

Scalise v. Cummings & Lockwood, LLC

Appellate Court of Connecticut

November 14, 2013, Argued; February 11, 2014, Officially Released

AC 35456

Reporter: 148 Conn. App. 185; 2014 Conn. App. LEXIS 55; 2014 WL 457950

RICHARD SCALISE ET AL. v. CUMMINGS AND LOCKWOOD, LLC

Prior History: **[**1]** Action to recover damages for, inter alia, vexatious litigation, and for other relief, brought to the Superior Court in the judicial district of Hartford, where the court, Graham, J., granted the defendant's motion to consolidate; thereafter, the court, Peck, J., granted the defendant's motion to dismiss, and rendered judgment thereon, from which the plaintiffs appealed to this court.

[Scalise v. E. Greyrock, LLC, 2014 Conn. App. LEXIS 56 \(Conn. App. Ct., Feb. 1, 2014\)](#)

Disposition: Affirmed.

Core Terms

vexatious litigation, underlying action

Syllabus

The plaintiffs sought to recover damages from the defendant for, inter alia, vexatious litigation. The trial court granted the defendant's motion to dismiss on the ground that the action was unripe for adjudication and rendered judgment thereon, from which the plaintiffs appealed to this court. They claimed that because some of the claims in the underlying action have terminated in their favor, they could proceed with their vexatious litigation action as to those counts even though the underlying action remained pending as to certain other counts. *Held* that the plaintiffs' claim having been fully addressed and rejected by this court in the companion case of *Scalise v. East Greyrock, LLC* (148 Conn. App. __), which involved the same underlying facts and issue on appeal, that decision was dispositive **[**2]** of the plaintiffs' claim, and, accordingly, the trial court's judgment was affirmed.

Counsel: Kirk D. Tavtigian, Jr., for the appellants (plaintiffs).

John F. Carberry, with whom, on the brief, was William

N. Wright, for the appellee (defendant).

Judges: Alvord, Sheldon and Pellegrino, Js. SHELDON, J. In this opinion the other judges concurred.

Opinion by: SHELDON

Opinion

[*185] SHELDON, J. The plaintiffs, Richard Scalise and Eleanor Mihailidis, appeal from the judgment of the trial **[*186]** court granting the motion of the defendant, Cummings & Lockwood, LLC, to dismiss the plaintiffs' vexatious litigation action on the ground that the claim therein presented is unripe for adjudication. The plaintiffs argue on appeal that their vexatious litigation action is ripe for adjudication despite the fact that several counts of the complaint in the underlying action remain pending against them, because the favorable termination requirement has been satisfied as to several other underlying claims upon which the vexatious litigation action is based. We disagree with the plaintiffs, and thus affirm the judgment of the court.

The trial court consolidated the present vexatious litigation action with a second vexatious litigation action commenced by the **[**3]** plaintiffs against East Greyrock, LLC, Greyrock at Oysterbend, LLC, and Jerry Effren, both as trustee and in his individual capacity, stemming from the same underlying action. The underlying facts and issue on appeal are identical in both cases.

The plaintiffs' claim was fully addressed and rejected by this court in the companion case of *Scalise v. East Greyrock, LLC*, 148 Conn. App. __, __A.3d __ (2014), which was also decided today. That decision therefore is dispositive of the plaintiffs' claim.

The judgment is affirmed.

In this opinion the other judges concurred.