

DOCKET NO: HHDCV116032094S

SUPERIOR COURT

DESALLE, JAMES Et Al
V.
WAL-MART STORES, INC. Et Al

JUDICIAL DISTRICT OF HARTFORD
AT HARTFORD

9/16/2016

ORDER

ORDER REGARDING:
10/10/2014 217.00 OBJECTION TO REQUEST TO AMEND

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

ORDER: OVERRULED

The objection to plaintiffs' request for leave to amend (No. 214) is overruled. The court finds that the second count in the proposed, second, amended complaint relates back to the allegations of the original complaint's allegations against Wal-Mart. All of the allegations against Wal-Mart arise from a "common nucleus of operative fact," which was Wal-Mart's removal and replacement of the subject Cooper Tire, under circumstances where it determined, or should have determined, that the tire was in an unreasonably dangerous condition.

Wal-Mart has, of course, moved for summary judgment as to plaintiffs' first amended complaint (129.0), claiming that that complaint does not properly allege that Wal-Mart is, in the context of this case, a "product seller" pursuant to CGS Sec. 52-572m (a). If that were true, it would be extremely unfair not to allow the plaintiffs to plead in the alternative.

A more formal memorandum of decision shall follow.

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Judge: GRANT H MILLER JR