

DOCKET NO: LLICV215014019S

SUPERIOR COURT

GOODWIN, JON A.

JUDICIAL DISTRICT OF LITCHFIELD
AT TORRINGTON

V.

MILOT JUNIOR, RAYMOND J. Et Al

3/13/2023

ORDER

ORDER REGARDING:

07/12/2022 144.00 MOTION FOR SUMMARY JUDGMENT

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

ORDER: GRANTED

The plaintiff concedes that summary judgment should issue in favor of the defendant Hardy-Massaro on Counts 27 and 28.

The plaintiff objects to the defendant Hardy-Massaro's motion for summary judgment as to Count 29 wherein the plaintiff asserts a claim for intentional infliction of emotional distress. For the following reason, the court finds that there is no genuine issue of material fact and the court issues a summary judgment in favor of defendant Hardy-Massaro on Count 29.

"[T]o prevail in a case for liability under a theory of intentional infliction of emotional distress, the plaintiff must plead and prove four elements. It must be shown: (1) that the [defendant] intended to inflict emotional distress or that he knew or should have known that emotional distress was the likely result of his conduct; (2) that the conduct was extreme and outrageous; (3) that the defendant's conduct was the cause of the plaintiff's distress; and (4) that the emotional distress sustained by the plaintiff was severe.... Whether a defendant's conduct is sufficient to satisfy the requirement that it be extreme and outrageous is initially a question for the court to determine.... Only where reasonable minds disagree does it become an issue for the jury.... Liability for intentional infliction of emotional distress requires conduct exceeding all bounds usually tolerated by decent society, of a nature which is especially calculated to cause, and does cause, mental distress of a very serious kind.... [I]t is the intent to cause injury that is the gravamen of the tort. [I]n assessing a claim for intentional infliction of emotional distress, the court performs a gatekeeping function. In this capacity, the role of the court is to determine whether the allegations of a complaint ... set forth behaviors that a reasonable fact finder could find to be extreme or outrageous. In exercising this responsibility, the court is not fact finding, but rather is making an assessment whether, as a matter of law, the alleged behavior fits the criteria required to establish a claim premised on intentional infliction of emotional distress.(Citations omitted; internal quotation marks omitted.)

Tracy v. New Milford Pub. Sch., 101 Conn. App. 560, 568–69, 922 A.2d 280, 286 (2007).

The plaintiff concedes that his claim of intentional infliction of emotional distress is based upon a statement made by Attorney Hardy-Massaro at a June 11, 2021 planning placement team (PPT) meeting for Noah. Specifically at the June 11, 2021 PPT meeting Attorney Hardy-Massaro stated that Mr. Goodwin should not be present as Juvenile court Judge Conway had ordered Mr. Goodwin to have no contact with the M. children.

However, in this matter, during oral argument on the motion for summary judgment, plaintiff's counsel conceded that such an order was issued by Juvenile Court in April 2020 and was in effect until August 12, 2021 when the order was modified. Specifically on August 12, 2021, the Juvenile court modified its no contact order in part, allowing Mr. Goodwin to be present during mother's visitation with Cameron

but denied to modify the order as to Noah and one other child.

Thus, it is uncontested that on June 11, 2021, there was a Juvenile court order in effect that prohibited the plaintiff from having contact with the M Children. Accordingly, Attorney Hardy-Massaró's statement to this effect does not transgress the bounds of socially tolerable behavior. Reasonable minds could not disagree. Attorney Hardy-Massaró could not be deemed to have acted in an extreme or outrageous manner by stating that Mr. Goodwin should not be present at a PPT for Noah M because a judge had ordered that he have no contact with the M children. Attorney Hardy-Massaró's statement was true and cannot as a matter of law be deemed extreme and outrageous. Accordingly, in employing its gate keeping function, the court grants Attorney Hardy-Massaró's motion for summary judgment.

In addition, Attorney Hardy-Massaró has statutory immunity under Connecticut General Statutes section 4-165 which states in relevant part, "No state officer or employee shall be personally liable for damage or injury, not wanton, reckless or malicious caused in the discharge of his or her duties within the scope of his or her employment." It is uncontested that Attorney Hardy-Massaró was appointed by the Juvenile Court as the attorney for the M minor children including Noah in December 2019. It is further uncontested that she attended a PPT for Noah on June 11, 2021 and upon learning that the plaintiff was present stated that the plaintiff should not be in attendance as Judge Conway had issued an order on April 1, 2020 that the plaintiff have no contact with Noah. This conduct cannot as a matter of law be deemed reckless, wanton or malicious and her attendance was based upon her role as Noah's court appointed attorney. Accordingly, Attorney Hardy-Massaró has statutory immunity and for this alternative reason also grants her summary judgment motion.

Judicial Notice (JDNO) was sent regarding this order.

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Judge: ANN E LYNCH

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