

COPY

IN THE CIRCUIT COURT OF CHICKASAW COUNTY, MISSISSIPPI
SECOND JUDICIAL DISTRICT

CASPER JACOBUS HAGEMAN, AS ADMINISTRATOR
OF THE ESTATE OF ESTHER HAGEMAN, DECEASED AND
ON BEHALF OF THE WRONGFUL DEATH BENEFICIARIES
OF ESTHER HAGEMAN, DECEASED

PLAINTIFF

VS.

CAUSE NO.: 03009-071L

WENDELL G. BLOUNT AND
BLOUNT MOTORS, LLC

DEFENDANTS

COMPLAINT
(Trial by Jury Requested)

Plaintiff, Casper Jacobus Hageman, individually, as Administrator of the Estate of Esther Hageman, deceased, and on behalf of the Wrongful Death Beneficiaries of Esther Hageman, deceased, files this Complaint against the Defendants Wendell G. Blount, Blount Motors, LLC, and alleges:

PARTIES

1. Plaintiff Casper Jacobus Hageman is an adult resident citizen of The Netherlands. Casper Hageman is the brother of Esther Hageman, one of her wrongful death beneficiaries and the administrator of her estate.

2. Defendant, Wendell G. Blount, is an adult resident citizen of Calhoun County, Mississippi, and may be served with process by serving him at 27 County Road #409, Calhoun City, Mississippi, 38916.

3. Defendant Blount Motors, LLC ("Blount Motors") is a car dealership doing business and licensed to do business in the state of Mississippi with its principal place of

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SANDRA N. WILLIS

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BY Patricia Statterup DC

business located in Calhoun City, Mississippi. Blount Motors may be served with process by serving its registered agent for service of process. A.D. Blount, at 121 Jones Avenue. Calhoun City, Mississippi, 38916.

JURISDICTION AND VENUE

4. This is an action for damages within the jurisdictional limits of this Court.

5. Venue is proper in the Second Judicial District of Chickasaw County, since the accident that is the subject of this Complaint occurred in this district near Okolona, Mississippi.

FACTS

6. On April 22, 2009, Esther Hageman, deceased, was riding a bicycle traveling south on the Natchez Trace Parkway in Chickasaw County, Mississippi. Pursuant to Miss. Code Ann. § 63-3-207, Esther Hageman had all of the rights that a driver of a vehicle would have had in operating a vehicle on the Natchez Trace.

7. On April 22, 2009, the Defendant Wendell G. Blount was driving a Sports Utility Vehicle owned by Defendant Blount Motors and was traveling south on the Natchez Trace Parkway in Chickasaw County, Mississippi. At the time, Defendant Blount was severely impaired and under the influence of the prescription drug Morphine, which is an opiate. Morphine levels in Defendant Blount's blood were very high. Defendant Blount's condition substantially impaired his ability to operate a motor vehicle.

8. Morphine is a schedule II narcotic pain-killer that is subject to addiction and abuse. Morphine is usually reserved for the most severe pain, such as malignant (cancer) pain and pain experienced by severe burn victims. People taking Morphine should not operate motor vehicles, particularly if they are taking high amounts of Morphine and are abusing the drug.

9. Defendant Blount had a prescription for the Morphine, but was abusing the drug at the time of the collision by taking it in excess of the prescribed amount.

10. On April 22, 2009, Defendant Wendell G. Blount, while heavily impaired by Morphine, negligently overtook and collided with Esther Hageman and her bicycle, in the Sports Utility Vehicle that he was driving that was owned by Blount Motors. Esther Hageman was fatally injured as a result of the collision and died from blunt force trauma.

11. At the time of the accident, Wendell Blount was acting within the course and scope of his employment with Blount Motors. In addition, Blount Motors negligently entrusted Wendell G. Blount with the Sports Utility Vehicle that he was driving. Blount Motors knew or reasonably should have known that Wendell G. Blount could not safely operate a motor vehicle on public roads and highways due to his underlying medical condition(s), medication and abuse of the prescription drug Morphine.

12. As a direct and proximate result of the negligence of the Defendants Wendell G. Blount and Blount Motors, Esther Hageman suffered injuries and an untimely and wrongful death.

NEGLIGENCE

13. Defendant Wendell G. Blount owed a duty to Esther Hageman, and to the public in general, to operate his vehicle in a safe and reasonable manner under the circumstances.

14. Defendant Wendell G. Blount breached his duty to Esther Hageman and the Plaintiffs by:

- a. Failing to keep a proper lookout for Esther Hageman;
- b. Negligently operating the vehicle;

- c. Failing to abide by the rules of the road;
- d. Failing to yield right of way to Esther Hageman;
- e. Failing to keep the vehicle under proper control to avoid colliding with Esther Hageman;
- f. Failing to exercise reasonable care to avoid Esther Hageman;
- g. Failure to sound his horn to warn Esther Hageman that he was overtaking and passing her; and
- h. Other acts of negligence to be revealed at the trial of this cause.

NEGLIGENCE PER SE

15. Pursuant to 36 CFR 4.2, the traffic laws of the State of Mississippi apply to the Natchez Trace Parkway. Defendant Wendell G. Blount is negligent as a matter of law by failing to abide by Mississippi statutory law regarding the operation of a motor vehicle including, but not limited to: Miss. Code Ann. § 63-11-30 (operation under influence of alcohol or other impairing substance); Miss. Code Ann. § 63-3-609 (passing, vehicles going same direction); Miss. Code Ann. § 63-3-619 (tailgating); Miss. Code Ann. § 63-3-1201 (willful or wanton disregard); Miss. Code Ann. § 63-3-1112 (human-powered vehicles); Miss. Code Ann. § 63-3-1213 (careless or imprudent driving); and speeding in excess of the fifty miles per hour posted limit.

16. As a result of Defendant Wendell G. Blount's negligence per se, and as a direct and proximate result thereof, Esther Hageman was injured and suffered an untimely and wrongful death.

17. Plaintiffs have suffered and continue to suffer pain and anguish, both physically and mentally; and by reason of said damages, have incurred burial, funeral, and other out-of-pocket expenses and applicable damages under Mississippi law.

18. As a direct and proximate result of Defendants' negligence, Defendant Wendell G. Blount is liable under Mississippi law to the Plaintiffs for their injuries and damages and for the injuries and damages suffered by Esther Hageman, including but not limited to the following:

- (a) Past, present and future pain and suffering;
- (b) Past, present and future emotional distress and mental anguish, including fear of imminent death;
- (c) Past, present and future loss of enjoyment of life;
- (d) Pre-judgment and post-judgment interest;
- (e) Economic damages;
- (f) Punitive damages; and
- (g) All other damages allowed by law.

NEGLIGENT ENTRUSTMENT

19. Defendant Blount Motors negligently entrusted the subject vehicle to Defendant Wendell G. Blount on the date in question.

20. As a proximate result of the negligence of Defendant Wendell G. Blount while operating the motor vehicle entrusted to him by Blount Motors, Esther Hageman was injured and suffered an untimely and wrongful death.

21. Therefore, Defendant Blount Motors, is liable to the Plaintiffs for all their injuries and damages under the theory of negligent entrustment.

VICARIOUS LIABILITY

22. Blount Motors is also vicariously liable to Plaintiffs for the negligence of Wendell Blount under the doctrine respondent-superior.

PUNITIVE DAMAGES

23. Defendants' conduct was willful, reckless or wanton and justifies an award of punitive damages under Mississippi law.

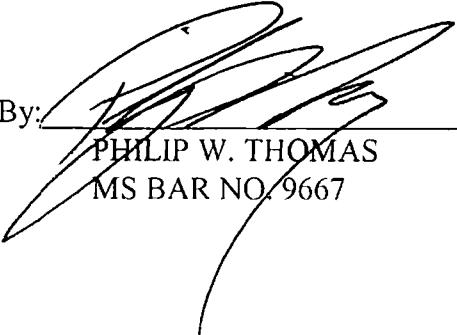
WHEREFORE, Plaintiff prays for the following relief:

- (1) Past, present and future pain and suffering;
- (2) Past, present and future emotional distress and mental anguish;
- (3) Past, present and future loss of enjoyment of life;
- (4) Pre-judgment and post-judgment interest;
- (5) All other economic damages allowed by law;
- (6) Punitive damages; and
- (7) All other damages of any type allowed by law, including damages recoverable under both the wrongful death statute and due to the estate of Esther Hageman for damages suffered by Esther Hageman, her estate or her wrongful death beneficiaries.

This the 11th day of August, 2009.

Respectfully submitted.

CASPER JACOBUS HAGEMAN, AS
ADMINISTRATOR OF THE ESTATE OF
ESTHER HAGEMAN, DECEASED AND ON
BEHALF OF ALL THE WRONGFUL DEATH
BENEFICIARIES OF ESTHER HAGEMAN,
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