

IN THE TWELFTH JUDICIAL DISTRICT OF TENNESSEE
CIRCUIT COURT OF MARION COUNTY

REX MASSENGALE, Sr.,

Plaintiff,

vs.

WINIGENE H. DRURY, and
GREGORY LEWIS, next of kin of
RYAN LEWIS, deceased,

Defendants.

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No. 14210

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ANSWER

Comes now the above-named defendants, Winigene Drury (now deceased) (hereinafter "Drury") and Gregory Lewis next of kin of Ryan Lewis (hereinafter "Lewis") and for answer to the complaint heretofore filed against them states as follows:

I.

It is generally admitted that Ryan Lewis, deceased, does not have an administrator appointed for his estate. It is further admitted that Gregory Lewis was the father of Ryan Lewis and next of kin. Gregory Lewis enters this appearance in answer on behalf of his deceased son, Ryan Lewis, but Gregory Lewis denies that he is in any way responsible for any acts of negligence on the part of his deceased son, Ryan Lewis.

II.

On behalf of Winigene Drury it will be shown that she has died since the date of the accident. On her behalf, however, it is generally admitted that Ryan Lewis was operating a vehicle owned by her at the time of the accident. It is further admitted that he was operating the vehicle with her consent and permission. However it is denied that her grandson was operating the vehicle on her behalf for any reason, whatsoever, or in any capacity as her agent. Therefore it is denied that Drury, or her estate, would be responsible for any acts of negligence on the part of her grandson, Ryan Lewis.

III.

It is admitted that an accident occurred at about the time and location alleged in the complaint but the way and manor of the occurrence of the accident is denied. To the contrary, it is averred that the accident was unavoidable on the part of the deceased driver. It is denied that he was guilty of any acts of negligence, either common law or statutory as more specifically alleged in the complaint.

IV.

It is averred that the accident was caused by acts that were not under the control of the defendant deceased driver either because of weather conditions and/or the acts of others.

V.

It is averred that the accident was caused by a "John Doe" who was then and there, at the time, operating a tractor-trailer truck in the general vicinity of the accident. It will be shown that the truck sprayed the defendant vehicle with a stream of water causing the defendant driver to lose control of his vehicle and thereby causing the accident and any resulting damages or injuries.

VI.

The defendants rely upon a defense of comparative fault and would show that the accident was caused by a "John Doe". It is further alleged that the plaintiff may have been guilty of comparative fault which would reduce his claim for damages.

VII.

The defendants are unaware of the nature and extent of plaintiff's alleged injuries, if any, and therefore the same are denied. In the alternative the defendants aver that plaintiff's alleged injuries were either the result of pre-existing and/or subsequent injuries and/or health conditions.

VIII.

The defendants deny the nature and extent of all damages claimed by the plaintiff.

IX.

All allegations not either admitted and/or denied are here and now denied.

Wherefore, having fully answered, the defendants, pray to be hence dismissed and demand a jury to try the issues, when joined.

Respectfully submitted,
GOINS CARPENTER & WRIGHT

By: 

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 23rd day of Feb, 2001, a copy of this pleading has been served upon opposing counsel by placing a true and exact copy of said pleading in the U.S. Mail with sufficient postage thereon to carry same to its destination.

CAMERON & GOUGER
Harvey Cameron
P.O. Box 759
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GEORGE W. CARPENTER