

**STATE OF CONNECTICUT  
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES  
OFFICE OF PUBLIC HEARINGS**

Commission on Human Rights and  
Opportunities, ex rel. Jeannette Quatro  
and Tyree Joshua, Complainants

CHRO Case Nos. 1850143 &  
1850144

v

Maple Leaf Motel, LLC, Respondent

February 3, 2023

OFFICE OF PUBLIC HEARINGS - CHRO  
DATE 2/3/23  
TIME 10:05 AM  
REC'D BY [Signature]

**Ruling re: the respondent's motion to dismiss and strike**

**Procedural history and summary of ruling**

Ms. Quatro and Mr. Joshua filed their complaint affidavits of illegal discriminatory practice (complaints) with the commission on human rights and opportunities (commission) on April 5, 2018. In their complaints they state that Ms. Quatro is white, Mr. Joshua is black, and at the time they filed their complaints they were fiancées. They allege that they rented a room at Maple Leaf on a weekly basis. They further allege that Maple Leaf violated General Statute § 46a-64c (a) and Title VIII as enforced by General Statute § 46a-58 (a) when it published a discriminatory statement of preference with respect to Ms. Quatro's association with Mr. Joshua and to Mr. Joshua's color and his association with Ms. Quatro. Essentially, they allege that Maple Leaf treated them different from its other renters because of their interracial relationship.

The commission investigated the complaints. On July 18, 2018, the commission's investigator concluded that there was no reasonable cause to believe that a discriminatory practice had been committed and dismissed the complaints. Upon reconsideration, the commission's investigator reversed her previous determination. She now concluded that there was reasonable cause for believing that a discriminatory

practice had been or was being committed. The investigator certified the complaints to the office of public hearings on December 18, 2018. Maple Leaf filed its post-certification answer denying the allegations of discrimination on February 1, 2019. The undersigned was designated presiding referee on November 9, 2021.

On January 13, 2023, Maple Leaf filed a motion to dismiss various paragraphs of the complaints and to dismiss and strike references to a police intervention which was not enumerated in the complaints but was discussed in the finding of reasonable cause (motion). By email dated January 15, 2023, Ms. Quatro and Mr. Joshua objected to the motion. On January 26, 2023, the commission filed its objection to the motion.

For the reasons set forth herein, the motion is denied.

**I  
Standard**

**A  
Motion to dismiss**

“Subject matter jurisdiction involves the authority of a court to adjudicate the type of controversy presented by the action before it . . .” (Internal quotation marks omitted.) *Sousa v. Sousa*, 322 Conn. 757, 770 (2016). “Jurisdiction of the subject-matter is the power (of the court) to hear and determine cases of the general class to which the proceedings in question belong. . . . A court does not truly lack subject matter jurisdiction if it has competence to entertain the action before it.” (Citations omitted; internal quotation marks omitted.) *Henry F. Raab Connecticut, Inc. v. J.W. Fisher Co.*, 183 Conn. 108, 111-12 (1981). “When the subject matter jurisdiction of the adjudicatory body is challenged, cognizance of it must be taken and the matter passed on before it can move one further

step in the cause, as any movement is necessarily the exercise of jurisdiction. . . . The issue is not whether a [complainant] will ultimately prevail but whether the [complainant] is entitled to offer evidence to support the claims.” (Citations omitted; internal quotation marks omitted.) *Horn v. Dept. of Correction*, 2012 WL 1576049, \*1 (OPH/WBR No. 2011-156) (March 27, 2012) (Ruling on motion to dismiss).

“A court does not truly lack subject matter jurisdiction if it has competence to entertain the action before it ... Once it is determined that a tribunal has authority or competence to decide the class of cases to which the action belongs, the issue of subject matter jurisdiction is resolved in favor of entertaining the action ... It is well established that, in determining whether a court has subject matter jurisdiction, every presumption favoring jurisdiction should be indulged ...” (Internal quotation marks omitted.) *Ed Lally & Associates, Inc. v. DSBNC, LLC*, 145 Conn. App. 718, 728 (2013).

A motion to dismiss is an appropriate means to challenge a tribunal's jurisdiction to hear an action, “essentially asserting that the plaintiff cannot as a matter of law and fact state a cause of action that should be heard by the [tribunal].” (Citation omitted; internal quotation marks omitted.) *Caruso v. City of Bridgeport*, 285 Conn 618, 627 (2008). “In deciding a motion to dismiss that challenges the court’s jurisdiction, the court must take the facts alleged in the complaint, including facts necessarily implied from the allegations, and construe them in the light most favorable to the pleader. . . . Moreover, every presumption favoring jurisdiction should be indulged. (Citations omitted; internal quotations omitted.) *Kelly v. Albertsen*, 114 Conn. App. 600, 605-606 (2009).



A similarly deferential standard applies where the legal sufficiency of a complaint is challenged on a motion to dismiss, or strike, a claim for failure to state a cause of action. In determining the legal sufficiency of the complaint, all well-pleaded facts, and those facts necessarily implied from the allegations, are deemed to be admitted and they must be construed most favorably to the complainant and to sustaining legal sufficiency. “Indeed, pleadings must be construed broadly and realistically, rather than narrowly and technically.” *Violano v. Fernandez*, 280 Conn. 310, 318 (2006).

## **B**

### **Motion to strike**

“On the other hand, a motion to strike requires a more limited review of a plaintiff’s complaint. [A] motion to strike challenges the legal sufficiency of a pleading and, consequently, [and] requires no factual findings by the trial court ... [The court] take[s] the facts to be those alleged in the complaint that has been stricken and ... construe[s] the complaint in the manner most favorable to sustaining its legal sufficiency ... Thus, [i]f facts provable in the complaint would support a cause of action, the motion to strike must be denied ... Moreover ... [w]hat is necessarily implied [in an allegation] need not be expressly alleged ... It is fundamental that in determining the sufficiency of a complaint challenged by a defendant’s motion to strike, all well-pleaded facts and those facts necessarily implied from the allegations are taken as admitted ... Indeed, pleadings must be construed broadly and realistically, rather than narrowly and technically.” (Internal quotation marks omitted.) *Violano v. Fernandez*, 280 Conn. 310, 317–18, 907 A.2d 1188 (2006).” *Kisala v. Malecky*, Docket No. HHB-CV-13-5015760s, 2013 WL 5814792, \*4 (Superior Court, judicial district of New Britain, October 7, 2013).

“Critically, the plaintiff does not bear a burden of proof to survive a motion to strike.”

*Kisala v. Malecky*, supra, 2013 WL 5814792, \*7.

To survive a motion to dismiss, complainants must allege sufficient facts which, if true, would establish that the complaints fall within the general class of cases over which this tribunal has jurisdiction. In other words, they must allege a prima facie case. Similarly, to survive a motion to strike, complainants must allege also a prima facie case.

## **II Discussion**

In its motion, Maple Leaf proposes to dismiss paragraphs 7, 8, 9, 10, and a portion of 11 of the complaints and to dismiss and strike references to a police intervention which was not referenced in the complaints but was discussed in the investigation and finding of reasonable cause. In support thereof, it cites to prior decisions of this tribunal which dismissed/struck some but not all of a complaint’s allegations.

As to the motion to dismiss, Ms. Quatro and Mr. Joshua allege that Maple Leaf violated § 46a-64c (a) and Title VIII as enforced through § 46a-58 (a). This tribunal clearly has the statutory authority to adjudicate this type of controversy. As to the motion to strike, Ms. Quatro and Mr. Joshua have clearly alleged a prima facie case and a cause of action.

This complaint is not similar to the complaints and reasonable cause findings in this tribunal’s decisions in *Okonkwo* and *Charette* cited by Maple Leaf. In *Okonkwo*, the complainant made alleged multiple discriminatory practices: sexual harassment and disparate treatment. The investigator clearly found no reasonable cause for the sexual harassment allegation, which was dismissed, but did find reasonable cause for the disparate treatment allegation, which proceeded to hearing. Similarly, in *Charette*, the

complainant made allegations of multiple discriminatory practices: harassment based on disability, harassment based on retaliation, and sexual harassment. The investigator clearly found no reasonable cause for the harassment based on disability and harassment based on retaliation allegations, which were dismissed, but did find reasonable cause for the sexual harassment allegation which proceeded to hearing. That is not the situation in the present complaint.

In the present complaint, Ms. Quatro and Mr. Joshua are not making allegations of multiple discriminatory practices. They are alleging one discriminatory practice: violation of § 46a-64c (a) based on text sent by Maple Leaf using the word “oreos”. The paragraphs Maple Leaf seeks to have dismissed or stricken are not separate allegations of discriminatory practices but rather are evidentiary claims offered by Ms. Quatro and Mr. Joshua context and intent. Whether these specific paragraphs are relevant and material evidence are matters for the public hearing not for motions to dismiss and/or strike.

### **III Ruling**

For the foregoing reasons, the motion is denied.

As previously ordered: The public hearing is scheduled for March 28, 2023 and April 10, 2023 commencing at 9:30 AM and recessing at approximately 4:30 PM. The hearing will be conducted via zoom. There will be a fifteen-minute mid-morning recess at approximately 11:00 AM, a mid-day lunch period at approximately 1:00 PM, and a fifteen-minute afternoon recess at approximately 3:00 PM. The recesses will be taken at appropriate times in a witness’s testimony. The public hearing will commence promptly at

the beginning of each day and the conclusion of a recess. Resumption of the hearing need not be delayed due to the unexcused absence or tardiness of a party, witness, or attorney.

It is so ordered this 3<sup>rd</sup> day of February 2023.

*/s/ Jon P. FitzGerald*  
Hon. Jon P. FitzGerald  
Presiding Human Rights Referee

Cc:

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