STATE OF CONNECTICUT

SUPREME COURT
APPELLATE COURT

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February 16, 2022

THE SUPREME COURT IS SOLICITING AMICUS CURIAE BRIEFS IN:

***Marie Fain* v. *Bethany Benak et al.*, SC 20629**

The Court invites amici curiae to file briefs in the above-captioned matter that address the following question:

"Did the Appellate Court correctly determine that the trial court had properly held that the unavoidable accident doctrine did not apply to the facts of this case, in which the defendant claimed that she was not negligent because she lost control of her vehicle due to an unexpected tire blowout?"

As this is a Court-initiated request, an application for permission to file as amicus curiae is not required. If you accept the Court's invitation, you must file the amicus brief limited to 10 pages on or before March 28, 2022, in compliance with Practice Book Section 67-7, including the disclosure required in the first footnote on the first page of text. No extensions of time or argument will be permitted for amicus curiae, and responsive briefs by the parties will not be allowed.

Please find the case summary that was prepared for the general public by court staff attached to this invitation. It does not represent the Court's view of this case.

If you have any questions, please call 860-757-2200.

MARIE FAIN v. BETHANY BENAK et al., SC 20629
Judicial District of New London

Negligence; Unavoidable Accident; Whether Unavoidable Accident Doctrine Applied to Preclude Finding of Negligence Where Defendant Allegedly Had Lost Control of Her Vehicle due to Unexpected Tire Blowout. The plaintiff and the defendant Bethany Benak were driving in opposite directions on the same road when Benak's vehicle crossed into the plaintiff's lane, the southbound lane, and struck the plaintiff's vehicle. Just prior to the collision, Benak heard a popping sound, and her vehicle pulled to the left, toward the southbound lane. It was later discovered that there was a tear in Benak's front left tire, which appeared to have blown out. At the time the tire burst, Benak did not know the speed at which she was traveling, whether she had applied her vehicle's brakes, or how far she was from the plaintiff's vehicle. The plaintiff subsequently commenced the present action against the defendant Department of Administrative Services (defendant), alleging that Benak was negligent and claiming that the defendant, as Benak's employer and the owner of the vehicle that Benak had been operating, was liable for the plaintiff's damages pursuant to General Statutes § 52-556. In her operative complaint, the plaintiff alleged that Benak was negligent in a number of ways, almost all of which relate to Benak's actions after her tire blew out, including failing to remain in her lane, failing to brake, and general inattentiveness while driving. After a bench trial, the defendant submitted a posttrial brief arguing, inter alia, that the tire blowout was unforeseeable and that, therefore, a finding of negligence was precluded by the "unavoidable accident" doctrine as recognized by our Supreme Court in *Shea* v. *Tousignant*, 172 Conn. 54 (1976), which held that liability cannot be imposed on the operator of a vehicle who has a sudden medical emergency resulting in the loss of control of the vehicle. In its memorandum of decision, the trial court determined that the plaintiff proved that Benak had "negligently operated her vehicle and caused the collision with the plaintiff's vehicle in one or more of the ways set forth in the operative complaint." The court therefore declined to apply the unavoidable accident doctrine to the facts of the case. The court further noted that there was "no claim that Benak [had] experienced a sudden medical emergency which prevented her [from] maintain[ing] control of the vehicle," and it declined to extend "by analogy . . . the doctrine to a mechanical issue with the vehicle." Accordingly, the court rendered judgment in favor of the plaintiff. The defendant appealed, claiming that the unavoidable accident doctrine precluded a finding of negligence in the absence of proof that Benak had known of the impending blowout or had negligently caused it to occur. The Appellate Court (205 Conn. App. 734) affirmed the trial court's judgment. In rejecting the defendant's claim, the Appellate Court observed that "[t]he concept of unavoidable accident does not excuse a defendant from liability," but, "[r]ather, it contextualizes the question of whether an actor has been negligent." The Appellate Court therefore concluded that, "because the [trial] court found that Benak was negligent, the accident cannot be considered unavoidable or inevitable as a matter of law." The defendant was granted certification to appeal, and the Supreme Court will decide if the Appellate Court correctly determined that the trial court had properly held that the unavoidable accident doctrine did not apply to the facts of this case.