

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

**ALYSSON MILLS, in her Capacity
as Receiver for Arthur Lamar Adams
and Madison Timber Properties,
LLC**

PLAINTIFF

v.

Civil Case No. 3:19-cv-00364-CWR-BWR

**THE UPS STORE, INC.;
HERRING VENTURES, LLC,
d/b/a *The UPS Store*; AUSTIN
ELSEN; TAMMIE ELSEN;
COURTNEY HERRING; DIANE
LOFTON; CHANDLER
WESTOVER; and AMERICAN
CASUALTY COMPANY OF
READING PA**

DEFENDANTS

**ORDER DENYING RECEIVER'S MOTION
FOR LEAVE TO AMEND [487] AS UNNECESSARY**

BEFORE THE COURT is a Motion for Leave to Amend [487], filed by Alysson Mills, in her capacity as the court-appointed receiver for Arthur Lamar Adams and Madison Timber Properties, LLC (“Receiver”). Should the Court deem amendment necessary, Receiver moves to amend the Second Amended Complaint [348] to specifically allege negligent supervision, a direct negligence theory, against The UPS Store, Inc. (“TUPSS”). TUPSS opposes Receiver’s Motion for Leave to Amend.

Federal Rule of Civil Procedure 8(a)(2) “generally requires only a plausible ‘short and plain’ statement of the plaintiff’s claim, not an exposition of his legal argument.” *Skinner v. Switzer*, 562 U.S. 521, 530 (2011) (quoting Fed. R. Civ. P. 8(a)(2)). Since the initial May 2019 Complaint [1], Receiver has alleged general

negligence against all Defendants but specifically “allege[d] a claim for negligent supervision against The UPS Store Madison only.” R.’s Mem. [488] at 3.

Requiring an amendment to the Second Amended Complaint at this point, in this case, serves little purpose but to waste time better expended towards dispositive and *Daubert* motions. TUPSS is already defending against a negligence claim premised on vicarious liability and argued in response to Receiver’s Motion to Amend that “a franchisor cannot be liable under either a direct or vicarious liability theory unless the franchisor exercised control over the instrumentality that caused the harm.” TUPSS Mem. [491] at 25. Whether TUPSS exercised control over the notaries and provision of notary services at The UPS Store Madison has always been at issue. TUPSS’ Response relies on the same case law to argue that both types of claims are meritless. TUPSS’ argument that certain depositions would need to be reopened should a negligent supervision theory against it proceed is conclusory. *Id.* at 27.

The Amended Complaint’s negligence claim against TUPSS states enough that TUPSS’s procedural arguments should be rejected. Receiver’s negligent supervision theory against TUPSS will move forward and can be addressed substantively in dispositive and *Daubert* motions, which are due November 3, 2025.

IT IS THEREFORE ORDERED that Receiver’s Motion for Leave to Amend [487] is **DENIED** as unnecessary.

SO ORDERED this 17th day of October 2025.

s/ Bradley W. Rath

 BRADLEY W. RATH
 UNITED STATES MAGISTRATE JUDGE