

BMB Transportation Group



October 2006 Newsletter

Danger Zone

A recent U.S. District Court decision brings to our attention the dangers of improperly parking a tractor-trailer on or near the shoulder of a well-traveled highway. The case involves a fatal crash that took place during daylight hours on a four-lane highway in North Carolina in January 2003.

The crash resulted when an elderly woman drove her car into the rear of a tractor-trailer parked on the shoulder of the highway. According to court documents, the truck driver pulled onto the shoulder under an overpass to take a 15-minute nap, but didn't wake up until the time of the crash—about three-and-one-half hours later.

Witness accounts indicate the woman drove at full highway speed along the shoulder and directly into the rear of the truck. Her car was embedded under the truck's by more than ten feet; she died at the scene.

Relatives of the woman had requested a "Summary Judgment" (a judgment without a jury trial) against the trucking company. The judgment determined that the truck driver committed "gross negligence" in parking the truck on the shoulder of the highway, and that the company was negligent in its hiring, retention, supervision and training practices.

While the trucking company admitted that its driver was "ordinarily" negligent, it claimed the passenger car driver caused the accident when she drove into the rear of the parked truck. In addition, it denied the claim of negligent hiring, supervision and training practices.

The District Court judge acknowledged that parking a truck on the highway shoulder for the purpose of a nap did not constitute "gross" negligence under normal conditions. However, he stated that the driver's failure to deploy emergency triangles might have constituted gross negligence since roadway hazards at the time of the accident resulted in conditions that were not 'normal.' Reasons cited by the judge for non-normal driving conditions included residual snow/ice from a prior snowstorm and the driver's awareness of a rest area less than two miles away.

The judge also determined that the company might have been negligent in its driver supervision practices. The driver involved in the accident had been cited for speeding on two occasions in the three months leading up to the crash. Concurrent with one of these incidents, he was also cited for failure to maintain a current logbook. Testimony indicated that managers had knowledge of these incidents and that the driver had not been subjected to any disciplinary action or remedial training.

Given the nature of the Summary Judgment, the case will not go to a full jury trial. Although we can't predict how a jury will view the evidence, the case does offer some valuable lessons for carriers.

First, we must educate drivers about the hazards of parking on highway shoulders.

Second, we must teach drivers when, where and how to deploy emergency triangles. While Federal Motor Carrier Safety Regulations are clear about this (FMCSR392.22), we can't assume that drivers are aware of or understand the importance of the regulation.

Finally, we must provide adequate driver supervision and oversight. Court records indicate the truck driver in this crash had exhibited at-risk safety behavior in the recent past that had been ignored by company officials.

It looks like the case will now go to a jury to determine whether the acts of the driver or the trucking company rose to the level of gross negligence.

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