

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

KIMBERLEY D. BRANTLEY,
Administratrix of the Estate of
Benjamin Brantley, deceased

PLAINTIFF

v.

No. 3:16-cv-352-DPM

UPS GROUND FREIGHT INC.;
OPTIMUM STAFFING INC., d/b/a
Optimum Logistic Solutions; ROBERT L.
WOODALL; and JOHN DOES, 1-6

DEFENDANTS

ORDER

UPS and Optimum are right that *Elrod* bars some direct negligence claims when *respondeat superior* has been admitted. *Elrod v. G & R Construction Company*, 275 Ark. 151, 153–56, 628 S.W.2d 17, 18–19 (1982). But Brantley alleges many particulars about both UPS’s and Optimum’s negligence connected with their policies and procedures. For example, she alleges they failed to monitor bad weather conditions and failed to train Woodall about the duties imposed by the FMCSA. *No 22 at 15–21*. Her detailed allegations avoid the *Elrod* rule at this early point. *McLane v. Rich Transport, Inc.*, No. 2:11-cv-101-KGB (E.D. Ark. 9 August 2012); *Regions Bank v. White*, No. 4:06-cv-1475-JLH (E.D. Ark. 24 September 2009). The motions to dismiss, *No 38 & 41*, are denied.

So Ordered.

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

7 July 2017