COPPOLA CONSTRUCTION COMPANY, INC. *v.*
HOFFMAN ENTERPRISES LIMITED
PARTNERSHIP ET AL.
(SC 18955)

Rogers, C. J., and Norcott, Zarella, Eveleigh and McDonald, Js.*

Argued March 19—officially released July 16, 2013

Richard P. Weinstein, with whom was *Nathan A.*

Schatz, for the appellant (defendant Jeffrey S. Hoffman).

George C. Springer, Jr., with whom was *Lawrence G. Rosenthal*, for the appellee (plaintiff).

Opinion

NORCOTT, J. The sole issue in this certified appeal is whether a corporate principal or officer may be held personally liable for the tort of negligent misrepresentation in connection with statements made by that principal or officer that, under the apparent authority doctrine, also create binding contractual liabilities for the corporate entity. The defendant Jeffrey S. Hoffman[1] appeals, upon our grant of his petition for certification,[2] from the judgment of the Appellate Court reversing the judgment of the trial court granting his motion to strike the claim of negligent misrepresentation brought by the plaintiff, Coppola Construction Company, Inc. *Coppola Construction Co.* v. *Hoffman Enterprises Ltd. Partnership*, 134 Conn. App. 203, 38 A.3d 215 (2012). On appeal, Hoffman contends that the plaintiff could not, as a matter of law, satisfy the detrimental reliance element of the negligent misrepresentation tort because his apparent authority to bind the corporate entity contractually meant that the plaintiff could not have relied to its detriment on his statements. We disagree and, accordingly, affirm the judgment of the Appellate Court.

The Appellate Court's opinion aptly sets forth the following relevant facts, as pleaded in the operative complaint[3] (complaint), and procedural history. "This case was commenced on or about December 9, 2009, with an application for prejudgment remedy by the plaintiff against Hoffman and Hoffman Enterprises Limited Partnership (Hoffman Enterprises). The plaintiff sought to recover money damages in connection with site work that the plaintiff had agreed by contract to perform for Hoffman Enterprises on several parcels of property owned by Hoffman Enterprises known as Hoffman Auto Park located in Simsbury. The . . . complaint alleged six separate claims: counts one through five against Hoffman Enterprises for breach of contract, quantum meruit, unjust enrichment, tortious interference and unfair trade practices, respectively, and count six against Hoffman for negligent misrepresentation. The defendants filed a motion to strike counts four, five and six, which the court denied with respect to counts four and five and granted with respect to count six.

"In count six, the plaintiff alleged, in part, that 'Hoffman entered into agreements with Signature Construction Services, [LLC] (Signature) to perform construction on his new residence in Rhode Island. The agreements with Signature were based, in part, upon Signature being the construction manager and agent for . . . Hoffman's business interests in the Hoffman Auto Park expansion. . . . Upon information and belief . . . Hoffman received special pricing and below market rates for the construction of his residence in Rhode Island in exchange for inflating Signature's compensation through the Hoffman Auto Park facility [and

other] valuable consideration. . . . Hoffman entered into the scheme to obtain lower bid estimates all in an attempt to have People's Bank [bank] fund the [Hoffman Auto Park construction] project initially and then to provide change orders after the fact to force the [b]ank into further financing. . . . [the plaintiff] was not aware of the scheme being perpetrated . . . and was promised by . . . Hoffman that he would pay for all change orders and "extras" that he ordered. . . . Hoffman is now alleging that Signature was not his "agent" for purposes of the construction of the Hoffman Auto Park and is, upon information and belief, stating that Signature did not have the authority to act on his or [Hoffman Enterprises'] behalf. . . . [the plaintiff] relied upon . . . Hoffman's representations and those made by his agent, Signature, to its detriment when the costs of the change orders and extra work exceeded the [b]ank financing. [The plaintiff] relied upon the statements and actions of . . . Hoffman that Signature was [Hoffman Enterprises'] agent for purposes of the construction, whether directly for [Hoffman Enterprises] or for . . . Hoffman in his personal capacity. . . . The result of the scheme between Hoffman and Signature directly resulted in [the plaintiff] suffering damages in that Hoffman could not obtain the funding from [the] [b]ank to pay [the plaintiff] and thus forestall[ed] payments which have resulted in the severe economic harm to [the plaintiff]. . . . In addition, to the extent that Hoffman now claims that [Hoffman Enterprises] did not provide the authority to Signature to act for [Hoffman Enterprises], such statements were made by Hoffman with knowledge that such statements were false. Hoffman's actions and statements were made to [the plaintiff] to induce it to perform the work at the [p]roject and [the plaintiff] relied upon the statements and actions of Hoffman to its detriment.'

"The court reviewed the parties' arguments. Hoffman argued that count six was really 'a claim of breach of contract based upon the promises and representation of [Hoffman]' and that 'when a party misrepresents another person to be his agent, that does not state a claim for misrepresentation but merely affords a factual basis for inferring that the putative agent had apparent authority to bind the principal who made the representation.' The court noted that the plaintiff asserted that its claim that 'Hoffman's misrepresentation as to Signature's authority to act for him and [Hoffman Enterprises], in relation to the Hoffman Auto Park construction project, was in fact a misrepresentation of fact, then known to be false, which it reasonably relied on to its detriment.' The court found: 'At no point, however, does [the plaintiff] specify how it ever relied upon that misrepresentation to its detriment except by agreeing to perform extra work on the project with Signature'[s] approval—in their words, as the defendants have asserted, by entering into and performing

work under contracts which the defendants are bound to honor based upon Signature's approval . . . .' The court concluded that the count did not state a valid claim for negligent misrepresentation and granted Hoffman's motion to strike that count. Pursuant to Practice Book § 10-44, Hoffman moved for judgment. The court granted Hoffman's motion for judgment and denied the plaintiff's motion to amend its complaint." Id., 204–207.

The plaintiff appealed from the judgment of the trial court to the Appellate Court, claiming that the trial court had improperly granted Hoffman's motion to strike the sixth count of the complaint. Id., 204. In a unanimous opinion, the Appellate Court agreed with the plaintiff because, "[c]onstruing the complaint in the manner most favorable to sustaining its legal sufficiency, as we are required to do, a comparison between the elements of negligent misrepresentation and the allegations in count six reveals that the plaintiff has provided allegations that would support, if proven to be true, a cause of action for negligent misrepresentation." Id., 210. In particular, the Appellate Court rejected Hoffman's claims that "where the alleged misrepresentation is based on a statement by a principal, or one who speaks for a principal, that another person is an agent of the principal, that allegation necessarily fails to state an actionable claim for misrepresentation. Rather, it merely provides a basis to bind the purported contracting party on a theory of apparent authority." (Internal quotation marks omitted.) Id., 210 n.4. On that point, the Appellate Court concluded that Hoffman's arguments were inconsistent with "the plaintiff's right to plead alternative causes of action based on the same facts," observing, inter alia, that "tort remedies may be different from contract remedies, and damages may be sought from different parties," consistent with the prohibition on multiple recoveries for the same wrong. Id., 210–11 n.4. Accordingly, the Appellate Court reversed the judgment of the trial court and remanded the case to that court "with direction to deny the motion to strike as to count six and for further proceedings according to law."[4] Id., 211. This certified appeal followed. See footnote 2 of this opinion.

On appeal, Hoffman argues that the Appellate Court improperly concluded that the plaintiff had sufficiently pleaded a claim of negligent misrepresentation because the plaintiff's allegations cannot satisfy the detrimental reliance element of that tort. Specifically, Hoffman posits that, even if his statement that Signature was the agent of Hoffman Enterprises for purposes of the construction contract was actually false, "because the statement here claimed to be false has the *legal effect* of being true [under the apparent authority doctrine, as explained in *Tomlinson* v. *Board of Education*, 226 Conn. 704, 734–35, 629 A.2d 333 (1993)], the individual making that statement cannot be liable for a negligent misrepresentation." (Emphasis in original.) Hoffman

further contends that the elements of apparent authority and negligent misrepresentation overlap analytically to render the negligent misrepresentation claim insufficient as a matter of law, because if he had "no actual or apparent authority . . . when making the representations regarding Signature's authority to act on behalf of [Hoffman Enterprises] . . . then the plaintiff's claim of negligent misrepresentation will necessarily fail for the separate reason that [the] plaintiff will not be able to show that it *reasonably* relied on Hoffman's alleged misrepresentation." (Emphasis in original.) Finally, Hoffman contends that the plaintiff's right to plead in the alternative is inapplicable "because no cognizable claim of negligent misrepresentation is pleaded . . . where the *legal effect* of the alleged misrepresentation leaves the plaintiff in the same position as had there been no misrepresentation." (Emphasis in original.)

In response, the plaintiff contends that the Hoffman's claims are "no more than a transparent attempt to evade individual accountability for false statements, reliance upon which caused significant pecuniary harm to the plaintiff, by wrongfully equating a negligent misrepresentation count against him with a breach of contract claim against a different defendant solely on the grounds that [the] plaintiff may be able to prove both claims at trial." The plaintiff further contends that the Appellate Court properly applied the governing standard of review in reading the plaintiff's allegations broadly in sustaining the negligent misrepresentation claim. Specifically, the plaintiff relies on, inter alia, authorities cited in the Appellate Court's decision in this case; see *Coppola Construction Co.* v. *Hoffman Enterprises Ltd. Partnership*, supra, 134 Conn. App. 210–11 n.4; as well as *Chapman Lumber, Inc.* v. *Tager*, 288 Conn. 69, 952 A.2d 1 (2008), and *Kilduff* v. *Adams, Inc.*, 219 Conn. 314, 593 A.2d 478 (1991), to support its arguments that it is well settled that: (1) the plaintiff has the right to plead in the alternative; (2) an "officer of a corporation or an agent of a principal is personally liable for his own torts regardless of whether the corporation or the principal itself is liable"; and (3) tort and contract actions differ in proof, and any concern of duplicative recovery is foreclosed by settled case law that "the possible rendition of multiple judgments does not, however, defeat the proposition that a litigant may recover just damages only once." We agree with the plaintiff and conclude that the Appellate Court properly determined that its complaint stated a legally sufficient claim of negligent misrepresentation against Hoffman.

"We begin by setting out the well established standard of review in an appeal from the granting of a motion to strike. Because a motion to strike challenges the legal sufficiency of a pleading and, consequently, requires no factual findings by the trial court, our review of the court's ruling . . . is plenary. . . . We take the facts to be those alleged in the complaint that has been

stricken and we construe 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, we note that [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); see also, e.g., *Santorso* v. *Bristol Hospital*, 308 Conn. 338, 349, 63 A.3d 940 (2013).

Guided by the principles articulated in § 552 of Restatement (Second) of Torts,[5] this court "has long recognized liability for negligent misrepresentation." *D'Ulisse-Cupo* v. *Board of Directors of Notre Dame High School*, 202 Conn. 206, 217, 520 A.2d 217 (1987); see also, e.g., *Kramer* v. *Petisi*, 285 Conn. 674, 681–82, 940 A.2d 800 (2008) (applying comparative negligence principles to negligent misrepresentation claims); *Williams Ford, Inc.* v. *Hartford Courant Co.*, 232 Conn. 559, 579, 657 A.2d 212 (1995) (same). "We have held that even an innocent misrepresentation of fact may be actionable if the declarant has the means of knowing, ought to know, or has the duty of knowing the truth." (Internal quotation marks omitted.) *D'Ulisse-Cupo* v. *Board of Directors of Notre Dame High School*, supra, 217. "Traditionally, an action for negligent misrepresentation requires the plaintiff to establish (1) that the defendant made a misrepresentation of fact (2) that the defendant knew or should have known was false, and (3) that the plaintiff reasonably relied on the misrepresentation, and (4) suffered pecuniary harm as a result." *Nazami* v. *Patrons Mutual Ins. Co.*, 280 Conn. 619, 626, 910 A.2d 209 (2006), citing *Glazer* v. *Dress Barn, Inc.*, 274 Conn. 33, 73, 873 A.2d 929 (2005).

Viewing the complaint in the light most favorable to the pleader, we agree with the Appellate Court that the plaintiff properly pleaded a claim of negligent misrepresentation against Hoffman. Averring that Hoffman's actions were taken "in an independent capacity or ultra vires of . . . Hoffman Enterprises and in a personal capacity to assist him in the completion of his residence in Rhode Island," the plaintiff pleaded that Hoffman had made multiple misrepresentations of fact in furtherance of his plan to obtain from Signature reduced price construction for his new home in Rhode Island, namely, that Hoffman had stated to the plaintiff that he would pay for change orders and " 'extras' " with respect to the construction of the Hoffman Auto Park, and that Signature was his agent for purposes of the construction project. The plaintiff alleged that it was later that Hoff-

man stated that Signature was not his agent and lacked authority to act on his or Hoffman Enterprises' behalf. The plaintiff also alleged that statements made by Hoffman to the effect that Hoffman Enterprises had not provided Signature with the authority to act on Hoffman Enterprises' behalf were knowingly false. Finally, the plaintiff alleged that it reasonably relied[6] on the representations of Hoffman to its fiscal detriment, because the scheme between Hoffman and Signature resulted in Hoffman being unable to obtain the funding from People's Bank necessary to pay the plaintiff for the construction services that it had rendered. Thus, we conclude that the facts pleaded in the sixth count of the complaint state a legally sufficient claim of negligent misrepresentation.

Hoffman contends, however, that the plaintiff cannot establish the detrimental reliance element as a matter of law, because when the "alleged 'misrepresentation' is based on a statement by a principal (or one who speaks for a principal) that another person is an agent of the principal, that allegation necessarily fails to state an actionable claim for misrepresentation. Rather, it merely provides a basis to bind the purported contracting party on a theory of apparent authority." (Footnote omitted.) "Apparent authority is that semblance of authority which a principal, through his own acts or inadvertences, causes or allows third persons to believe his agent possesses. . . . Consequently, apparent authority is to be determined, not by the agent's own acts, but by the acts of the agent's principal. . . . The issue of apparent authority is one of fact to be determined based on two criteria. . . . First, it must appear from the principal's conduct that the principal held the agent out as possessing sufficient authority to embrace the act in question, or knowingly permitted [the agent] to act as having such authority. . . . Second, the party dealing with the agent must have, acting in good faith, reasonably believed, under all the circumstances, that the agent had the necessary authority to bind the principal to the agent's action."[7] (Citations omitted; internal quotation marks omitted.) *Tomlinson* v. *Board of Education*, supra, 226 Conn. 734–35. "[A]pparent authority, even absent actual authority, [is] enough to bind . . . parties to . . . agreements." Id., 736; see also, e.g., *Ackerman* v. *Sobol Family Partnership, LLP*, 298 Conn. 495, 522–23, 4 A.3d 288 (2010) (upholding finding that plaintiffs' attorney had apparent authority to enter into global settlement of underlying litigation); *Tomlinson* v. *Board of Education*, supra, 735–36 (upholding finding that teachers union local president had apparent authority to negotiate binding agreements with school board that "acting in good faith, reasonably believed that the president had apparent authority to negotiate, to agree, and to sign the agreements"). Hoffman posits that the fact that, under the apparent authority doctrine, the "plaintiff will encounter the same outcome *regardless*

of whether [*Hoffman's*] *representation concerning Signature's authority was true or false* highlights the essential problem with the plaintiff's attempt to fashion a claim of negligent misrepresentation under the facts alleged here." (Emphasis in original.)

Hoffman's argument, although logically appealing at a first glance, fails upon closer scrutiny. Notably, Hoffman does not cite, and our independent research did not reveal, a single case or other authority, from Connecticut or elsewhere, supporting this proposition. This is likely because his claim is wholly inconsistent with numerous points of well settled law, starting with the "black letter law that an officer of a corporation who commits a tort is personally liable to the victim regardless of whether the corporation itself is liable." *Kilduff* v. *Adams*, *Inc.*, supra, 219 Conn. 331–32; see also *Scribner* v. *O'Brien*, *Inc.*, 169 Conn. 389, 404, 363 A.2d 160 (1975) ("[w]here . . . an agent or officer commits or participates in the commission of a tort, whether or not he acts on behalf of his principal or corporation, he is liable to third persons injured thereby"). Consistent with the Restatement (Second) of Torts and the Restatement (Third) of Agency,[8] other jurisdictions have applied these principles to find viable claims of negligent misrepresentation brought against corporate officers, despite the existence of contractual remedies against the corporate entity arising from the same conduct.[9] See *Jefferson* v. *Collins*, 905 F. Supp. 2d 269, 279 (D.D.C. 2012) (denying motion to dismiss claims of fraud and negligent misrepresentation against officer of corporation that sold real property because "[i]n contrast to the plaintiffs' contract-based claims, these claims seek to hold [the officer] liable for his own alleged acts and omissions, rather than [the corporation's]"); *Liberty Mutual Ins. Co.* v. *Fast Lane Car Service*, *Inc.*, 681 F. Supp. 2d 340, 351 (E.D.N.Y. 2010) (adopting magistrate's finding that car service president was jointly and severally liable with corporation because he "had a personal role in preparing and/or endorsing the fraudulent statement and thus, in the intentional and negligent misrepresentation" to insurance company despite fact that he "cannot be held liable for breach of contract" with insurer); *Model Imperial Supply Co.* v. *Westwind Cosmetics*, *Inc.*, 808 F. Supp. 943, 946 (E.D.N.Y. 1992) (because of his personal involvement in transaction involving sale of counterfeit cologne, corporation's president could be held personally liable for negligent misrepresentation, despite existence of contractual claim against corporation); *Home Loan Corp.* v. *Aza*, 930 So. 2d 814, 815–16 (Fla. App. 2006) (president of title company could be held personally liable for fraud or negligent misrepresentation for preparing, signing and certifying settlement statement containing "knowingly false statements and material misrepresentations" about buyer's cash contribution to transaction); accord *Kilduff* v. *Adams*, *Inc.*, supra, 219

Conn. 331–32 (unnecessary to pierce corporate veil to hold corporate officers personally liable for fraudulent misrepresentations that they had made that led to foreclosure of plaintiffs' home by corporation); *Cohen* v. *Roll-A-Cover, LLC*, 131 Conn. App. 443, 468–69, 27 A.3d 1 (holding corporate entity's president liable under Connecticut Unfair Trade Practices Act, General Statutes § 42-110a et seq., for fraudulent misrepresentations made in course of selling franchises because he had personally made those misrepresentations), cert. denied, 303 Conn. 915, 33 A.3d 739 (2011).

As the Appellate Court aptly noted; see *Coppola Construction Co.* v. *Hoffman Enterprises Ltd. Partnership*, supra, 134 Conn. App. 210 n.4; Hoffman's claim also fails to accommodate the plaintiff's right "[u]nder our pleading practice . . . to advance alternative and even inconsistent theories of liability against one or more defendants in a single complaint." *Dreier* v. *Upjohn Co.*, 196 Conn. 242, 245, 492 A.2d 164 (1985); see also Practice Book § 10-25 ("[t]he plaintiff may claim alternative relief, based upon an alternative construction of the cause of action"); *Danko* v. *Redway Enterprises, Inc.*, 254 Conn. 369, 381, 757 A.2d 1064 (2000) ("A plaintiff may, with reasonable cause, raise alternative and inconsistent claims in the same case. . . . Although a plaintiff is, of course, under no obligation to raise such inconsistent claims, he or she reasonably may conclude that it is necessary to do so pending the discovery of additional facts." [Citations omitted; footnotes omitted.]). This is particularly significant given the variances in proof between the plaintiff's tort claim of negligent misrepresentation against Hoffman and the plaintiff's contractual claims against Hoffman Enterprises, which the Appellate Court observed in directly comparing the elements of apparent authority and negligent misrepresentation. See *Coppola Construction Co.* v. *Hoffman Enterprises Ltd. Partnership*, supra, 210 n.4. This is consistent with our observation, in *Williams Ford, Inc.* v. *Hartford Courant Co.*, supra, 232 Conn. 579, that "a remedy on the contract is independent of a remedy for negligent misrepresentation." See also *Addie* v. *Kjaer*, 51 V.I. 836, 850–51 (2009) (Title insurance company president's liability for conversion from escrow account "is not predicated solely on the contractual duties [the company] owed the [b]uyers. Rather, his liability springs as well from his extra-contractual, independent obligation not to cause the [b]uyers harm. That obligation exists not only by virtue of the agreement between [the company] and the [b]uyers, but because 'the law imposes special duties on parties who deal with one another in a business setting.' "); *D'Ulisse-Cupo* v. *Board of Directors of Notre Dame High School*, supra, 202 Conn. 218–19 (Rejecting the defendants' argument that, "if they cannot be held liable in contract for their representations based on promissory estoppel, they likewise cannot be held liable in tort for negligent mis-

representation" because "[t]he gravamen of the defendants' alleged negligence is that the defendants made unconditional representations of their plans to rehire the plaintiff, when in fact the defendants knew or should have known that hiring plans would be contingent upon student enrollment levels for the following year. . . . If the plaintiff's complaint otherwise contains the necessary elements of negligent misrepresentation, it survives a motion to strike even though the first and third counts grounded in promissory estoppel must fall."); cf. *South Broward Hospital District* v. *MedQuist, Inc.*, 516 F. Supp. 2d 370, 397 (D.N.J.) (dismissing negligent misrepresentation claims brought against corporate officers under participation theory because "[p]laintiffs have not plead that the [i]ndividual [d]efendants have any duty outside of [the corporation's] contract duty"), aff'd, 258 F. Appx. 466 (3d Cir. 2007).

On the basis of these authorities, we conclude that the fact that the allegations pleaded in a complaint might well also state a contractual claim against a corporate entity under the apparent authority doctrine does not preclude a separate claim of negligent misrepresentation against a principal of that corporate entity as a matter of law.[10] Accordingly, we further conclude that the plaintiff pleaded a legally sufficient claim of negligent misrepresentation in the sixth count of the complaint. The Appellate Court, therefore, properly determined that the trial court had incorrectly granted Hoffman's motion to strike that count from the complaint.

The judgment of the Appellate Court is affirmed.

In this opinion the other justices concurred.

* This case originally was scheduled to be argued before a panel of this court consisting of Chief Justice Rogers and Justices Norcott, Zarella, Eveleigh, McDonald and Vertefeuille. Justice Vertefeuille, however, has not participated in the argument or decision of this case.

[1] The named defendant is Hoffman Enterprises Limited Partnership. Where appropriate, we refer to Hoffman and Hoffman Enterprises Limited Partnership jointly as the defendants.

[2] We granted Hoffman's petition for certification limited to the following issue: "Did the Appellate Court properly conclude that the plaintiff had stated a legally sufficient claim for negligent misrepresentation?" *Coppola Construction Co.* v. *Hoffman Enterprises Ltd. Partnership*, 304 Conn. 923, 924, 41 A.3d 663 (2012).

[3] The operative complaint is the third amended complaint, which the plaintiff filed in response to the defendants' request to revise the second amended complaint. The plaintiff had filed the second amended complaint after the trial court had granted the defendants' first motion to strike certain counts in the amended complaint.

[4] Noting that Hoffman Enterprises was not a party to the appeal, which concerned only count six of the complaint; see *Coppola Construction Co.* v. *Hoffman Enterprises Ltd. Partnership*, supra, 134 Conn. App. 204 n.2; the Appellate Court affirmed the remainder of the judgment of the trial court, which had denied Hoffman Enterprises' motion to strike counts four and five of the operative complaint. See id., 205, 211.

[5] Section 552 of the Restatement (Second) of Torts provides: "(1) One who, in the course of his business, profession or employment, or in any other transaction in which he has a pecuniary interest, supplies false information for the guidance of others in their business transactions, is subject to liability for pecuniary loss caused to them by their justifiable reliance upon the information, if he fails to exercise reasonable care or competence in

obtaining or communicating the information.

"(2) Except as stated in Subsection (3), the liability stated in Subsection (1) is limited to loss suffered

"(a) by the person or one of a limited group of persons for whose benefit and guidance he intends to supply the information or knows that the recipient intends to supply it; and

"(b) through reliance upon it in a transaction that he intends the information to influence or knows that the recipient so intends or in a substantially similar transaction.

"(3) The liability of one who is under a public duty to give the information extends to loss suffered by any of the class of persons for whose benefit the duty is created, in any of the transactions in which it is intended to protect them."

[6] The complaint does not expressly state that the plaintiff's reliance on Hoffman's misrepresentations was reasonable, but, given Hoffman's position with respect to Hoffman Enterprises, and the lack of any argument to the contrary by the defendants, we read the pleadings to be inclusive of that element of the negligent misrepresentation tort. In any event, we note that the reasonableness of the plaintiff's reliance will be a question of fact for the trier. See, e.g., *Williams Ford, Inc.* v. *Hartford Courant Co.*, supra, 232 Conn. 579–80; *Centimark Corp.* v. *Village Manor Associates Ltd. Partnership*, 113 Conn. App. 509, 520, 967 A.2d 550, cert. denied, 292 Conn. 907, 973 A.2d 103 (2009).

[7] "Apparent authority terminates when the third person has notice that: (1) the agent's authority has terminated; (2) the principal no longer consents that the agent shall deal with the third person; or (3) the agent is acting under a basic error as to the facts." *Tomlinson* v. *Board of Education*, supra, 226 Conn. 735, citing 1 Restatement (Second), Agency § 125, comment (a) (1958).

[8] The drafters' commentary to the Restatement (Second) of Torts and the Restatement (Third) of Agency indicate that the American Law Institute contemplates individual liability for corporate officers and principals for their negligent misrepresentations, notwithstanding their apparent authority to bind the corporate entity. Compare 3 Restatement (Second), Torts, § 552, comment (d) (1977) ("The defendant's pecuniary interest in supplying the information will normally lie in a consideration paid to him for it or paid in a transaction in the course of and as a part of which it is supplied. It may, however, be of a more indirect character. Thus the officers of a corporation, although they receive no personal consideration for giving information concerning its affairs, may have a pecuniary interest in its transactions, since they stand to profit indirectly from them, and an agent who expects to receive a commission on a sale may have such an interest in it although he sells nothing."), with 2 Restatement (Third), Agency, § 7.01 comment (b) (2006) ("[a]n agent whose conduct is tortious is subject to liability . . . whether or not the agent acted with actual authority, with apparent authority, or within the scope of employment"); see also *Addie* v. *Kjaer*, 51 V.I. 836, 847 (2009) ("The . . . illustration [in the Restatement (third) of Agency] unambiguously demonstrates that a corporate agent may be held liable for a tort he personally commits in violation of his principal's contract with the plaintiff. The Restatement [third] does not bar such a tort claim merely because the agent's tort runs afoul of contractual duties the principal owes the plaintiff.").

[9] There is case law to this effect from our Superior Court as well. See *Senior* v. *Hartford Financial Services Group, Inc.*, Superior Court, judicial district of Hartford, Docket No. CV-01-0808241-S (January 14, 2002) (denying motion to strike claim of negligent misrepresentation against vice president in her individual capacity, despite existence of viable contractual and tort claims against corporation); *Silber* v. *Carotenuto & Sons General Contractors, Inc.*, Superior Court, judicial district of New Haven, Docket No. CV-98-0416562-S (February 8, 2000) (denying motion for summary judgment as to negligence claim because "while [the defendant's] status as a corporate officer does insulate him from the plaintiff's breach of contract claims, it does not affect his potential liability for torts he individually committed").

[10] Hoffman's contention that the Appellate Court "failed to properly consider the interplay between the doctrine of apparent authority and the specific claim of negligent misrepresentation that the plaintiff was trying to assert in count six," therefore, lacks merit. We specifically disagree with his argument that the fact "a contract arises from representations that are relied upon (which is always the case) does not transform the contract claim into one for negligent misrepresentation under the circumstances

alleged in count six where the truth or falsity of this particular representation does not affect the legal outcome." As the Appellate Court aptly observed, "regardless of whether the allegations in count six provide a factual basis for apparent authority, the plaintiff has alleged negligent misrepresentation." *Coppola Construction Co.* v. *Hoffman Enterprises Ltd. Partnership*, supra, 134 Conn. App. 210 n.4. We further agree with the Appellate Court's conclusion that the gravamen of Hoffman's argument appears to be his concern that the ultimate proof in this case might well run afoul of the well established rule against double recovery. Id.; see also *Chapman Lumber, Inc.* v. *Tager*, supra, 288 Conn. 111 ("a litigant may recover just damages for the same loss only once" [internal quotation marks omitted]); *Rowe* v. *Goulet*, 89 Conn. App. 836, 849, 875 A.2d 564 (2005) ("[d]uplicated recoveries . . . must not be awarded for the same underlying loss under different legal theories" and "a plaintiff is entitled to allege respective theories of liability in separate claims, [but] he or she is not entitled to recover twice for harm growing out of the same transaction, occurrence or event"). Hoffman's concerns, however, "with respect to the potentially duplicative nature of the damages and injuries pleaded in the . . . complaint implicate potential problems of proof rather than pleading"; *State* v. *Marsh & McLennan Co.*, 286 Conn. 454, 475, 944 A.2d 315 (2008); and do not inform our purely legal determination in considering the merits of his motion to strike.