

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

MURPHY J. PAINTER

NO. 2019 CW 0068
PAGE 1 OF 2

VERSUS

STATE OF LOUISIANA, THROUGH THE OFFICE OF THE GOVERNOR, THE DEPARTMENT OF REVENUE AND TAXATION, ALCOHOL TOBACCO CONTROL COMMISSION, CYNTHIA BRIDGES, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE DEPARTMENT OF REVENUE AND TAXATION, THE OFFICE OF STATE INSPECTOR GENERAL, AND STEPHEN STREET, IN HIS OFFICIAL CAPACITY AS STATE INSPECTOR GENERAL

MAY 13 2019

In Re: Brant Thompson, applying for supervisory writs, 19th Judicial District Court, Parish of East Baton Rouge, No. 604308.

BEFORE: WHIPPLE, C.J., McDONALD AND CRAIN, JJ.

WRIT GRANTED. The district court's January 7, 2019 judgment denying Brant Thompson's Exception of No Cause of Action to the Plaintiff's Seventh-Amending Supplemental and Restated Petition for Damages is hereby reversed. In order to state a cause of action for malicious prosecution, the plaintiff must allege the following elements: (1) commencement or continuance of an original criminal proceeding; (2) its legal causation by the present defendant against the present plaintiff, who was the defendant in the original proceeding; (3) the bona fide termination of the criminal proceeding in favor of the present plaintiff; (4) the absence of probable cause for such proceeding; (5) malice; and (6) damage to the present plaintiff. **Miller v. East Baton Rouge Parish Sheriff's Department**, 511 So.2d 446, 452 (La. 1987); **Cook v. American Gateway Bank**, 2010-0295 (La. App. 1st Cir. 9/10/10), 49 So.3d 23, 37, citing Miller, 511 So.2d at 452. If a defendant in a malicious prosecution claim commenced a criminal proceeding against the plaintiff or caused the continuance of such proceedings, that chain of causation may be broken due to a superseding, independent investigation. **Rombach v. State ex rel. Division of Administration**, 2015-0619 (La. App. 1st Cir. 12/23/15), 2015 WL 9464500, at *5 (unpublished). Here, Murphy J. Painter's Seventh-Amending Supplemental and Restated Petition for Damages contains numerous allegations regarding an investigation conducted by the Office of the State Inspector General after complaints were made regarding Mr. Painter. Since the district court must presume all well-pleaded facts as true on an exception of no cause of action, **HPC Biologicals, Inc. v. UnitedHealthcare of Louisiana, Inc.**, 2016-0585 (La. App. 1st Cir. 5/26/16), 194 So.3d 784, 792, Brant Thompson has demonstrated that Murphy J. Painter has failed to state a cause of action against him for malicious prosecution due to the

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

NO. 2019 CW 0068
PAGE 2 OF 2

intervening investigation conducted by the Office of the State Inspector General. As such, Brant Thompson's Exception of No Cause of Action to the Plaintiff's Seventh-Amending Supplemental and Restated Petition for Damages is granted, and Murphy J. Painter's claims against Brant Thompson are hereby dismissed with prejudice.

VGW
JMM
WJC

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DEPUTY CLERK OF COURT
FOR THE COURT