

IN THE COURT OF COMMON PLEAS FRANKLIN COUNTY, OHIO

KEAU A. WILLIAMS	:	Case No. 23CV007722
	:	
Plaintiff,	:	JUDGE CARL AVENI
	:	
v.	:	
	:	
MILA TRANSPORTATION, LLC,	:	
ET AL.	:	
Defendants.	:	

DANIELLE PATTON, ADM. OF	:	Case No. 23 CV 007859
THE ESTATE OF JESSE LAWRENCE	:	
PHILLIPS HORNAK, DECEASED,	:	JUDGE CARL AVENI
ET AL.	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
MILA TRANSPORTATION, LLC,	:	
ET AL.	:	
	:	
Defendants.	:	

DECISION AND ENTRY GRANTING DEFENDANTS LANDSTAR SYSTEM, INC. AND LANDSTAR RANGER, INC.’S MOTION TO DISMISS FILED JANUARY 5, 2024

I. Introduction

On January 5, 2024, Defendants Landstar System, Inc. and Landstar Ranger, Inc. filed a Motion to Dismiss in *Danielle Patton, Adm. of the Estate of Jesse Lawrence Phillips Hornak, Deceased, et al. v. Mila Transportation, LLC*, Case No. 23CV007859. On February 2, 2024, Plaintiffs filed a Memorandum Contra, and on February 16, 2024, Defendants filed a Reply. On April 2, 2024, *Keau A. Williams v. Mila Transportation, LLC, et al.*, Case No. 23CV007722, and *Danielle Patton, Adm. of the Estate of Jesse Lawrence Phillips Hornak, Deceased, et al. v. Mila Transportation, LLC*, Case No. 23CV007859, were consolidated, and thus the underlying motion

was transferred to the docket of the undersigned. Defendants' Motion to Dismiss is ripe for decision.

II. Factual Background

This case arises out of a tragic collision that occurred on November 4, 2021, on Interstate 270 in Franklin County, Ohio. According to the Plaintiffs' Complaint, Jesse Lawrence Phillips Hornak and Jourdan Thomas were passengers in a minivan driven by Keanu Williams. The minivan was allegedly traveling well in excess of the posted speed limit when it rear-ended a tractor-trailer owned and operated by Mila Transportation, LLC and driven by its employee, James Bates (Compl. at ¶¶ 1-2, 12-17).

Plaintiffs allege that Bates was negligent in the operation of the tractor-trailer, and that Mila Transportation is vicariously liable for Bates' alleged negligence. Plaintiffs further allege that Mila Transportation was negligent in hiring, selecting, supervising, and entrusting its tractor-trailer to Bates (*Id.* at ¶¶ 20-37). Following the collision, Bates allegedly fled the scene and was later apprehended, showing signs of impairment due to alcohol and marijuana (*Id.* at ¶ 19).

Plaintiffs also assert claims against Defendants Landstar System, Inc. and Landstar Ranger, Inc. ("Landstar Defendants"), alleging that these entities were negligent in their role as the broker of the load that Mila Transportation and its driver were hauling at the time of the accident. Specifically, Plaintiffs allege that the Landstar Defendants failed to exercise reasonable care in selecting Mila Transportation as the motor carrier, knowing or having reason to know that Mila Transportation was an incompetent and unsafe motor carrier (*Id.* at ¶¶ 47-53).

Defendants Landstar System, Inc. and Landstar Ranger, Inc. have moved to dismiss the claims against them, arguing that Plaintiffs' claims are preempted by federal law under the Federal Aviation Authorization Administration Act ("FAAAA"), and that they did not owe any duty of care to Plaintiffs' decedents under Ohio law.

III. Standard of Review

As a general rule, "[a] motion to dismiss for failure to state a claim upon which relief can be granted is procedural and tests the sufficiency of the complaint." *State ex rel. Hanson v. Guernsey Cty. Bd. of Commrs.*, 65 Ohio St. 3d 545, 548, 1992-Ohio-73, 605 N.E.2d 378 (1992). In reviewing a Civ.R. 12(B)(6) motion to dismiss, all factual allegations set forth in the complaint and reasonable inferences must be accepted as true and dismissal is warranted only when it appears "beyond doubt from the complaint that the plaintiff can prove no set of facts entitling him to recovery." *Id.*, quoting *O'Brien v. Univ. Community Tenants Union, Inc.*, 42 Ohio St.2d 242, 327 N.E.2d 753 (1975), syllabus; *Mitchell v. Lawson Milk Co.*, 40 Ohio St.3d 190, 192, 532 N.E.2d 753 (1988).

In addition, "Ohio is a notice-pleading state." *Boylard v. Giant Eagle*, 2017-Ohio-7335, 96 N.E.3d 999, ¶ 16 (10th Dist.). To be adequate, and to defeat a motion to dismiss, a complaint requires only "(1) a short and plain statement of the claim showing that the party is entitled to relief, and (2) a demand for judgment for the relief to which the party claims to be entitled." Civ.R. 8(A). Accordingly, a plaintiff is "not required to prove his or her case at the pleading stage." *York v. Ohio State Hwy. Patrol*, 60 Ohio St.3d 143, 145, 573 N.E.2d 1063 (1991). This is because "[v]ery often, the evidence necessary for a plaintiff to prevail is not obtained until the plaintiff is able to discover materials in the defendant's possession." *Id.*; see also *State ex rel. Hanson v. Guernsey Cty. Bd. of Comm 'rs.*, 65 Ohio St.3d 545, 549, 605 N.E.2d 378 (1992) ("[A] pleader is

ordinarily not required to allege in the complaint every fact he or she intends to prove; such facts may not be available until after discovery.”).

Importantly, “Ohio has not adopted the heightened federal pleading standard outlined in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009).” *Smiley v. City of Cleveland*, 8th Dist. Cuyahoga No. 103987, 2016-Ohio-7711, ¶ 5. Instead, Ohio continues to apply its “liberal” notice-pleading standard, and under that standard, “few complaints. . . become subject to dismissal.” *Id.* ¶¶ 6, 12 (quotations and citations omitted); *see also Willoughby Supply Co. v. Villhauer*, 2018-Ohio-2077, 113 N.E.3d 973, ¶ 19 (11th Dist.) (“Because it is so easy for the pleader to satisfy the standard of Civ.R. 8(A), few complaints are subject to dismissal.”) (quotations and citation omitted). For that reason, “the motion to dismiss is viewed with disfavor and should rarely be granted.” *Stewart v. Woods Cove II, L.L.C.*, 2017-Ohio-8314, 99 N.E.3d 956, ¶ 17 (8th Dist.) (quotations and citations omitted).

Accordingly, a complaint should not be dismissed unless “it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.” *O’Brien v. Univ. Cmty. Tenants Union, Inc.*, 42 Ohio St.2d 242, 245, 327 N.E.2d 753 (1975) (quotations and citation omitted). In other words, “as long as there is a set of facts, consistent with the plaintiff’s complaint, which would allow the plaintiff to recover, the court may not grant a defendant’s motion to dismiss.” *City of Cincinnati v. Beretta U.S.A. Corp.*, 95 Ohio St.3d 416, 418, 2002-Ohio-2480, 768 N.E.2d 1136, ¶5, quoting *York*, 60 Ohio St.3d at 145. In applying that standard, the Court “must review only the complaint, accepting all factual allegations as true and making every reasonable inference in favor of the nonmoving party.” *Warren v. Estate of Durham*, 9th Dist. Summit No. 25624, 2011-Ohio-6416, 117 (quotations and citation omitted).

IV. Discussion

A. The Court Finds Federal Law Preempts Plaintiffs' Claims Against The Landstar Defendants.

Defendants argue that Plaintiffs' claims against the Landstar Defendants are preempted by the Federal Aviation Administration Authorization Act, 49 U.S.C. § 14501(c)(1) (hereafter "FAAAA"), which prohibits state laws or regulations related to the service of any broker with respect to the transportation of property. Defendants point to case law that stands for the proposition that negligence claims against brokers are preempted under the FAAAA. See *Nature's One, Inc. v. Spring Hill Jersey Cheese, Inc.*, S.D.Ohio No. 2:15-cv-2820, 2017 U.S. Dist. LEXIS 160888 (Sep. 29, 2017); and *McCarter v. Ziyar Express, Inc.*, N.D.Ohio No. 3:21 CV 2390, 2023 U.S. Dist. LEXIS 4552 (Jan. 10, 2023).

In response, Plaintiffs contend that their claims fall squarely within the FAAAA's safety regulation exception, which states that the FAAAA "shall not restrict the safety regulatory authority of a State with respect to motor vehicles" see 49 U.S.C. § 14501(c)(2)(A). Plaintiffs argue that this exception applies to their negligence claims against the Landstar Defendants.

However, Ohio federal courts have consistently held that the safety exception does not apply to common law negligence claims against brokers. Specifically, courts have determined that such claims do not regulate motor vehicles but instead impose duties on brokers regarding how they arrange transportation, which falls within the preemption scope of the FAAAA. In *Creagan v. Wal-Mart Transportation, LLC*, 354 F. Supp. 3d 808, 813 (N.D. Ohio 2018) the court concluded that negligent hiring claims against brokers are preempted by the FAAAA. Similarly, in *Lee v. Werner Enterprises, Inc.*, 2022 WL 16695207, at *4 (N.D. Ohio Nov. 3, 2022) the Northern District of Ohio held that the safety exception does not preserve negligence claims against brokers, as these claims do not regulate motor vehicles.

Plaintiffs rely on *Miller v. C.H. Robinson Worldwide, Inc.*, 976 F.3d 1016 (9th Cir. 2020) for the proposition that the safety regulation exception to the FAAAA should apply to their claims against the Landstar Defendants. Plaintiffs' reliance on *Miller*, a Ninth Circuit case, is unpersuasive, as Ohio courts have uniformly rejected this interpretation and adhered to the broader preemption approach. Moreover, the United States Supreme Court has emphasized that the focus must be on the plain wording of the clause without invoking any presumption against preemption. See *Puerto Rico v. Franklin California Tax-Free Tr.*, 579 U.S. 115, 125 (2016).

Given the broad scope of the FAAAA's preemption clause and the consistent application of this clause by federal courts situated in Ohio, the Court finds that Plaintiffs' negligence claims against the Landstar Defendants are preempted by federal law and therefore Plaintiffs' claims against the Landstar Defendants are subject to dismissal.

B. The Court Finds That The Landstar Defendants Did Not Owe Plaintiff A Duty Of Care Under Ohio Law.

Moreover, although the Court finds that preemption bars Plaintiffs' claims against the Landstar Defendants, the Court likewise finds that Defendants' duty of care argument raised by the Landstar Defendants is dispositive.

Defendants argue that they owed no duty of care to Plaintiffs' decedents under Ohio law. Under Ohio law, an employer is generally not liable for the negligence of an independent contractor unless the work is inherently dangerous or there is a specific statutory duty. *Pusey v. Bator*, 762 N.E.2d 968, 972 (Ohio 2002); *Corporex Dev. & Constr. Mgt., Inc. v. Shook, Inc.*, 106 Ohio St.3d 412 (2005).

Plaintiffs argue that Ohio law imposes an independent duty on employers to exercise reasonable care in selecting and retaining contractors, citing *Albain v. Flower Hosp.*, 50 Ohio St.3d 251, 257, 553 N.E.2d 1038 (1990), which held that an employer must exercise reasonable care in

the selection of a competent and careful independent contractor, overruled on other grounds by *Clark v. Southview Hosp. & Family Health Ctr.*, 68 Ohio St.3d 435, 1994-Ohio 519, 628 N.E.2d 46 (1994)).

However, the duty of care recognized in *Albain* and similar cases applies to situations where the employer has direct control over the contractor's actions or where the work involves inherently dangerous activities. In the present case, Plaintiffs have not alleged that the work performed by Mila Transportation was inherently dangerous or that the Landstar Defendants had direct control over Mila Transportation's operations. Instead, Plaintiffs' claims focus on negligent selection and retention, which do not fit within the recognized exceptions that would impose a duty of care on the Landstar Defendants under Ohio law.

Furthermore, the Southern District, in *ITS Financial, LLC v. Advent Financial Services, Inc.*, 823 F. Supp. 2d 772, 780 (S.D. Ohio 2011), held that a tort action premised on a contractual relationship is only proper if there is a duty owed independently of the contract, which has not been alleged here.

V. Decision

For the reasons stated above, the Court finds that Plaintiffs' negligence claims against the Landstar Defendants are preempted by the FAAAA and, alternatively, that Defendants owed no duty of care to Plaintiffs' decedents under Ohio law. Accordingly, the Landstar Defendants' Motion to Dismiss is hereby **GRANTED**. Plaintiffs' claims against Landstar System, Inc. and Landstar Ranger, Inc. are **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

Copies to all counsel via electronic filing system.

Franklin County Court of Common Pleas

Date: 06-14-2024

Case Title: DANIELLE PATTON ET AL -VS- MILA TRANSPORTATION LLC
ET AL

Case Number: 23CV007859

Type: ENTRY

It Is So Ordered.

A handwritten signature in black ink, appearing to read 'C. Aveni II', is written over a faint, circular official seal of the Franklin County Court of Common Pleas. The seal contains the text 'FRANKLIN COUNTY OHIO' and 'ALL THINGS ARE POSSIBLE WITH GOD'.

/s/ Judge Carl A. Aveni II

Court Disposition

Case Number: 23CV007859

Case Style: DANIELLE PATTON ET AL -VS- MILA
TRANSPORTATION LLC ET AL

Case Terminated: 18 - Other Terminations

Final Appealable Order: Yes

Motion Tie Off Information:

1. Motion CMS Document Id: 23CV0078592024-01-0599970000
Document Title: 01-05-2024-MOTION TO DISMISS -
DEFENDANT: LANDSTAR RANGER INC
Disposition: MOTION GRANTED