

STATE OF INDIANA) IN THE HAMILTON SUPERIOR COURT 4
) SS:
COUNTY OF HAMILTON) CAUSE NO. 29D04-2212-CT-10006

HARJIT KAUR, Individually and as the)
Special Administrator of the Estate of)
HARVAIL SINGH DHILLON, Deceased,)

Plaintiff,)

v.)

AMAZON, INC., a corporation,)
AMAZON.COM, INC., a corporation,)
AMAZON LOGISTICS, INC., a corporation,)
AMAZON.COM SERVICES, LLC, MQJI,)
a limited liability company,)
CF MOUNT COMFORT DST,)
a limited liability company,)
ICI TRANSPORT, LLC,)
a limited liability company, and)
WILLIAM MCPHEARSON,)

Defendants.)

ORDER

This matter comes before the Court on the Motion for Judgment on the Pleadings filed by Defendant, CF Mount Comfort DST (“Mount Comfort”). The Court has reviewed the parties’ briefs and held a hearing on August 21, 2023. Having taken the matter under advisement, the Court now finds, concludes, and orders as follows.

This matter is a wrongful death action following an incident that occurred on October 20, 2022. The Decedent, Harvail Singh Dhillon, was an independent contractor intending to make delivery to an Amazon fulfillment center located on Mount Comfort’s property on the date of the incident. The Decedent, however, decided to park his semi-tractor trailer beside the public highway, County Road West 300 North, across from the fulfillment center. The Decedent exited his vehicle onto the county road and was struck and killed by a truck driven by William

McPherson, an agent or employee of ICI Transport, LLC. Plaintiff's Amended Complaint alleges that Mount Comfort owed a duty to the Decedent to provide proper lighting and signage at the Amazon fulfillment center so he would not have to get out of his vehicle to locate the entrance, and that Mount Comfort's failure to do so created a hazardous condition on the premises for which Mount Comfort failed to warn the Decedent.

The Amended Complaint does not allege that the Decedent ever entered Mount Comfort's premises or even attempted to enter the premises. The Decedent decided to park his vehicle adjacent to the county road across from Mount Comfort's property, and was then struck as he stepped onto the road.

In its Motion, Mount Comfort argues that it owed no duty to the Decedent as an invitee because under Indiana law, a person's status as an invitee is not created until the person enters the landowner's premises, and here the alleged incident occurred on the county road across from Mount Comfort's property. In response, Plaintiff argues that a duty can exist beyond a landowner's actual premises, and in support cites *Lutheran Hospital v. Blaser*, 634 N.E.2d 864 (Ind. Ct. App. 1994), *reh'g denied*.

This Court previously considered similar arguments in its Order on the Amazon Defendants' Motion for Judgment on the Pleadings.¹ In its Order, the Court held that *Precedent Partners I, L.P. v. Hulen*, 863 N.E.2d 328 (Ind. Ct. App. 2007) was more applicable than *Lutheran Hospital* to the facts alleged in Plaintiff's Amended Complaint, and that the Amazon Defendants owed no duty to the Decedent. Specifically, the Court held that Amazon had no duty to guard against injury to the Decedent from the negligent acts of someone over whom Amazon


¹ Plaintiff's appeal of the Court's Order on the Amazon Defendants' Motion for Judgment on the Pleadings is currently pending under cause number 23A-CT-02059.


had no control and when the injury occurred off Amazon’s premises. The Court further held that Plaintiff’s reliance on *Lutheran Hospital* was misplaced. In that case, the hospital’s use of their premises proximately caused the plaintiffs’ injuries. The hospital had allowed pedestrians and automobiles to use the “exit” driveway of its parking lot as an entrance without adequate safeguards or warnings. There are no such allegations in the present case.

The Court now finds that the same reasoning applies to Mount Comfort, as the landowner. Mount Comfort owed no duty to ensure the safety of the Decedent on the county road where he exited his vehicle.

The Court hereby GRANTS judgment on the pleadings in favor of Mount Comfort. Judgment shall be entered in favor of Mount Comfort as there is no just reason for delay.

Date: **October 17, 2023**



Judge, Hamilton Superior Court 4


Distribution to counsel of record.