

SUPREME COURT OF CONNECTICUT

Salemme v. Town of Seymour

262 Conn. 787 (2003) · Decided March 25, 2003

SUMMARY

The Connecticut Supreme Court held that the savings clause in General Statutes § 13a-149 may apply to an inaccurate or indefinite description of the location of an injury in a municipal highway-defect notice. The court concluded that providing the street name was not an entirely absent location description and remanded for factual determination of whether the municipality was misled or the plaintiff intended to mislead it.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Norcott, J.
JURISDICTION	Connecticut
DECIDED	March 25, 2003
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Certified appeal from the Appellate Court's affirmance of the trial court's judgment following the granting of the defendant's motion to strike and subsequent judgment on the pleadings.
STANDARD OF REVIEW	Review of a motion to strike is plenary. The court accepts as true the facts alleged in the stricken complaint, construes the allegations broadly and in the manner most favorable to sustaining legal sufficiency, and asks whether provable facts would support a cause of action.
PRECEDENTIAL VALUE	Published Connecticut Supreme Court opinion; binding precedent in Connecticut.
PARTIES	Matthew Salemme v. Town of Seymour

TOPICS

- municipal law
- statutory interpretation
- appellate procedure
- standard of review
- negligence

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the savings clause of General Statutes § 13a-149 applies when a notice identifies the location of a roadway accident by a general but indefinite street description.
2. Whether the plaintiff's notice was so deficient that the location element was entirely absent, thereby precluding application of the savings clause.
3. Whether the effect of the inaccurate notice on the Town, including whether the Town was misled, presents a factual issue for the trier.

HOLDINGS

1. The savings clause of § 13a-149 applies to an inaccurate, vague, or indefinite notice of the accident location when the location element is not entirely absent.
2. When the savings clause applies, whether the plaintiff intended to mislead the municipality and whether the municipality was actually misled are factual questions for the trier.
3. The Appellate Court improperly concluded that the § 13a-149 savings clause did not apply; its judgment was reversed and the case was remanded for reversal of the trial court's judgment and further proceedings.

KEY QUOTATIONS

“Indeed, we emphasize that “entirely absent” means exactly that; one of the “five essential elements” articulated in Martin v. Plainville, supra, 109, must be completely, totally and unmistakably omitted from the plaintiffs notice.” (794)

“The savings clause, therefore, operates to protect plaintiffs from having their § 13a-149 claims barred by reason of a vague, indefinite or inaccurate notice of accident location.” (795)

“Thus, we cannot conclude that the plaintiffs provision of the street name, without more, renders the location element of the notice “entirely absent”; Martin v. Plainville, supra, 240 Conn. 113; thereby precluding the application of the § 13a-149 savings clause.” (796)

FACTUAL BACKGROUND

Salemme alleged that on October 27, 1997, wet leaves and pine needles made Silvermine Road in Seymour extremely slippery, causing his vehicle to collide with another automobile when he attempted to stop at a stop sign. He sent the Town written notice dated November 25, 1997, identifying the roadway, approximate time, and general cause, but not providing cross streets, an address, or another precise location marker. The Town argued that the notice did not sufficiently identify the accident location under § 13a-149.

PROCEDURAL HISTORY

Salemme brought an action under General Statutes § 13a-149 alleging injuries caused by a defective roadway. The trial court granted the Town's motion to strike, denied Salemme's request to amend, and entered judgment

on the pleadings for the Town. The Appellate Court affirmed. The Supreme Court of Connecticut granted certification limited to whether the § 13a-149 savings clause applied to Salemme's notice.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the judgment of the Appellate Court and direct that court to reverse the judgment of the trial court and remand the case to the trial court for further proceedings according to law.

CASES CITED

- Salemme v. Seymour, 67 Conn. App. 464, 471, 787 A.2d 566 (2001)
- Salemme v. Seymour, 259 Conn. 927, 793 A.2d 251 (2002)
- Martin v. Plainville, 240 Conn. 105, 109, 113, 689 A.2d 1125 (1997)
- Greenberg v. Waterbury, 117 Conn. 67, 70-71, 167 A. 83 (1933)
- Craig v. Driscoll, 262 Conn. 312, 321, 813 A.2d 1003 (2003)
- Pratt v. Old Saybrook, 225 Conn. 177, 182-83, 621 A.2d 1322 (1993)
- Sanzone v. Board of Police Commissioners, 219 Conn. 179, 198, 592 A.2d 912 (1991)
- Mascagna v. Derby, 123 Conn. 684, 685, 194 A. 728 (1937)
- Nicholaus v. Bridgeport, 117 Conn. 398, 401, 167 A. 826 (1933)
- Bresnan v. Frankel, 224 Conn. 23, 26 n.3, 615 A.2d 1040 (1992)