

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS)

COUNTY OF BEAUFORT)

CIVIL ACTION NO.: 2014-CP-07-1068)

ALLISON T. COX, individually and as)
Personal Representative of the Estate)
of Brian Howard Cox, deceased,)

Plaintiff,)

v.)

FIRSTFLEET, INC. and)
WILLIAM BRADLEY RICKS,)

Defendants,)

NOTICE AND MOTION TO
DISMISS PLAINTIFF'S CLAIMS
AGAINST DEFENDANT RICKS

WILLIAM BRADLEY RICKS,)

Cross-Plaintiff,)

v.)

FIRSTFLEET, INC.,)

Cross-Defendant,)

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JAN 05 2017

SC Court of Appeals

WILLIAM BRADLEY RICKS,)

Third-Party/Joinder Plaintiff,)

v.)

JAMES EDWARD FIELDS,)

Third-Party/Joinder Defendant.)

PLEASE TAKE NOTICE that the Plaintiff will move before this Honorable Court,
at a time and place to be arranged by the Court and counsel involved, for an Order

dismissing Plaintiff's claims against Defendant William Bradley Ricks and removing Mr. Ricks as a Defendant in the caption of Plaintiff's action.

This motion is based upon the following facts: the Court has previously approved a settlement of Plaintiff's claims against Defendant Ricks; Plaintiff has recovered all liability and underinsured motorists insurance coverage applicable to her claims against Defendant Ricks; and Plaintiff is therefore bound by her settlement to relinquish and release all rights to proceed against Defendant Ricks.

The undersigned confirms that he has contacted defense counsel in an attempt to resolve the above listed issues, but counsel for Defendant FirstFleet, Inc. refuses to consent to Defendant Ricks' dismissal from Plaintiff's claims.

PETERS, MURDAUGH, PARKER,
ELTZROTH & DETRICK, P.A.

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ATTORNEYS FOR PLAINTIFF

October 14, 2015
Walterboro, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF Beaufort
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

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CASE NO. 2014 CP-07-1068

JAN 05 2017

Allison T. Cox, Individually and as PR of the Estate of Brian
Howard Cox, Deceased

Firstfleet, Inc. and William Bradley Ricks

SC Court of Appeals

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Leigh Ellen Gray

Attorney for : Plaintiff Defendant
or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: This matter came before the Court for a hearing on December 3, 2016. After taking the matter under advisement, the Court orders that Plaintiff's Motion to Dismiss Defendant Ricks is hereby granted.

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

2142

Judge Code

4-11-16
Date

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

ALLISON T. COX, individually and as
Personal Representative of the Estate of
Brian Howard Cox, deceased,

Plaintiff,

v.

FIRSTFLEET, INC. and
WILLIAM BRADLEY RICKS,

Defendants.

) IN THE COURT OF COMMON PLEAS

) CIVIL ACTION NO.: 2014-CP-07-_____

) COMPLAINT
) (Jury Trial Demanded)

) **RECEIVED**

) JAN 05 2017

) **SC Court of Appeals**

The Plaintiff alleges:

1. Plaintiff is a citizen and resident of the State of Georgia.
2. Plaintiff is the duly appointed Personal Representative of the Estate of Brian Howard Cox (hereinafter, "Decedent").
3. At the time of Decedent's death, Plaintiff and Decedent were married and were the parents of three young children.
4. Plaintiff is empowered to bring and brings this action on the behalf of Decedent's estate for the pain, suffering, and medical expenses of the Decedent pursuant to S.C. Code Ann. § 15-15-90 (1976, as amended) (commonly referred to as a "survival action").
5. Plaintiff is also empowered to bring and brings this action for the wrongful death of Decedent on behalf of, and for the benefit of, the statutory beneficiaries of Decedent pursuant to S.C. Code Ann. § 15-51-10 (1976, as amended).
6. Plaintiff also brings this action in her individual capacity.
7. Defendant FirstFleet, Inc. (hereinafter, "FirstFleet") is a corporation organized and existing under the laws of the State of Tennessee with its principal place of business in Murfreesboro, Tennessee.

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DEAN M. HARRIS
CLERK OF COURT
BEAUFORT COUNTY, SC

8. FirstFleet is an interstate trucking carrier licensed by the United States Department of Transportation ("USDOT").

9. Upon information and belief, FirstFleet regularly, systematically, and continuously does business in the State of South Carolina.

10. At all times relevant herein, James Edward Fields (hereinafter, "Fields") was an agent and/or employee of FirstFleet acting within the course and scope of his agency and/or employment as a driver of a FirstFleet truck.

11. Defendant William Bradley Ricks (hereinafter, "Ricks") is a citizen and resident of Beaufort County, South Carolina.

12. On November 19, 2013, at approximately 21:44 hours, Decedent was the front seat passenger in a Ford automobile owned and operated by Ricks travelling in a westerly direction on U.S. Highway 278 in the Town of Bluffton, Beaufort County, South Carolina.

13. At the same time and place, Fields was operating a 2013 Volvo tractor owned by FirstFleet, displaying FirstFleet's USDOT authority, towing a trailer (hereinafter, the tractor-trailer combination is referred to as "FirstFleet's Truck"). Fields was in the process of attempting a U-turn from U.S. Highway 278 East onto U.S. Highway 278 West, across the lane of traffic in which Ricks was operating his automobile.

14. Fields failed to complete his U-turn maneuver in time to avoid a collision with Ricks' automobile.

15. Ricks failed to avoid a collision with FirstFleet's Truck and struck the trailer on the side as it blocked his lane of travel (hereinafter, "the Collision").

16. In the Collision, Decedent sustained personal injuries that caused his death.

17. The Collision and Decedent's injuries and death were the direct and proximate cause of the negligence, gross negligence, recklessness, willfulness, and wantonness of Fields (for which FirstFleet is vicariously liable) in one or more of the following particulars:

a. In failing to keep a proper lookout;

- b. In failing to yield the right of way;
- c. In attempting an improper, unsafe, and/or ill-advised U-turn;
- d. In stopping in the travelled roadway;
- e. In blocking Ricks' lane of travel;
- f. In creating an unreasonable hazard for oncoming traffic;
- g. In violating applicable traffic statutes and ordinances; and
- h. In failing to exercise due care under the circumstances.

18. The Collision and Decedent's injuries and death were the direct and proximate cause of the negligence, gross negligence, recklessness, willfulness, and wantonness of FirstFleet in one or more of the following particulars:

- a. In failing to supervise, train, or otherwise instruct its agent and/or employee Fields in the proper manner required to operate FirstFleet's Truck;
- b. In failing to supervise, train, or otherwise instruct its agent and/or employee Fields to avoid U-turns under circumstances such as those existing at the time of the Collision;
- c. In negligently hiring, training, and supervising its agent and/or employee Fields;
- d. In failing to adopt rules, standards, and policies prohibiting its drivers such as Fields from making U-turns under circumstances such as those existing at the time of the Collision; and
- e. In failing to have FirstFleet's Truck adequately illuminated at the time of the Collision.

19. The Collision and Decedent's injuries and death were the direct and proximate cause of the negligence, gross negligence, recklessness, willfulness, and wantonness of Ricks in one or more of the following particulars:

- a. In failing to keep a proper lookout;
- b. In failing to keep his vehicle under proper control;
- c. In failing to apply his brakes so as to avoid the Collision; and
- d. In failing to exercise due care under the circumstances.

20. As a direct and proximate result of Defendants' negligence, gross negligence, recklessness, willfulness, and wantonness, Decedent's beneficiaries have been deprived of

Decedent's support, companionship, and society and have endured and continue to endure grief, sorrow, shock, wounded feelings, and mental anguish resulting from Decedent's death.

21. Plaintiff has incurred expenses such as funeral expenses and other costs associated with the untimely death of Decedent.

22. Plaintiff is entitled to recover from Defendants actual and punitive damages for the benefit of the Decedent's estate as a survival action.

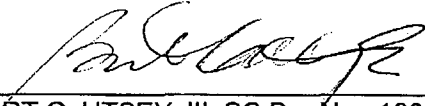
23. Plaintiff is entitled to recover from Defendants actual and punitive damages for the benefit of the Decedent's statutory beneficiaries as an action for wrongful death.

24. As a direct and proximate result of Defendants' negligence, gross negligence, recklessness, willfulness, and wantonness, Plaintiff suffered a loss of Decedent's consortium, services, companionship, and society, for which Plaintiff, individually, is entitled to recover actual damages from Defendants.

WHEREFORE, Plaintiff prays for an award of actual damages, punitive damages, costs, and all other relief deemed appropriate by the Court.

PETERS, MURDAUGH, PARKER,
ELTZROTH & DETRICK, PA

By:


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Attorneys for Plaintiff

April 29, 2014
Walterboro, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS

ALLISON T. COX, INDIVIDUALLY)
AND AS PERSONAL)
REPRESENTATIVE OF THE ESTATE)
OF BRIAN HOWARD COX, DECEASED,)

Civil Action No. 2014-CP-07-1068

Plaintiff,)

ANSWER, JOINDER/THIRD PARTY)
CLAIM, AND CROSS CLAIM OF)
DEFENDANT WILLIAM BRADLEY)
RICKS)

vs.)

(Jury Trial Demanded)

FIRSTFLEET, INC. AND WILLIAM)
BRADLEY RICKS,)

Defendants,)

WILLIAM BRADLEY RICKS,)

Cross-Plaintiff.)

vs.)

FIRSTFLEET, INC.,)

Cross-Defendant,)

WILLIAM BRADLEY RICKS,)

Third Party/Joinder Plaintiff)

vs.)

JAMES EDWARDS FIELDS,)

Third Party/Joinder)
Defendant.)

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SC Court of Appeals

Defendant, William Bradley Ricks, (hereinafter referred to as "Defendant" or "Ricks")

answers the Complaint and respectfully asserts the following:

(Handwritten initials)

FOR A FIRST DEFENSE

1. Defendant denies each and every allegation of the Complaint unless specifically admitted herein.

2. Defendant admits the allegations of Paragraph 1 of the Complaint upon information and belief.

3. Defendant admits the allegations of Paragraph 2 of the Complaint upon information and belief.

4. Defendant admits the allegations of Paragraph 3 of the Complaint upon information and belief.

5. Defendant asserts the allegations of Paragraph 4 of the Complaint amount to a legal conclusion and, therefore, no response to the same is required.

6. Defendant asserts the allegations of Paragraph 5 of the Complaint amount to a legal conclusion and, therefore, no response to the same is required.

7. Defendant asserts the allegations of Paragraph 6 of the Complaint amount to a legal conclusion and, therefore, no response to the same is required.

8. Defendant admits the allegations of Paragraph 7 of the Complaint upon information and belief.

9. Defendant admits the allegations of Paragraph 8 of the Complaint upon information and belief.

10. Defendant admits the allegations of Paragraph 9 of the Complaint upon information and belief.

11. Defendant admits the allegations of Paragraph 10 of the Complaint upon information and belief.

12. Defendant admits the allegations of Paragraph 11 of the Complaint.

13. Defendant admits the allegations of Paragraph 12 of the Complaint.

14. Defendant admits the allegations of Paragraph 13 of the Complaint.

15. Defendant admits the allegations of Paragraph 14 of the Complaint.

16. In response to the allegations of Paragraph 15 of the Complaint, Defendant admits only that his vehicle collided with the FirstFleet's truck which was blocking his lane of travel. Defendant denies the remaining allegations of Paragraph 15 of the Complaint.

17. Defendant admits the allegations of Paragraph 16 of the Complaint.

18. Defendant asserts the allegations of Paragraph 17 of the Complaint, including all subparts a. through h., apply solely to FirstFleet and, therefore, no response to the same is required from this Defendant.

19. Defendant asserts the allegations of Paragraph 18 of the Complaint, including all subparts a. through e., apply solely to FirstFleet and, therefore, no response to the same is required from this Defendant.

20. Defendant denies the allegations of Paragraph 19 of the Complaint, including all subparts a. through d.

21. In response to the allegations of Paragraph 20 of the Complaint, Defendant denies that his actions caused the Plaintiff the grief, sorrow, shock, wounded feelings, and mental anguish resulting from Decedent's death as alleged therein.

22. Defendant admits the allegations of Paragraph 21 of the Complaint upon information and belief.

23. Defendant asserts the allegations of Paragraph 22 of the Complaint amount to a legal conclusion and, therefore, no response to the same is required.

24. Defendant asserts the allegations of Paragraph 23 of the Complaint amount to a legal conclusion and, therefore, no response to the same is required.

25. In response to the allegations of Paragraph 24 of the Complaint, Defendant denies that his actions caused any loss of consortium, services, companionship, and society.

26. Defendant denies the remaining allegations of the Complaint, including the Plaintiff's prayer for relief.

FOR A SECOND DEFENSE

27. Defendant would respectfully show each and every cause of action set forth in the Complaint fails to state a claim upon which relief can be granted and, therefore, the Complaint should be dismissed.

FOR A THIRD DEFENSE

28. The Defendant would show the claim for punitive damages cannot be had because any award of punitive damages would violate the Defendant's equal protection and due process rights as guaranteed by the United States and South Carolina Constitutions.

FOR A FOURTH DEFENSE

29. Defendant would show that any injuries or damages sustained by the Plaintiff allegedly caused by any act or omission of the Defendant were either caused by an intervening efficient act, omission, or event, or could not be avoided and was an unavoidable accident.

FOR AN FIFTH DEFENSE

30. Defendant alleges that at the time and place alleged in the Complaint, while through no fault of his own, he was placed in an unexpected emergency, and because of the unexpected emergency and sudden and negligent or intentional acts of another over which he had no control, Defendant was required to act only as appeared to his best under the circumstances,

considering the emergency in which he was placed. Defendant acted in all respects in a careful and prudent manner and as any reasonable and prudent person would have acted under similar circumstances, for which reason the Defendant is not liable to Plaintiff in any sum whatsoever.

FOR A SIXTH DEFENSE

31. Whatever injuries or damages were suffered by the Plaintiff, if any, were due to, caused by, and were the sole negligence of third parties over whom this Defendant has no control, and were not caused by any acts or omissions on the part of this Defendant.

**FOR A SEVENTH DEFENSE AND
JOINDER BY WAY OF RULES 13(h), 19, and 20, SCRPC,
DEFENDANT WILLIAM BRADLEY RICKS PRESENTS THE FOLLOWING
CAUSE OF ACTION AGAINST JAMES EDWARDS FIELDS**

32. Upon information and belief, the James Edwards Fields ("Fields") is a resident of the State of Tennessee and maintains commercial driver's license issued by the State of Tennessee.

33. Upon information and belief, Fields at all times relevant to this cause of action was operating a commercial motor vehicle in the furtherance of FirstFleet's business pursuant to an owner operator agreement, tractor lease agreement, or other employment or agency agreement.

34. On or about November 19, 2013, at approximately 21:44 hours, Ricks was operating a vehicle traveling west on Highway 278 in the Town of Bluffton, State of South Carolina.

35. At the same time and place, Fields was operating a commercial motor vehicle under the authority of First Fleet. Fields attempted an inherently dangerous U-turn across Highway 278, causing his trailer to completely block the westerly lanes of travel for an extended period of time, and thereafter causing a violent collision with the Ricks vehicle.

36. As a result of the collision the Fields suffered the following injuries and damages:
- a) extensive pain, mental anguish, suffering and discomfort;
 - b) disability for a period of time;
 - c) money spent for medical care and treatment;
 - d) inability to carry on normal activities;
 - e) permanent injuries and disability;
 - f) emotional trauma and distress;
 - g) loss of enjoyment of life; and,
 - h) time and wages lost from his job.

37. At all times relevant to this Complaint, Fields was operating a commercial motor vehicle transporting property in interstate commerce.

38. In order to undertake such actions, the Fields must have the knowledge and skills necessary for the safe operation of the commercial motor vehicle.

39. The safe operation of commercial motor vehicles requires specialized knowledge and additional training, not necessary for the safe operation of passenger vehicles because:

- a. commercial motor vehicles are heavier than passenger vehicles and take longer to stop, as compared to a passenger car operating at the same pre-braking speed;
- b. commercial motor vehicles are heavier and longer than passenger vehicles and take longer to execute turning and lane change maneuvers, as compared to passenger vehicles operating at the same pre-turn or lane change speed;

- c. commercial motor vehicles are heavier than passenger vehicles and cause more significant property damage and/or personal injury or death in collisions, as compared to passenger cars operating at the same pre-collision speed and trajectory; and,
- d. commercial motor vehicles pose more of a risk of causing personal injury, death, or property damage in a collision, as compared to a collision involving a passenger vehicle operating at the same-pre-collision speed and trajectory.

40. In order to undertake the safe operation of a commercial motor vehicle, drivers such as the Fields must have knowledge and skills in many areas, including the following:

- a. the procedures for safe vehicle operations;
- b. the proper procedures for performing basic maneuvers such as turning;
- c. the importance of conducting a proper visual search;
- d. the importance of proper visual search methods, including seeing ahead and to the sides, using mirrors, and seeing to the rear;
- e. the principles and procedures for proper communications and the hazards of failing to signal properly, including signaling intent and communicating presence;
- f. the importance of understanding the effects of speed, including speed and visibility and speed and traffic flow;
- g. the procedures and techniques for controlling the space around the vehicle, including the importance of space management, space cushions, space to the sides, and space for traffic gaps;

- h. the importance of seeing potential hazards;
- i. the preparations and procedures for night driving, including night driving factors such as its effect of vision, glare, fatigue, and inexperience;
- j. the preparations and procedures for night driving, including roadway factors, such as low illumination, variation in illumination, unfamiliarity with roads, and other road users; and,
- k. the practices that are important to staying alert and safe while driving, including what to do when driving to avoid fatigue and what to do when sleepy while driving;

41. In addition to the basic knowledge and skills required of commercial motor vehicle drivers, it is standard in the industry for drivers to make regular checks of their mirrors to be aware of traffic, including for vehicles on either side and to the rear.

42. In addition to the basic knowledge and skills required of commercial motor vehicle drivers, it is standard in the industry for drivers to understand and recognize the signs and symptoms of fatigue.

43. In addition to the basic knowledge and skills required of commercial motor vehicle drivers, it is standard in the industry for drivers to know what is going on all around their vehicles and that not looking properly is a major cause of accidents.

44. In addition to the basic knowledge and skills required of commercial motor vehicle drivers, it is standard in the industry for drivers to look 12 to 15 seconds ahead.

45. In addition to the basic knowledge and skills required of commercial motor vehicle drivers, it is standard in the industry for drivers to know that of all the space around their

vehicles, it is the area ahead of the vehicle--the space they are driving into--that is most important.

46. In addition to the basic knowledge and skills required of commercial motor vehicle drivers, it is standard in the industry for drivers to know that they must make sure they can get all the way across before oncoming traffic reaches them before starting to cross.

47. In addition to the basic knowledge and skills required of commercial motor vehicle drivers, it is standard in the industry for drivers to know that when driving at night other drivers cannot see hazards as soon as in daylight, so they have less time to respond, and that drivers caught by surprise are less able to avoid a crash.

48. In addition to the basic knowledge and skills required of commercial motor vehicle drivers, it is standard in the industry for drivers to understand that when driving at night even when there are lights, the road scene can be confusing, and that traffic signals and hazards can be hard to see against a backdrop of signs, shop windows, and other lights.

49. In addition to the basic knowledge and skills required of commercial motor vehicle drivers, it is standard in the industry for drivers to never make a U-turn on any street, road, highway, or interstate unless directed to do so by law enforcement personnel.

50. In addition to the basic knowledge and skills required of commercial motor vehicle drivers, it is standard in the industry for drivers to understand if they miss an turn or get lost, they should keep going until they find a large parking lot or other place where they can go around a block instead of attempting a U-turn.

51. In addition to the basic knowledge and skills required of commercial motor vehicle drivers, it is standard in the industry for drivers to understand that U-turns on public roadways are some of the most dangerous maneuvers a driver can attempt to perform.

52. In addition to the basic knowledge and skills required of commercial motor vehicle drivers, it is standard in the industry for drivers to understand that to the non-professional driver a U-turn seems like a simple enough way to get turned around, but professional drivers recognize the many hazards that a U-turn on a public roadway represents.

53. In addition to the basic knowledge and skills required of commercial motor vehicle drivers, it is standard in the industry for drivers to understand that a U-turn takes approximately 15-30 second for an 18 wheeler to execute, and that during this time the trailer will have the highway blocked for approximately 12 seconds.

54. In addition to the basic knowledge and skills required of commercial motor vehicle drivers, it is standard in the industry for drivers to understand that a vehicle traveling 65 mph will travel 95' in one second. In 12 seconds that vehicle will travel 1,140' or almost $\frac{1}{4}$ of a mile.

55. In addition to the basic knowledge and skills required of commercial motor vehicle drivers, it is standard in the industry for drivers to understand that non-professional drivers only look about 2 seconds ahead of their vehicle. This means that by the time they see the trailer blocking the roadway, they do not have time to stop.

56. The injuries and damages incurred by Ricks were directly and proximately caused by Fields' careless, negligent, grossly negligent, willful, wanton, reckless, and unlawful acts in one or more of the following particulars:

- a) in failing to apply the brakes of the vehicle and/or maintain them in proper working condition;
- b) in failing to steer or take other evasive action so as to avoid the collision;
- c) in failing to keep a proper lookout;

- d) in failing to yield as required by law;
- e) in operating the vehicle too fast for existing conditions;
- f) in failing to observe the condition of traffic;
- g) in operating a commercial motor vehicle when he was not qualified to do so;
- h) in failing to follow the proper procedures for safe commercial vehicle operations;
- i) in failing to conduct a proper visual search which would have alerted the Fields to Ricks' presence, location, and intention;
- j) in failing to follow the proper procedures for night driving, including night driving factors such as low illumination, variation in illumination, unfamiliarity with roads, and other road users;
- l) in not looking 12-15 seconds ahead, which would have alerted Fields to the presence and location of Ricks' vehicle;
- m) in failing to ensure that his vehicle could safely get across the road before entering Ricks' lane of travel;
- n) in failing to understand that when driving at night other drivers cannot see hazards as soon as in daylight, have less time to respond, and that drivers caught by surprise are less likely to avoid a crash;
- o) in attempting an inherently dangerous U-turn that created a confusing and hard to see backdrop for approaching motorists;

- p) in attempting an inherently dangerous U-turn when he knew or should have known that commercial vehicle drivers should instead find a parking lot or other place where they can go around a block instead;
- r) in completely blocking the westbound lanes of highway 278 with his difficult to see tractor trailer combination; and,
- s) in attempting an inherently dangerous and improper U-turn of a commercial motor vehicle;

57. Fields' careless, negligent, willful, wanton, reckless and unlawful acts were the direct and proximate cause of the collision and resulting injuries and damages to Ricks.

58. Ricks is informed and believes that he is entitled to judgment against Fields for actual and punitive damages in an appropriate amount.

**FOR AN EIGHTH DEFENSE AND BY WAY OF CROSS CLAIM
AGAINST DEFENDANT FIRSTFLEET, INC.,**

59. FirstFleet operates as a commercial motor carrier.

60. In return for the privilege to operate commercial motor vehicles on the public roadways, prospective motor carriers must make certain safety related certifications and verifications.

61. Motor carriers such as FirstFleet are required to submit a Form MCS-150 to the Federal Motor Carrier Administration and obtain an USDOT number.

62. Each Form MCS-150 FirstFleet submitted or will submit contains a Certification Statement whereby FirstFleet declares under the penalty of perjury that it is familiar with the Federal Motor Carrier Safety Regulations and/or Federal Hazardous Materials Regulations.

63. Motor carriers such as FirstFleet are required to submit a Form OP-1 to the Federal Motor Carrier Administration to gain operating authority.

64. Each Form OP-1 submitted by FirstFleet contains a "Safety Certification", certifying to the Federal Motor Carrier Safety Administration that they are subject to the pertinent portions of the U.S. DOT's Federal Motor Carrier Safety Regulations ("FMCSR") at 49 CFR, Chapter 3, Subchapter B (Parts 350-399).

65. Each Form OP-1 submitted by FirstFleet contains a "Safety Certification", certifying to the Federal Motor Carrier Safety Administration that they have access to and are familiar with all applicable U.S. DOT regulations relating to the safe operation of commercial vehicles and that they will comply with the regulations.

66. Each Form OP-1 submitted by FirstFleet contains a "Safety Certification", certifying to the Federal Motor Carrier Safety Administration that, at a minimum, they:

- a. have in place a system and an individual responsible for ensuring overall compliance with the FMCSR;
- b. Can produce a copy of the FMCSR;
- c. have in place a driver safety training/orientation program;
- d. are familiar with DOT regulations governing driver qualifications and have in place a system for overseeing driver qualification requirements (49 CFR Parts 391); and,
- e. have in place policies and procedures consistent with DOT regulations governing driving and operational safety of motor vehicles;

67. To be qualified to operate a commercial motor vehicle, a driver must have experience and/or training to safely operate the type of vehicle; must be physically qualified;

must have a currently valid CDL, and must furnish the motor carrier a list of current driving violations.

68. To operate as a commercial motor vehicle under FirstFleet's operating authority, the prospective driver is required to complete a written application containing the following information:

- a. the nature and extent of the driver's experience;
- b. a list of all accidents in the previous 3 years;
- c. a list of all violations of motor vehicle laws in the previous 3 years;
- d. a detailed description of any denial, revocation, or suspension of any drivers licenses or permits;
- e. employment information for the previous 3 years; and,
- f. the names of all employers for whom the driver has operated a commercial motor vehicle for the previous 7 years.

69. Before a motor carrier such as FirstFleet may allow or permit a driver to operate a commercial motor vehicle under its operating authority, the motor carrier must:

- a. obtain the driver's motor vehicle record from the applicable state agency for the previous 3 years; and,
- b. investigate the driver's safety performance history with all DOT regulated employers for the previous 3 years;

70. Once a motor carrier such as FirstFleet hires a commercial driver, every twelve months thereafter the driver must submit a written list of all traffic violations the driver received in those twelve months.

71. Once a motor carrier such as FirstFleet hires a commercial driver, every twelve months thereafter the motor carrier must obtain from the relevant state agency a list of traffic violations for the previous year and maintain a copy of the record in the driver's qualification file.

72. Motor carriers such as FirstFleet are required to maintain a Driver Qualification File meeting the requirements of 49 CFR § 391.51 for the duration of the driver's employment with the motor carrier plus three years.

73. In addition, drivers employed by, or operating under the direction of, motor carriers such as FirstFleet, are required to complete and turn in to their employer trip envelopes at least every 13 days. Such trip envelopes include, but are not limited to, the driver's daily Record of Duty Status logs and pre-trip and post-trip vehicle inspection reports.

74. Drivers' daily logs record how much time each driver spends on duty, on duty not driving, off duty, and in a sleeper berth. Driver logs also require drivers to indicate how many miles they drove during each 24 hour period and their locations at each change of duty status.

75. In addition to the required daily logs and vehicle inspection reports, it is standard in the industry for careful motor carriers also collect information from their drivers, such as fuel receipts, entry and departure records, and other supporting documentation that verifies the times that their drivers were at specific locations.

76. It is standard in the industry for careful motor carriers to use the information contained in the required daily driver logs, vehicle inspection reports, and other supporting documents to audit the safety performance of their drivers.

77. It is standard in the industry for careful motor carriers use the information contained in the required daily driver logs, vehicle inspection reports, and other supporting

documentation to audit the safety performance of their drivers to ensure that their drivers are not violating hour of service rules, to ensure that their drivers do not average speeds in excess of what is safe, and otherwise verify that the information contained in the driver's logs is accurate and truthful.

78. Auditing drivers' daily logs, vehicle inspection report, and supporting documents increases the likelihood that a motor carrier's drivers are operating their commercial vehicles safely and decreases the risk of a preventable crash.

79. Motor carriers should never allow or permit a driver to operate their commercial motor vehicles if the driver is not qualified to do so.

80. Motor carriers should never allow or permit a driver to operate their commercial motor vehicles if an audit of the driver's logs, vehicle inspection reports, and supporting documents indicates that the driver has a higher than safe average speed.

81. Motor carriers should never allow or permit a driver to operate their commercial motor vehicles if an audit of the driver's logs, vehicle inspection reports, and supporting documents indicates that the driver operates his vehicle in violation of the hours of service rules.

82. Motor carriers should never allow or permit a driver to operate their commercial motor vehicles if an audit of the driver's logs, vehicle inspection reports, and supporting documents indicates that the driver is not accurate and truthful in the completion of his logs.

83. Motor carriers should never allow or permit a driver to operate their commercial motor vehicles if the driver does not have the required knowledge or skill to safely operate the vehicle.

84. In addition it is standard in the industry for commercial motor carriers to train their drivers to make regular checks of their mirrors to be aware of traffic, including for vehicles on either side and to the rear.

85. In addition it is standard in the industry for commercial motor carriers to train their drivers to understand and recognize the signs and symptoms of fatigue.

86. In addition it is standard in the industry for commercial motor carriers to train their drivers to know what is going on all around their vehicles and that not looking properly is a major cause of accidents.

87. In addition it is standard in the industry for commercial motor carriers to train their drivers to look 12 to 15 seconds ahead.

88. In addition it is standard in the industry for commercial motor carriers to train their drivers to know that of all the space around their vehicles, it is the area ahead of the vehicle--the space they are driving into--that is most important.

89. In addition it is standard in the industry for commercial motor carriers to train their drivers to know that they must make sure they can get all the way across before oncoming traffic reaches them before starting to cross.

90. In addition it is standard in the industry for commercial motor carriers to train their drivers to know that when driving at night other drivers cannot see hazards as soon as in daylight, so they have less time to respond, and that drivers caught by surprise are less able to avoid a crash.

91. In addition it is standard in the industry for commercial motor carriers to train their drivers to understand that when driving at night even when there are lights, the road scene

can be confusing, and that traffic signals and hazards can be hard to see against a backdrop of signs, shop windows, and other lights.

92. In addition it is standard in the industry for commercial motor carriers to train their drivers to never make a U-turn on any street, road, highway, or interstate unless directed to do so by law enforcement personnel.

93. In addition it is standard in the industry for commercial motor carriers to train their drivers to understand if they miss an turn or get lost, they should keep going until they find a large parking lot or other place where they can go around a block instead of attempting a U-turn.

94. In addition it is standard in the industry for commercial motor carriers to train their drivers to understand that U-turns on public roadways are some of the most dangerous maneuvers a driver can attempt to perform.

95. In addition it is standard in the industry for commercial motor carriers to train their drivers to understand that to the non-professional driver a U-turn seems like a simple enough way to get turned around, but professional drivers recognize the many hazards that a U-turn on a public roadway represents.

96. In addition it is standard in the industry for commercial motor carriers to train their drivers to understand that a U-turn takes approximately 15-30 seconds for an 18 wheeler to execute, and that during this time the trailer will have the highway blocked for approximately 12 seconds.

97. In addition it is standard in the industry for commercial motor carriers to train their drivers to understand that a vehicle traveling 65 mph will travel 95' in one second. In 12 seconds that vehicle will travel 1,140' or almost ¼ of a mile.

98. In addition it is standard in the industry for commercial motor carriers to train their drivers to understand that non-professional drivers only look about 2 seconds ahead of their vehicle. This means that by the time they see the trailer blocking the roadway, they do not have time to stop.

99. The injuries and damages incurred by Ricks were directly and proximately caused by the FirstFleet's careless, negligent, grossly negligent, willful, wanton, reckless, and unlawful acts in one or more of the following particulars by failing to use reasonable care in the:

- a) Hiring of the Fields;
- b) Retention of the Fields;
- c) Training of Fields
- d) Supervision of its business operations in failing to properly monitor the driving habits and records of its drivers, employees, and/or agents, specifically the Fields;
- e) Supervision of its drivers, employees, and/or agents, specifically the Fields;
- f) Instruction of its drivers, employees, and/or agents, specifically the Fields;
- g) Entrustment of a tractor trailer to its drivers, employees, and/or agents, specifically the Fields;
- i) Compliance with federal and/or state regulations and industry standards, as referenced in this Complaint and as developed during the discovery in this case:
- j) Improperly auditing the logs and supporting documentation of its drivers, employees, and/or agents, specifically the Fields;

- k) Failing to utilize available information to properly monitor its drivers, employees, and/or agents, specifically the Fields for compliance with company polices and/or state and federal regulations; and,
- l) in allowing the Fields to operate a commercial motor vehicle despite knowledge of his inability to do so safely;

100. FirstFleet's careless, negligent, willful, wanton, reckless and unlawful acts were the direct and proximate cause of the collision and resulting injuries and damages to Ricks.

101. Ricks is informed and believes that he is entitled to judgment against the FirstFleet for actual and punitive damages in an appropriate amount

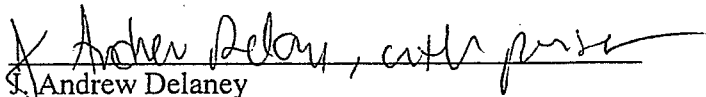
**FOR A NINTH DEFENSE AND BY WAY OF CROSS-CLAIM
AGAINST FIRST FLEET**

102. At all times relevant to the allegations contained herein, Fields was working in the course and scope of his employment for FirstFleet, was otherwise acting as an agent or servant of FirstFleet, and/or was operating a commercial motor vehicle under FirstFleet's operating authority.

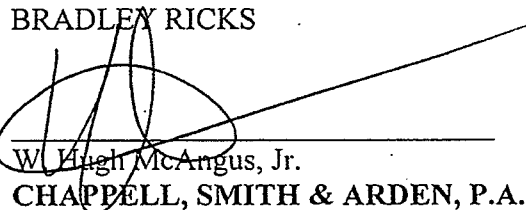
103. FirstFleet is liable for the acts and omissions of Fields under the doctrines of respondeat superior, master/servant, and/or agent/principal.

(REMAINDER OF PAGE INTENTIONALLY BLANK)

WHEREFORE, having fully answered, Ricks prays that the Complaint against him be dismissed, for the costs of defending this action, for judgment against Fields and FirstFleet for actual and punitive damages in an appropriate amount to be determined at trial, the costs of the cross claim and joinder actions, and for such other and further relief as the Court may deem just and proper.



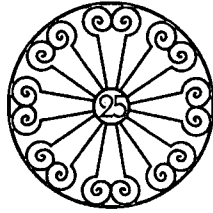
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June 17, 2014



YCR LAW

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January 3, 2017

VIA U.S. MAIL & FACSIMILE

Jenny Abbott Kitchings, Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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SC Court of Appeals

Re: Allison T. Cox v. FirstFleet, Inc.
Appellate Case No. 2016-002485
Circuit Case No.: 2014-CP-07-1068
Claim No.: ffaccident A131172
Date of Loss: 11/19/2013
YCR File: 14780-20131030

Dear Ms. Kitchings:

Our firm represents Appellants FirstFleet, Inc., and James Edward Fields in the above-referenced matter. By correspondence dated December 22, 2016, you advised of the following deficiency required to be corrected within ten (10) days' time: "You must provide a copy of the complaint, orders, or other documents, in order that the Court may verify the caption."

Enclosed please find the following documents:

- the **Complaint** of Plaintiff Allison T. Cox, filed May 1, 2014;
- the **Answer, Joinder/Third Party Claim, and Cross Claim of Defendant William Bradley Ricks**, dated June 17, 2014;
- the **Notice and Motion to Dismiss Plaintiff's Claims Against Defendant Ricks**, dated October 14, 2015; and
- the **Order Granting Plaintiff's Motion to Dismiss Defendant Ricks**, filed April 12, 2016.

Should you have any questions or concerns or need anything else from Appellants at this time, please let me know.

VIA U.S. MAIL & FACSIMILE

Jenny Abbott Kitchings, Clerk of Court

South Carolina Court of Appeals

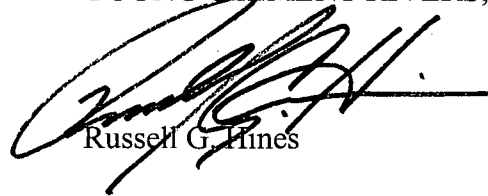
January 3, 2017

Page 2 of 2

With best wishes and kindest regards, I am

Sincerely,

YOUNG CLEMENT RIVERS, LLP



Russell G. Hines

RGH/

Enclosures

cc: (All Below Via U.S. Mail & Email)

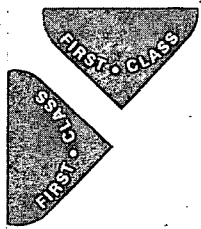
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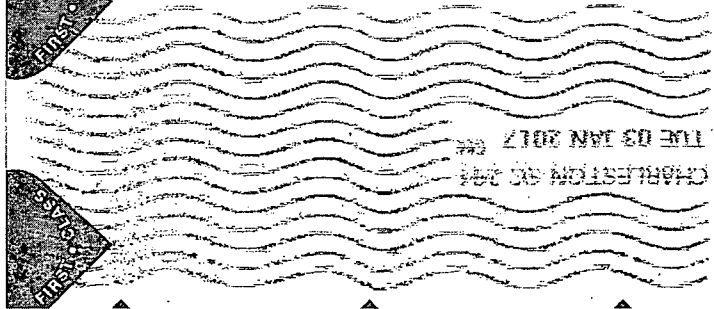
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