

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

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|--|---|--------------------------------------|
| LEO FRAZIER, |) | |
| as Administrator of the Estate of |) | |
| Manuel Dejesus Corado, deceased, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CIVIL ACTION NO. 09-0119-CG-C |
| |) | |
| SHELTON and TYRONE POWE |) | |
| LOGGING, et al., |) | |
| |) | |
| Defendants. |) | |

ORDER

The plaintiff originally filed his complaint in the Circuit Court of Clarke County, Alabama, and it contained eight counts: Negligence (Count I); Wantonness (Count II); Respondeat Superior (Count III); Negligent Entrustment (Count IV); Negligent Hiring, Training and Supervision (Count V); Conspiracy (Count VI); Combining and Concurring Negligence (Count VII); and Uninsured/Underinsured Motorist (Count VIII). (*Id.*, p. 8-12). On March 6, 2009, the defendants properly removed the above action to this court. (Doc. 1, 4, 26 & 27). On January 11, 2010, the defendants filed a motion for partial summary judgment asking this court to enter summary judgment “as to Count II (Wantonness), Count IV (Negligent Entrustment), Count V (Negligent Hiring, Training and Supervision) and Count VI (Conspiracy) of Plaintiff’s Complaint.” (Doc. 93, p. 1). On January 28, 2010, the plaintiff amended his complaint and deleted his claims for negligent entrustment, negligent hiring, training and supervision, and conspiracy. (Doc. 100). The first amended complaint now contains six counts. Counts I, II, and III allege negligence, and Counts IV, V, and VI allege wantonness. (Doc. 100, pp. 3-6). On February 1, 2010, the plaintiff responded to the defendants’ motion for partial summary

judgment and conceded summary judgment should be granted as to Count IV, V, and VI for wantonness. (Doc. 102, p. 1-2).

CONCLUSION

Since the first amended complaint deleted Counts IV, V, and VI of the original complaint, the defendants' motion for partial summary judgment as to those counts is **MOOT**. Because the plaintiff has conceded summary judgment as to Counts IV, V, and VI of the first amended complaint for wantonness, the defendants' motion for partial summary judgment as to those counts is **GRANTED**.

DONE and **ORDERED** this 12th day of March, 2010.

/s/ Callie V. S. Granade
UNITED STATES DISTRICT JUDGE