


DOCKET NO. HHD CV 22-6158251-S : SUPERIOR COURT
ALEJANDRO RAMOS : JUDICIAL DISTRICT OF HARTFORD
V. : AT HARTFORD
HOME DEPOT U.S.A., INC. : APRIL 24, 2024

MEMORANDUM OF DECISION
ON MOTION FOR SUMMARY JUDGMENT (#105)

The plaintiff was shopping at a Home Depot store when another customer accidentally dropped a steel pipe on his head. The customer immediately acknowledged responsibility for the accident. The plaintiff and the customer jointly reported the incident to a Home Depot assistant manager. Nonetheless, the plaintiff filed this suit against defendant Home Depot U.S.A., Inc. (Home Depot), falsely claiming that a Home Depot *employee* dropped the pipe and further alleging that the pipe itself, or the way it was stored, was defective. Meanwhile, in a separate action filed in New Haven Superior Court and subsequently consolidated with this case, the plaintiff has sued the customer for dropping the pipe on his head.

Before the court is Home Depot’s motion for summary judgment. It has presented the sworn statement of the customer who dropped the pipe on the plaintiff’s head. The plaintiff has presented no evidence opposing the summary judgment motion. Instead, he relies solely on the allegations of his complaint.

For the following reasons, Home Depot has met its burden of establishing that there are no genuine issues of material fact as to causation and that it is entitled to summary judgment as a matter of law.

FILED
2024 APR 24 A 10:51
OFFICE OF THE CLERK
SUPERIOR COURT
HARTFORD J.D.
114 

UNDISPUTED FACTS

Home Depot's motion and supporting documents establish the following undisputed facts:

1. On July 2, 2020, at approximately 3 p.m., the plaintiff was shopping at the Home Depot in Manchester, Connecticut. He was in the plumbing aisle when the accident occurred. Affidavit of Harvey Glazer, attached as Exhibit G (Ex. G) to defendant's Motion for Summary Judgment (#105) (MSJ).

2. Another customer, Harvey Glazer (Glazer), was standing close to the plaintiff in the aisle. The plaintiff was kneeling. Glazer reached and obtained a pipe from one of the bays in the aisle. The pipe slipped out of Glazer's hand, fell approximately six inches and hit the plaintiff's head. Glazer promptly apologized. He and the plaintiff then reported the accident to an assistant manager of the store. Ex. G. See also Incident Witness Statement, attached as Exhibit C to Motion for Summary Judgment ("I pulled a 18 [inch] x $\frac{3}{4}$ pipe out of compartment and the end of the pipe fell on other persons head. It dropped about 6 [inches]"); Exhibit B (stating that plaintiff was kneeling when accident occurred).

3. No Home Depot employee was near the plaintiff or Glazer when the accident occurred. MSJ, Ex. G.

4. The plaintiff commenced this action by complaint dated June 24, 2022. The Complaint alleges—falsely—that an unidentified Home Depot *employee*, not Glazer, caused the steel pipe to drop on the plaintiff's head. Complaint (Compl.), at ¶¶ 2-5. The Complaint includes six specifications of negligence, including that Home Depot "failed to take adequate measures for the proper placement and securing of [the pipe.]"

5. Home Depot removed the Complaint to the United States District Court for the District of Connecticut.

6. On December 13, 2022, the plaintiff filed a Motion to Amend the Complaint in Federal Court to add Glazer as a defendant. In the motion to amend, the plaintiff stated that he learned of Glazer's role through documents that Home Depot produced in discovery. See MSJ, Exs. E and F.

7. On or about December 22, 2022, while the Federal Court and motion to amend were pending, the plaintiff filed a complaint in the Judicial District of New Haven against Glazer. MSJ, Ex. I.¹

8. The plaintiff alleges in the Glazer Action that "Glazer was reaching, pulling, and/or handling products located above the Plaintiff when a steel pipe was caused to fall upon the Plaintiff, causing the Plaintiff to suffer injuries, losses, and damages...."

9. On July 10, 2023, the federal court remanded this matter to state court.

10. On August 15, 2023, Home Depot filed its motion for summary judgment.

11. On December 18, 2023, the plaintiff filed a Request for Leave to Amend Complaint. The proposed Amended Complaint correctly alleges that Glazer, not a Home Depot employee, caused the pipe to fall on the plaintiff's head. However, the Amended Complaint retains the allegations that the pipe or its manner of storage were defective.

¹ The action against was Glazer has been consolidated with this case for procedural purposes, including trial. Order (#106.86) (granting motion to consolidate). The court's ruling on Home Depot's summary judgment motion is intended solely to resolve this case, not the action against Glazer.

II

DISCUSSION

A

Summary Judgment Standard

“The standards governing our review of a trial court's decision to grant a motion for summary judgment are well established. Practice Book [§ 17-49] provides that summary judgment shall be rendered forthwith if the pleadings, affidavits and any other proof submitted show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.... In deciding a motion for summary judgment, the trial court must view the evidence in the light most favorable to the nonmoving party.... The party seeking summary judgment has the burden of showing the absence of any genuine issue [of] material facts which, under applicable principles of substantive law, entitle him to a judgment as a matter of law ... and the party opposing such a motion must provide an evidentiary foundation to demonstrate the existence of a genuine issue of material fact.... A material fact ... [is] a fact which will make a difference in the result of the case.” *DiPietro v. Farmington Sports Arena, LLC*, 306 Conn. 107, 49 A.3d 951 (2012).

B

Home Depot argues for summary judgment on two distinct grounds: (1) the undisputed facts show that Glazer was the sole proximate cause of the accident. MSJ, p. 12; (2) there is no evidence from which a jury reasonably could conclude that Home Depot defectively stored the steel pipes and that, even if a defect existed, there is no evidence Home Depot had notice of the defect. MSJ, p. 9.

Before addressing these arguments, the court is compelled to comment on the indisputably false allegation in the original Complaint that a Home Depot employee, not a customer, caused the steel pipe to fall on the plaintiff's head.² There are only three possible explanations for that allegation: (1) the plaintiff was not truthful to his counsel about how the accident occurred; (2) the plaintiff was truthful, yet counsel willfully filed a false and misleading pleading against Home Depot; or (3) the plaintiff was truthful, but the pleading contains a drafting error.³ The record is inadequate to permit the court to determine which of these possibilities reflects reality, but the court presumes that plaintiff's counsel did not draft and file a complaint with actual knowledge that the Home Depot employee allegation was false.

Turning to the merits of Home Depot's motion, the court reiterates that the plaintiff has not produced a scintilla of actual evidence to contradict the evidence Home Depot has presented about how the accident happened. Home Depot's uncontradicted evidence establishes that Glazer was the sole proximate cause of the plaintiff's alleged injuries.

The plaintiff responds that Home Depot has not established the absence of issues of fact concerning his specifications of negligence, including that the pipe itself was defective or that the manner in which it was stored and secured on the shelves was defective. Response to Motion for Summary Judgment (dated Dec. 18, 2023) (#112), p.3 ("The issue raised by the Defendant in its Summary Judgment Motion is moot as the Plaintiff has acknowledged that Harvey Glazer *may* have subsequently dropped the pipe. However, there are still genuine issues as to material

² Home Depot has not objected to the plaintiff's request for leave to file the Amended Complaint. Accordingly, the court shall treat the summary judgment motion as seeking judgment on the Amended Complaint.

³ The court rejects a fourth possibility—that the allegation in the complaint is true and that Glazer's sworn statement is false—because the plaintiff has not rebutted Glazer's statement and, in fact, has commenced a separate lawsuit against him and has amended the complaint in this case.

facts surrounding the defective pipe itself and the manner in which the Defendant placed and[/]or secured the pipe on display, which is the basis for Plaintiff's claim against Home Depot U.S.A., Inc.") (Emphasis added.)

This argument is without merit. First, the undisputed evidence establishes that Glazer dropped the pipe, not that he "may" have dropped the pipe. Second, Glazer's uncontradicted statement of how the accident occurred negates any reasonable possibility that the defects alleged in the complaint concerning the pipe or its manner of storage were a substantial factor in the accident. *Snell v. Norwalk Yellow Cab, Inc.*, 332 Conn. 720, 744, 212 A.3d 646 (2019) ("The test for proximate cause is whether the defendant's conduct was a substantial factor in producing the plaintiff's injury.")

Under the factual circumstances of this case, it was incumbent upon the plaintiff to respond to Home Depot's motion with admissible evidence—not mere allegations—that Glazer's conduct was not the sole proximate cause of the accident. In other words, the plaintiff needed to present evidence that one or more of the alleged defects were a substantial factor in producing his injuries. He failed to meet this burden.

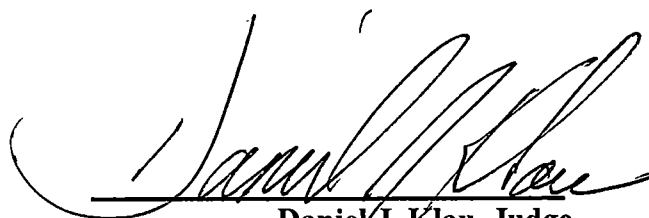
The court acknowledges that the summary judgment procedure is "ill-adapted to negligence cases where ... the ultimate issue in contention involves a mixed question of fact and law, and requires the trier of fact to determine whether the standard of care was met in a specific situation." *Michaud v. Gurney*, 168 Conn. 431, 434, 362 A.2d 857 (1975). Yet as Judge, now Chief Justice Robinson has noted, that general rule has exceptions. *DeJesus v. Rowe*, No. CV010446290S, 2002 WL 172666, at *3 (Conn. Super. Ct. Jan. 8, 2002) ("This case fits into the exception of the general rule concerning summary judgment in negligence cases and therefore plaintiff's motion for summary judgment as to liability only is granted.")

In sum, Home Depot has presented evidence that Glazer was the sole proximate cause of the accident. The plaintiff has offered no evidence challenging Glazer's description of how the accident occurred. The allegations in the complaint are insufficient to create a genuine issue of material fact concerning causation. "Mere assertions of fact . . . are insufficient to establish the existence of a material fact. . . ." *Marinosi Poirot*, 308 Conn. 706, 712, 66 A.3d 860 (2013).

III

CONCLUSION

For the foregoing reasons, the defendant's motion for summary judgment is GRANTED. Judgment shall enter for the defendant.⁴



Daniel J. Klau, Judge

⁴ Because the court has resolved Home Depot's motion on causation grounds, the court does not address Home Depot's alternative argument for summary judgment.

Checklist for Clerk

Docket Number: HHD CV22-6158251S

Case Name: Ramos v. Home Depot

Memorandum of Decision dated: 4/24/2024

File Sealed: Yes No X

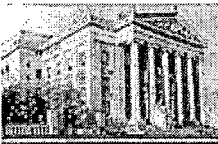
Memo Sealed: Yes No X

This Memorandum of Decision may be released to the Reporter of Judicial Decisions for Publication XXXX

This Memorandum of Decision may NOT be released to the Reporter of Judicial Decisions for Publication

\\CO95\Common\Hartford JD Policy Manual\Sealed files\MOD memo.doc

FILED
2024 APR 24 A 10:51
OFFICE OF THE CLERK
SUPERIOR COURT
HARTFORD J.D.



State of Connecticut Judicial Branch Superior Court Case Look-up



Superior Court Case Look-up
Civil/Family
Housing
Small Claims

HHD-CV22-6158251-S

RAMOS, ALEJANDRO v. HOME DEPOT U.S.A., INC.

Prefix: HD3 **Case Type:** T03 **File Date:** 07/13/2022 **Return Date:** 07/26/2022

[Case Detail](#) | [Notices](#) | [History](#) | [Scheduled Court Dates](#) | [E-Services Login](#) | [Screen Section Help](#) | [Exhibits](#)

[To receive an email when there is activity on this case, click here.](#)

[Attorney/Firm Juris Number Look-up](#)

Case Look-up

By Party Name
By Docket Number
By Attorney/Firm Juris Number
By Property Address

This case is consolidated with one or more cases

Information Updated as of: 04/24/2024

Case Information

Case Type: T03 - Torts - Defective Premises - Private - Other
Court Location: HARTFORD JD
List Type: No List Type
Trial List Claim:

Short Calendar Look-up

By Court Location
By Attorney/Firm Juris Number
Motion to Seal or Close
Calendar Notices

Last Action Date: 12/29/2023 (The "last action date" is the date the information was entered in the system)

Court Events Look-up

By Date
By Docket Number
By Attorney/Firm Juris Number

Disposition Information

Disposition Date:
Disposition:
Judge or Magistrate:

Legal Notices

[Pending Foreclosure Sales](#)

Understanding

[Display of Case Information](#)

[Contact Us](#)

Party & Appearance Information

Party

No Fee Party Category

P-01 ALEJANDRO RAMOS

Attorney: DRESSLER STRICKLAND (106079)
84 CEDAR STREET
HARTFORD , CT 06106

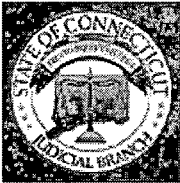
File Date: 07/13/2022

Plaintiff

D-01 HOME DEPOT U.S.A., INC.

Attorney: CAROLINE BOUSCAREN LAPISH (429909) File Date: 07/26/2023
125 HIGH STREET
OLIVER STREET TOWER, 6TH
BOSTON , MA 02110

Defendant



Comments

Viewing Documents on Civil, Housing and Small Claims Cases:

If there is an in front of the docket number at the top of this page, then the file is electronic (paperless).

- Documents, court orders and judicial notices in electronic (paperless) civil, housing and small claims cases with a return date on or after January 1, 2014 are available publicly over the internet.* For more information on what you can view in all cases, view the [Electronic Access to Court Documents Quick Card](#).
- For civil cases filed prior to 2014, court orders and judicial notices that are electronic are available publicly over the internet. Orders can be viewed by selecting the link to the order from the list below. Notices can be viewed by clicking the [Notices](#) tab above and selecting the link.*
- Documents, court orders and judicial notices in an electronic (paperless) file can be viewed at any judicial district courthouse during normal business hours.
- Pleadings or other documents that are not electronic (paperless) can be viewed only during normal business hours at the Clerk's Office in the Judicial District where the case is located.*
- An Affidavit of Debt is not available publicly over the internet on small claims cases filed before October 16, 2017.*

OFFICE OF THE CLERK
SUPERIOR COURT
HARTFORD, CT 06101
APR 24 10:11 AM '22