

IN THE CIRCUIT COURT OF PRAIRIE COUNTY, ARKANSAS
SOUTHERN DISTRICT
CIVIL DIVISION

JOSEPH JOHNSON, as Personal
Representative of the Estate of
Roy Johnson, Jr., deceased

PLAINTIFF

v.

No. CV-2011-_____

ESTES EXPRESS LINES,
JOHN DUNKLE; JOHN DOE 1;
JOHN DOE 2; and, JOHN DOE 3

DEFENDANTS

COMPLAINT

COMES NOW the Plaintiff, Joseph Johnson, as Personal Representative of the Estate of Roy Johnson, Jr., deceased, and for his Complaint against the Defendants, Estes Express Lines and John Dunkle, state:

1. That on April 8, 2011, an automobile collision occurred on Interstate 40 near the 194 ½ mile marker eastbound in Prairie County, Arkansas, involving the vehicle being driven westbound by Defendant John Dunkle and owned by Estes Express Lines and Roy Johnson, Jr., which crossed the median and struck the eastbound vehicle driven by Roy Johnson, Jr., resulting in his death.

2. That at the time of the collision referred to herein, Roy Johnson, Jr. was a resident of Memphis, Tennessee.

3. That at the time of the occurrence referred to herein, and at the time of the filing of this action, the defendant, Estes Express Lines, is a Virginia

corporation authorized and conducting business in the State of Arkansas.

4. That the defendants, or one of them, including one or more John Doe defendants, hereinafter collectively referred to as “Estes Express Lines,” was the owner of the tractor/trailer driven by John Dunkle and referred to in this matter.

5. That for the purpose of tolling the statute of limitations, the plaintiff may file a complaint stating his cause of action in the appropriate court of this state, whenever the identity of the tortfeasor is unknown.

6. That, in the alternative, the name of any unknown tortfeasor, individual person or entity, shall be designated by the pseudo-name John Doe. Thus, in this case, John Doe 1, John Doe 2, and John Doe 3, in the alternative, are the names of any unknown defendants and are the true names of any unknown person(s) or entity(ies) who own or have an interest in Estes Express Lines.

7. That upon determining the true identity of any current unknown tortfeasor person(s) or entity(ies), plaintiff will amend the complaint by substituting the real name for the pseudo-name.

8. Upon information and belief, the mailing address for the headquarters of Estes Express Lines, is 3901 West Broad Street, Richmond, Virginia 23220.

9. Upon information and belief, the registered agent for service of

Estes Express Lines, is Corporation Service Company, 300 Spring Building, Suite 900, 300 Spring Street, Little Rock, AR 72201.

10. That at the time of the occurrence referred to herein, and at the time of the filing of this action, the defendant, Estes Express Lines, was a foreign corporation.

11. That at the time of the occurrence referred to herein, John Dunkle was the agent, servant and/or employee of Estes Express Lines.

12. That at the time of the occurrence referred to herein, John Dunkle was in the course and scope of his employment and/or agency relationship with Estes Express Lines.

13. That the defendant, Estes Express Lines, at the time of the occurrence referred to herein, was engaged in the business of a motor carrier engaged in interstate commerce, operating commercial vehicles and subject to the rules and regulations of the United States Federal Highway Administration, Department of Transportation, using the roads and highways of the United States and specifically, the State of Arkansas.

14. That the automobile collision out of which this cause of action arises occurred on Interstate 40, near the 194 ½ mile marker eastbound, Prairie County, Arkansas.

15. That this Court has jurisdiction over this cause and the parties hereto.

16. That the venue of this action is properly placed with this Court.

17. That both the tractor and trailer operated by John Dunkle are commercial motor vehicles as defined by federal regulations and each vehicle is subject to the inspection, maintenance, insurance, and operational limitations requirements of the regulations promulgated by the Federal Highway Administration, Department of Transportation.

18. That the tractor operated by John Dunkle was owned and/or represented to be owned by the defendant, Estes Express Lines.

19. That Joseph Johnson was the duly appointed Personal Representative of the Estate of Roy Johnson, Jr., deceased, for the purposes for bringing a claim for wrongful death benefits on April 13, 2011.

20. That Joseph Johnson, as Personal Representative of the Estate of Roy Johnson, Jr., deceased, is the proper party to bring this action on behalf and of the Estate of and heirs of Roy Johnson, Jr., deceased.

21. That on April 8, 2011, Roy Johnson, Jr., was operating his vehicle eastbound on Interstate 40, near mile marker 194 ½, when defendant, John Dunkle, crossed the median and struck Roy Johnson, Jr., head-on, resulting in his death.

22. That the collision out of which this cause accrues occurred as a proximate result of the negligent conduct of John Dunkle, which is imputed to the defendant, Estes Express Lines, in the following particulars, including, but

not limited to the following acts:

- a. That the defendant, John Dunkle, negligently failed to operate his vehicle at a reasonable speed under the circumstances then and there existing;
- b. That the defendant, John Dunkle, negligently failed to keep a proper lookout for other vehicles under the circumstances then and these existing;
- c. That the defendant, John Dunkle, negligently failed to keep his vehicle under proper control for the circumstances then and there existing;
- d. That the defendant, John Dunkle, negligently failed to yield the right of way to the vehicle which Roy Johnson, Jr., was operating;
- e. That the defendant, John Dunkle, negligently failed to keep his vehicle in the proper lane of travel; and,
- f. That the defendant, John Dunkle, failed to use ordinary care under the circumstances then and there existing.

23. That the defendant, Estes Express Lines, was negligent in the hiring, training, instruction, supervision and allowing the continued employment of the defendant, John Dunkle, and its negligence was a proximate cause of this occurrence.

24. That no other party, person, firm or entity was guilty of any negligence which was a proximate and contributing cause relating to this occurrence, other than the defendants, John Dunkle and Estes Express Lines.

25. That the conduct of John Dunkle is imputed to Estes Express Lines, as a matter of law by federal regulations in that he was the driver for the motor carrier, Estes Express Lines, in the course and scope of his employment.

26. That the conduct of John Dunkle is imputed to the defendant, Estes Express Lines, under the doctrine of respondeat superior.

27. That as a proximate result of the negligence of defendants, Roy Johnson, Jr. deceased, suffered multiple injuries to his person, and burned to death. He endured conscious pain, suffering, discomfort and mental anguish prior to his death.

28. That as a proximate result of the negligence of defendants, Plaintiff Joseph Johnson, as Personal Representative of the Estate of Roy Johnson, Jr., deceased, bring this action on behalf of the Estate and of the heirs and beneficiaries at law of Roy Johnson, Jr., who are:

- a. Joseph Johnson, son;
- b. Troy Johnson, son;
- c. Teresa Griffin, sister; and,
- d. Elaine Johnson, possible spouse, legal status unknown.

29. That as a proximate result of the negligence of defendants, Plaintiff Joseph Johnson is entitled to recover damages from and against defendants for the wrongful death of Roy Johnson, Jr., deceased; for the mental anguish that the heirs of Roy Johnson, Jr., endured and will endure in the future as a result of the death of Roy Johnson, Jr.; for funeral expenses; for the conscious pain, suffering, discomfort and mental anguish endured by Roy Johnson, Jr., prior to his death; for the loss of the value of the life of Roy Johnson, Jr.; and, for all

other relief to which they may be entitled.

30. That Plaintiff Joseph Johnson prays that he have judgment from and against Defendants, Estes Express Lines and John Dunkle, in the amount of excess of that required for federal court diversity jurisdiction.

31. That Plaintiff Joseph Johnson reserves the right to amend and plead further in this cause.

32. That Plaintiff Joseph Johnson specifically demands a trial by jury in this cause.

WHEREFORE, Plaintiff Joseph Johnson prays that he have and recover judgment from and against Defendants, Estes Express Lines and John Dunkle, in an amount to be set by the jury in excess of the amount required for federal court diversity jurisdiction and for all other relief to which he may be entitled.

Respectfully Submitted,

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