

NNH CV24-6141024 S

Judicial District of New Haven  
SUPERIOR COURT  
FILED

: SUPERIOR COURT

HAILEY VASQUEZ

**JUN 05 2024**

: JUDICIAL DISTRICT OF  
: NEW HAVEN

V.

**CHIEF CLERK'S OFFICE**

: AT NEW HAVEN

JANAK BRAHMBATT, ET AL

: JUNE 5, 2024

**MEMORANDUM OF DECISION RE:  
DEFENDANTS' MOTIONS TO STRIKE (No. 103.00 and 113.00)**

Plaintiff Hailey Vasquez alleges in her complaint that she was injured in two accidents: (1) a August 10, 2022 motor vehicle accident (the "August Accident"); and (2) a September 27, 2022 accident (the "September Accident"). In the first through third counts, she asserts claims against defendant Janak Brahmbatt arising out of the August Accident. In the fourth through sixth counts, she asserts claims against defendants William Mudano and the City of Middletown arising out of the September Accident.

Defendants Mudano and the City of Middletown filed a motion to strike the fourth through sixth counts of the complaint (Entry No. 103.00), and defendant Brahmbatt filed a motion to strike the first through third counts of the complaint (Entry No. 113.00). Both motions were on the basis of misjoinder, alleging that the plaintiff has combined in one action claims involving two separate motor vehicle accidents.

The Court has considered filings #103.00, 104.00, 105.00, 113.00, and 114.00, as well as the arguments of counsel made at a hearing on June 3, 2024.

For all of the reasons detailed below, the Court grants both motions to strike.

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## LEGAL ANALYSIS

### I. Standards and Law

“A motion to strike shall be used whenever a party wishes to contest: ... the joining of two or more causes of action which cannot properly be united in one complaint, whether the same be stated in one or more counts ...” Practice Book § 10-39(a)(4).

The exclusive remedy for misjoinder is by motion to strike. Practice Book § 11-3. “In ruling on a motion to strike, the court is limited to the facts alleged in the complaint.” (Internal quotation marks omitted.) *Faulkner v. United Technologies Corp.*, 240 Conn. 576, 580, 693 A.2d 293 (1997). Furthermore, this Court must presume that “all well-plead allegations of fact set forth in the Complaint” are “deemed to be true.” *Id.* at 588.

### II. The Motions To Strike Are Granted Because The Two Accidents Are Improperly Joined Together In One Complaint

Both General Statutes § 52-97 and Practice Book § 10-21 govern joinder of causes of action. They provide, in relevant part, that “if several causes of action are united in the same complaint, they shall all be brought to recover, either ... (2) for injuries, with or without force, to person and property ... or (7) upon claims, whether in contract or tort or both, arising out of the same transaction or transactions connected with the same subject of action.”

The claims here appear to fit into both of these categories. However, General Statutes § 52-97 and Practice Book § 10-21 go on to require that “*the several causes of action so united shall all belong to one of these classes, and, except in an action for the foreclosure of a mortgage or lien, shall affect all the parties to the action.*” (Emphasis added.) It is this requirement that each of the causes of action in the complaint “shall affect all the parties to the action,” which leads to the granting of the motions to strike. See, e.g. *Bennett v.*

*Greatview, LLC*, Superior Court, judicial district of Fairfield, No. FBTCV216106524S, 2021 WL 6100482, at \*1 (Dec. 7, 2021, *Stewart, J.*).

There is a split of authority among the Superior Courts regarding whether to strike counts against different defendants arising out of different incidents. This Court agrees with the line of cases which apply the stricter interpretation of the phrase “shall affect all the parties to the action,”<sup>1</sup> and interpret that language to require that “all plaintiffs and all defendants must be common to the claims.” See, e.g. *Bennett v. Greatview*, *supra*, Superior Court, Docket No. FBTCV216106524S.<sup>2</sup>

Here, although there are some common injuries alleged for both motor vehicle accidents, these are claims for separate accidents that took place more than a month apart with different defendants operating the vehicles. The defendants Mudano and City of Middletown are not connected to the August Accident, and the defendant Brahmbatt is not connected to the September Accident.

The plaintiff cites to an Appellate Court decision as one basis for this Court to deny the motion to strike. See *Card v. State*, 57 Conn. App 134, 747 A. 2d 32 (2000). In that case, the Appellate Court examined the propriety of *consolidating* for trial three separate actions brought by the same plaintiff alleging a variety of injuries caused in three distinct motor

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<sup>1</sup> Pursuant to Conn. Gen. Stat. § 52-97 and Conn. P.B. §10-21.

<sup>2</sup> See also *Rivera v. Schwager*, *supra*, Superior Court, Docket No. CV-16-6033541-S; *Gabel v. Guay*, *supra*, Superior Court, Docket No. NNH21611322, 2022 WL 294258 at \*3; *Ocasio v. Buchanan*, *supra*, Superior Court, Docket No. CV-15-6059597; *Cianciolo v. Musumano*, Superior Court, judicial district of Waterbury, Docket No. CV-08-5008286 (August 11, 2008, *Alvord, J.*); *Green v. Blanchard*, Superior Court, judicial district of Tolland (August 21, 2007, *Vacchelli, J.*) [44 Conn. L. Rptr. 54], all quoting 1 E. Stephenson, Connecticut Civil Procedure (3d Ed. 1997) § 47(c), p. 147.

vehicle accidents occurring over a period of about six months. *Id.* Some courts have found *Card* to be informative on the issue presently before the Court in that it resulted in the approval of a single jury hearing claims against multiple defendants. However, in that case, neither the Appellate Court nor the trial court considered misjoinder issues. Rather, the *Card* case involved separate lawsuits consolidated for trial. Numerous superior court decisions have differentiated the *Card* case on those grounds. See e.g., *Gabel v. Guay*, judicial district of New Haven at New Haven, No. NNH216111322, 2022 WL 294258, at \*3 (Jan. 14, 2022, *Abrams, J.*) and *Rivera v. Schwager*, judicial district of New Britain, No. CV166033541S, 2016 WL 7443905, (Nov. 22, 2016, *Wiese, J.*).

Although consolidation for trial ultimately may be appropriate here, “the joinder rules are more strict.” *Bennett v. Greatview*, *supra*, Superior Court, Docket No. FBTCV216106524S.<sup>3</sup>

Although the incidents in this case occurred less than two months apart, and there may be some difficulty in determining which incident caused which injury, these are reasons to consolidate the cases for trial, not to join the causes of action in the same complaint.

Therefore, both of the defendants’ motions to strike are granted.<sup>4</sup>

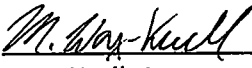
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<sup>3</sup> See also *Ocasio v. Buchanan*, Superior Court, judicial district of Hartford, Docket No. CV-15-6059597 (January 13, 2016, *Dubay, J.*) (61 Conn. L. Rptr. 624); *Middlemass v. Peavy*, Superior Court, judicial district of Ansonia-Milford, Docket No. CV-18-6026298-S (May 8, 2018, *Stevens, J.*) [66 Conn. L. Rptr. 328]; *Zea v. Goodwin Square Bldg., LLC*, Superior Court, judicial district of Hartford, No. HHD-CV23-6168426-S, 2024 WL 243521, at \*4 (Jan. 19, 2024, *Reed, J.*)

<sup>4</sup> The Court conceivably could grant one of the motions to strike, which would essentially moot the second motion to strike because there would no longer be claims pending from two separate accidents. However, the Court elects to grant both motions to strike. The plaintiff now has the option to replead as against one of the defendants in this case and file a new action against the other defendant in a separate case. The cases could potentially be consolidated for trial purposes at a later date, as appropriate.

## CONCLUSION

For all of the reasons detailed above, defendant Brahmbatt's motion to strike the first through third counts of the complaint is granted, *and* defendants' Mudano and the City of Middletown's motion to strike the fourth through sixth counts of the complaint is granted.

  
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Wax-Krell, J.