

IN THE CIRCUIT COURT OF PEARL RIVER COUNTY, MISSISSIPPI

ESTATE OF JADA BRIGHT; and ON BEHALF OF THE WRONGFUL DEATH BENEFICIARIES OF JADA BRIGHT

PLAINTIFF

v.

Cause No. 20-CV-10-PH

THE ESTATE OF SHELLEY E. ROSE; EAN HOLDINGS, LLC; ENTERPRISE LEASING COMPANY-SOUTH CENTRAL, LLC; ENTERPRISE HOLDINGS, INC.; ELCO ADMINISTRATIVE SERVICES COMPANY; NATIONAL CAR RENTAL SYSTEM, INC.; LAUDERDALE COUNTY; JONES COUNTY; CITY OF ELLISVILLE; BEECH'S TOWING & RECOVERY LLC; ABC CORPORATIONS 1-5; and JOHN DOES 1-5

DEFENDANTS

(JURY TRIAL REQUESTED)

COMPLAINT

Plaintiff, Estate of Jada Bright ("Jada"); and on behalf of the wrongful death beneficiaries of Jada Bright, files this its Complaint against the above named Defendants, The Estate of Shelley E. Rose, EAN Holdings, LLC, Enterprise Leasing Company-South Central, LLC; Elco Administrative Services Company, Enterprise Holdings, Inc., National Car Rental System, Inc., Lauderdale County, Jones County, City of Ellisville, Beech's Towing & Recovery LLC, ABC 1-5, and John Does 1-5, and requests judgment against the Defendants for the wrongful death of Jada Bright, among other damages, and would state the following:

Parties

1. The Plaintiff, Estate of Jada Bright, is an estate administered by Andre Bright in Forrest County, Mississippi (hereinafter referred to as "Plaintiff" or "Andre").

FILED
NANCE FITZPATRICK STOKES CIRCUIT CLERK
JAN 30 2020
BY: Nance FitzPatrick Stokes
DEPUTY CLERK

2. Defendant, Estate of Shelley E. Rose (“Shelley”) is an estate of the late Shelley E. Rose who may be served with process at her last known address in Lake Charles, Louisiana.

3. Defendant, EAN Holdings, LLC is a Delaware corporation with its primary place of business in St. Louis, Missouri. EAN Holdings, LLC, is believed to be the owner of the Dodge Caravan with the license plate PQH306, subject to this Complaint. EAN Holdings, LLC is the servicing agent for the trust which holds title to the rental vehicles rented by affiliates such as Enterprise Leasing Company-South Central, LLC. EAN Holdings, LLC is and at all relevant times was qualified to do business in Mississippi may be served with process as provided by applicable law through its registered agent of process C T Corporation System, 645 Lakewood East Drive, Suite 101, Flowood, Mississippi 39232.

4. Defendant, Enterprise Leasing Company-South Central, LLC, is a Delaware corporation with its primary place of business in St. Louis, Missouri. Enterprise Leasing Company is and at all relevant times was qualified to do business in Mississippi and engaged in the business of renting automobiles to the general public. Enterprise Leasing Company may be served with process as provided by applicable law through its registered agent of process C T Corporation System, 645 Lakewood East Drive, Suite 101, Flowood, Mississippi 39232.

5. Defendant, Enterprise Holdings, Inc., is a Missouri corporation with its primary place of business in St. Louis, Missouri. Enterprise Holdings is and at all relevant times was qualified to do business in Mississippi, who may be served with process as provided by applicable law through its registered agent of process C T Corporation System, 120 South Central Avenue, Clayton, Missouri 63105.

6. Defendant, Elco Administrative Services Company is a Missouri corporation with its

headquarters in St. Louis, Missouri. Elco is and at all relevant times was qualified to do business in Mississippi, and engaged to do business serving as Enterprise's third-party administrator, who may be served with process as provided by applicable law through its registered agent of process C T Corporation System, 120 South Central Avenue, Clayton, Missouri 63105.

7. Defendant, National Car Rental System, Inc., is a Missouri corporation with its headquarters in St. Louis, Missouri. National Car Rental System, Inc., is and at all relevant times was qualified to do business in Mississippi, in the business of renting cars to the general public, who may be served with process as provided by applicable law through its registered agent of process C T Corporation System, 118 North Congress Street, Jackson, Mississippi 39205, or C T Corporation System, 120 South Central Avenue, Clayton, Missouri 63105.

8. Defendants, EAN Holdings, LLC, Enterprise Leasing Company-South Central, LLC, Enterprise Holdings, Inc., Elco Administrative Services Company, National Car Rental System, Inc., and hereinafter referred to as "Rental Car Defendants".

9. The Defendant, Lauderdale County, is a political subdivision of the State of Mississippi. The Defendant Lauderdale County, may be served with process by service upon its Chancery Clerk, Honorable Carolyn Mooney, 500 Constitution Avenue, Meridian, Mississippi 39301.

10. The Defendant, Jones County, is a political subdivision of the State of Mississippi. The Defendant Jones County may be served with process by service upon its Chancery Clerk, Honorable Bart Gavin, 415 N 5th Avenue, Laurel, Mississippi 39440.

11. The Defendant, City of Ellisville, is a code charter incorporated municipality of the State of Mississippi. The Defendant City of Ellisville may be served with process by service upon its City Clerk, Charma Cook, 110 N. Court Street, Ellisville, Mississippi 39437.

12. Defendant, Beech's Towing & Recovery LLC ("Beech Towing"), is a Mississippi limited liability company, with its principal place of business at 471 Iron Gate Road Ellisville, Mississippi. Beech Towing is and at all relevant times was qualified to do business in Mississippi and may be served with process as provided by applicable law through its registered agent of process Jerry Bryan Beech, 810 Highway 11 South, Ellisville, MS 39437.

13. Defendants ABC Corporations 1-5 at all times relevant hereto are unidentified companies whose true identity and place of business are presently unknown, and which were involved in matters which are the subject of this litigation. Plaintiff will amend this Complaint at such time as the identities of those ABC Corporation defendants become known throughout the course of continuing investigation and discovery.

14. Defendants John Does 1-5 at all times relevant hereto are unidentified unincorporated companies or individuals whose true identity and address are presently unknown, and where were involved in matters which are the subject of this litigation. Plaintiff will amend this Complaint at such time as the identities of these John Doe defendants become known throughout the course of continuing investigation and discovery.

Jurisdiction & Venue

15. Jurisdiction is proper in this Court because this is a tort action, the motor vehicle incident occurred in Pearl River County, and Circuit Court is the Court of General Jurisdiction.

16. Venue is proper in this Court pursuant to MCA § 11-11-3.

Background and Facts

17. On or about November 19, 2018, Shelley entered into a contract with Rental Car Defendants for the rental of a vehicle, more specifically described as a Dodge Caravan with the

license plate PQH306.

Felony DUI 4th Arrest – Lauderdale County

18. On or about November 20, 2018, Officers from the Lauderdale Sheriff's office, Sgt. Andy Matuszewski and Lt. Merissa Combs responded to a call at a TA Truck Stop in Meridian, Mississippi about a possible impaired driver. Upon initial investigation officers were informed that Shelley had run different people off of the road and also hit a pole in the truck stop parking lot.

19. Officers observed significant damage to a dodge caravan bearing a South Carolina license plate which met the description of the vehicle provided. Upon making contact with the vehicle, officers observed Shelley smelled of an intoxicating beverage, had slurred speech, dilated eyes, and impaired coordination.

20. Shelley informed the officers that she was on a number of medications and provided the officers with a long list. The officers noted Shelley's medications were the type that were not to be mixed with alcohol and were not to be taken while operating heavy machinery. The officers attempted to have Shelley perform field sobriety tests. Shelley was unable to perform the tests, and was placed in handcuffs and cited for driving under the influence of alcohol.

21. Shelley was transported to the Lauderdale County Detention Center. Upon arrival, Shelley complained that her purse was spilling over and her contents were falling out. The officers noted that Shelley's purse was not with her. Shelley became adamant that her purse was spilling and her cigarettes were falling everywhere. Again, the officers informed Shelley that nothing was there and that her purse was safely secured in the vehicle. Shelley was offered the Intoxilyzer 8000 which she attempted to perform and failed twice.

22. Shelley was booked into the Lauderdale County jail at approximately 2:24 p.m. During the booking process, Shelley informed the intake officer that she had mental conditions.

23. Shelley was first cited by the Lauderdale Sheriff's Department for DUI Refusal. Upon further research the charge was upgraded to Felony DUI 4 because Shelley had been charged and convicted three times prior in Meridian Municipal Court.

24. Following the arrest, Lauderdale Sheriff Department notified Rental Car Defendants of Shelley's Felony fourth DUI. Enterprise recklessly chose to release the vehicle back to Shelley.

25. Shelley was released at approximately 10:23 p.m. that same day on a \$10,000 bond.

Arrest – Ellisville Police Department/Jones County

26. On November 21, 2018, Captain Wayne McLemore of the Ellisville Police Department reported to Texaco on Highway 590 due to reports of a suspicious woman trying to break and enter into vehicles at the Texaco.

27. Upon reaching the Texaco, Captain McLemore found a white female, Shelley Rose, looking into windows of the vehicles on the south side of the Texaco. Captain McLemore observed Shelley appeared intoxicated, fumbling for her things, and had strong alcoholic odor coming from her breath.

28. Upon questioning Shelley, Shelley admitted that she had driven her vehicle to the Texaco. Despite the admission, Captain McLemore placed Shelley under arrest for public intoxication rather than DUI.

29. Captain McLemore also observed Shelley's Dodge Caravan had damage to the right front bumper and damage all the way down the driver side of the vehicle. Captain McLemore observed the damage appeared to be fresh due to the bare metal. Further, Captain McLemore

observed alcoholic beverages in the vehicle.

30. Shelley became very belligerent towards Captain McLemore and informed him that she had just been charged hours before for DUI in Lauderdale County. Captain McLemore called Beech Towing to retrieve the vehicle Shelley was driving and transported Shelley to the Ellisville Police Department for booking.

31. During the booking process, Shelley informed the intake officer that she had mental conditions.

32. While at the Ellisville police department, Shelley remained very loud, belligerent, and obnoxious. As a result of Shelley's behavior, at approximately 9:48 a.m., Shelley was transported to the Jones County Jail.

33. Shelley remained at the Jones County jail until approximately 11:00 p.m. when she was transported back to the Ellisville Police Department and released on bond for approximately \$340.00.

34. Upon posting bail, against policy and procedure, Ellisville Police Department delivered Shelley to Beech Towing to retrieve the rental vehicle.

Beech Towing

35. On or about November 21, 2018, Beech Towing was contacted by the Ellisville Police Department to tow a Dodge Caravan with the license plate of PQH306 from the Texaco on Highway 590.

36. Beech Towing knew or should have known that the Dodge Caravan was a rental vehicle owned by Rental Car Defendants and not Shelley Rose.

37. On or about the late evening of November 21, 2018, Beech Towing was contacted by

Shelley from the jail stating that she wanted to retrieve the rental vehicle.

38. On or about the late evening of November 21, 2018 and early Thanksgiving morning of November 22, 2018, Beech Towing released the Dodge Caravan to Shelley without notifying and receiving permission from the owner of the vehicle, Rental Car Defendants.

39. Beech Towing knew or should have known that releasing the vehicle to anyone other than the rightful owner, Rental Car Defendants, without their permission, was against policy and procedure and the law.

Thanksgiving Day Accident

40. On Thanksgiving morning, November 22, 2018, at approximately 10:26 a.m., Jada was traveling southbound in a 2007 Blue Saturn on I-59 South near Lumberton, Mississippi, in Pearl River County, Mississippi.

41. At that time and place, Shelley, severely and heavily intoxicated, traveled at an increasingly high rate of speed North in the South bound lane (in the wrong direction) on I-59 South. Shelley was driving the Dodge Caravan owned by Rental Car Defendants.

42. In a violation of her duty to exercise due care and contrary to the rules of the road, Shelley violently and recklessly slammed into Jada head-on, sending Jada's vehicle spiraling into pieces.

43. The force of the impact was so tremendous that it crushed Jada's car and left it in pieces on the interstate. **Exhibit A.**

44. Jada suffered severe and excruciating bodily injuries as a result of the collision and Jada tragically died at the scene of the crash.

FIRST CAUSE OF ACTION
Count I - Claims for Negligence against Defendant Shelley

45. Andre incorporates and re-alleges all previous paragraphs set out herein.
46. Shelley was negligent in the operation of her caravan in the following respects:
- a. failed to keep a proper lookout for others;
 - b. failed to keep her car under control;
 - c. failed to see what reasonably should have been seen;
 - d. failed to keep proper and reasonable distance between her and Jada's vehicles;
 - e. failed to reduce speed to avoid collision;
 - f. failed to slow or otherwise maneuver her motor vehicle so as to avoid causing collision;
 - g. operated her vehicle when her vehicle was not physically capable of safe operation, including having proper visual acuity;
 - h. failed to drive her vehicle in a safe and reasonable manner;
 - i. failed to pay attention to circumstances around her;
 - j. utilized an unreasonable and unsafe route;
 - k. failed to drive with due regard for the safety of others;
 - l. violated Miss. Code Ann. § 63-3-1213, by driving her motor vehicle in a careless and imprudent manner without due regard to traffic and all other attendant circumstances;
 - m. violated Miss. Code Ann. § 63-3-505, by failing to operate her motor vehicle at a reasonable rate of speed having due regard for the conditions present and the condition of the vehicle she was operating;
 - n. violated Miss. Code Ann. § 63-3-505, by failing to slow or otherwise maneuver her motor vehicle so as to avoid colliding with the motor vehicle in front of her;

o. violated Miss. Code Ann. § 63-3-619(1), by failing to have due regard to the speed of the vehicles and the traffic conditions at the time.

p. As a direct and proximate result of the negligence of Defendant Shelley, Jada was caused to suffer serious, permanent, painful and disabling injuries, which ultimately resulted in death.

47. One, some, or all of the aforesaid acts of negligence were the direct and proximate cause of the collision at issue and Jada's resulting fatal injuries and damages as well as those of her beneficiaries.

SECOND CAUSE OF ACTION
Count II - Per Se Violations of Statutory Laws and Duties

48. Andre incorporates and re-alleges all previous paragraphs set out herein.

49. At the time of the wreck in question, the following Federal Regulations as well as statutes of the State of Mississippi were in full force and effect and were violated by Defendant Shelley, constituting negligence per se:

- a. violated MCA § 63-3-505, by failing to operate her motor vehicle at a reasonable rate of speed;
- b. violated MCA § 63-3-1213, by driving her motor vehicle in a careless and imprudent manner without due regard for traffic and all other attendant circumstances;
- c. violated MCA § 63-3-619(1) by failing to have due regard to the speed of the vehicles and the traffic conditions at the time;
- d. violated MCA § 63-3-505, by failing to slow or otherwise maneuver her motor vehicle so as to avoid colliding with the motor vehicle in front of her and being operated by Jada;
- e. violated MCA § 63-3-401 by failing to fulfill the requirements of MCA 43-3-405;
- f. violated MCA § 63-3-405 by failing to render reasonable assistance;

- g. violated MCA § 63-3-601 by failing to drive upon the right half of the roadway;
- h. violated MCA § 63-3-609 by failing to pass to the left of at a safe distance;
- i. violated MCA § 63-3-611 by driving to the left under conditions that there in existed;
- j. violated MCA § 63-3-1201 by driving her vehicle in such a manner as to indicate either a willful or a wanton disregard for the safety of persons or property;
- k. violated MCA § 63-3-1213 by driving her vehicle in a careless or imprudent manner, without due regard for the width, grade, curves, corner, traffic and use of the stresses and highways and all other attendant circumstances.

50. One, some, or all of the aforesaid acts of negligence were the direct and proximate cause of the collision at issue and Jada's resulting fatal injuries and damages as well as those of her beneficiaries.

THIRD CAUSE OF ACTION
Count III - Negligent Entrustment – Rental Car Defendants

51. Andre incorporates and re-alleges all previous paragraphs set out herein.

52. Upon information and belief, Rental Car Defendants were the owner of the vehicle driven by Defendant Shelley at the time of the subject collision, Rental Car Defendants had knowledge of and consented to Shelley driving the Dodge Caravan.

53. Upon information and belief, Rental Car Defendants were informed that Shelley was charged on November 21, 2018 with DUI 4, but chose to let her keep the vehicle despite knowledge that Shelley was unfit and unsafe to operate the vehicle, and was either intoxicated or likely to become intoxicated while driving.

54. "Enterprise has a duty not to rent to drivers who appear to be intoxicated or who are known to be likely to become intoxicated while driving. *Dixie Drive It Yourself System Jackson Co. v. Matthews*, 212 Miss. 190, 54 So.2d 263, 266–67 (1951). In *Dixie Drive It Yourself*, this Court affirmed a jury verdict for a plaintiff injured by the drunk driver of a

rented vehicle. Evidence had been presented at trial that the rental-car agent knew the driver was “bad to drink.”

Enter. Leasing Co. S. Cent. v. Bardin, 8 So. 3d 866, 869–70 (Miss. 2009)

55. Rental Car Defendants were negligent in allowing Shelley to use the vehicle, and therefore, negligently entrusted the vehicle to her possession and custody for use.

56. The negligent entrustment of the vehicle to Shelley caused or contributed to the wrongful death of Jada.

FOURTH CAUSE OF ACTION

Count IV – Violation of MTCA Miss. Code Ann. § 11-46-9 Under Mississippi Law – Lauderdale County

57. Andre incorporates and re-alleges all previous paragraphs set out herein.

58. At all times relevant to this civil action, Sgt. Andy Matuszewski and other officers/agents of Lauderdale County acted within the scope of their employment when they arrested Shelley for Felony DUI 4 and failed to hold Shelley at the Lauderdale County detention center and released Shelley and her vehicle back onto the roadway, which ultimately caused the fatal crash, killing Jada.

59. Sgt. Andy Matuszewski and other officers/agents of Lauderdale County’s acts and/or omissions were in reckless disregard for the safety and well being of Jada, who was not engaged in a criminal activity at the time she was injured, by releasing Shelley and her vehicle when Lauderdale County:

- a. had actual or constructive knowledge of Shelley’s intoxication;
- b. had actual or constructive knowledge of her diminished mental condition;
- c. had actual or constructive knowledge of the fact that she was on several medications which were not to be taken while drinking or operating heavy machinery; and

d. had actual or constructive knowledge that she had been convicted of three previous DUI's and was now being charged with a fourth DUI.

60. The acts and/or omissions of Sgt. Andy Matuszewski and other officers/agents of Lauderdale County in violation of MTCA Miss. Code Ann. § 11-46-9 caused or contributed to the wrongful death of Jada.

FIFTH CAUSE OF ACTION

Count V – Violation of MTCA Miss. Code Ann. § 11-46-9 Under Mississippi Law – City of Ellisville and Jones County

61. Andre incorporates and re-alleges all previous paragraphs set out herein.

62. At all times relevant to this civil action, Captain McLemore and other officers/agents of the City of Ellisville and Jones County acted within the scope of their employment when they failed to arrest Shelley for Felony DUI 5, and failed to hold Shelley at the Ellisville Police Department and Jones County Detention Center and released Shelley and her vehicle back onto the roadway, which ultimately caused the fatal crash, killing Jada.

63. Captain McLemore and other officers/agents of the City of Ellisville and Jones County's acts and/or omissions were in reckless disregard for the safety and well-being of Jada, who was not engaged in a criminal activity at the time she was injured, by releasing Shelley and her vehicle when the City of Ellisville and Jones County:

- a. had actual or constructive knowledge of Shelley's intoxication;
- b. had actual or constructive knowledge of Shelley's diminished mental condition;
- c. had actual or constructive knowledge of Shelley's admission to having mental problems, which included/required hospitalization;
- d. had actual or constructive knowledge that Shelley had been charged with DUI 4 in

Lauderdale County a few hours prior to finding her intoxicated at the Texaco gas station in Ellisville;

e. had actual or constructive knowledge that Shelley proceeded to drive intoxicated upon her release from Lauderdale County; and

f. had actual or constructive knowledge that Shelley's rental vehicle was freshly wrecked.

64. The acts and/or omissions of Captain McLemore and other officers/agents of the City of Ellisville/Jones County in violation of MTCA Miss. Code Ann. § 11-46-9 caused or contributed to the wrongful death of Jada.

**SIXTH CAUSE OF ACTION
Count VI – Negligence – Beech Towing**

65. Andre incorporates and re-alleges all previous paragraphs set out herein.

66. At the time of the wreck in question, Beech Towing knew or should have known that it is against policy/procedure and/or the law to release a vehicle to someone other than the vehicles rightful owner, without first receiving permission from the owner of the vehicle.

67. Beech Towing knew or should have known that the Dodge Caravan was a rental vehicle owned by Rental Car Defendants and not Shelley Rose.

68. Beech Towing released the Dodge Caravan to Shelley without notifying and receiving permission from the owner of the vehicle, Rental Car Defendants.

69. Beech Towing knew or should have known that releasing the vehicle to anyone other than the rightful owner, Rental Car Defendants, without their permission, was against policy, procedure and the law.

70. As a direct and proximate result of the negligence of Beech Towing, Jada was caused to suffer serious, permanent, painful and disabling injuries, which ultimately resulted in death.

Damages

71. Andre incorporates and re-alleges all previous paragraphs set out herein.
72. Defendants' actions and inactions demonstrate a conscious disregard for the rights and safety of Jada and the rest of the public. Therefore, Andre demands punitive damages against Defendants.
73. Plaintiff, Andre Bright, on behalf of the wrongful death beneficiaries on whose behalf the suit is filed, is legally entitled under the Mississippi Wrongful Death Statute, Miss. Code Ann. 11-7-13, to recover in this action all damages for all wrongful death beneficiaries of Jada, whose death was legally and proximately caused by the acts and/or omissions of Defendants.
74. As a result of the aforementioned acts and/or omissions, Defendants are liable for all elements of damages, past, present, and future, arising from the wrongful death of Jada, including:
- a. Damages for the physical pain and suffering of Jada between the time of his injury and death;
 - b. Damages for mental anguish and horror suffered by Jada;
 - c. Damages for the substantial loss of financial support and maintenance including past, present, and future lost income, which Jada provided and would have continued to provide;
 - d. Damages for the loss of protections the wrongful death beneficiaries sustained and the economic losses suffered by his heirs and wrongful death beneficiaries;
 - e. Damages for the loss of love, companionship, society, advice and care of Jada, and wrongful death beneficiaries suffered and will suffer in the future;

- f. Damages for the funeral and past medical expenses resulting from the death of Jada;
- g. Damages for the loss and destruction of property, including but not limited to Jada's 207 Saturn;
- h. Damages for net value for the life of Jada;
- i. Damages for all other losses, both economic and intrinsic, tangible and intangible arising from the death of Jada; and
- j. Punitive damages pursuant to the Mississippi Punitive Damage Statute, Miss. Code Ann. 11-1-65.

Therefore, Andre, as Administrator and on behalf of the wrongful death beneficiaries, demands judgment against the Defendants, jointly and severally, for an amount of actual, compensatory, specials and punitive damages to be determined by a jury of her peers. Andre also seeks all attorney fees and costs, pre-judgment interest, post-judgment interest and all other relief according to law.

Respectfully submitted this the 30th day of January, 2020.

**ANDRE BRIGHT, ON BEHALF OF AND AS
ADMINISTRATOR OF THE ESTATE OF
JADA BRIGHT**



MARY LEE HOLMES, MSB #105398

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