

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

ANTONIA TORCASIO,	x	
	:	
Plaintiff,	:	Civil No. 3:15-cv-0053 (AWT)
	:	
v.	:	
	:	
NEW CANAAN BOARD OF EDUCATION, TOWN	:	
OF NEW CANAAN, and BRUCE GLUCK,	:	
	:	
Defendants.	:	
	x	

ORDER RE MOTION FOR SUMMARY JUDGMENT AS TO COUNTERCLAIM

For the reasons set forth below, the Motion for Summary Judgment as to Defendant-Counterclaim Plaintiff New Canaan Board of Education's Counterclaim Against Plaintiff-Counterclaim Defendant (Doc. No. 103) is hereby DENIED.

A party seeking recovery for unjust enrichment must prove three elements: "(1) that the defendant[] [was] benefitted; (2) that the defendant[] unjustly did not pay the plaintiff for the benefits; and (3) that the failure of payment was to the plaintiff's detriment." Marlin Broad., LLC v. Law Office of Kent Avery, LLC, 101 Conn. App. 638, 648-49 (2007) (quoting Hartford Whalers Hockey Club v. Uniroyal Goodrich Tire Co., 231 Conn. 276, 283 (1994)). "A right of recovery under the doctrine of unjust enrichment is essentially equitable, its basis being that in a given situation it is contrary to equity and good conscience for one to retain a benefit which has come to him at

the expense of another.” Meaney v. Conn. Hosp. Ass’n, 250 Conn. 500, 511 (1999). “Unjust enrichment is, consistent with the principles of equity, a broad and flexible remedy.” Id. at 512. “With no other test than what, under a given set of circumstances, is just or unjust, equitable or inequitable, conscionable or unconscionable, it becomes necessary in any case where the benefit of the doctrine is claimed, to examine the circumstances and the conduct of the parties and apply this standard.” Id. at 511-12.

Here, genuine issues of material fact exist as to whether it was unjust that the plaintiff did not pay for a benefit she received. Determination of the factual questions raised by the plaintiff with respect to the surviving counts in her complaint is a necessary precondition to a determination as to whether, under all the circumstances here, it was unjust that the plaintiff did not pay for the benefits.

It is so ordered.

Signed this 20th day of March, 2017, at Hartford, Connecticut.

/s/ AWT
Alvin W. Thompson
United States District Judge