

DOCKET NO: LLICV245016307S

SUPERIOR COURT

MADORRAN, ROBERT  
V.  
KOHLER, LESLIE Et AlJUDICIAL DISTRICT OF LITCHFIELD  
AT TORRINGTON

6/3/2024

ORDERORDER REGARDING:  
03/28/2024 100.31 APPLICATION FOR PREJUDGMENT REMEDY

The foregoing, having been considered by the Court, is hereby:

ORDER:

The foregoing, having been considered by the Court, is hereby:

ORDER: DENIED

The Court hereby finds that there is no probable cause that a judgment in the amount of the prejudgment remedy sought, or in an amount greater than the amount of the prejudgment remedy sought, taking into account any known defenses, counterclaim or set-offs, will be rendered in such matter in favor of the applicant.

Probable cause means a bona fide belief in facts essential under the law for the action and such as would lead a reasonable, prudent person to entertain such belief. *Dufraime v. CHRO*, 236 Conn. 250, 261 (1996). Probable cause must exist as to both the merits and damages. *Kosiorek v. Smigelski*, 112 Conn. App. 315, 322-23, cert. denied, 291 Conn. 903 (2009).

The probable cause standard applies even in cases where the plaintiff has to meet a higher burden of proof, e.g., clear and convincing evidence, at trial. Nonetheless, the court should consider the requisite burden of proof when determining whether the plaintiff has demonstrated probable cause as it may affect the trial court's view of whether there is a bona fide reason to believe the plaintiff could prevail. *ASPIC, LLC v. Poitier*, 179 Conn. App. 631, 643-44 (2018).

The plaintiff seeks a prejudgment remedy totaling \$750,000.

The court finds the plaintiff did not submit sufficient evidence to satisfy its burden under General Statutes §52-278d (a) to prove that there is probable cause to sustain the validity of his claim against this defendant.

It is undisputed that there was no stop sign at the corner of Nettleton Hollow Road and Route 109. The court finds that the defendant previously traveled on that road but on only a handful of occasions. The court does not find probable cause that the defendant will be found negligent for failing to stop when there was no stop sign directing that she do so.

Other courts have found "[a] missing stop sign is a highway defect within the meaning of § 13a-149. *Sousa v. Brookfield*, supra, 6 Conn. L. Rptr. 469. See also *Scully v. Newman*, Superior Court, judicial district of Stamford/Norwalk at Stamford, Docket No. 014838 (Mar. 15, 1996, Karazin, J.), aff'd. per curiam, 45 Conn.App. 957 (1997); *Dunbar v. Stamford*, Superior Court, judicial district of Fairfield at Bridgeport, Docket No. 310727 (May 5, 1994, Fuller, J.) (11 Conn. L. Rptr. 448)."

*Ismail v. City of Hartford*, No. CV 960566487S, 1997 WL 688748, at \*3 (Conn. Super. Ct. Oct. 24,

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1997).

The court cannot find any probable cause to support a negligence claim against this defendant.

Accordingly, the court denies the plaintiff's request for a prejudgment remedy against the defendant.

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Judge: ANN E LYNCH

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