

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

**JMAR EXPRESS, INC., *et al.***

**PLAINTIFFS**

**v.**

**4:10CV01231-BRW**

**PETERBILT OF MEMPHIS, INC., *et al.***

**DEFENDANTS**

**ORDER**

Pending is Plaintiffs' Motion to Dismiss Cummins, Inc. with Prejudice (Doc. No. 99). Defendant Caterpillar, Inc. ("Caterpillar") has responded;<sup>1</sup> Defendants PACCAR, Inc. ("PACCAR") and Peterbilt of Memphis, Inc. ("Peterbilt") have responded;<sup>2</sup> and Defendant Cummins, Inc. ("Cummins") has replied.<sup>3</sup> For the reasons set out below, Plaintiffs' Motion is GRANTED.

Plaintiffs and Cummins have entered into a confidential settlement agreement, with each party to bear its own costs and fees.<sup>4</sup> Plaintiffs ask that their claims against Cummins be dismissed with prejudice. Plaintiffs also ask that their claims against Peterbilt of Memphis, Inc. and PACCAR Inc. involving the trucks with Cummins engines also be dismissed with prejudice.

Caterpillar does not object to the dismissal of Cummins as a party to this action, but objects to the confidential nature of the settlement.<sup>5</sup> Caterpillar maintains that the claims in this case have not been finally adjudicated, and that the release of an alleged joint tortfeasor may

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<sup>1</sup>Doc. No. 100.

<sup>2</sup>Doc. No. 103.

<sup>3</sup>Doc. No. 102.

<sup>4</sup>Doc. No. 99.

<sup>5</sup>Doc. No. 100.

reduce the claims against the other tortfeasors under Ark. Code Ann. §§ 16-61-204 and 16-61-205.<sup>6</sup> Caterpillar asks that I direct the settling parties to reveal to the remaining Defendants the settlement amount paid by Cummins.<sup>7</sup>

Defendants Peterbilt and PACCAR do not object to Plaintiffs' Motion to Dismiss.<sup>8</sup> Peterbilt and PACCAR believe that the discoverability of the settlement amount and the legal effect of the settlement "are legal issues that do not concern the pending Motion to Dismiss."<sup>9</sup> I agree, and will not address those issues in this Order.

IT IS SO ORDERED this 24th day of January, 2012.

/s/Billy Roy Wilson  
UNITED STATES DISTRICT JUDGE

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<sup>6</sup>*Id.*

<sup>7</sup>*Id.*

<sup>8</sup>Doc. No. 103.

<sup>9</sup>*Id.*