

*Brandon Smith v. BL Companies, Inc., Et Al. (AC 40368)*

The plaintiff in this case sought to recover damages from the defendant for injuries sustained as a result of the defendant's alleged professional negligence. The plaintiff alleged that they were injured as a result of an accident wherein they fell from a retaining wall onto a driveway which was approximately six feet below. The present action was a secondary action which the plaintiff brought subsequent to the trial court granting the defendant's motion for summary judgement in their first action. In their first lawsuit, the plaintiff claimed that the defendant was responsible for and supervised the construction of the retaining wall and alleged that the wall constituted an absolute and public nuisance. The trial court concluded that the plaintiff failed to provide evidence to support their claim that the defendant had control of the property on which the retaining wall was constructed. After the trial court granted summary judgement for the defendant, the plaintiff brought the present action wherein they alleged that the defendant acted negligently. In response to the present action, the defendant again filed a motion for summary judgement. The trial court granted the defendant's motion for summary judgement, finding that the plaintiff was barred from bringing their negligence claim under the doctrine of res judicata as the court had already ruled on the merits of the nuisance action. The plaintiff appealed the trial court's decision.

The issue presented to the Appellate Court in this appeal is whether the court properly applied the doctrine of res judicata in granting the defendant's motion for summary judgement. The Court determined that the trial court properly granted summary judgement in favor of the defendants. In reaching this conclusion, the Court considered the plaintiff's argument that the trial court improperly determined that the court's prior judgement regarding the nuisance claim precluded the plaintiff from bringing the present negligence claim against the defendants. The

plaintiff argued that their negligence claim in the present case had not been pleaded in the prior case and was not predicated on the same nucleus of fact. The Court found the plaintiff's claims to be unpersuasive. The Court reasoned that the claim which the plaintiff raised in their present action against the defendant was essentially the same as the claims which the plaintiff brought in their prior action. The Court determined that the trial court had already thoroughly addressed the arguments in their memorandum of decision. The Court thus adopted the trial courts memorandum of decision as they determined it was a proper interpretation and application of fact and law. The Court therefore upheld the decision of the trial court finding that the court had properly applied the doctrine of res judicata which precludes the plaintiff from bringing this claim forward.

The Appellate Court affirmed the decision of the trial court.