

BRIDGET B. WOOD WIFE * **NO. 2014-CA-0907**
OF/AND * **COURT OF APPEAL**
JERALD WOOD * **FOURTH CIRCUIT**

VERSUS * **STATE OF LOUISIANA**

MICHAEL S. LINDSEY AND
MELINDA BARNETT D/B/A
BARNETT TRUCKING *

* * * * *

CONSOLIDATED WITH: **CONSOLIDATED WITH:**
MEGAN EDWARDS **NO. 2014-CA-0908**

VERSUS

MICHAEL S. LINDSEY,
MELINDA BARNETT D/B/A
BARNETT TRUCKING, BIS
SERVICES, L.L.C. AND PATCO
TRANSPORT, INC.

CONSOLIDATED WITH: **CONSOLIDATED WITH:**
JACQUELINE MORRIS **NO. 2014-CA-0909**

VERSUS

MICHAEL S. LINDSEY,
MELINDA BARNETT D/B/A
BARNETT TRUCKING, ARCHER
WESTERN CONTRACTORS,
LTD, HENSLEY R. LEE
CONTRACTING, INC., HRL
CONTRACTING, WILLOW BEND
VENTURES, L.L.C. AND
ATLANTIC CASUALTY
INSURANCE CO.

CONSOLIDATED WITH: **CONSOLIDATED WITH:**
TATIANA MOUTON WIFE **NO. 2014-CA-0910**
OF/AND JERARD ZACHARY
MOUTON

VERSUS

MICHAEL S. LINDSEY AND
MELINDA BARNETT D/B/A
BARNETT TRUCKING, ET AL.

CONSOLIDATED WITH:

**OLGA PERDOMO AND OSCAR
PERDOMO**

VERSUS

**MICHAEL S. LINDSEY AND
MELINDA BARNETT D/B/A
BARNETT TRUCKING, ARCHER
WESTERN CONTRACTORS,
LTD., HENSLEY R. LEE
CONTRACTING, INC. D/B/A AND
HRL CONTRACTING, AND
WILLOW BEND VENTURES**

CONSOLIDATED WITH:

JERRY VINETT, SR.

VERSUS

**MICHAEL S. LINDSEY,
MELINDA BARNETT, BARNETT
TRUCKING, LLC., UNIVERSAL
CASUALTY AND XYZ
INSURANCE COMPANY**

CONSOLIDATED WITH:

JEFFREY PAUL WOOD

VERSUS

**MICHAEL S. LINDSEY,
MELINDA BARNETT D/B/A
BARNETT TRUCKING, ARCHER
WESTERN CONTRACTORS,
LTC.,L.L.C., HENSLEY R. LEE
CONTRACTING, INC. D/B/A AND
HRL CONTRACTING, WILLOW
BEND VENTURES, LLC, AND
ATLANTIC CASUALTY
INSURANCE COMPANY**

CONSOLIDATED WITH:

**RAYMOND JOSEPH, YVONNE
JOSEPH AND KIAVONNA
JOSEPH**

CONSOLIDATED WITH:

NO. 2014-CA-0911

CONSOLIDATED WITH:

NO. 2014-CA-0912

CONSOLIDATED WITH:

NO. 2014-CA-0913

CONSOLIDATED WITH:

NO. 2014-CA-0914

VERSUS

**MICHAEL S. LINDSEY,
MELINDA BARNETT D/B/A
BARNETT TRUCKING, BIS
SERVICES, L.L.C. AND PATCO
TRANSPORT, INC.**

CONSOLIDATED WITH:

**RICHARD C. THOMAS
HUSBAND OF/AND ELIZABETH
A. THOMAS AND MINH Q. PHAM**

CONSOLIDATED WITH:

NO. 2014-CA-0915

VERSUS

**MICHAEL S. LINDSEY,
MELINDA BARNETT D/B/A
BARNETT TRUCKING,
ATLANTIC CASUALTY
INSURANCE CO., ARCHER
WESTERN CONTRACTORS,
LTD, BIS SERVGICES, ET AL.**

TOBIAS, J., CONCURS.

I respectfully concur and write separately to reinforce the conclusion reached by the majority.

Every act whatever of man that causes damage to another obliges him by whose fault it happened to repair it. La. C.C. art. 2315.

The duty-risk analysis for a claim of negligence applies in this case.

The existence of a duty is a question of law.
Faucheaux v. Terrebonne Consol. Government, 615 So.2d 289, 292 (La.2/22/93). “Simply put, the inquiry is whether the plaintiff has any law - statutory, jurisprudential, or arising from general principles of fault - to support his claim.” *Id.*

Ogea v. Merritt, 13-1085, p. 24 (La. 12/10/13), 130 So.3d 888, 905.

A duty-risk analysis involves five elements, which must be proved by the plaintiff:

- (1) proof that the defendant had a duty to conform his conduct to a specific standard (the duty element);
- (2) proof that the defendant's conduct failed to conform to the appropriate standard (the breach element);
- (3) proof that the defendant's substandard conduct was a cause-in-fact of the plaintiff's injuries (the cause-in-fact element);
- (4) proof that the defendant's substandard conduct was a legal cause of the plaintiff's injuries (the scope of liability or scope of protection element); and
- (5) proof of actual damages (the damages element).

Bufkin v. Felipe's Louisiana, LLC, 14-0288, pp. 4-5 (La.10/15/14), __ So.3d __, __, 2014 WL 5394087; *Pitre v. Louisiana Tech Univ.*, 95-1466, p. 9 (La.5/10/96), 673 So.2d 585, 590.

Under the totality of facts present in this case, a genuine issues of material fact exists as to whether the appellee, Archer Western Contractors, Ltd., conformed its conduct to a specific standard, which for the present precludes the granting of the present motion for summary judgment.