

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00440-JLK-KLM

RICHARD FICK,
SANDRA FICK, and
AMANDA FICK,

Plaintiffs,

v.

SOUTHERN REFRIGERATED TRANSPORT, INC., a foreign corporation, and
HAROLD STOW, individually,

Defendants.

ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on **Defendants' Unopposed Motion to Designate Non-Party at Fault Pursuant to C.R.S. § 13-21-111.5** [Docket No. 28; Filed February 26, 2010] (the "Motion").

Pursuant to Colo. Rev. Stat. § 13-21-111.5(3)(b), the "[n]egligence or fault of a nonparty may be considered ... if the defending party gives notice that a nonparty was wholly or partially at fault ..." Nonparty designation "ensures that parties found liable will not be responsible for more than their fair share of damages." *Pedge v. RM Holdings, Inc.*, 75 P.2d 1126, 1128 (Colo. App. 2002). The designation must contain identifying information about the nonparty and "a brief statement of the basis for believing such nonparty to be at fault." Colo. Rev. Stat. § 13-21-111.5 (3)(b).

This case arises from a traffic accident. Plaintiffs allege that a semi-tractor trailer operated by an employee of Defendant collided with the rear of Plaintiffs' vehicle. In the

present motion, Defendant alleges that during the depositions of Plaintiffs it discovered for the first time that prior to the collision a vehicle in front of the Plaintiffs' vehicle behaved erratically. Plaintiffs testified that the driver of that vehicle was a substantial cause of the accident. For this reason, Defendant believes that fault of the driver of this vehicle may be relevant to the question of liability. However, the parties do not know the identity of this individual.

The Court finds that the nonparty designation by Defendant meets the requirements of the Colorado statute. The fact that the name of the nonparty is unknown at this time does not affect the merits of the designation. See *Pedge*, 75 P.3d at 1128 (unidentified or unknown persons may be designated as nonparties). Moreover, Plaintiffs do not oppose the relief requested by Defendant in the Motion. Accordingly,

IT IS HEREBY ORDERED that the Motion is **GRANTED**.

Dated: March 1, 2010