

DOCKET NO. FBT CV21- 6111848 S	OFFICE OF THE CLERK SUPERIOR COURT	SUPERIOR COURT
CHRISTINA ALBANO	2024 MAY 16 P 2:30	J.D. OF BRIDGEPORT
V.	JUDICIAL DISTRICT OF BRIDGEPORT	AT BRIDGEPORT
WAL-MART TRANSPORT, LLC	:	MAY 16, 2024

MEMORANDUM OF DECISION

The above-referenced matter was tried before the undersigned on May 9, 2024. The plaintiff was represented by Attorney Joseph DeLucia, and the defendant was represented by Attorneys Peter Garvey and Brooke Pearsons.

This lawsuit results from a motor vehicle incident that occurred on Interstate 95 southbound in Bridgeport, Connecticut on December 3, 2019. The plaintiff alleges that, as she was traveling in the middle of the southbound lanes, a large sheet of ice came off the roof of the defendant's vehicle, striking the hood and the windshield of her car, causing her personal injuries and losses.

As she saw the sheet of ice come toward her car, she took her foot off the gas and braced for an impact. She could not brake because she would have been rear-ended in the heavy traffic. The ice struck her vehicle as aforesaid, causing approximately \$3200 in property damage, which was paid by the defendant.

The plaintiff brought the instant claim against the defendant in a one-count complaint dated November 30, 2021. The sole cause of action against the defendant within that complaint

5/16/24 : JDNO sent. Notice to RJD.
jen Luman Asst. Clerk

was the negligence and carelessness of the defendant in failing to remove accumulated ice from its vehicle in violation of C.G.S. § 14-252a(c).

That statutory section holds that “the operator of any commercial motor vehicle shall remove any accumulated ice or snow from such motor vehicle, including the hood, trunk and roof of such motor vehicle, so that any ice or snow accumulated on such vehicle does not pose a threat to persons or property while the vehicle is being operated on any street or highway of this state.”

The plaintiff amended her complaint on July 6, 2022, adding specific claims of injury, but not changing or adding it to its allegations of negligence and/or carelessness on the part of the defendant. The plaintiff offered a similar amendment on January 13, 2023.

On August 29, 2023, the plaintiff again amended her complaint to add an allegation that “the defendant failed to remove any accumulated ice from the tractor trailer so that any ice on the tractor trailer would not pose a threat to persons such as the plaintiff while the tractor trailer was being operated on a public road.”

This allegation did not make specific reference to the aforementioned statute, and so presumably detailed a claim of common-law negligence and/or carelessness on the part of the defendant.

The defendant filed an answer to that amended complaint on September 27, 2023, denying any allegations of negligence and/or carelessness on its part.

The plaintiff again amended her complaint on May 9, 2024, in which time she alleged that the operator of the Wal-Mart vehicle was one Eugene Piccoletti, and that he was acting as the agent, servant or employee of the defendant, and, further, that he was acting within that

scope when his negligence and/or carelessness in failing to remove the ice from the defendant's vehicle caused the plaintiff's injuries and damages.

On May 14, 2024, four days after the close of evidence and after both parties rested, the defendant filed an objection to the May 9, 2024 amended complaint, although it did not file a memorandum of law in support of its objection, or state its specific objection to the amendment.

At trial, the defendant moved for a directed verdict against the plaintiff on the grounds that the statute alleged in the plaintiff's complaint does not provide for a civil remedy, and, even if it did, the statute still does not create vicarious liability against the owner of the motor vehicle for the operator's alleged negligence, and, even if it did, the plaintiff failed to establish vicarious liability by not naming the operator as a defendant.

A plain reading of the defendant's last amended complaint, filed the day before trial and only objected to four days after the close of evidence and the resting by both parties, alleges that the then-named operator Piccoletti's alleged negligent and/or careless actions in failing to remove the ice created vicariously liability on the part of the defendant Wal-Mart.

For those reasons, the defendant's objection to the defendant's amended complaint is overruled, and the defendant's motion for a directed verdict is denied.

As a result of the ice striking her vehicle, as she took her foot off her brake, she braced, flinched and her body was moved forward and backward.

As a result of the incident, she sustained a partial tear of her right rotator cuff, for which she underwent surgery on January 10, 2023. She did not have good recovery, having significant pain, sleeping sitting up and having significant difficulty as a single mother doing household chores, driving and, ultimately, working. She had a second procedure for a "frozen shoulder."

At the time of the instant incident, the plaintiff was returning from a court appearance in New Haven Superior Court. The plaintiff is an experienced trial lawyer who has tried over 200 cases, and appears regularly at the various courts in this state.

She testified that, as a result of her injuries, she missed several months from work and later returned wearing a sling on her right, master arm. She testified that, due to her injuries, she was unable to carry her files for some time, and could only hold a notepad and a few pieces of paper, including pretrial memos for the court. She could not use a telephone, write or type.

She testified that the pain felt like "someone was drilling the bone out of my right arm."

As a result of the incident, she has four permanent scars on or about her right shoulder, and she still has difficulty raising her right arm.

As a proximate cause of her injuries and losses, the plaintiff has incurred a total of \$95,042.54 in medical bills. In addition, she has been assessed a 12 percent partial disability to her right shoulder. The plaintiff has a life expectancy of 27.8 years.

Based on the foregoing, the undersigned makes the following award to the plaintiff:

Economic Damages	\$ 95,042.54
Non-Economic Damages	\$ 175,000.00
TOTAL DAMAGES	\$ 270,042.54

Judgment may enter in accordance with these findings.



GOULD, J.