

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

MAGGIE RAMSEY,

Plaintiffs,

v.

SCHNEIDER NATIONAL CARRIERS, INC.,

and KENNETH L. THOMPSON,

Defendants.

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DOCKET NO. _____

JURY DEMAND

COMPLAINT

COME NOW Plaintiff Maggie Ramsey, by and through counsel, and files her complaint, and shows unto the Court as follows:

1. Maggie Ramsey is a resident of the State of Tennessee.
2. Defendant Schneider National Carriers, Inc. (hereinafter "Schneider") is a nonresident motor carrier and is a corporation organized in the state of Nevada, transacting business in the state of Tennessee on the date at issue.
3. Schneider can be served through its agent for service of process, CT Corporation System, 530 Gay Street, Suite 600, Knoxville, Tennessee 37902.
4. Schneider is registered with U.S. Department of Transportation under DOT number 264184. Schneider's MCC registration number is 133655.
5. Defendant Kenneth L. Thompson (hereinafter referred to as "Thompson") is a resident of the state of Illinois and can be served with a Summons and Complaint at 221 N. Lott Boulevard, Gibson City, Illinois 80936.

6. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1332 because diversity of citizenship exists between Plaintiff and Defendants and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

7. Venue is proper pursuant to 28 U.S.C. §1391(a) because the accident giving rise to this action occurred in Sequatchie County, Tennessee.

STATEMENT OF FACTS

8. All preceding statements of the complaint are incorporated herein and re-alleged as if expressly set forth herein.

9. Some time shortly prior to August 1, 2010, Defendant Thompson called Defendant Schneider and stated he was having problems with the brakes on his tractor-trailer.

10. Defendant Schneider did not immediately repair the brakes, but instead told Defendant Thompson to bring the tractor-trailer back to Wisconsin to be repaired.

11. On or about August 1, 2010, Defendant Thompson was driving the Schneider tractor-trailer in its unrepaired state north on Highway 8 in Sequatchie County, Tennessee.

12. At the same time and place, Plaintiff Maggie Ramsey was a passenger in an SUV traveling north on Highway 8 ahead of Defendant Thompson.

13. The brakes on the unrepaired Schneider tractor-trailer failed as Defendant Thompson attempted to apply them.

14. The Schneider tractor-trailer then rear-ended the SUV in which Ms. Ramsey was a passenger, forcing the SUV off the right side of the road, and eventually causing it to overturn and come to rest on its side. Ms. Ramsey was knocked unconscious by the force of the impact and, when she awoke, she found she was trapped upside-down inside the vehicle.

15. Ms. Ramsey was eventually cut free from the SUV and transported by LifeForce helicopter to the Erlanger emergency room.

16. At Erlanger, it was determined that Ms. Ramsey sustained multiple serious injuries, including but not limited to broken ribs, a broken arm requiring surgery, and traumatic brain damage.

17. Properly trained safe commercial tractor-trailer drivers do not strike cars in the rear.

18. Properly trained, safe commercial tractor-trailer drivers timely and regularly inspect their brakes to ensure they are working.

19. Properly maintained brakes do not fail

20. Alternatively, Defendant Thompson was negligently using a cell phone, texting, or otherwise distracted while driving down the highway without regard to the safety of the public and the citizens of Tennessee.

21. Defendant Thompson had a duty to inspect both the tractor and the trailer to ensure they were safe before putting the tractor trailer on the roads and highways.

22. Tractor-trailer drivers are required to perform a pre-trip inspection.

23. The pre-trip inspection must include the brakes.

24. The Defendants had a duty to maintain the tractor and trailer, to specifically include the brakes, to ensure the safety of the public and the citizens of Tennessee on the nation's roads, interstates, and highways.

25. Defendant Schneider had a duty to train Defendant Thompson to safely drive the tractor-trailer before allowing him to drive.

26. Defendant Schneider had a duty to train Defendant Thompson to safely inspect the tractor-trailer to ensure its safe operation before allowing him to drive a tractor-trailer.

27. Defendant Schneider had a duty to train Defendant Thompson to maintain the tractor-trailer to ensure its safe operation before allowing the tractor-trailer to be driven.

28. Defendant Schneider had a duty to timely and fully repair the brakes of the tractor-trailer when the brake problems were brought to its attention by Defendant Thompson.

29. There was no act of Ms. Ramsey which contributed to the wreck.

30. There was no failure to act of Ms. Ramsey which contributed to the wreck.

31. The acts, and failure to act, of the Defendants caused the wreck.

32. Ms. Ramsey was severely injured as a result of the wreck.

33. Subsequent to the wreck, agents of Defendant Schneider removed the event data recorder (“black box”) from the tractor-trailer, which contained the crash data from the wreck.

34. When the event data recorder was returned for inspection, the crash data had been erased. Such destruction of evidence constitutes spoliation.

35. The acts and omissions committed by each of the Defendants were, each and cumulatively, a proximate cause of the plaintiffs’ injuries and damages.

COUNT I
NEGLIGENT HIRING, TRAINING, ENTRUSTMENT, SUPERVISION,
RETENTION AND MAINTENANCE – SCHNEIDER NATIONAL CARRIERS, INC.

36. All preceding statements of the complaint are incorporated herein and realleged as if expressly set forth verbatim.

37. Regardless of the employment relationship, Defendant Schneider is the registered owner of U.S. DOT number 264184, and MCC number 133655, displayed on the tractor involved in this wreck and is therefore responsible for the acts of the driver of that vehicle.

38. At all times relevant to this cause of action, the Defendants were subject to and required to obey the minimum safety standards established by the Federal Motor Carrier Safety

Regulations (FMCSR) (49 CFR §§ 301-399), either directly or as adopted by the Tennessee Department of Transportation Safety Rules & Regulations 1340-6-1-.20 and pursuant to T.C.A. §§ 65-2-102 and 65-15-113.

39. The Defendants will be shown at trial to have violated the Federal Motor Carrier Safety Regulations which constitutes negligence *per se*, including but not limited to:

- a. § 390 General
- b. § 392 Driving of Commercial Motor Vehicles
- c. § 393 Parts and Accessories Necessary for Safe Operation
- d. § 395 Hours of Service

40. Defendant Schneider was required to teach and train Defendant Thompson so that he was able to understand and obey the rules and regulations contained in the FMCSR.

41. In order to put the matter at issue, Plaintiff alleges that Schneider was negligent, and grossly negligent, as set forth in this complaint.

42. That Schneider was negligent, and grossly negligent, in:

- a. hiring and/or contracting with Defendant Thompson to drive the tractor-trailer at issue;
- b. training of Defendant Thompson in the inspection and/or maintenance of the tractor-trailer;
- c. failing to supervise Defendant Thompson while driving the tractor-trailer.
- d. failing to maintain the tractor-trailer at issue;
- e. failing to train Defendant Thompson to properly drive the tractor-trailer;
- f. entrusting Defendant Thompson with the tractor-trailer;
- g. retaining Defendant Thompson to drive the tractor-trailer;
- h. Failure to fix and repair the tractor-trailer when notified there was a mechanical problem with the tractor-trailer.

- i. failing to conduct proper and required checks on the background of their employee, agent and/or contractor, Defendant Thompson; and
- j. failure to exercise ordinary care to determine their employees' agents' and/or contractors' fitness for the task of driving a commercial vehicle interstate.

43. Defendant Schneider had a duty to promulgate and enforce rules and regulations to ensure its drivers and vehicles were reasonably safe, and negligently failed to do so.

44. Defendants Schneider, through its agents and employees, knew, or should have known by exercising reasonable care, about the risks set forth in this complaint and that by simply exercising reasonable care these risks would be reduced or eliminated. These risks include, but are not limited to:

- a. The risks associated with unsafe drivers,
- b. The risks associated with the violation of proper maintenance standards,
- c. The risks associated with failing to train drivers to obey the FMCSR,
- d. The risks associated with failing to properly fix and repair its tractor-trailers when notified of a problem,
- e. The risks associated with failing to have adequate risk management policies and procedures in place,
- f. Failing to have policies and procedures in place to identify undertrained and unqualified drivers.
- g. Failing to identify from prior wrecks, similar to the one in question, a root cause and implement policies, procedures, protocols and practices to effectively reduce or eliminate the risk prior to the wreck in the question,
- h. Failing to appropriately implement and enforce risk management policies and procedures to identify the risks described above,

- i. Failing to appropriately implement and enforce risk management policies and procedures to reduce and eliminate the risks described above,
- j. Failure to appropriately implement and enforce risk management policies and procedures to monitor and assess Defendant Thompson once he was hired.
- k. Failing to implement and follow a written safety plan.
- l. Failing to protect the members of the public, such as the Plaintiff, from the risks described above,
- m. Failing to use the composite knowledge reasonably available to Schneider to analyze the data available to it to identify the risk, take steps to reduce or eliminate the risk, and to protect members of the public from that risk.

45. At all times relevant hereto, Defendant Schneider was acting by and through its employees/agents and is responsible for the acts of those employees and agents pursuant to *respondeat superior*, agency, statutory employment as set forth in the FMCSR, or similar theory of law.

46. Defendant Schneider's negligence, either solely or combined and concurring with the negligent acts of the other Defendant, was a proximate cause of the injuries sustained by Ms. Ramsey.

47. Defendant Schneider, through its agents, destroyed data contained on the event data recorder to hide their negligence and gross negligence.

COUNT II
NEGLIGENCE OF KENNETH L. THOMPSON

48. All preceding statements and allegations of the complaint are incorporated herein and realleged as if expressly set forth verbatim.

49. At the time of the wreck, Defendant Thompson failed to exercise due care by having faulty brakes, following too close, disregarding the actual and potential hazards then existing, and failing to perform a proper inspection of the tractor-trailer when he knew, or should have known, of the problem with the brakes and equipment of the tractor-trailer he was operating.

50. The tractor-trailer driven by Defendant Thompson was driven with the permission and at the direction of Defendants Schneider.

51. The tractor-trailer driven by Defendant Thompson was driven in the course and scope of his employment with the business of Defendant Schneider.

52. Plaintiffs would show, before a full investigation has been made, that at the time of this wreck, Defendant Thompson was grossly and generally negligent under the circumstances then and there existing, in that he failed to exercise due care by:

- a. driving the tractor-trailer carelessly;
- b. having faulty brakes;
- c. failing to perform a proper inspection of the tractor-trailer when he knew, or should have known, of any problems with the brakes and the mechanical equipment of the tractor-trailer, endangering the public;
- d. failing to keep his vehicle under control;
- e. failing to keep a proper lookout;
- f. failing to timely apply his brakes, alter direction of travel, or take any other appropriate action when he, by the exercise of due and reasonable care, should have seen the vehicle in front of him;
- g. failing to operate his tractor-trailer in a safe and prudent manner in view of the conditions which existed at the time of the wreck;
- h. failing to keep a safe and reasonable distance between the car he was following and his tractor-trailer (following too closely);
- i. operating his vehicle at an excessive speed;

- j. distracted driving; and
- k. Such other actions or inactions that may be shown at the trial of this case.

53. At the time and place of this accident, Defendant Thompson was negligent *per se* in that he was violating one or more of the statutes of the state of Tennessee, to include but not be limited to:

- a. T.C.A. § 55-8-103 Required obedience to traffic laws
- b. T.C.A. § 55-8-123 Driving on roadways laned for traffic
- c. T.C.A. § 55-8-124 Following too closely
- d. T.C.A. § 55-8-136 Drivers to exercise due care

54. Defendants' negligence proximately caused the wreck with Ms. Ramsey's vehicle and resulting damages and injuries.

55. At all times relevant to this cause of action, Defendant Thompson was subject to and required to obey the minimum safety standards established by the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR §§ 301-399), either directly or as adopted by the Tennessee Department of Transportation Safety Rules & Regulations 1340-6-1-.20 and pursuant to T.C.A. §§ 65-2-102 and 65-15-113.

56. Defendant Thompson will be shown to have violated the state and Federal Motor Carrier Safety Regulations and statutes of Tennessee which constitutes negligence *per se*, including but not limited to:

- a. § 390 General
- b. § 392 Driving of Commercial Motor Vehicles
- c. § 393 Parts and Accessories Necessary for Safe Operation
- d. § 395 Hours of Service

57. Defendant Thompson's negligence, solely or combined and concurring with the negligent acts of the other Defendant, proximately caused the wreck with Ms. Ramsey's vehicle and resulting damages and injuries to Ms. Ramsey.

COUNT III
DAMAGES

58. All preceding statements and allegations of the complaint are incorporated herein and realleged as if expressly set forth herein.

59. As set forth more fully above, each of the Defendants acted in a willful, wanton and reckless manner which either alone, or combined and concurring with the actions of the other Defendant's acts of negligence, directly and proximately caused the wreck and Ms. Ramsey's injuries.

60. As a result of the Defendant's negligence, and gross negligence, Ms. Ramsey is entitled to recover damages for her past, present, and future economic and non-economic losses to the full extent allowed by the laws of the state of Tennessee. Exemplary damages are also warranted in this case.

WHEREFORE, Plaintiff demands judgment against the Defendants as follows:

- a. that Defendants be served with summons, process, and a copy of this Complaint, and be required to Answer as provided by law;
- b. that this matter be tried before a jury of twelve (12);
- c. an amount a jury believes to be just, fair, and equitable for special and general damages, to include but not be limited to bodily injury, medical expenses, pain and suffering, and other related economic and non-economic damages to the full extent allowed by law and the jury, after hearing the facts of this case;
- d. an amount a jury believes to be just, fair, and equitable for exemplary damages to the

- full extent allowed by law, after hearing the facts of this case;
- e. that the Court award discretionary costs and the costs of litigation and expenses; and
 - f. for all such further and general relief which this Court deems just and proper.

Respectfully submitted,
LAW OFFICES OF MORGAN G. ADAMS

BY: _____
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