

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF  
OKLAHOMA

Hassebroek v. United Parcel Service, Inc.

Case No. CIV-25-833-G (W.D. Okla. Dec. 16, 2025) · No. CIV-25-833-G · Decided December 16, 2025

SUMMARY

The United States District Court for the Western District of Oklahoma ruled on Plaintiff Bobbi Lynn Hassebroek’s motion to strike affirmative defenses asserted by United Parcel Service, Inc. in an action alleging an intentional tort under Oklahoma’s workers’ compensation statute. The court struck the comparative-fault and contributory-negligence defenses, allowed the third-party acts, pre-existing injury, and intervening-cause defenses to remain, and noted that Defendant had withdrawn its sudden-emergency defense. The motion was granted in part and denied in part.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Western District of Oklahoma                                                                                                                                                                                                                                                                                                                                                                                                                     |
| WRITING FOR THE COURT | Charles B. Goodwin                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| JURISDICTION          | United States District Court for the Western District of Oklahoma                                                                                                                                                                                                                                                                                                                                                                                                                     |
| DECIDED               | December 16, 2025                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| DOCKET                | CIV-25-833-G                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | Plaintiff moved under Federal Rule of Civil Procedure 12(f) to strike six affirmative defenses pleaded in Defendant's answer.                                                                                                                                                                                                                                                                                                                                                         |
| STANDARD OF REVIEW    | Under Federal Rule of Civil Procedure 12(f), an insufficient defense may be stricken, but striking a defense is a drastic remedy and is generally inappropriate unless the defense cannot succeed under any circumstances. A defense should not be stricken when there is real doubt about its validity or when, considered in context with the complaint, it has a possible relation or logical connection to the controversy and fairly appraises the opposing party of its nature. |
| PRECEDENTIAL VALUE    | unpublished district court order; precedential status unknown                                                                                                                                                                                                                                                                                                                                                                                                                         |

TOPICS

- affirmative defenses
- civil procedure
- comparative fault
- wrongful death

## PRACTICE AREAS

civil procedure

torts

workers compensation

## QUESTIONS PRESENTED

1. Whether Defendant's affirmative defenses asserting contributory negligence and comparative fault should be stricken as immaterial to Plaintiff's intentional-tort claim.
2. Whether affirmative defenses based on third-party acts, preexisting injuries, and intervening cause should be stricken as insufficiently pleaded or lacking a possible relation to the claims.
3. Whether Rule 12(f) permits striking abbreviated affirmative defenses when the complaint and answer together provide fair notice of the defenses.

## HOLDINGS

1. Affirmative Defense Nos. 6 and 10, asserting contributory negligence and comparative fault, are immaterial and were properly stricken because those doctrines do not serve as defenses to the intentional-tort claim pleaded by Plaintiff.
2. Affirmative Defense Nos. 7, 8, and 11 were not stricken because, when considered in the context of the complaint, they had a possible relation to the tort claim and sufficiently apprised Plaintiff of their nature for pleading purposes.
3. The motion to strike was granted in part and denied in part: Affirmative Defense No. 12 was withdrawn, Nos. 6 and 10 were stricken, and Nos. 7, 8, and 11 were allowed to remain.

## KEY QUOTATIONS

*“Rule 12(f) relief, however, is generally a “drastic remedy” and “must not be granted unless, as a matter of law, the defense cannot succeed under any circumstances.”” (at 2)*

*“The Oklahoma Supreme Court’s consideration of supervening cause, as well as its discussion of contributory and comparative negligence, took place in that negligence context and did not suggest that these concepts serve as defenses to an intentional tort claim.” (at 5)*

## FACTUAL BACKGROUND

Braden Sellers Hassebroek, Plaintiff's late husband, worked as a driver for United Parcel Service. Plaintiff alleged that he experienced heat-related illness while working, reported his symptoms, and was required to return his vehicle to UPS rather than receive emergency assistance; he later collapsed and died. Plaintiff asserted an intentional-tort claim under Oklahoma's exception to the exclusive workers' compensation remedies.

## PROCEDURAL HISTORY

Plaintiff brought an intentional-tort claim under Oklahoma's workers' compensation intentional-tort exception arising from the death of her husband, an employee of Defendant. Defendant answered and asserted fourteen affirmative defenses. Plaintiff moved to strike six defenses; the court granted the motion as to two defenses, recognized that one defense had been withdrawn, and denied the motion as to three others.

## DISPOSITION

other

## CASES CITED

- Safety National Casualty Co. v. SSM Health Care of Oklahoma, Inc., No. CIV-20-689-HE, 2020 WL 10731243, at \*2 (W.D. Okla. Dec. 17, 2020)
- Burke v. Regalado, 935 F.3d 960, 1040 (10th Cir. 2019)
- Knighten v. Allstate Insurance Co., No. CIV-17-683-D, 2018 WL 718533, at \*2-3 (W.D. Okla. Feb. 5, 2018)
- Sender v. Mann, 423 F. Supp. 2d 1155, 1163 (D. Colo. 2006)
- Nootbaar v. Alderwoods (Okla.), Inc., No. CIV-19-110-D, 2019 WL 3558182, at \*2-3 (W.D. Okla. Aug. 5, 2019)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662 (2009)
- Graham v. Keuchel, 847 P.2d 342 (Okla. 1993)
- Tiger v. Verdigris Valley Electric Cooperative, 410 P.3d 1007, 1012 (Okla. 2016)

## OPINION

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA  
BOBBI LYNN HASSEBROEK, in her ) capacity as special administrator of the ) Estate of Braden  
Sellers Hassebroek, ) ) Plaintiff, ) ) v. ) Case No. CIV-25-833-G ) UNITED PARCEL SERVICE,  
INC., ) ) Defendant. ) ORDER Now before the Court is Plaintiff Bobbi Lynn Hassebroek’s Motion  
to Strike (Doc. No. 7) certain affirmative defenses asserted by Defendant United Parcel Service,  
Inc. in its Answer (Doc.

No. 6). Defendant has filed a Response (Doc. No. 11), and Plaintiff has replied (Doc. No. 12). I.  
Background Plaintiff’s late husband, Braden Sellers Hassebroek, was employed as a driver for  
Defendant. Plaintiff alleges that in June of 2024, Mr. Hassebroek experienced symptoms indicative  
of heat-related illness while working and reported them to Defendant. See Compl.

(Doc. No. 1-1) ¶¶ 15-21. Plaintiff further asserts that, rather than calling 911, Defendant required  
Mr. Hassebroek to return his vehicle to Defendant’s work facility and then “sequester[ed]” Mr.  
Hassebroek in a dark office. Id. ¶ 22. Hours later, Mr. Hassebroek stumbled out of the office and  
collapsed; he died that day. See id. ¶¶ 23-26. Plaintiff seeks relief under title 85A, section 5 of the  
Oklahoma Statutes, which provides an exception to the exclusive rights and remedies of the  
workers’ compensation scheme for an “[i]njury... caused by an intentional tort committed by the  
employer.” Okla. Stat. tit.

85A, § 5(C)(2); see Compl. ¶¶ 27-29. To hold Defendant liable under this statute, Plaintiff must  
show that Mr. Hassebroek “[wa]s injured as a result of willful, deliberate, specific intent of

[Defendant] to cause such injury.” Okla. Stat. tit. 85A, § 5(C)(2); see also *Safety Nat’l Cas. Co. v. SSM Health Care of Okla., Inc.*, No. CIV-20- 689-HE, 2020 WL 10731243, at \*2 (W.D.

Okla. Dec. 17, 2020). In its Answer, Defendant pleads fourteen “affirmative defenses.” See Answer at 3- 6. Plaintiff’s Motion seeks to strike six of these as inapplicable and/or insufficiently pled. See Pl.’s Mot. to Strike at 3, 6-14. II. Standards of Review Rule 8 of the Federal Rules of Civil Procedure prescribes that, when responding to a pleading, a party must “state in short and plain terms its defenses to each claim asserted against it,” Fed.

R. Civ. P. 8(b)(1)(A), and must “affirmatively state any avoidance or affirmative defense,” *id.* R. 8(c)(1). “As a general rule, a defendant waives an affirmative defense by failing to plead it.” *Burke v. Regalado*, 935 F.3d 960, 1040 (10th Cir. 2019).

Under Rule 12(f) of the Federal Rules of Civil Procedure, a court may “strike from a pleading” “an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” Fed. R. Civ. P. 12(f). Rule 12(f) relief, however, is generally a “drastic remedy” and “must not be granted unless, as a matter of law, the defense cannot succeed under any circumstances.” *Knighen v. Allstate Ins.*

*Co.*, No. CIV-17-683-D, 2018 WL 718533, at \*2-3 (W.D. Okla. Feb. 5, 2018) (internal quotation marks omitted).<sup>1</sup> “A defense should not be stricken if there is any real doubt about its validity, and [t]he benefit of any doubt should be given to the pleader.” *Sender v. Mann*, 423 F. Supp. 2d 1155, 1163 (D. Colo. 2006) (alteration and internal quotation marks omitted).

A more abbreviated statement of the defense, considered in context with the complaint to which the defenses are addressed, will sufficiently apprise a party of the nature of the defense for pleading purposes. Accordingly, unless the challenged allegations have no possible relation or logical connection to the subject matter of the controversy and may cause [s]ome sort of significant prejudice to one or more of the parties to the action a motion to strike should be denied.

*Nootbaar v. Alderwoods (Okla.), Inc.*, No. CIV-19-110-D, 2019 WL 3558182, at \*2 (W.D. Okla. Aug. 5, 2019) (alteration, citation, and internal quotation marks omitted). III. Discussion A. Affirmative Defense No. 12 Defendant has now withdrawn its pleading allegation that “Plaintiff’s injuries are barred by the doctrine of a sudden emergency.” Answer at 4; see Def.’s Resp. at 1.

B. Affirmative Defense Nos. 6 and 10 In Affirmative Defense Nos. 6 and 10, Defendant states: 1 Recognizing the lack of controlling Tenth Circuit authority, Plaintiff suggests that the standards applied in *Bell Atlantic Corp. v. Twombly*, 500 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), should be applied to Defendant’s affirmative defenses.

The undersigned here follows the approach of previous decisions of this Court, which “have consistently concluded” that these pleading standards “do[] not apply with the same force to

affirmative defenses.” Knighten, 2018 WL 718533, at \*2 n.1 (internal quotation marks omitted) (citing cases); see also Wilkins v. Greens Serv. Co., LLC, No. CIV-19-402-G, 2019 WL 4126075, at \*1-2 (W.D.

Okla. Aug. 29, 2019). 6. Plaintiff’s injuries, if any, were caused by his contributory negligence or comparative fault. 10. The comparative fault of Plaintiff[] exceeds that of Defendant. Answer at 4. Plaintiff argues that, while contributory negligence or comparative fault may serve as a defense or a basis for reduction of damages in a negligence action, the doctrines do not apply in the context of a claim for liability in intentional tort.

See Pl.’s Mot. to Strike at 6-8 (citing Okla. Stat. tit. 23, § 13; Graham v. Keuchel, 847 P.2d 342 (Okla. 1993)). Defendant responds that Graham recognizes an “exception”; Plaintiff disputes this reading of the decision. Def.’s Resp. at 9; Pl.’s Reply at 7-8.

In Graham, the Oklahoma Supreme Court, in considering a jury instruction on supervening cause given in a wrongful death case, stated: “A third person’s intentional tort is a supervening cause of the harm that results—even if the actor’s negligent conduct created a situation that presented the opportunity for the tort to be committed—unless the actor realizes or should realize the likelihood that the third person might commit the tortious act.” Graham, 847 P.2d at 349 (emphasis omitted).

In an accompanying footnote, the appellate court discussed the “special circumstances” of a “superseding cause of harm” resulting from a third person’s intentional tort or crime. Id. at 349 n.37 (emphasis omitted) (quoting Restatement (Second) of Torts § 448 (1965)).<sup>2</sup> Defendant presents this language as a direct statement of the Oklahoma Supreme Court, rather than—as clearly identified in the opinion—a statement appearing in the Restatement (Second) of Torts and then quoted by the appellate court.

See Def.’s Resp. at 9. Nothing in the cited language supports the proposition that either contributory negligence or comparative fault would potentially apply as a defense to Plaintiff’s intentional tort claim. The Graham plaintiff was pursuing claims sounding in negligence, rather than upon a theory of intentional tort as here. See id. at 346-47.

The Oklahoma Supreme Court’s consideration of supervening cause, as well as its discussion of contributory and comparative negligence, took place in that negligence context and did not suggest that these concepts serve as defenses to an intentional tort claim. See id. at 348- 55, 357-63 (“[W]hile ordinary negligence of the plaintiff may be used as a defense against gross negligence, it may not considered as a defense against any form of conduct found to be willful and wanton or intentional.” (emphasis omitted)); Tiger v. Verdigris Valley Elec.

Coop., 410 P.3d 1007, 1012 (Okla. 2016) (citing Graham for the proposition that a “claim for intentional tort is not subject to [a] defense of contributory or comparative negligence”); see also

Safety Nat'l Cas. Corp., 2020 WL 10731243, at \*2 (explaining that any claim by the employee against the employer for negligence is barred).

The Court therefore agrees with Plaintiff that Affirmative Defense Nos. 6 and 10 are “immaterial” and “lack[]... [an] obvious or inferable relationship or connection to the claims as pleaded in the Complaint.” Fed. R. Civ. P. 12(f); Nootbaar, 2019 WL 3558182, at \*3. Plaintiff’s Motion to Strike shall be granted in this respect. C. Affirmative Defense Nos. 7, 8, and 11 Defendant’s Affirmative Defense Nos. 7, 8, and 11 state: 7.

Plaintiff’s injuries, if any, were caused by the acts of third-parties over which this Defendant had no right or control. 8. Plaintiff’s injuries, if any, were pre-existing. 11. Plaintiff’s injuries, if any, are barred by the doctrine of intervening cause. Answer at 4. Plaintiff argues that these should be stricken because, while “potentially apt” to Plaintiff’s proof of causation, such a “laundry list” is insufficient to provide fair notice of the defenses’ applicability to Plaintiff’s claim.

Pl.’s Mot. to Strike at 8-11. Defendant responds that these defenses are a reasonable counter to Plaintiff’s factual allegations and that “Plaintiff’s demands for factual pleading” are unworkable, given the requirement that Defendant timely raise its defenses to avoid waiver. Def.’s Resp. at 6 (citing Fed. R. Civ. P. 8(c)); see also Burke, 935 F.3d at 1040.

While certainly “abbreviated,” the Court finds that, when considered in the context of the Complaint, Affirmative Defense Nos. 7, 8, and 11 have a “possible relation” to the tort claim and “sufficiently apprise [Plaintiff] of the nature of the defense[s] for pleading purposes.” Nootbaar, 2019 WL 3558182, at \*2 (internal quotation marks omitted).

As Plaintiff shall be able to obtain discovery regarding “any nonprivileged matter that is relevant to” these defenses, striking them from Defendant’s Answer is not warranted. Fed. R. Civ. P. 26(b) (1). CONCLUSION As outlined herein, Plaintiff’s Motion to Strike (Doc. No. 7) is GRANTED IN PART and DENIED IN PART. Defendant’s Affirmative Defense No. 12 is WITHDRAWN, and Defendant’s Affirmative Defense Nos. 6 and 10 are STRICKEN.

Plaintiff’s Motion is otherwise denied. IT IS SO ORDERED this 16th day of December, 2025.  
CHARLES B. GOODWIN United States District Judge