

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA**

SYLVIA JEAN STEPHENSON,)	
)	Case No. 1:17-cv-194
<i>Plaintiff,</i>)	
)	Judge Travis R. McDonough
v.)	
)	Magistrate Judge Susan K. Lee
YRC, INC., D/B/A YRC FREIGHT, and)	
CHARLES PRIDEMORE,)	
)	
<i>Defendants.</i>)	

AGREED PRETRIAL ORDER

The Court has scheduled the Final Pretrial Conference pursuant to Rule 16 of the Federal Rules of Civil Procedure for February 19, 2019 at 3:00 p.m. Alan J. Hamilton and Margaret E. Randels will appear as counsel for the Plaintiff; and Byron K. Lindberg and Russell A. Newman as counsel for the defendant(s).

I. Jurisdiction

This is an action for personal injury. Jurisdiction of the Court is invoked pursuant to 28 U.S.C. § 1332. The jurisdiction of the Court is not disputed.

II. Pleadings

The pleadings are amended to conform to this pretrial order.

III. General Nature of Plaintiff's Claims:

a. Claims: The following claims (including claims stated in the complaint, counterclaims, crossclaims, third-party claims, etc.) have been filed:

- i. Defendant Pridemore was negligent and is at fault for causing the subject collision;
- ii. Defendant Pridemore was negligent per se in following too closely in violation of Tenn. Code. Ann. § 55-8-124;
- iii. Defendant Pridemore was acting as an agent and employee of Defendant YRC within the course and scope of said agency and employment when he caused the subject collision;
- iv. Defendant YRC is responsible for Defendant Pridemore's actions in the subject collision under the doctrine of lease liability, agency, apparent agency, *Respondeat Superior*, and vicarious liability;
- v. Defendant YRC was negligent in failing to properly train and supervise Defendant Pridemore;
- vi. Defendants' negligence is the sole and proximate cause of Plaintiff's injuries;
- vii. As a result of Defendants' negligence and the resulting collision, Plaintiff suffered serious and permanent injuries;
- viii. As a result of Defendants' negligence, Plaintiff has incurred past medical expenses in excess of \$160,000.00;
- ix. Plaintiff is entitled to recover for the injuries and pain and suffering sustained, and all other elements of damages allowed under the law, including but not limited to all compensatory, general, special, incidental, consequential, and/or other damages permitted. Plaintiff states her intention to seek all compensatory, special, economic, consequential, general and all other damages permissible under the law, including but not limited to, personal

injuries; past, present, and future pain and suffering; disability; loss of the capacity for the enjoyment of life; past, present, and future medical expenses; permanent injuries; and consequential damages to be proven at trial.

b. Stipulated Facts: The following facts are uncontroverted.

- i. Jurisdiction and venue are proper.
- ii. The subject motor vehicle collision occurred on July 25, 2016, in Hamilton County, Tennessee.
- iii. Defendant Pridemore was in the course and scope of his employment with Defendant YRC, Inc. d/b/a YRC Freight at the time of the subject collision.

c. Plaintiff's Theory: This is a tort action arising from a tractor-trailer versus motor vehicle wreck that occurred on July 25, 2016. Plaintiff seeks recovery for all injuries she sustained in the wreck and the damages flowing therefrom. On July 25, 2016 Plaintiff Sylvia Stephenson was lawfully traveling in the left westbound lane of I-24 approaching its interchange with I-75 in Hamilton County, Tennessee. At or about the same time Defendant Charles Pridemore was also traveling west on I-24 in a tractor-trailer directly behind the vehicle of Plaintiff. Plaintiff claims Defendant Pridemore failed to pay proper attention to the vehicle traveling in front of him, was distracted, following too closely, and failed to bring his vehicle to a controlled stop behind Plaintiff's vehicle. The front end of the truck collided with the rear of Plaintiff's vehicle causing damage and seriously injuring Plaintiff. At all times material to this action, Defendant Pridemore was acting as an agent and employee of Defendant YRC, Inc., d/b/a YRC Freight and within the course and scope of said agency and

employment. Defendant YRC negligently hired, supervised, trained, and retained Defendant Pridemore and negligently entrusted the tractor-trailer operation responsibilities to Defendant Pridemore. Defendant YRC negligently failed to implement and utilize proper procedures to evaluate Defendant Pridemore's skills and expertise for the operation of said tractor-trailer. Further, Defendant YRC was negligent in failing to promulgate and enforce company policies, procedures, and rules for the protection of the public, including but not limited to Plaintiff. As a result of Defendants' negligence, Plaintiff sustained significant injuries, including a herniated disc in her cervical spine compressing the spinal cord, as well as associated pain and symptoms. These injuries have required extensive medical treatment including cervical spine surgery. Plaintiff's injuries have caused and continue to cause her to suffer mental and physical pain and dysfunction. Also as a result of the collision, Plaintiff has incurred significant medical expenses.

d. Defendant's Theory: On July 25, 2016, Plaintiff Sylvia Stephenson was driving west on I-24 when she suddenly and inexplicably slammed on her brakes, as shown by the YRC dash camera. But for the Plaintiff slamming on her brakes without reason, this accident would not have occurred. The Defendants deny that it or any of its employees breached any duty of care. Rather, the Plaintiff failed to exercise ordinary, reasonable care for her own safety and Plaintiff's own negligence in slamming on her brakes for no reason was the proximate cause the accident. The Plaintiff was comparatively at fault such that her actions are a bar to her claim and/or damages should be reduced by the percentage of her negligence. Defendant YRC further denies all allegations of negligent hiring, training and supervision. Defendant YRC properly trained Defendant Pridemore and fully complied with all Federal and State laws and regulations.

IV. Contested Issues of Law

There are no special issues of law to be resolved.

a. Plaintiff intends to file motions in limine as allowed by the applicable scheduling order.

b. Defendants intend to file motions in limine as allowed by the applicable scheduling order.

V. Exhibits

Plaintiff has disclosed her exhibits in accordance with Fed. R. Civ. P. 26(a)(3)(C). All exhibits to be introduced will be pre-marked in such a way as to allow the Court to determine which party is offering them. Plaintiff has filed her list of exhibits (Doc. 56, at 11–13). Defendants will submit their exhibits as required by the Scheduling Order. The parties have endeavored to stipulate to the admissibility of all exhibits to the extent possible. The parties cannot stipulate to the admissibility of the following exhibits: 1, 29, 30.

VI. Witnesses

The parties have disclosed all witnesses in accordance with Fed. R. Civ. P. 26(a)(3)(A).

A list comprised of the names of all witnesses, their addresses and telephone numbers is as follows:

a. For Plaintiff:

Will call:

<u>Name</u>	<u>Address</u>	<u>Telephone No.</u>
Sylvia Jean Stephenson	204 Lee Drive, Ringgold, GA 30736	423-227-0463

May call:

<u>Name</u>	<u>Address</u>	<u>Telephone No.</u>
Charles Pridemore	1080 N. Morgantown Rd., Greenwood, IN 46142	317-750-4879
Jill Ramage	1818 S. High School Rd., Indianapolis, IN 46241	317-241-9261
Phillip Kristof	1818 S. High School Rd., Indianapolis, IN 46241	317-241-9261
Rhonda Huber	1818 S. High School Rd., Indianapolis, IN 46241	317-241-9261
Officer George Forbes	3410 Amnicola Hwy., Chattanooga, TN 37406	423-643-5000
Officer Shawn Hickey	3410 Amnicola Hwy., Chattanooga, TN 37406	423-643-5000
Vidyadhar Chitale, M.D.	211 Chicopee Drive, Marietta, GA 30060	678-872-8750
Eden Nguyen	211 Chicopee Drive, Marietta, GA 30060	678-872-8750
Donna Kilgore	345 Flynn Road, Dunlap, TN 37327	423-994-4601
Jueil Stephenson	439 Deer Track Drive, Hamilton, AL 35570	205-412-8957
Corey Stephenson	6630 Roberts Road, Marion, IL 62959	205-495-9350
Jeremy Stephenson	204 Lee Drive, Ringgold, GA 30736	423-227-0463

b. **For Defendant(s):** The Defendants' list of witnesses was previously filed. (Doc. 52.)

VII. Other Matters

a. **Trial:** This case is set for trial before the undersigned and a jury at 9:00 a.m. on February 25, 2019 in Chattanooga. Counsel shall be present on the first day before commencement of trial to take up any preliminary matters. The probable length of trial is two to three (2–3) days. The parties should be prepared for trial on the scheduled date. If this case is not heard immediately, it will be held in line until the Court's schedule allows the trial to begin. The parties have demanded a jury trial.

b. Possibility of Settlement: The prospects for settlement of this matter are poor.

The parties attended mediation with Certified Mediator William L. Brown on October 10, 2018. The mediation terminated without settlement and the mediator's report to the Court was filed on October 16, 2018. (Doc. 47.)

This final pretrial order shall supplant the pleadings and is agreed upon by the parties as of January 25, 2019. Fed. R. Civ. P. 16; *see U.S. v. Hougham*, 364 U.S. 310, 315 (1960); *see also Ricker v. Am. Zinser Corp.*, 506 F. Supp. 1 (E.D. Tenn. Sept. 11, 1978), *aff'd*, 633 F.2d 218 (6th Cir. 1980).

SO ORDERED.

/s/Travis R. McDonough

**TRAVIS R. MCDONOUGH
UNITED STATES DISTRICT JUDGE**