

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION**

**FRANK WILSON, JR.**

**PLAINTIFF**

**V.**

**NO. 3:21-CV-98-DMB-RP**

**M.C. VAN KAMPEN TRUCKING, INC.;**  
**and SHAWN CHRISTOPHER JANAK**

**DEFENDANTS**

**PRETRIAL ORDER**

1. A pretrial conference was held July 15, 2022 at 10:00 a.m. before United States Magistrate Judge Roy Percy.
2. The following counsel appeared at the pretrial conference:
  - a. For the Plaintiff:

L. Clayton Culpepper, III	Evans Petree PC 1715 Aaron Brenner Dr. Suite 800 Memphis, TN 38120 cculpepper@evanspetree.com	901.521.4562 901.830.6157
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  - b. For the Defendants:

Benjamin D. West	2112 Old Taylor Road Suite B-5 Oxford, Mississippi 38655 Mailing address: 1723 University Avenue Suite B-105 Oxford, MS 38655 bwest@harrishelton.com	662-234-7447
W. Timothy Hayes, Jr.	6060 Primacy Parkway Suite 100 Memphis, TN 38119 thayes@harrishelton.com	901-525-1455
3. The pleadings are amended to conform to this pretrial order.
4. The following claims have been filed:

- a. Negligence and Negligence per se (Defendant Janak)
- b. Negligence (Defendant M.C. Van Kampen)
- c. Negligent Entrustment (Defendant M.C. Van Kampen)
- d. Negligent Hiring and Retention (Defendant M.C. Van Kampen)
- e. Negligent Infliction of Emotional Distress (Defendants Janak and M.C. Van Kampen)

5. The basis for this court's jurisdiction is:

Diversity jurisdiction pursuant to 28 USC § 1332. The parties are diverse and the amount in controversy exceeds \$75,000.00.

6. The following jurisdictional questions remain: None.

7. The following motions remain pending: None

8. The parties accept the following **concise** summaries of the ultimate facts as claimed by:

**a.** Plaintiff:

This matter stems from an 18-wheeler collision that occurred on February 3, 2021 on Highway 72 in Marshall County, Mississippi. Mr. Frank Wilson, the plaintiff, was rear-ended by the Defendant Janak, who was employed by Defendant M.C. Van Kampen, Inc. Mr. Wilson was traveling at or less than the posted speed limit of 65 MPH, while Defendant Janak was traveling at least 71 MPH, while carrying at least 20,000 lbs of office furniture in his trailer. Defendant Janak pushed Mr. Wilson off the shoulder of the highway and up an embankment resulting in his Ford F-150 flipping multiple times, breaking a utility pole, and coming to rest several hundred feet from the point of impact.

Mr. Wilson suffered head trauma and spent time in the ICU before being released and then had several follow up appointments with orthopedic and neurological specialists. Mr. Wilson was diagnosed with mild complicated traumatic brain injury resulting in a significant loss of mental capacity, as well as nightmares, PTSD, loss of direction, loss of strength/endurance, difficulty driving, among other issues. He suffered a severe concussion and lost approximately 20 IQ points as a direct result of the collision. To date, Mr. Wilson's medical expenses are \$44,140.83 and he has not recovered. He was also out of work for two months and his future ability and capacity to be able to work at the level, or length of time that he would have otherwise been able to work, is in question as a result of his injuries. Mr. Wilson's Ford F-150 was also a total loss as stated by Defendant's insurance adjuster, with a loss value of \$17,695.73. Mr. Wilson is seeking damages for his medical expenses, pain and suffering, emotional distress, past and future earnings, and property damage.

**b.** Defendants:

Defendant Shawn Janak was a company driver for Defendant M.C. Van Kampen Trucking,

Inc. On the morning of February 3, 2021, he picked up a load of freight in Alabama and was heading to California to deliver it. Mr. Janak proceeded from Alabama on Highway 72 West and entered into Mississippi. Mr. Janak continued driving on Highway 72 West. This accident happened at approximately 10:34 a.m. in Marshall County, Mississippi. Immediately before this accident Plaintiff Frank Wilson, was traveling west on highway 72 in the right lane. Plaintiff merged into the left lane to go around a car. Plaintiff then entered the right lane of travel immediately in front of Mr. Janak who was unable to slow his vehicle to avoid hitting Mr. Wilson's vehicle. Mr. Janak's truck hit Plaintiff's vehicle in the rear. After impact, Plaintiff's vehicle left the road and came to rest in a yard. Mr. Janak stopped his vehicle on the shoulder of the right lane. Defendants contest the severity and extent of Plaintiff's claimed damages.

9. a. The following facts are established by the pleadings, by stipulation, or by admission:
1. The accident occurred on February 3, 2021 on Highway 72 West in Marshall County, MS at or near milepost 1.006.
  2. The posted speed limit is/was 65 MPH.
  3. Mr. Wilson was driving his vehicle, a 2007 Ford F-150 pickup.
  4. Mr. Janak, an employee of M.C. Van Kampen Trucking, Inc., was driving a 2019 Peterbilt owned by M.C. Van Kampen Trucking, Inc.
  5. Defendant Janak's tractor-trailer was carrying approximately 22,000 lbs of office furniture from Alabama to California.
  6. At or near 10:34 a.m. the front end of Defendant Janak's 18-wheeler struck the rear tailgate area of Plaintiff Wilson's F-150, forcing him off the right shoulder and up an embankment where he struck and broke a utility pole.
  7. Just prior to impact, Plaintiff Wilson was travelling between 55-59 MPH.
  8. Just prior to impact, Defendant Janak was travelling between 71-72 MPH.
  9. Plaintiff Wilson did not apply his brakes before impact.
  10. A Mississippi Highway Patrol officer arrived at the scene and took photographs.
  11. Plaintiff Wilson remained hospitalized in ICU from February 3, 2021 until February 5, 2021.

12. Plaintiff Wilson also suffered a right ankle talofibular anterior ligament sprain.
13. Additional injuries include confusion, mild posttraumatic stress amnesia, neck pain, back pain, left chest pain, forehead lacerations, upper lip laceration, and left-hand abrasion.
14. Plaintiff Wilson suffered right high ankle pain with mild atrophy of right calf and thigh.
15. After this accident Mr. Wilson received medical treatment and incurred bills as referenced in “Stipulation Regarding Admissibility of Medical Records” filed 12/14/21 at Doc. #32 plus the late additions sent on June 14, 2022 including medical billing from Baptist Medical Group (Memphis Lung Physicians) Bates labeled FW 0629-0639, and MidSouth Imaging, Bates labeled FW 0640-0646.
16. Plaintiff Wilson has worked for Russell’s Farm Supply in Collierville, Tennessee since 1994.
17. Shawn Janak was acting within the scope of his employment at M.C. Van Kampen Trucking, Inc. at the time of the accident.

**b.** The contested issues of fact are as follows:

1. Whether Mr. Wilson entered the left lane to pass a vehicle and then pulled into the right lane in front of Mr. Janak.
2. Defendant Janak was on the phone at the time of the collision.
3. As a result of the collision, Plaintiff Wilson suffered a complicated traumatic brain injury with right sided acute tentorial subdural hematoma and right temporal subdural hematoma.
4. Plaintiff Wilson suffered major neurocognitive disorder due to traumatic brain injury as a result of the collision.
5. Plaintiff Wilson suffered posttraumatic stress disorder as a result of the collision.
6. Plaintiff Wilson suffered headaches and back pain as a result of the collision as well as a host of other symptoms, including, but not limited to, problems with vision, ringing in ears, nightmares, anxiety, loss of endurance, memory issues, loss of IQ, and confusion.

c. The contested issues of law are as follows:

There are no contested issues of law.

10. The following is a list and brief description of all exhibits (except exhibits to be used for impeachment purposes only) to be offered in evidence by the parties. **Each exhibit has been marked for identification and examined by counsel.**

a. To be offered by the Plaintiff:

- P.1. Rule 1006 summary of medical expenses
- P.2. All medical billing for treatment (per stipulation plus late additions) (FW 0044-0052) (Mid South Imaging including affidavit - FW0640-0646)
- P.3. Medicals FW0053-0563; 0545-0563)
- P.4. Kelly Blue Book Truck Value – 2007 Ford F-150 (FW 0500-0503)\*
- P.5. Check Stubs for lost wages (FW0504)
- P.6. 2018 Tax Return (FW 0533-0535)
- P.7. 2019 Tax Return (FW 0536-0539)
- P.8. 2020 Tax Returns (FW 0540-0544)
- P.9. MS Uniform Crash Report (Def 0133-0146; exhibit 3 to Janak deposition with color photos)\*
- P.10. Madge Cartwright Handwritten Notes (7 pages)
- P.11. Madge Cartwright Pictures
  - P.11.a FW 0001
  - P.11.b. FW 0002
  - P.11.c FW 0004
  - P.11.d. FW 0005
  - P.11.e. FW 0006
  - P.11.f. FW 0007
  - P.11.g. FW 0008
  - P.11.h. FW 0014
  - P.11.i. FW 0016
  - P.11.j. FW 0017
  - P.11.k. FW 0018
  - P.11.l. FW 0019
  - P.11.m. FW 0021
  - P.11.n. FW 0022
  - P.11.o. FW 0025
  - P.11.p. FW 0026
  - P.11.q. FW 0027
  - P.11.r. FW 0030
  - P.11.s. FW 0031
  - P.11.t. FW 0033

- P.11.u. FW 0035
- P.11.v. FW 0036
- P.11.w. FW 0037
- P.11.x. FW 0038
- P.11.y. FW 0039
- P.11.z. FW 0043
- P.12 Dr. Howard Katz – CV (FW 0505-0510)
- P.13. Brady McMillen – CV (FW 0511 – 0532)
- P.14. Dr. Susan Andrews - CV
- P.15. 3.2.21 email from LCC to Randy Sellers with litigation hold (FW0587-0589)\*
- P.16. Janak CDL (Exhibit 1 to Janak Deposition)
- P.17. OrbComm Data – Critical Events 2/3/2021 (Exhibit 4 to Janak Deposition)
- P.18. Driver’s Daily Log – (Exhibit 5 to Janak Deposition)
- P.19. PSP Detailed Report (Exhibit 6 to Janak Deposition)
- P.20. Janak Cell Phone records – Sprint Detail Invoice for 465487103-2021-02-21  
(DEF 774-786)
- P.21. MC VanKampen – Driving Policies/Handbook (Exhibit 3 to Campbell  
deposition)
- P.22. Critical Events Report (Exhibit 5 to Campbell deposition)
- P.23. Bill of Lading (Exhibit 9 to Campbell deposition)
- P.24. DOT Audit (Exhibit 10 to Campbell deposition)
- P.25. Other Accident Information – Janak – (Def 147-171)\*
- P.26. TENCO Property Damage Report - \$17,695.73 (Def 179-181)\*
- P.27. Critical Events Summary (Def 0787-0789)
- P.28. Vehicle Overspeeding 2.3.21 10:26am (DEF 0882)\*
- P.29. Vehicle Overspeeding 2.3.21 8:31pm (DEF 0883)\*
- P.30. Orbcomm data (DEF 0946)
- P.31. Orbcomm data (DEF 0947)
- P.32. Orbcomm data (DEF 0948)
- P.33. Orbcomm data (DEF 0950)
- P.34. Delta V – DJI\_0058
- P.35. Delta V – DJI\_0060
- P.36. Delta V – DJI\_0065
- P.37. Delta V – DJI\_0069
- P.38. Delta V – DJI\_0077
- P.39. Delta V – DJI\_0090
- P.40. Delta V – DJI\_0103
- P.41. Delta V – DJI\_0114
- P.42. Delta V – DJI\_0122
- P.43. Delta V – DJI\_0136
- P.44. Delta V – DJI\_0147
- P.45. Delta V – DJI\_0017 (truck)
- P.46. Delta V – DSC\_001 (truck)
- P.47. Delta V – DSC\_0016 (truck)

- P.48. Delta V – DSC\_0049 (truck)
- P.49. IMGP0014 (from Delta V – truck)
- P.50. IMGP0021 (from Delta V – truck)
- P.51. IMGP0023 (from Delta V – truck)
- P.52. IMGP0046 (from Delta V – truck)
- P.53. DSC\_0169 (from Delta V – site)
- P.54. DSC\_0210 (from Delta V – site)
- P.55. Delta V photos- collective exhibit
- P.56. Defendants’ written discovery responses
- P.57. Defendants’ initial disclosures
- P.58. Arizona Commercial Driver License Manual\*
- P.59. Model Commercial Driver License Manual\*

The authenticity and admissibility in evidence of the preceding exhibits are stipulated. If the authenticity or admissibility of any of the preceding exhibits is objected to, the exhibit must be identified below, together with a statement of the specified evidentiary ground(s) for the objection(s):

- P.4. Kelly Blue Book Truck Value – 2007 Ford F-150 (FW 0500-0503)  
Hearsay. FRE 801
  
- P.9. MS Uniform Crash Report  
Hearsay. FRE 801
  
- P.15. 3.2.21 email from LCC to Randy Sellers with litigation hold  
Hearsay. FRE 801
  
- P.20. Janak Cell Phone Records  
Hearsay. FRE 801
  
- P.25. Other accident information – Janak  
Irrelevant. FRE 401-403
  
- P.26. TENCO Property Damage Report  
Hearsay. FRE 801
  
- P.28. Vehicle Overspeeding 2.3.21, 10:26 am  
Irrelevant. FRE 401-403
  
- P.29. Vehicle Overspeeding 2.3.21, 8:31pm  
Irrelevant. FRE 401-403.
  
- P.57. Arizona Commercial Driver License Manual  
Hearsay, irrelevant. FRE 801, 401-403

P.58. Model Commercial Driver License Manual  
Hearsay, irrelevant. FRE 801, 401-403

c. To be offered by the Defendant:

- D.1. Driver qualification file- collective exhibit
- D.2. Bill of Lading
- D.3. Dr. Dick's CV
- D.4. John Liechty's CV
- D.5. Photos taken by Janak- collective exhibit
- D.6. Mississippi trooper photos- collective exhibit
- D.7. Delta V photos- collective exhibit
- D.8. Orbcomm data produced- collective exhibit
- D.9. Delta V drive-through video
- D.10. Logs for 7 days before accident

The authenticity and admissibility in evidence of the preceding exhibits are stipulated. If the authenticity or admissibility of any of the preceding exhibits is objected to, the exhibit must be identified below, together with a statement of the specified evidentiary ground(s) for the objection(s):

- 11. The following is a list and brief description of charts, graphs, models, schematic diagrams, and similar objects which will be used in opening statements or closing arguments, but which **will not** be offered in evidence: None
- 12. The following is a list of witnesses Plaintiff anticipates calling at trial (excluding witnesses to be used solely for rebuttal or impeachment). All listed witnesses must be present to testify when called by a party unless specific arrangements have been made with the trial judge before commencement of trial. The listing of a **WILL CALL** witness constitutes a professional representation, upon which opposing counsel may rely, that the witness will be present at trial, absent reasonable written notice to counsel to the contrary.

<u>Name</u>	<u>Will/ May Call</u>	<u>[F]act/ [E]xpert [L]iability/ [D]amages</u>	<u>Business Address &amp; Telephone Number</u>
Frank Wilson	Will	FLD	Contact c/o Counsel Clay Culpepper
Madge Cartwright	Will	FD	Collierville, TN
Robert Cartwright	Will	FD	Collierville, TN



Dr. Howard Katz	Will	ELD	Jackson, TN
John Adams	Will	FD	Collierville, TN
Brady McMillan	Will	ELD	Hernando, MS
Susan Andrews	May	ELD	Metairie, LA 70002
Sandra Sanders	Will	FL	Lamar, MS
Shawn Janak	Will	FL	Contact through counsel Timothy Hayes
Geralyn Campbell	Will	FL	Contact through counsel Timothy Hays

Will testify live.

Frank Wilson  
Madge Cartwright  
John Adams  
Sandra Sanders  
Robert Cartwright  
Brady McMillen  
Dr. Howard Katz  
Susan Andrews  
Shawn Janak  
Geralyn Campbell

Will testify by deposition:

State whether the entire deposition, or only portions, will be used. Counsel **must** confer, no later than twenty-one days before the commencement of trial, to resolve **all** controversies concerning **all** depositions (electronically recorded or otherwise). All controversies not resolved by the parties **must** be submitted to the trial judge not later than fourteen days before trial. All objections not submitted within that time are waived.

- 13.** The following is a list of witnesses Defendant anticipates calling at trial (excluding witnesses to be used solely for rebuttal or impeachment). All listed witnesses must be present to testify when called by a party unless specific arrangements have been made with the trial judge before commencement of trial. The listing of a **WILL CALL** witness constitutes a professional representation, upon which opposing counsel may rely, that the witness will be present at trial, absent reasonable written notice to counsel to the contrary.

<u>Name</u>	<u>Will/ May Call</u>	<u>[F]act/ [E]xpert [L]iability/ [D]amages</u>	<u>Business Address &amp; Telephone Number</u>
Shawn Janak	Will	FL	Contact c/o counsel Tim Hayes
Geralyn Campbell	Will	FL	Contact c/o counsel Tim Hayes
Randy Sellers	May	FL	Memphis, TN
John Liechty	Will	ELD	Brentwood, TN
Dr. Maroun Dick	Will	ED	Germantown, TN

Will testify live:

Shawn Janak  
 Geralyn Campbell  
 John Liechty  
 Dr. Maroun Dick  
 Randy Sellers- may

Will testify by deposition:

none

State whether the entire deposition, or only portions, will be used. Counsel **must** confer, no later than twenty-one days before the commencement of trial, to resolve **all** controversies concerning **all** depositions (electronically recorded or otherwise). All controversies not resolved by the parties **must** be submitted to the trial judge not later than fourteen days before trial. All objections not submitted within that time are waived.

14. This is a jury case.
15. Counsel suggests the following additional matters to aid in the disposition of this civil action: N/A
16. Counsel estimates the length of the trial will be 4-5 days.

17. As stated in paragraph 1, this pretrial order has been formulated (a) at a pretrial conference before a judicial officer, notice of which was duly served on all parties, and at which the parties attended as stated above, or (b) the final pretrial conference having been dispensed with by the judicial officer, as a result of conferences between the parties. Reasonable opportunity has been afforded for corrections or additions prior to signing. This order will control the course of the trial, as provided by Rule 16, Federal Rules of Civil Procedure, and it may not be amended except by consent of the parties and the court, or by order of the court to prevent manifest injustice.

**SO ORDERED**, this 25th day of August, 2022.

/s/Debra M. Brown  
UNITED STATES DISTRICT JUDGE

/s/ L. Clayton Culpepper, III  
L. Clayton Culpepper, III  
Attorney for Plaintiff

/s/ Benjamin D. West  
Benjamin D. West  
Attorney for Defendants

/s/ W. Timothy Hayes, Jr.  
W. Timothy Hayes, Jr.  
Attorney for Defendants

Entry of the preceding Pretrial Order is recommended by me on this, the 19<sup>th</sup> day of July, 2022.

/s/ Roy Percy  
UNITED STATES MAGISTRATE JUDGE