Court properly applied *Labbe*.

The plaintiffs' appeal implicates the issue of subject matter jurisdiction. As a preliminary matter, we note that "[i]t is well established that, in determining whether a court has subject matter jurisdiction, every presumption favoring jurisdiction should be indulged." (Internal quotation marks omitted.) *Wilcox v. Webster Ins., Inc.*, 294 Conn. 206, 214, 982 A.2d 1053 (2009). When reviewing an issue of subject matter jurisdiction on appeal, "[w]e have long held that because [a] determination regarding a trial court's subject matter jurisdiction is a question of law, our review is plenary. . . . Subject matter jurisdiction involves the authority of the court to adjudicate the type of controversy presented by the action before it. . . . [A] court lacks discretion to consider the merits of a case over which it is without jurisdiction The subject matter jurisdiction requirement may not be waived by any party, and also may be raised by a party, or by the court sua sponte, at any stage of the proceedings, including on appeal." (Internal quotation marks omitted.) *Richardson v. Commissioner of Correction*, 298 Conn. 690, 696, 6 A.3d 52 (2010).

The plaintiffs' appeal also raises questions of statutory interpretation, insofar as we are required to construe § 45a-363. Issues of statutory interpretation "constitute questions of law over which the court's review is plenary. The process of statutory interpretation involves the determination of the meaning of the statutory language as applied to the facts of the case, including the question of whether the language does so apply. . . . When construing a statute, [the court's] fundamental objective is to ascertain and give effect to the apparent intent of the legislature. . . . 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." (Internal

quotation marks omitted.) *Stewart v. Watertown*, 303 Conn. 699, 710–11, 38 A.3d 72 (2012).

The plaintiffs' claim on appeal requires us to determine whether § 45a-363 confers jurisdiction on the Superior Court over complaints filed pursuant to that statute, premised on a claim, including an unripe claim, that has been rejected by the fiduciary of an estate. Several statutes in addition to § 45a-363 are relevant to our decision and provide the necessary background regarding the role that § 45a-363 plays in our probate law.

First, a party who holds a claim against an estate must present that claim first to the fiduciary.¹⁰ See General Statutes § 45a-358 (a) (“[e]very claim shall be presented to the fiduciary in writing”). If the claimant holds an unmatured, contingent or unliquidated claim, the claimant also may petition the Probate Court to reserve estate assets as security for the claim, should it eventually be allowed. See General Statutes § 45a-359 (a).¹¹ Second, if the fiduciary rejects the claim after being presented with it, the claimant must either petition the Probate Court to review the rejection or file a complaint in the Superior Court. See General Statutes §§ 45a-363 (b) and 45a-364 (a). Each of these actions must occur within a specified time period. See General Statutes §§ 45a-363 (b) and 45a-364 (a). Significantly, if the claimant elects to proceed in Probate Court, or with a commission appointed by the Probate Court, the claimant is subject to the provisions of § 45a-364 and will not be able to present the claim to a jury.¹² Thus, a claimant who wishes to have a jury trial before the Superior Court must follow § 45a-363 (b) by bringing an action on the claim within 120 days following its rejection by the fiduciary.

Having delineated the various means that claimants may use to resolve a claim, we now address the types of claims that are covered by this statutory scheme. General Statutes § 45a-353 (d) provides a specific, yet broad, definition of the term “claim” as used in foregoing statutes, including § 45a-363. “‘Claim’ means *all* claims against a decedent (1) existing at the time of the decedent’s death or (2) arising after the decedent’s death, *including*, but not limited to, *claims which are mature, unmatured, liquidated, unliquidated, contingent*, founded in tort, or in the nature of exoneration, specific performance or replevin” (Emphasis added.) General Statutes § 45a-353 (d). It is therefore clear that the statutory scheme encompasses the situation in which a party may hold an unmatured, unliquidated or contingent claim against a decedent’s estate that has been rejected by the fiduciary. The claimant then may bring an action to recover on the claim in the Superior Court. Accordingly, the Superior Court may be presented with a complaint premised on an unripe claim. In simpler terms, because § 45a-363 provides that

a claimant may bring an action on any type of rejected claim in the Superior Court, the statute necessarily confers on the Superior Court the jurisdiction to act on *any* claim filed pursuant to that statute. See *MBNA America Bank, N.A. v. Boata*, 283 Conn. 381, 389, 926 A.2d 1035 (2007) (“our state constitution vests the legislature with the duty to define [through statute] the subject matter jurisdiction of the state’s constitutional courts”). For this reason, we conclude that the Superior Court had jurisdiction over the plaintiffs’ complaint in the present case and that the Appellate Court improperly concluded to the contrary.

The defendant argues otherwise and contends that the term “claim,” as used in § 45a-363, necessarily does not include contingent claims because, if it did, the Superior Court could act on unripe, contingent claims in contravention of our justiciability requirement. As we explained in *Office of the Governor v. Select Committee of Inquiry*, 271 Conn. 540, 858 A.2d 709 (2004), “[b]ecause courts are established to resolve actual controversies, before a claimed controversy is entitled to a resolution on the merits it must be justiciable. . . . Justiciability requires (1) that there be an actual controversy between or among the parties to the dispute . . . (2) that the interests of the parties be adverse . . . (3) that the matter in controversy be capable of being adjudicated by judicial power . . . and (4) that the determination of the controversy will result in practical relief to the complainant. . . . [J]usticiability comprises several related doctrines, namely, standing, ripeness, mootness and the political question doctrine, that implicate a court’s subject matter jurisdiction and its competency to adjudicate a particular matter.” (Citations omitted; internal quotation marks omitted.) *Id.*, 568–69.

Specifically, the defendant contends that allowing the Superior Court to act on unripe claims would be inconsistent with this court’s justiciability requirement and would undermine the stability of the judicial system. We reject the defendant’s argument. The defendant’s argument contradicts the plain language of the statute. As we noted previously, the statutory scheme provides for a specific, broad definition of the term “claim,” as used in § 45a-363. There is no separate definition pertaining to § 45a-363, as the defendant argues. The defendant’s argument in this regard violates one of the basic tenets of statutory construction, namely, that “when a statutory definition applies to a statutory term, the courts must apply that definition.”¹³ *Commissioner of Environmental Protection v. Mellon*, 286 Conn. 687, 692–93 n.7, 945 A.2d 464 (2008). In essence, the defendant seeks to place a gloss on the statute that contradicts its plain meaning. We decline to do so.

The defendant’s argument also fails because it represents a misunderstanding of the legislature’s authority

to establish the subject matter jurisdiction of the courts in this state. It is undisputed that the legislature, through statute, defines the jurisdiction of the Superior Court. See Conn. Const., art. V, § 1 (“The judicial power of the state shall be vested in a supreme court, a superior court, and such lower courts as the general assembly shall, from time to time, ordain and establish. The powers and jurisdiction of these courts shall be defined by law.”); General Statutes § 51-164s (“[t]he Superior Court shall be the sole court of original jurisdiction for all causes of action . . . as provided by statute”); *MBNA America Bank, N.A. v. Boata*, supra, 283 Conn. 389 (“our state constitution vests the legislature with the duty to define the subject matter jurisdiction of the state’s constitutional courts”). Although the defendant concedes this generally,¹⁴ she nevertheless argues that the doctrine of ripeness divests the Superior Court of jurisdiction over contingent claims rejected by a fiduciary, such as the plaintiffs’ claim in the present case.

Ripeness, however, is not a statutory restriction of a court’s jurisdiction. Rather, it is a judicially created doctrine of justiciability that implicates a court’s subject matter jurisdiction. See, e.g., *Office of the Governor v. Select Committee of Inquiry*, supra, 271 Conn. 569 (“justiciability comprises several related doctrines, namely, standing, ripeness, mootness and the political question doctrine, that implicate a court’s subject matter jurisdiction and its competency to adjudicate a particular matter”). Simply put, when the legislature has determined that the Superior Court has jurisdiction over a particular type of claim, we cannot rescind that grant of jurisdiction. Cf. *Raftopol v. Ramey*, 299 Conn. 681, 695, 12 A.3d 783 (2011) (“[When] a decision as to whether a court has subject matter jurisdiction is required, every presumption favoring jurisdiction should be indulged. . . . We often have stated that the Superior Court is a court of general jurisdiction. . . . Article fifth, § 1 of the Connecticut constitution proclaims that [t]he powers and jurisdiction of the courts shall be defined by law, and . . . § 51-164s provides that [t]he Superior Court shall be the sole court of original jurisdiction for all causes of action . . . as provided by statute. . . . [T]he general rule of jurisdiction . . . is that nothing shall be intended to be out of the jurisdiction of [the] Superior Court but that which specially appears to be so” [Citations omitted; internal quotation marks omitted.]). In the present case, our common-law ripeness doctrine must yield to the legislature’s decision to grant jurisdiction over the type of claims identified in §§ 45a-353 (d) and 45a-363.

Finally, it is worth noting that we previously have not employed our justiciability doctrine in so rigid a manner that would foreclose all possible review of a claim. See, e.g., *Office of the Governor v. Select Committee of Inquiry*, supra, 271 Conn. 572 (“[T]o deny the [appellant] review of its constitutional challenge at this

point would render impossible any review whatsoever of [its] claims To countenance such a result would be to transform the ripeness doctrine from a principle that counsels against premature judicial involvement in a particular controversy into a principle that forecloses, for all time, any judicial involvement in the dispute. We therefore reject the [appellee's] claim as fundamentally incompatible with the underpinnings of the ripeness doctrine itself." [Citation omitted; internal quotation marks omitted.]; cf. *Loisel v. Rowe*, 233 Conn. 370, 382, 660 A.2d 323 (1995) (setting forth test for determining whether "an otherwise moot question [will] qualify for review under the 'capable of repetition, yet evading review' exception"). Thus, we conclude that the ripeness doctrine does not preclude the Superior Court from exercising jurisdiction over a claim filed pursuant to § 45a-363. We agree with the plaintiffs that the Appellate Court improperly determined that the trial court correctly had concluded that it lacked jurisdiction. This conclusion terminates the case for the purposes of this appeal, and, accordingly, we do not reach the defendant's cross appeal.

The judgment of the Appellate Court is reversed and the case is remanded to that court with direction to remand the case to the trial court with direction to deny the motion to dismiss and for further proceedings according to law.

In this opinion the other justices concurred.

¹ The Keller group includes the following entities: Fremont Group, LLC; Fremont 155, LLC; Fremont 131, LLC; Fremont 183, LLC; Fremont Riverview, LLC; Fremont Prestige Park, LLC; and 654 Tolland Street, LLC.

² General Statutes § 45a-363 provides in relevant part: "(a) No person who has presented a claim [to the fiduciary of an estate] shall be entitled to commence suit unless and until such claim has been rejected, in whole or in part, as provided in section 45a-360.

"(b) Unless a person whose claim has been rejected (1) commences suit within one hundred twenty days from the date of the rejection of his claim, in whole or in part, or (2) files a timely application pursuant to section 45a-364, he shall be barred from asserting or recovering on such claim from the fiduciary, the estate of the decedent or any creditor or beneficiary of the estate, except for such part as has not been rejected. . . ."

³ "[T]he parties have been involved in various litigation for a number of years. Previously, entities associated with the defendant (Beckenstein group) sued the Keller group, alleging tortious interference with contractual relations. That action was tried to a jury, which returned a verdict in favor of the Keller group. The Beckenstein group [which consists of Beckenstein Enterprises-Prestige Park, LLC, 155 Realty, Riverview Square, LLC, Riverview Square II, LLC, and Tolland Enterprises] appealed from that judgment to [the Appellate Court], the Keller group again prevailed, and [this court denied certification to appeal from the judgment of the Appellate Court]. [See] *Beckenstein Enterprises-Prestige Park, LLC v. Keller*, [supra, 115 Conn. App. 682–83, 696; see also *Beckenstein Enterprises-Prestige Park, LLC v. Keller*, 293 Conn. 916, 979 A.2d 488 (2009)]." *Keller v. Beckenstein*, 122 Conn. App. 438, 440, 998 A.2d 838 (2010).

⁴ The Beckenstein group consists of five entities associated with the defendant. See footnote 3 of this opinion.

⁵ The Appellate Court released its opinion in *Beckenstein Enterprises-Prestige Park, LLC v. Keller*, supra, 115 Conn. App. 680, on July 21, 2009.

⁶ This aspect of the present action, which was filed on April 11, 2008, distinguishes it from the action filed on April 27, 2007.

⁷ We granted the plaintiffs' petition for certification to appeal limited to the following issue: "Did the Appellate Court properly conclude that the trial court properly determined that it lacked subject matter jurisdiction

over the plaintiffs' [claim] based on ripeness grounds?" *Keller v. Beckenstein*, 298 Conn. 921, 4 A.3d 1227 (2010). We also granted the defendant's cross petition for certification to appeal limited to the following issue: "Did the Appellate Court properly determine that the trial court's dismissal should be vacated?" *Keller v. Beckenstein*, 298 Conn. 921, 4 A.3d 1227 (2010).

⁸ The plaintiffs have acknowledged, in their complaint and throughout this appeal, that the claim in the complaint was not ripe when it was filed.

⁹ The defendant further argues that the plaintiffs have alternative means to resolve their claim, and, therefore, the trial court's dismissal of their claim does not foreclose their ability to recover. The defendant claims that this fact militates against excepting the plaintiffs' claim from the ripeness requirement. We address this argument in footnotes 11 and 12 of this opinion.

The defendants also appear to argue that the plaintiffs' primary argument on appeal, namely, their argument regarding the inapplicability of the ripeness doctrine to their vexatious litigation claim, is not properly before this court because the plaintiffs failed to raise that claim in the trial court. We disagree. The plaintiffs have addressed the ripeness doctrine by consistently acknowledging, both explicitly and implicitly, that their claim was contingent on the termination of the appeal of the underlying litigation in their favor. The plaintiffs' complaint states this, and the plaintiffs also filed a motion to stay with the trial court on the sole ground that their claim was not ripe for review.

¹⁰ Failure to present a claim will normally exonerate the fiduciary from any liability for the claim, provided notice was properly effected. See General Statutes § 45a-354 (a) (notice to creditors provided by Probate Court); General Statutes § 45a-356 (a) (effect of failure to present claim); General Statutes § 45a-357 (a) (optional notice procedures for fiduciary).

¹¹ General Statutes § 45a-359 (a) provides in relevant part: "If, at the death of any person, there shall be an unmatured, contingent or unliquidated claim or an outstanding bond, note, recognizance or undertaking upon which he was principal, surety, or indemnitor and on which at the time of his death the liability was unmatured, contingent or unliquidated, then the Court of Probate shall . . . conduct a hearing to determine whether a reserve from the assets of the estate should be established to secure the payment of the unmatured, contingent or unliquidated claim. Following such hearing the Court of Probate shall issue an order that (A) no reserve be established or (B) the fiduciary establish a reserve from the assets of the estate in such amount as the court may deem reasonable to secure the payment of the unmatured, contingent or unliquidated claim when the amount thereof shall become due and payable; provided in no event shall the amount of such reserve exceed the difference between the amount of any such unmatured, contingent or unliquidated claim and the value of any security or collateral to which the creditor may resort for payment of such claim. . . ."

The defendant suggests that this mechanism could provide the plaintiffs with an adequate resolution of their claim in this case. We disagree. Section 45a-359 merely provides security for an indefinite claim. It does not address whether the claimant may actually collect on that claim.

¹² General Statutes § 45a-364 provides a claimant with means other than those set forth in § 45a-363 to recover on a claim that a fiduciary has rejected and provides in relevant part: "(a) Whenever a claim has been rejected, in whole or in part, as provided in section 45a-360, the person whose claim has been rejected may, within thirty days from and including the date of such rejection, make application to the Court of Probate to hear and decide such claim or, in the alternative, may apply to said court for the appointment of one or more disinterested persons, at least one of whom shall be an attorney-at-law, admitted to practice in this state, to be a commissioner or commissioners to hear and decide such claim. . . . The court may, in its discretion, grant the application, hear and decide such claim if the application so requests or appoint such commissioner or commissioners to hear and decide such claim. . . ."

"(b) Upon application of such commissioner or commissioners or upon its own motion, the Court of Probate shall give notice of the time and place set forth for the hearing to decide such claim"

"(c) If the application to receive and decide such claim by the court or for the appointment of a commissioner or commissioners is denied, the claimant shall commence suit within one hundred twenty days from and including the date of the denial of his application or be barred from asserting or recovering on such claim from the fiduciary, the estate of the decedent or any creditor or beneficiary of the estate.

“(e) The determination of such commissioner or commissioners shall be final on the date the report of such commissioner or commissioners is filed in the Court of Probate, and the court shall thereupon enter an order approving the report unless the court finds that the commissioner or commissioners were guilty of misconduct substantially affecting the validity of the report or that the report is clearly erroneous. Upon rejection of the report, the Court of Probate may hear and determine such claim or appoint a different commissioner or commissioners to hear and determine such claim as otherwise provided in this section. . . .”

Thus, it is clear from the statute that a claimant forgoes the right to a jury, or any trial, in the Superior Court if the claimant elects to pursue the procedure set forth in § 45a-364. Accordingly, we reject the defendant’s argument that the plaintiffs in the present case had an adequate, alternative and equivalent remedy in § 45a-364.

¹³ Additionally, applying a narrower definition to the term “claim” in § 45a-363 would lead to the unworkable result that the Superior Court would have jurisdiction to entertain only some claims rejected by a fiduciary. Nothing in § 45a-363 or the related statutes suggests that the legislature intended that different types of claims should be treated differently. For the same reason, we reject the defendant’s argument that applying the statutory definition of “claim” in § 45a-353 (d) to § 45a-363 renders the statute unworkable, and, thus, extratextual evidence must be examined. See General Statutes § 1-2z.

¹⁴ At oral argument before this court, the defendant acknowledged this point.
