

»Business Alert

March 2011— Free Parking? No. Go directly to jail. *Two Recent Cases Find Truckers' Employers Partially Liable For Accidents Involving Parked Trucks*

Both Ralphs Grocery Company and Safeway Inc. have been hit with large verdicts recently in auto accident cases. What makes these cases unique is that in each one the grocery truck was parked. Despite that, both Ralphs and Safeway have had substantial money judgments awarded against them.

In *Cabral v. Ralphs Grocery Company* (2011) WL 677396, a truck driver for Ralphs stopped his tractor-trailer alongside a highway to have a snack. The truck was parked in an area designated for emergency parking only. Adelelmo Cabral was driving home from work when he veered off the freeway, hit the parked Ralphs truck, and died.

At trial, the jury found Ralphs 10% liable for Cabral's death, totaling almost \$500,000 in damages. The Court of Appeal reversed, holding that Ralphs had no duty to Cabral because the truck was parked. The Supreme Court, however, reversed the Court of Appeal, and reinstated the award against Ralphs.

The Supreme Court held that the Ralphs driver had a duty to use reasonable care in parking his truck. It upheld the jury's finding that the Ralphs driver had acted negligently by parking in an emergency only area, and therefore contributed to Cabral's death.

In *Lawson v. Safeway Inc.* (2010) 191 Cal.App.4th 400, a truck driver for Safeway also parked his truck on the side of the highway. However, this time, the truck was parked legally. However, the legally parked truck blocked the view of an adjacent intersection. When two cars were in an accident in that intersection, one of the drivers sued Safeway for blocking the view.

The jury found that Safeway was 35% liable for the accident, and the Court of Appeal upheld the verdict, holding that even when parking legally, the Safeway driver still had a duty to act reasonably and, by blocking the view of the intersection, the driver had not done so. This presents a new issue for companies using tractor trailers: At what point are companies liable for their

parked vehicles and how do they mitigate the risk? There are several preventative measures that companies should consider, including:

- Revising employment manuals for their truckers instructing them to park legally at all times, and to take into account their surroundings for potentially blocked views;
- Reviewing and update contracts with independent trucking companies to prohibit illegal use of emergency areas and requiring them to take their surroundings into account;
- Training employees regarding lines of sight for streets and proper safety procedures for parked vehicles.

These measures should hopefully prevent situations leading to lawsuits, and in the event of a lawsuit, help to mitigate liability if sued.



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