

DOCKET NO: FSTCV176037898S

SUPERIOR COURT

FLUDD, DONNELL
V.
BERRY, TIM Et AlJUDICIAL DISTRICT OF STAMFORD
AT STAMFORD

12/7/2020

ORDERORDER REGARDING:
10/28/2020 201.00 MOTION TO REARGUE/RECONSIDER

The foregoing, having been considered by the Court, is hereby:

ORDER: DENIED

The defendants Berry and Pepe move to reargue the court's order (D.N. 170.02) denying their motion to strike Counts Five and Nine of the complaint alleging abuse of process, by claiming a misapprehension of applicable authorities and in light of a subsequent Superior Court decision. The defendants correctly distinguish the case of Schnabel v. Tyler, 32 Conn. App. 704, 718 (1993), aff'd, 230 Conn. 735(1994) on the ground that the process or proceeding at issue was the plaintiff's defamation action and not an internal investigation commenced by the plaintiff. However, the defendants' citation to Perugini v. Keystone T-Hangar Condo. Ass'n, Inc. et al., Docket No. X06 UWY CV 185021672S, 2020 WL 3120344, at *12 (Complex Litigation Docket at Waterbury, May 6, 2020) is not helpful to their argument because it does not involve a comparable fact pattern, i.e., a members' dispute arising out of a padlock on the plaintiff's condominium unit versus a deposition in workers compensation case. Similarly, defendants' truncated quotation of the court's reliance on the reasoning in Larobina v. McDonald, 274 Conn. 394, 406-07 (2005) is not persuasive because it deleted the Supreme Court's reference to a deposition as a possible predicate "process."

In conclusion, this court cannot grant the motion to strike Counts Five and Nine on the record before it. The court may have sufficient evidence upon consideration of a motion for summary judgment to determine the nature of the procedure plaintiff claims was the "process" abused by the defendants, but that is not the situation at this stage of the litigation. Accordingly, the motion to reargue the court's order of October 8, 2020 denying the motion to strike Counts Five and Nine is denied.

Short Calendar Results Automated Mailing (SCRAM) Notice was sent on the underlying motion.

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Judge: CHARLES T LEE

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