

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

**SHERRAN K. HALE, Individually and
as Administrator and Personal Representative
of the Estate of Robert W. Hale, deceased**

PLAINTIFF

v.

No. 3:16-cv-120-DPM

**EMPIRE EXPRESS, INC.; EMPIRE
TRANSPORTATION, INC.; and J. ANTHONY
BRADLEY, Administrator and Personal
Representative of the Estate of
Iketha D. Winchester, deceased**

DEFENDANTS

ORDER

1. For the reasons stated on the record at the end of the 24 October 2017 hearing, the Court made the following rulings on the pending motions.

- *No* 80 is granted. Express Transportation, Inc., is dismissed with prejudice.
- *No* 83 is granted. The claim for punitive damages against all defendants is dismissed with prejudice.
- *No* 77 is mostly granted and partly denied. As agreed, the case goes forward (against Winchester's estate and Empire Express by imputation) on Winchester's alleged negligence in various particulars related to the accident itself, in her failure to disclose the insulin-required diagnosis, and on

fatigue. Assuming the proof comes in as expected, the Court will instruct on the agreed list of Arkansas statutes and federal regulations, plus 49 C.F.R. § 390.11 (on dual duties) and 49 C.F.R. § 395.3 (on duty hours). The case also goes forward against Empire Express on a direct negligence claim with two supervision-related components: fatigue and excess hours on duty. All other allegations of negligence against either Winchester's estate or Empire Express are dismissed with prejudice.

2. The Court amends the Final Scheduling Order, *No. 90*. Motions in limine due by 28 February 2018; responses due by 28 March 2018; and replies due by 13 April 2018. Papers to conform to the page limits and form described at the October 24th hearing. One clarification: in the global limine paper, please list your points by letter or number so everyone can keep track.

3. The hearing on motions in limine is set for 19 June 2018 at 10:30 a.m. in Little Rock in Courtroom B-155, Richard Sheppard Arnold United States Courthouse. Note the different location.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

26 October 2017