

MISSISSIPPI

DUNBAR MONROE WINS EARLY DISMISSAL OF CLAIMS IN ORDER TO LIMIT DISCOVERY



CASE SUMMARY: In this case, the allegations were that Hansen & Adkins's driver negligently rear-ended the Plaintiffs' vehicle causing bodily injury. Plaintiffs' Complaint alleged specifically that driver Cole failed to keep a proper lookout, failed to keep his tractor under control, drove recklessly, and violated various portions of the Federal Motor Carrier Safety Regulations. Plaintiffs' Complaint also separately alleged Hansen & Adkins was independently negligent for negligently training and retaining its driver, as well as negligently failing to have a proper safety program and other violations of the federal regulations. Plaintiffs further sought punitive damages against both Defendants.

Defendants immediately moved for dismissal of the direct negligence claims against Hansen & Adkins as well as the punitive damages claims against both defendants under Rule 12(c) of the Federal Rules of Civil Procedure. Part of the rationale here was to help the Defendants challenge the Plaintiffs' burdensome discovery which attempted to focus on the direct negligence and punitive damages allegations. The Defendants argued that the Plaintiffs' direct negligence claims failed as a matter of law once the employer admitted vicarious liability and that, even if the claims could be viable, the Plaintiffs failed to properly plead how Hansen & Adkins failed to train or qualify its driver and why that failure would have made a difference in the case. The district court agreed and dismissed both the direct negligence claims and the punitive damages allegations against both defendants, noting that each of the Defendants' alternative arguments individually warranted dismissal.

Direct negligence and punitive damage claims have become big news lately with nuclear verdicts driven by Plaintiff's counsel making the case about the motor carrier, not the accident. Discovery quickly gets out of hand and the motor carrier can find itself defending unrelated attacks.

Strategic attacks on these claims are very important early in the case to narrow or remove direct claims against the company and eliminate punitive damages. When in federal court, this strategy is very effective under the heightened federal pleading standards of Rule 12, but it works in state court many times too.

The Iqbal/Twombly pleading standard is an arrow that often goes underutilized in defense counsel's quiver. Punitive damages are an extraordinary remedy and rarely applicable in simple motor vehicle accidents. When the facts as pled in a plaintiff's complaint do not specifically give the "how" or the "why" the conduct justifies punitive damages, defense counsel should consider immediately moving to dismiss claims for punitive damages and/or direct negligence under Rule 12(c) to narrow the case and limit potentially abusive discovery.



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