

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

**KENNY HERRON and MARY LOU
HERRON, as Guardians of the Person and
Estate of Cadence Nevaeh McGuire, a minor;
MARY LOU HERRON, Administratrix of the
Estates of Jessica M. McGuire and Brinley M.
McGuire, a minor, and for their Wrongful
Deaths; and CHARLES JEFF GARDNER,
Administrator of the Estate of Nicholas
McGuire and for his Wrongful Death**

PLAINTIFFS

v.

No. 3:16-cv-127-DPM

**APAC OF TENNESSEE, INC.; SUPERIOR
TRAFFIC CONTROL-MEMPHIS, INC.;
J E PHILLIPS & SONS, INC.; BEST TRUCK
& TRAILER, INC.; RICHARD CARL
ADAMS; and WABASH NATIONAL
CORPORATION d/b/a Wabash
National Trailer Centers, Inc.**

DEFENDANTS

ORDER

1. The Court appreciates and approves the parties' stipulation, *No* 275, about cross claims and counterclaims.

2. The following claims are dismissed without prejudice and with the specified caveat:

- Wabash's cross claim against APAC and Superior Traffic, *No 79*;
- Superior Traffic's counterclaim and cross claim against Charles Jeff Gardner, administrator of the estate of Nicholas McGuire, *No 82*;
- Superior Traffic's cross claim against Wabash, APAC, Best, Phillips, and Adams, *No 83*;
- Best's cross claim against APAC and Superior Traffic, *No 91*;
- Phillips and Adams's cross claim against APAC and Superior Traffic, *No 92*;
- APAC's counterclaim and cross claim against Charles Jeff Gardner, administrator of the estate of Nicholas McGuire, *No 94*; and
- APAC's cross claim against Superior Traffic, Phillips, Adams, Best, and Wabash, *No 95*.

All remaining defendants' other cross claims and counterclaims remain pending for adjudication.

3. The caveat: If the Court's 17 January 2019 Order, *No 272*, is appealed, reversed, and the case is remanded, or if APAC or Superior Traffic otherwise becomes a party to this suit again in the future, all the

defendants agree they will not assert the statute of limitations, the statute of repose, laches, or any other defense based on the timing of any re-asserted cross claim or counterclaim covered by the stipulation and this Order.

So Ordered.

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

24 January 2019