

“Plaintiff’s Sur-Reply...” suggests that the Pracht case is inapplicable here, and argues that Plaintiff’s claims for negligent hiring and negligent supervision and retention are permissible “additional direct claims designed to elicit full recovery for the torts committed by Defendant.” (Document No. 34, p.2). At a hearing on April 21, 2016, the Court specifically asked Plaintiff’s counsel to identify caselaw showing that a plaintiff can successfully pursue claims for negligence, negligent hiring, and negligent supervision and retention to a judgment. In response, counsel cited Boyd v. L.G. DeWitt Trucking Co., Inc., 103 N.C.App. 396 (1991).

The underlying claims in Boyd appear to be willful or wanton negligence by a truck driver and/or trucking company, and willful or wanton negligent entrustment by the trucking company. Boyd, 103 N.C.App. 396. The issues raised on appeal to the Court of Appeals of North Carolina “relate solely to punitive damages.” Id. at 401. Unlike Pracht, the Boyd decision does not directly address the issue of what claims a plaintiff may bring in a negligence action. Moreover, the claims in Boyd are similar, but distinguishable from the instant case.

In short, the undersigned is not convinced that Plaintiff has identified adequate authority to support her argument that the undersigned should reject the Pracht decision issued by the Honorable Robert J. Conrad, Jr. just a few months ago. The undersigned observes that Pracht squarely addresses the issue before the Court in this case, discusses the same claims, as well as negligent entrustment, and appears to rely on persuasive authority from both North Carolina state courts and other U.S. District Courts within the Fourth Circuit. Pracht, 2015 WL 5918037, at *8-9.

Under the circumstances, the Court will allow Plaintiff to file a supplemental brief focused on the legal argument of whether she can pursue all three (3) of her claims as a matter of law. The Court will be particularly interested in caselaw that indicates that a plaintiff can pursue the same

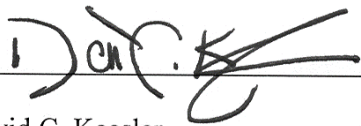
claims as presented in this case, against similar defendants, where an individual defendant was acting within the scope of his/her employment.

IT IS, THEREFORE, ORDERED that Plaintiff may file a supplemental brief of ten (10) pages or less, as directed herein, on or before **May 10, 2016**. If Plaintiff files a supplemental brief, Defendant U.S.A. Logistics may file a response of ten (10) pages or less, on or before **May 20, 2016**.

IT IS FURTHER ORDERED that a trial in this matter is rescheduled for the undersigned's civil term beginning **August 1, 2016**. A Final Pretrial Conference will be held on **July 26, 2016**.

SO ORDERED.

Signed: April 27, 2016



David C. Keesler
United States Magistrate Judge

