

APR 18 2017

TONY R. MOORE, CLERK
BY: _____
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

Neil Guidry

Civil Action No. 16-1415

versus

Judge Dee D. Drell

Ryder Truck Rental Inc et al

Magistrate Judge Carol B. Whitehurst

JUDGMENT

For the reasons stated in the Report and Recommendation of the Magistrate Judge previously filed herein, and after an independent review of the record including the objections filed by petitioner, and having determined that the findings and recommendation are correct under the applicable law;

IT IS ORDERED that the Motion to Remand filed by Plaintiff, Neil Guidry [Rec. Doc. 16] be **DENIED** and Plaintiff's claims against Doerle Food Services, Inc are **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that the Motion to Dismiss filed by Doerle Food Services, Inc [Rec. Doc. 12] is **DENIED AS MOOT**.

In so ruling, we note, importantly, that plaintiff's pleadings allege specifically that it was Ryder's duty to replace the ladder pursuant to its contract with Doerle and failed to allege or even suggest that Doerle ordered or in any way forced plaintiff to use the truck without a ladder. Neither do the allegations suggest that plaintiff could not have stopped the problem by refusing to drive the load when he knew or should

have known what loading and unloading would be like. These alleged facts (or absence of same) provide reinforcement that an intentional tort by Doerle does not exist in this case.

THUS DONE AND SIGNED in chambers, on this 18th day of April 2017.



DEE D. DRELL, CHIEF JUDGE
UNITED STATES DISTRICT COURT