

Don't Even Bother Watching the Trailer: *Affainie v. Heartland Express Maintenance Services, Inc., et al.*

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We've regularly written that loaning your trailer can often mean loaning your insurance to the user of that trailer. But can loaning your trailer also allow an injured plaintiff to drop and hook you into liability for an accident involving your trailer?

Recently, a decision out of the Tennessee Court of Appeals delivered an important ruling regarding the identification of motor carriers involved in accidents. The case, *Affainie v. Heartland Express Maintenance Services, Inc.*, involved a hit-and-run between a tractor-trailer and a passenger vehicle. The plaintiffs filed their complaint in the Davidson County Circuit Court in 2016. The plaintiffs claimed a tractor-trailer collided into their vehicle on the interstate and refused to stop after the accident. Plaintiffs filed suit against Heartland Express Maintenance Services, Inc. ("Heartland Maintenance") and Heartland Express, Inc. of Iowa ("Heartland Express"). Heartland Maintenance was granted summary judgment based on the fact that it was solely a maintenance company and did not own any tractors or trailers. The trial court granted Heartland Express's motion for summary judgment dismissing Heartland Express as a defendant because the plaintiffs could not prove ownership of the tractor. Specifically, the plaintiffs relied on the fact that Heartland Express was written on the trailer to claim the tractor in the accident was operating under Heartland Express's authority. The plaintiff appealed the decision of the trial court.

The Tennessee Court of Appeals concentrated on the deposition testimony of one of the plaintiffs in its affirmance of the trial court's decision. During deposition testimony, the plaintiff only identified the trailer as belonging to Heartland Express and the plaintiff stated he could not see any information on the tractor. The witness additionally expressed this through a hand-drawn diagram in which he pointed to the trailer and not the tractor. Despite this testimony, the plaintiff, in an affidavit, claimed he saw Heartland Express written on the side door of the tractor. The law in Tennessee requires that directly conflicting statements from the same witness have the effect of cancelling each other out. Based on the cancellation of the statements from the plaintiff and the fact that Heartland Express proved their practice

of regularly interchanging trailers with other carriers, the Tennessee Court of Appeals affirmed the trial court's decision to grant summary judgment in favor of Heartland Express. While the plaintiffs provided evidence of ownership of the trailer, the evidence presented by the plaintiffs was not enough to create a genuine issue of fact regarding the ownership of the tractor. *Affainie* followed the holding in *Fuller v. Tennessee-Carolina Transportation Company*, which found when there is evidence of trailer interchange, "the inferred fact that the defendant owned the trailer could not be used as a basis for building a further inference that the defendant also owned the tractor." 471 S.W. 2d 953, 957 (Tenn. Ct. App. 1970).

The *Fuller* case involved a somewhat different fact pattern. The plaintiff in that case was the owner of a commercial motor vehicle that was allegedly run off the road by another motor carrier. Again, the plaintiff's driver could only see the name of the defendant, Tennessee-Carolina Transportation Company ("TCT"), on the trailer. Driver logs of TCT could not be found due to TCT's practice of disposing of logs after one year, and the plaintiff filed the suit more than a year later. Similarly, TCT provided evidence of its practice of trailer interchanges. Despite the trial court's denial of TCT's directed verdict, the Tennessee Court of Appeals reversed the trial court's decision. Importantly, a case from the Alabama Supreme Court, *J.B. Hunt Transportation v. Credeur*, upheld the trial court's decision to deny the motor carrier's motion for directed verdict where the motor carrier did not present any evidence of interchange or interline operations and the plaintiff presented evidence other of identification of the motor carrier on the tractor. Even though the carrier in the Alabama case showed that they frequently sold their trailers to other carriers, it was not enough for the court to rule in its favor on directed verdict.

While *Affainie* and *Fuller* decisions are somewhat limited to the facts involved in the cases, they provide a positive standard when the issue of identification of the motor carrier arises by foreclosing the inference that the owner of the trailer is also the owner of the tractor.