

IN THE CIRCUIT COURT FOR HAMILTON COUNTY, TENNESSEE

STEVE BRUMLOW, individually,
As parent and next of kin, and on
behalf of and as Administrator
ad litem of the Estate of STEVEN
LAMAR BRUMLOW, deceased,

Plaintiff,
v.

BLEVINS ENTERPRISES, INC,
RAY SHRUM, and the STATE
OF TENNESSEE,

Defendant.

*
*
*
*
*
*
*
*
*
*
*
*
*
*

Docket No.: 06C841
Division: I

ANSWER

Comes now, the Defendants, Blevins Enterprises Inc., and Ray Shrum, by and through counsel and an answer to the plaintiff's complaint and states:

I. As to each particularly numbered paragraph, the defendants Blevins enterprises Inc. (Blevins) and Ray Shrum states:

1. Admitted.

2. The defendants are without sufficient information to either admit or deny the allegations in paragraph 2 and, therefore, deny the same to place the same issue

3. Admitted.

4. It is admitted that the defendant Blevins Enterprises is a Corporation. It is admitted that the accident happened in Hamilton County Tennessee, and it is admitted that service of process has been effectuated.

5. Admitted.

6. Admitted.

7. The defendants, Blevins, are without sufficient information to either admit or deny that allegations in paragraph 7 and, therefore, deny the same to place the same issue.

8. Denied.

9. It is admitted that venue is appropriate.

10. Admitted.

11. Denied.

12. It is admitted that Brumlow was riding his motorcycle, at an excessive rate of speed.

13. It is admitted that a street sweeper being driven by Mr. Shrum was traveling on East Brainerd Road.

14. Denied as stated.

15. Denied as stated.

16. Denied.

17. It is admitted that Shrum is an employee of Blevins Enterprises Inc. The remaining allegations are denied.

It is admitted that if Shrum is an employee of Blevins

18. Denied.

19. Denied.

20. Denied.

21. Denied.

22. Denied.

23. Denied.

SECOND DEFENSE

Blevins asserts that the plaintiff is guilty of comparative fault under the law of Tennessee. The accident was avoidable, the plaintiff by traveling on his motorcycle at highly excessive rate of speed causing the accident in question thereby resulting in the plaintiff's death. At the time of the accident the vehicle operated by Shrum was operating within all of the applicable rules, regulations and laws governing the operation of the vehicle. There were warning lights that were visible making sure drivers of vehicles were to avoid the vehicle being operated by Shrum and Blevins. In fact, drivers on the interstate could see the flashing warning lights from the interstate. Moreover, the appropriate warnings were in place.

The plaintiff was operating his motorcycle in an unsafe manner, with estimated speeds being in excess of 100 miles per hour. Moreover, by operating his motorcycle at this rate of speed the plaintiff consciously, and recklessly, placed his life and the life of

others in danger. The plaintiff also ignored the warnings and lights giving prudent drivers advanced warning of the operation of the vehicle by Blevins and Shrum.

The excessive rate of speed is the sole, proximate cause of the accident and Blevins alleges that due to the excessive rate of speed, by failing to keep a proper lookout, by negligently operating his vehicle, the plaintiff is the sole, and proximate cause of the accident and the resulting injuries. The plaintiff's conduct in unsafely operating his vehicle is so gross that it amounts to an intentional disregard for the plaintiff's safety and the safety of others. Had the plaintiff been operating his motorcycle in a safe and prudent matter this accident would not have happened and no damages would have occurred.

Blevins and Shrum were not negligent and the sole cause of any injuries is the conduct of the plaintiff.

THIRD DEFENSE

At the time of the accident, Blevins and Shrum were operating pursuant to a contract with the State of Tennessee. As a result of the contract Blevins and Shrum are immune pursuant to the laws of the State of Tennessee and enjoy the same governmental immunity as the State as it applies to the facts and circumstances as alleged in the complaint.

Any allegations not specifically admitted or denied in the answer are here and now denied to place the same at issue. The defendants demand that this case be dismissed with all costs being taxed to the plaintiff. Barring said dismissal the defendants demand a jury to try the issues of this claim.

Respectfully submitted,

GOINS, CARPENTER & JAMES

STUART F. JAMES BPR# 013841

S. TODD HASTEY, BPR #022835

736 Cherry Street

Third Floor, Heritage Center

Chattanooga, TN 37402

(423) 756-3646

CERTIFICATE OF SERVICE

I, the undersigned attorney, on this 27th day of July 2006, do hereby certify that the foregoing document has been served upon all counsel of record for the parties at interest in this case by placing a true and exact copy of the same in the United States Mail, postage prepaid, in a properly addressed envelope, or by hand delivering the same to such attorney as follows:

Morgan G. Adams, Esq.
Law Offices of Morgan G. Adams
410 McCallie Avenue
Chattanooga TN 37402



GOINS, CARPENTER & JAMES