JERRELL J. EDWARDS and : NUMBER: 559,266 “B”

TIANA M. EDWARDS on behalf of

minor, KADERRICK HILL

VERSUS : FIRST JUDICIAL DISTRICT COURT

CITY OF SHREVEPORT and

BOBBY RAY JACKSON : CADDO PARISH, LOUISIANA

**REASONS FOR JUDGMENT**

 Trial was held February 19, 2014. Testimony was adduced from Jerrell Edwards, Kaderrick Hill, Bobby Ray Jackson, Madrid Johnson and Lt. Gayle McFarland. Numerous exhibits were admitted including photographs of the vehicles, the City of Shreveport’s 2005 Isuzu truck and Mr. Edwards’ 2001 Dodge truck. For reasons that follow, the Court concludes that the plaintiffs have failed to satisfy the elements of the applicable duty-risk analysis and have therefore failed to satisfy their burden of proof.

 It is undisputed that on December 10, 2010 both drivers were eastbound on W. 70th Street. The unknown driver of a Toyota Camry, which had been westbound, abruptly made a U-turn maneuver traversing the inner lane in front of Mr. Jackson and his passenger, Madrid Johnson, then into the outer eastbound lane.

 The Isuzu truck is large; it has a steel bed, a 500 gallon water tank and a hose/reel system used to clear City of Shreveport sewer lines. Jerrell Edwards and his then 15 year old passenger, Kaderrick Hill, had been behind the City truck, although it is unclear to the Court whether the Edwards’ truck was at some point in the inner eastbound lane or if it was continually in the outer eastbound lane. In either event, the evidence is undisputed that the Dodge truck was advancing on the Isuzu truck.

 Faced with the sudden, unexpected exigent circumstance of an ill-timed and illegal U-turn by this phantom driver, Mr. Jackson had two evasive tactical choices – decelerate or move to the right. Considering the size and weight of the truck, including its steel bed, the fact that he had more than 4000 pounds of water in the truck’s tank and the consequence of weight shift, he chose the only reasonable alternative – right turn signal on, slight deceleration followed by almost immediate movement in the right outer lane.

 According to the photographic evidence and Lt. Gayle McFarland, an expert in accident investigation, Mr. Edwards’ Dodge truck struck the right rear of the City’s Isuzu truck; the Isuzu truck did not side-swipe the Dodge truck.

 The Court believes that the facts and circumstances of this case represent a textbook example of the doctrine of unavoidable accident. Considering the exigency of the errant U-turn maneuver and the weight of the City truck, Mr. Jackson was in no way to blame for the accident, which was inevitable. In fact, the accident suggests a level of blame on Mr. Edwards in his rate of speed in light of the circumstances and his testimony that he has witnessed improper U-turns at this location previously. Further, had Mr. Jackson not employed evasive action as he did, the accident would likely have been worse and could have involved all three vehicles.

 Because the cause in fact of the collision was the fault of the phantom Toyota driver - not Bobby Ray Jackson - the elements of the duty risk analysis are not satisfied and judgment must be rendered in favor of the defendants[[1]](#footnote-1).

 Counsel shall submit a formal Judgment in accordance with La. Dist. Ct. R. 9.5

Signed this 3rd day of March, 2014 in Shreveport, Caddo Parish, Louisiana.

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 SCOTT J. CRICHTON

 DISTRICT JUDGE

DISTRIBUTION:

Justin C. Dewett, Counsel for Jerrell J. Edwards and Tiana M. Edwards on behalf of minor, Kaderrick Hill

William C. Bradford, Jr., Counsel for City of Shreveport and Bobby Ray Jackson

Dannye W. Malone, Counsel for City of Shreveport and Bobby Ray Jackson

1. In *Brewer v. J.B. Hunt Transport,* ’09-1408 (La. 3/16/10), 35 So.3d 230 the Supreme Court of Louisiana observed, “Louisiana courts have adopted a duty-risk analysis in determining whether liability exists under the facts of a particular case. Under this analysis, a plaintiff must prove five separate elements: (1) the defendant had a duty to confirm his or her conduct to a specific standard of care; (2) the defendant failed to conform his or her conduct to the appropriate standard of care; (3) the defendant’s substandard conduct was a cause-in-fact of the plaintiff’s injuries; (4) the plaintiff’s injuries; and (5) actual damages”. [↑](#footnote-ref-1)