

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

TYRA JONES PAYNE,)	
SHEENA JONES, and)	
LATOYA JONES, as surviving children of)	CIVIL ACTION
ROBIN SHELBY, deceased)	FILE NO:
)	
Plaintiffs,)	
)	
vs.)	Jury Trial Demanded
)	
GREYHOUND LINES, INC.;)	
JERDINE COSTICT; and)	
JOHN DOE)	
)	
Defendants.)	

COMPLAINT

COME NOW Plaintiffs, Tyra Jones Payne, Sheena Jones and Latoya Jones, as surviving children of Robin Shelby, deceased, by and through their undersigned attorney, and file this Complaint for damages against Defendants Greyhound Lines, Inc.; Jerdine Costict and John Doe, showing the Court the following:

INTRODUCTION

Robin Shelby planned a trip by Greyhound bus for her and her grandson Antonio, traveling from San Diego, California to Monroe, Georgia to attend a family reunion which had been three years in planning. It was a long trip, virtually from coast to coast, but Robin looked forward to it with much excitement at seeing all the family together when she arrived at her destination. However, as it turned out, Robin spent the last days of her life on a Greyhound bus, and never arrived to see her family. This lawsuit is against the entity and the individuals who were directly responsible for Robin's death because of their failure to respond appropriately to her cries for help,

and the failure to have an established policy, procedure and practice to respond appropriately to a passenger's urgent needs that are a matter of life and death.

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Tyra Jones Payne is a citizen and resident of Florida, and is a surviving child of Robin Shelby, deceased.

2. Plaintiff Sheena Jones is a citizen and resident of Georgia, and is a surviving child of Robin Shelby, deceased.

3. Plaintiff Latoya Jones is a citizen and resident of Louisiana, and is a surviving child of Robin Shelby, deceased.

4. Defendant Greyhound Lines, Inc. ("Defendant Greyhound") is a Delaware Corporation licensed to do business, and doing business, in the State of Georgia, with a place of business at 232 Forsyth Street, SE, Atlanta, Fulton County, Georgia; and it may be served through its registered agent, CT Corporation System, 289 S. Culver Street, Lawrenceville, Gwinnett County, Georgia 30046.

5. Defendant Jerdine Costict ("Defendant Costict") is the Manager of Defendant Greyhound's southern hub located at 232 Forsyth Street SW, Atlanta, Fulton County, Georgia 30303; and may be served at that address or at her place of residence. Upon information and belief Defendant Costict resides at 12 QUAIL HOLW SE, ROME, GA 30161-6820 (FLOYD COUNTY).

6. Defendant John Doe ("Defendant Doe") is the as yet unidentified driver of Defendant Greyhound's bus that transported Ms. Shelby from Birmingham, Alabama to Atlanta, Georgia on July 19, 2017. Defendant Doe will be served after his identity is known to Plaintiffs.

7. Defendants are subject to the jurisdiction of this Court, and venue is proper in this Court, pursuant to the Constitution of the State of Georgia and O.C.G.A. § 14-2-510(b)(3), § 9-

10-31 and § 9-10-91. On July 19, 2017, the consequences of the continuing tortious action by Defendants as joint tortfeasors culminated with the death of Ms. Shelby in Fulton County, Georgia.

FACTUAL ALLEGATIONS

8. On July 17, 2017 at approximately 10 a.m., Robin Shelby (“Ms. Shelby”) commenced travel from San Diego, California for her ultimate destination Monroe, Georgia.

9. Ms. Shelby was traveling as a paying passenger via transportation by bus owned and operated by Defendant Greyhound.

10. Traveling with Ms. Shelby was her eleven-year-old grandson, Antonio Toca.

11. During the journey on Defendant Greyhound’s buses, Ms. Shelby eventually became ill and experienced difficulty breathing.

12. When the bus made a stopover at Defendant Greyhound’s bus station in Birmingham, Alabama, Ms. Shelby informed Defendant Greyhound’s agents and employees about her medical condition and they called for medical assistance.

13. Local EMT responders came and examined Ms. Shelby.

14. During this process, Defendant’s agents and employees informed Ms. Shelby that the bus to Atlanta would be leaving soon and informed her that she would have to immediately board the bus or be left behind.

15. Ms. Shelby, feeling somewhat improved, thereupon boarded the bus.

16. Defendant’s agents and employees, including the driver of the bus, Defendant Doe, had knowledge that Ms. Shelby had experienced medical issues when she boarded the bus for Atlanta.

17. On the way to Atlanta, approximately a three-hour trip, Ms. Shelby once again began to experience breathing difficulty.

18. Ms. Shelby, on more than one occasion, informed Defendant Doe that she was having difficulty breathing and needed medical assistance. Each time, Defendant Doe acknowledged her request for assistance, but took no action to assist her or seek assistance from anyone else.

19. Antonio, on more than one occasion, informed Defendant Doe that Ms. Shelby was having trouble breathing and needed help. Each time, Defendant Doe instructed Antonio to return to his seat.

20. Defendant Doe did not provide any assistance to Ms. Shelby or seek assistance for her from anyone else.

21. Defendant Doe did not stop the bus so that Ms. Shelby could seek medical assistance.

22. Defendant Doe did not call 911 or any other number or agency to obtain medical care for Ms. Shelby.

23. Defendant Doe did nothing to assist Ms. Shelby; and he did nothing to seek medical assistance for her, knowing that she had rebounded the bus in Birmingham after complaining of medical issues and that her medical issues resumed en route to Atlanta.

24. Defendant Doe did not stop the bus until it reached Defendant Greyhound's station in Atlanta.

25. As she was exiting Defendant's bus in Atlanta, Ms. Shelby collapsed and was taken to nearby Grady Hospital where she was pronounced dead soon after arrival at the hospital.

26. The time of death was 9:16 p.m. July 19, 2017, and the cause of death was determined to be pulmonary embolus due to deep vein thrombosis of lower extremities due to prolonged immobilization.

27. Upon information and belief, it is common knowledge to motor carriers that prolonged immobilization from traveling for an extended period of time can cause deep vein thrombosis (“DVT”) and the fatal consequences thereof, even for otherwise healthy people. Ms. Shelby was 58 years old at the time of her death.

28. Upon information and belief, Defendant Costict was at all times relevant to this action the Manager in charge of Defendant Greyhound’s “southern hub” located in Atlanta, and was directly responsible for operations which included the transportation provided to Ms. Shelby on July 19, 2017 from Birmingham to Atlanta (referred to herein as the “Subject Transportation”).

29. Upon information and belief, Defendant Costict was directly responsible for Defendant Greyhound’s policy, procedure and practice, or the lack thereof, regarding the response of Defendant Greyhound’s agents and employees to the urgent medical needs of passengers for the Subject Transportation.

30. Upon information and belief, Defendant Greyhound had no adequate, established policy, procedure and practice regarding the response of its agents and employees to the urgent medical needs of passengers for the Subject Transportation.

31. Upon information and belief, Defendant Greyhound had no adequate, established policy, procedure and practice with respect to recognizing and responding to passengers who were experiencing symptoms of DVT which Defendants knew, or should have known, can be caused by prolonged immobilization from traveling for an extended period of time, and can result in debilitation and death, even for otherwise healthy people.

CAUSES OF ACTION

COUNT 1 – NEGLIGENCE – DEFENDANT GREYHOUND

32. All preceding paragraphs are incorporated herein by this specific reference.

33. O.C.G.A. § 46-9-132 states that “A carrier of passengers must exercise extraordinary diligence to protect the lives and person of his passengers...”

34. O.C.G.A. § 51-1-3 states “In general, extraordinary diligence is that extreme care and caution which very prudent and thoughtful persons exercise under the same or similar circumstances...The absence of such extraordinary diligence is termed slight negligence.”

35. When Ms. Shelby boarded the bus at Defendant’s station in Birmingham for transportation to Atlanta, she was sick and unable to care for herself.

36. Defendant Greyhound, through its agents and employees, including Defendant Doe, had knowledge of Ms. Shelby’s medical complaints, and accepted her as a passenger on the bus to Atlanta.

37. Defendant Greyhound had a duty to exercise extraordinary care with regard to Ms. Shelby as its passenger on the bus to Atlanta.

38. Any slight negligence by Defendant Greyhound concerning the safety, health and wellbeing of its passenger, Ms. Shelby, constituted a breach of its duty of care to Ms. Shelby for which Defendant Greyhound is liable. See, *Central of G. R. Co. v. Madden*, 135 Ga. 205 (1910); and *Korn v. Tamiami Trail Tours, Inc.*, 108 Ga. App. 510 (1963).

39. Defendant Greyhound breached its duty to exercise extraordinary care with regard to Ms. Shelby by refusing to respond to her cries for help; by failing and refusing to assist her in obtaining medical care; by failing and refusing to call 911 or some other agency for urgent medical care; by not affording her the opportunity to leave the bus and obtain medical care; by failing to establish and enforce an adequate policy, procedure and practice of responding appropriately to the urgent medical needs of passengers; and by failing to establish and enforce a policy, procedure and practice with respect to recognizing and responding to passengers who experienced symptoms

of DVT which Defendant Greyhound knew, or should have known, can be caused by prolonged immobilization from traveling for an extended period of time, and can result in debilitation and death, even for otherwise healthy people.

40. Defendant Greyhound's negligence was a proximate cause of the damages, including wrongful death, of Ms. Shelby.

41. As a direct and proximate result of Defendant Greyhound's negligence, Plaintiffs are entitled to an award of general and special damages.

42. As a direct and proximate result of Defendant Greyhound's negligence, Plaintiffs are entitled to an award for the full value of the life of Ms. Shelby.

COUNT 2 – NEGLIGENCE – DEFENDANT COSTICT

43. All preceding paragraphs are incorporated herein by this specific reference.

44. Upon information and belief, Defendant Costict was at all times relevant to this action the Manager in charge of Defendant Greyhound's "southern hub" located in Atlanta, and was directly responsible for operations which included the transportation provided to Ms. Shelby on July 19, 2017 from Birmingham to Atlanta (the "Subject Transportation").

45. Upon information and belief, Defendant Costict was directly responsible for Defendant Greyhound's policy, procedure and practice, or the lack thereof, regarding the response of Defendant Greyhound's agents and employees to the urgent medical needs of passengers for the Subject Transportation.

46. Upon information and belief, Defendant Costict was directly responsible for Defendant Greyhound having no established policy, procedure and practice regarding the response of its agents and employees to the urgent medical needs of passengers for the Subject Transportation.

47. Upon information and belief, Defendant Costict was directly responsible for Defendant Greyhound having no established policy, procedure and practice with respect to recognizing and responding to passengers who experienced symptoms of DVT which Defendants knew, or should have known, can be caused by prolonged immobilization from traveling for an extended period of time, and can result in debilitation and death, even for otherwise healthy people.

48. Defendant Costict breached her duty to exercise extraordinary care with regard to Ms. Shelby by failing to establish and enforce a policy, procedure and practice of responding appropriately to the urgent medical needs of passengers; and by failing to establish and enforce a policy, procedure and practice with respect to recognizing and responding to passengers who experienced symptoms of DVT which Defendant Costict knew, or should have known, can be caused by prolonged immobilization from traveling for an extended period of time, and can result in debilitation and death, even for otherwise healthy people.

49. Defendant Costict's negligence was a proximate cause of the damages, including wrongful death, of Ms. Shelby.

50. As a direct and proximate result of Defendant Costict's negligence, Plaintiffs are entitled to an award of general and special damages.

51. As a direct and proximate result of Defendant Costict's negligence, Plaintiffs are entitled to an award for the full value of the life of Ms. Shelby.

COUNT 3 – NEGLIGENCE – DEFENDANT DOE

52. All preceding paragraphs are incorporated herein by this specific reference.

53. When Ms. Shelby boarded the bus at Defendant's station in Birmingham, for transportation to Atlanta, she was sick and unable to care for herself.

54. Defendant Doe had knowledge of Ms. Shelby's precarious medical condition, and accepted her as a passenger on the bus to Atlanta.

55. Defendant Doe had a duty to exercise extraordinary care with regard to Ms. Shelby as a passenger on the bus to Atlanta for which he had direct responsibility.

56. Defendant Doe breached his duty to exercise extraordinary care with regard to Ms. Shelby by refusing to respond to her cries for help; by failing and refusing to assist her in obtaining medical care; by failing and refusing to call 911 or some other agency for urgent medical care; by not affording her the opportunity to leave the bus and obtain medical care; by failing to adhere to any established policy, procedure and practice of responding appropriately to the urgent medical needs of passengers; and by failing to adhere to any established policy, procedure and practice with respect to recognizing and responding to passengers who experienced symptoms of DVT which Defendant Doe knew, or should have known, can be caused by prolonged immobilization from traveling for an extended period of time, and can result in debilitation and death, even for otherwise healthy people.

57. Defendant Doe's negligence was a proximate cause of the damages, including wrongful death, of Ms. Shelby.

58. As a direct and proximate result of Defendant Doe's negligence, Plaintiffs are entitled to an award of general and special damages.

59. As a direct and proximate result of Defendant Doe's negligence, Plaintiffs are entitled to an award for the full value of the life of Ms. Shelby.

**COUNT 4 – NEGLIGENT HIRING, TRAINING, SUPERVISION
AND/OR RETENTION – DEFENDANT GREYHOUND**

60. All preceding paragraphs are incorporated herein by this specific reference.

61. Upon information and belief, Defendant Greyhound was negligent in hiring Defendant Doe because Defendant Greyhound knew, or should have known, that Defendant Doe was incompetent to properly operate a bus for the purpose of carrying passengers which requires extraordinary diligence to protect the lives and person of the passengers.

62. Upon information and belief, Defendant Greyhound negligently failed to provide adequate training and supervision for Defendant Doe to properly operate a bus for carrying passengers which requires extraordinary diligence to protect the lives and person of the passengers.

63. Upon information and belief, Defendant Greyhound was negligent in retaining Defendant Doe because Defendant Greyhound knew, or should have known, that Defendant Doe was incompetent to properly operate a bus for carrying passengers which requires extraordinary diligence to protect the lives and person of the passengers.

64. Defendant Greyhound is liable for its negligent hiring, training, supervision and/or retention of Defendant Doe as set forth herein.

65. Defendant Greyhound's negligence was a proximate cause of the damages, including wrongful death, of Ms. Shelby.

66. As a direct and proximate result of Defendant Greyhound's negligence, Plaintiffs are entitled to an award of general and special damages.

67. As a direct and proximate result of Defendant Greyhound's negligence, Plaintiffs are entitled to an award for the full value of the life of Ms. Shelby.

**COUNT 5 – NEGLIGENT HIRING, TRAINING, SUPERVISION
AND/OR RETENTION – DEFENDANT COSTICT**

68. All preceding paragraphs are incorporated herein by this specific reference.

69. Upon information and belief, Defendant Costict was negligent in hiring Defendant Doe because Defendant Costict knew, or should have known, that Defendant Doe was incompetent

to properly operate a bus for the purpose of carrying passengers which requires extraordinary diligence to protect the lives and person of the passengers.

70. Upon information and belief, Defendant Costict negligently failed to provide adequate training and supervision for Defendant Doe to properly operate a bus for carrying passengers which requires extraordinary diligence to protect the lives and person of the passengers.

71. Upon information and belief, Defendant Costict was negligent in retaining Defendant Doe because Defendant Costict knew, or should have known, that Defendant Doe was incompetent to properly operate a bus for carrying passengers which requires extraordinary diligence to protect the lives and person of the passengers.

72. Defendant Costict is liable for her negligent hiring, training, supervision and/or retention of Defendant Doe as set forth herein.

73. Defendant Costict's negligence was a proximate cause of the damages, including wrongful death, of Ms. Shelby.

74. As a direct and proximate result of Defendant Costict's negligence, Plaintiffs are entitled to an award of general and special damages.

75. As a direct and proximate result of Defendant Costict's negligence, Plaintiffs are entitled to an award for the full value of the life of Ms. Shelby.

COUNT 6 – RESPONDEAT SUPERIOR – DEFENDANT GREYHOUND

76. All preceding paragraphs are incorporated herein by this specific reference.

77. Upon information and belief, Defendant Greyhound provided the means and the authority for Defendant Doe to operate Defendant Greyhound's bus for the Subject Transportation in the course and scope of his employment and/or agency for Defendant Greyhound.

78. Upon information and belief, Defendant Greyhound established Defendant Doe's terms and conditions of employment and/or agency, including his duties, responsibilities and schedule.

79. Upon information and belief, at all times relevant hereto, Defendant Doe was acting within the course and scope of his employment and/or agency with Defendant Greyhound, and Defendant Greyhound is liable to Plaintiffs for the torts committed by Defendant Doe, as set forth in this Complaint, pursuant to the doctrine of respondeat superior and according to O.C.G.A. § 51-2-2.

COUNT 7 – WRONGFUL DEATH – ALL DEFENDANTS

80. All preceding paragraphs are incorporated herein by this specific reference.

81. The Georgia Wrongful Death Act provides for the recovery of the full value of the life of the decedent. O.C.G.A. § 51-4-1 *et seq.* provides that if there is no surviving spouse, then the surviving children may bring an action for, and recover on behalf of, the deceased.

82. Ms. Shelby did not leave a surviving spouse. Plaintiffs are the sole surviving children of Ms. Shelby. Plaintiffs are entitled, pursuant to O.C.G.A. § 51-4-1 *et seq.*, to bring this action.

83. Plaintiffs are entitled to recover from Defendants for the wrongful death of Ms. Shelby the full value of her life, pursuant to O.C.G.A. § 51-4-1 *et seq.*, as Defendants' negligence were the direct and proximate causes of Ms. Shelby's death.

COUNT 8 – PUNITIVE DAMAGES – ALL DEFENDANTS

84. All preceding paragraphs are incorporated herein by this specific reference.

85. Defendant Greyhound by its actions set forth in this Complaint has engaged in willful, wanton, conscious indifference to, and callous disregard for, the consequences of its conduct as set forth in O.C.G.A. § 51-12-5.1.

86. Defendant Costict by her actions set forth in this Complaint has engaged in willful, wanton, conscious indifference to, and callous disregard for, the consequences of her conduct as set forth in O.C.G.A. § 51-12-5.1.

87. Defendant Doe by his actions set forth in this Complaint has engaged in willful, wanton, conscious indifference to, and callous disregard for, the consequences of his conduct as set forth in O.C.G.A. § 51-12-5.1.

88. Plaintiffs are entitled to recover from Defendants punitive damages pursuant to O.C.G.A. § 51-12-5.1.

COUNT 9 – EXPENSES OF LITIGATION – ALL DEFENDANTS

89. All preceding paragraphs are incorporated herein by this specific reference.

90. Defendants have acted in bad faith, have been stubbornly litigious, and have caused Plaintiffs unnecessary trouble and expense.

91. Plaintiffs are entitled to recovery of their expenses of litigation, including attorneys' fees, pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, Plaintiffs respectfully request that judgment be entered against Defendants and that the following relief be awarded:

- a) that this Complaint be filed and served as provided by law;
- b) that Plaintiffs be awarded compensatory damages for the wrongful death of their mother, including the full value of her life;
- c) that attorneys' fees and all costs of this action be awarded to Plaintiffs against Defendants;

- d) that Plaintiffs be awarded damages for the pre-death pain and suffering of Ms. Shelby against Defendants;
- e) that Plaintiffs be awarded punitive damages as appropriate pursuant to O.C.G.A. § 51-12-5.1;
- f) that Plaintiffs recover such other and further relief as the Honorable Court may deem just and proper; and
- g) that all issues be tried before a jury.

Dated this 27th day of February, 2019.

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