

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

JACK COELLO,

Plaintiff,

v.

Case No: 8:14-cv-2825-T-30AEP

MARVIN K. SEGARS and FEDEX
SUPPLYCHAIN SYSTEMS, INC.,

Defendants.

ORDER

THIS CAUSE comes before the Court upon the Defendant's Motion to Dismiss, Strike, of For a More Definite Statement as to Count I and II of Plaintiff's Amended Complaint (as incorporated into Defendants' Answer, Affirmative Defenses and Counterclaims) (Dkt. #9) and Plaintiff's Memorandum of Law in Opposition to the Motion (Dkt. #12). Upon review and consideration, it is the Court's conclusion that the Motion should be granted in part.

Plaintiff collided with Defendant Marvin K. Segars, doing business as Marvin Segars Trucking, ("Segars") at an intersection in Polk County resulting in serious physical injuries. Segars, was operating the vehicle while conducting business on behalf of Defendant FedEx Supply Chain Systems, Inc. ("FedEx"). As a result, Plaintiff sues Segars for damages based on his "negligent operation of the tractor trailer" and sues FedEx under the theories of dangerous instrumentality and vicarious liability.

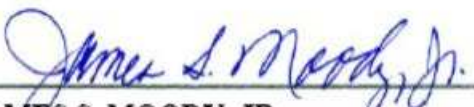
Defendants move to dismiss both counts of the Amended Complaint for failure to state a claim. Plaintiff does not specify Segar's specific negligent act which contributed to the collision, i.e. failure to obey traffic signals; nor does he allege ultimate facts to support FedEx's liability based on the "dangerous instrumentality" doctrine or vicarious liability. Plaintiff argues that the Amended Complaint contains sufficient factual details to meet the pleading requirements based on Florida state law. Nonetheless, he states that he will file a Second Amended Complaint to clarify the allegations, particularly in regards to the relationship between the Defendants.

It is therefore **ORDERED AND ADJUDGED** that:

1. Defendant's Motion to Dismiss, Strike, of For a More Definite Statement as to Count I and II of Plaintiff's Amended Complaint (Dkt. #9) is GRANTED IN PART to the extent the Court grants Defendants' request for a more definite statement.

2. Plaintiff shall file a Second Amended Complaint within fourteen (14) days of the date of this Order.

DONE and **ORDERED** in Tampa, Florida, this 15th day of December, 2014.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel/Parties of Record

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