Application of the Federal Motor Carrier Safety Regulations in Trucking Litigation

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Section One

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I. INTRODUCTION

All motorists are required to know the rules of the road. Truck drivers, however are in a special situation. They are professionals. They are paid to drive, and the vehicles they drive are complex pieces of machinery. Trucks are much heavier than automobiles and passenger vans, they are much more difficult to maneuver, and they require a much greater distance to stop. As we all know, then trucks are involved in vehicular collisions, serious bodily injury or death often results.

The Office of Motor Carriers (OMC) of the Federal Highway Administration (FHWA) has compiled national data about tuck crashes for over ten years[1]. The OMC's report on the data for the last year available, 1999, reveals the following:

(!) There were 453,000 police-reported crashes involving large trucks[2]. 95,000 (20.9%) of these involved injury. 4,542 (1%) of the crashes involved a fatality which the number killed totaling 5,362.

(2) 544 (1.9%) of the collisions that involved fatalities in 1999 occurred in adverse weather; almost 13,000 (13.7%) of the collisions involving non-fatal injuries occurred in adverse weather. Rain was the most common adverse condition reported, being listed as a factor in 7.7% of the collisions involving fatalities, and 10.4% collisions involving injuries.

(3) Almost 1.5% of the truck drivers invloved in fatal collisions (73 drivers) had invalid licenses, and 370 drivers (7.6%) had not CDL at all. Fifty-three (53) drivers were reported as intoxicated at the time of fatal collisions (1.1%). In 38% of the 453,000 reported conditions, the actions of the truck driver were cited as a contributing factor to the collision. In approximately 102 (2.1%) of the fatal collisions, fatigue or lack of sleep on the part of the truck driver was considered to be a contributing factor.

II. BASIC PRINCIPLES OF THE FMCSR.

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[1] All data from the OMC cited in this paper is online and can be found at he OMC's homepage: http://www.fmcsa.dot.gov.

[2] Large trucks were defined in the OMC study as having a Gross Vehicle Weight Rating (GVWR) of over 10,000 pounds. A "commercial motor vehicle" is likewise defined in the FMCSR as one with a GVWR of over 10,000 pounds. §390.5. However, "commercial motor vehicle" is defined as a vehicle have a GVWR of over 26,000 pounds in the section fo the FMCSR that deal only with the requirements for a Commercial Drivers License (CDL). §383.5.

To better understand the application of the duties and obligations of FMCSR place on truck drivers and trucking companies, it is helpful to first consider some general provisions of the regulatory scheme contained in the FMCSR and related federal regulations. Parts 390 through 399 of 49 CFR apply only to interstate trucking. However, most states have adopted the FMCSR to apply to intrastate trucking. Therefore, the interstate/intrastate distinction is often not meaningful in truck collision litigation[3].

The purpose of the FMCSR is to create uniform standards of travel and thereby promote safety by helping to prevent truck collisions. This purpose is expressed is various sections of the FMCSR[4] and has been recognized by courts[5] in their interpretation of the FMCSR.

The obligations and responsibilities under the FMCSR are shared by both truck drivers and the companies that employ them. Section 390.11 states that when "a duty is prescribed for a driver or a prohibition is imposed upon the driver, it shall be the duty of the motor carrier to require observance of such duty or prohibition." This principle of shared responsibility between the driver and the tucking companies is further embodied in the definition of "employees" which includes an independent contractor operating a commercial motor vehicle on behalf of a trucking company[6]. Indeed, courts throughout the United State have held that carriers are vicariously liable for any negligent driving of such "employees" when that negligence occurs while the truck involved is under lease to a trucking company or companies.[7]

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[3] The aim of the Motor Carrier Safety Assistance Program is to provide financial assistance to States to "reduce the number and severity of accidents and hazardous materials incidents involving commercial vehicles." 49 CFR 350.101. The requirements for compliance with the safety standards in one State are to be compatible with the requirements in another State. Each State must assume responsibility for improving motor carrier safety and adopting and enforcing State safety laws and regulations that are compatible with the FMCSR's. (49 CFR parts 390-397). 49 CFR 350.201. The FMCSR also provide that "every motor vehicle must operated in accordance with the laws, ordinances and regulations of the jurisdiction in which it is being operated. However if a [FMCSR]... imposes a higher standard of care than that law, ordinace, or regulation, the [FMCSR]...must be complied with." 49 CFR 392.2.

[4] §382.101, §383.1(a) and §387.1.

[5] Hageman v. TSI, Inc., 786 P.2d 452 (Colo.App. 1989), Interstate Motor Lines v. Western Ry. Co., 161 F.2d 698 (10th Cir. 1947); and, Tri-State Casualty Ins. Co. V. Loper, 204 F.2d557 (10th Cir. 1953).

[6] §390.5

[7] See, Rediehs Express, Inc. v. Maple, 491 N.E.2d 1006 (Ind.Ct.App. 1986), wherein the Court held that the trucking company was responsible for injuries caused by negligence of the driver even if the driver was embarked on an undertaking of his own as long as the driver was operating within the term of the lease with the trucking company. The court in Rediehs cites 14 cases from other jurisdictions to support this holding.

The FMCSR embody the principle that "ignorance of the law is no excuse."[8] Part 390.9 (e) requires that all motor carriers, their employees and drivers, shall be knowledgable of, and comply with, the FMCSR. Further, this section requires that carriers instruct each of there driver regarding all applicable rules and regulations of the FMCSR. The failure to follow this requirement resulted in liability against a carrier in the case of Harmon v. Grande Tire Co., 821 F.2d 252 (5th Cir. 1987), wherein the Court noted that the trucking company had failed to provide substantive training to its drivers. The Court specifically emphasized the failure to train its drivers in the proper use of warning flashers pursuant to §392.22.

III. THE IMPORTANCE OF THE FMCSR IN ESTABLISHING LIABILITY & A PUNITIVE DAMAGE CLAIM

[8] See, Smith v. Tommy Roberts Trucking Co., 435 S.E.2d 54 (Ga.App.1993), wherein the Court held that an employer's purported lack of knowledge of a driver's lack of qualifications was not relevant because the employer was under a duty imposed by the FMCSR to check the driver's qualifications before hiring him.

Courts throughout the United States have consistently held that violations of provisions pf the FMCSR by a driver and/or his carrier(s)[10] can form the basis for a negligence per se jury instruction.[11] Additionally, courts have recognized that punitive damages may be warranted against both the driver and the company when a trucking company blatantly ignores safety provisions of the FMSCR and this conduct leads to a tragic collision.[12] The following discussions will focus on which we have utilized in our practice. The discussion is not exhaustive, and if you are handling a case for a client injured in a truck collision, you should thoroughly familiarize yourself with the FMSCR.[13]

IV. OBLIGATIONS IMPOSED BY THE FMCSR ON TRUCKING COMPANIES

A. THE OBLIGATION TO MEET INDUSTRY STANDARDS

Under § 385 of the FMCSR, trucking companies are subject to on-sight examinations by the Federal Highway Administration (FHWA) to determine if they have a safety program in place to ensure compliance with various safety requirements of the regulations. At the time of these reviews, the carrier "shall demonstrate that it has adequate safety management controls in

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[10] The Ninth Circuit has held that a driver can be statutory employee of more than one carrier. In Zamolloa v. Hart, 31 F.3d 911 (9th Cir. 1994), the driver was under a long term lease with one carrier when he was involved in a collision while under a trip lease with another carrier. The long-term lessee company argued that only one carrier could be considered to be the statutory employer of the driver, under the leasing provisions of 49 CFR 1057.12(c)(1) which require a trucking company to take "exclusive possession" and "complete responsibility" for the operation fo a vehicle once a lease has been entered into. The 9th Circuit rejected this argument holding that if an owner-driver lessor entered into two separate contracts with common carrier lessees the fact of the formation of the first contract should have no bearing on the liability of the other lessee under the second contract.

[11] See, for example, Inland Steel v. Pequingnot, 608 N.E.2d 1378, 1383 (Ind. App. 1993); Wallace v. Ener, 521 F.2d 215 (5th Cir. 1975); Strong v. Freeman Trucking, Inc., 456 So. 698 (Miss. 1984); Carroll v. Deaton, Inc., 555 So. 140 (Ala. 1989); Simon v. Woodland, 179 N.W.2d 422 (N.D. 1970); Harmon v. Grande Tire Company, 821 F2d 252 (5th Cir.); and, J.R. Mabbett & Son, Inc. v. Ripley, et al., 365 S.E.2d 155 (Ga. App. 19888).

[12] Smith v. Tommy Roberts Trucking Co., et al., 435 S.E.2d 54 (Ga. App. 1993); Wong v. Marziani, (US D CT., N.Y., 1995), 885 F.Supp. 74.

[13] The Pocketbook of the FMCSR does not include some sections of 49 CFR that may be helpful to you in your truck collision case. For example, §385, which requires a carrier to have a safety program in place to ensure compliance with the FMCSR, is not included in the Pocketbook. To get all of the sections of 49 CFR that deal with interstate trucking regulations, obtain a copy of the Fleet Safety Compliance Manual published by J.J. Keller and Associates, Inc., Neenah, Wisconsn. 1-877-564-2333

place" to ensure compliance with the FMCSR Safety Provisions.[14] If the carrier's history of violations of the FMCSR Safety Provisions, vehicular collisions, and/or hazardous materials incidents is substantially above the norm for similarly situated carriers in the industry, the regulations state that such a finding by the FHWA would be "strong evidence that management controls are either inadequate or not functioning properly."[15]

Plaintiff's counsel should routinely check with the FHWA to obtain a copy of these ratings for the defendant carrier.[16] If the carrier's ratings are below the norm for similar carriers, you have the basis for arguing that the particular violation is your case, for example the use of a fatigued driver, is part of a larger pattern or practice. Finding a pattern of safety violations on the part of a carrier can lead to a successful punitive damage claim.

B. THE TRUCKING COMPANY'S OBLIGATIONS TO ONLY USE QUALIFIED AND COMPETENT DRIVERS

Before a carrier allows an individuals to drive, it has affirmative duty to determine

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[14] §385.5

[15] §385.7(a)

[16] You should request a Motor Carrier Safety Profile (CSP) for the trucking company in which you are interested. The CSP contains not only a history of compliance reviews of the carrier, but also the ihistory of the carrier's enforcement cases, accident summaries, and inspection summaries. A CSP can be obtained from the following government contractor: The Scientex Cort., MCMIS Data Dissemination Program, P.O. Box 13028, Arlington, Virginia 22219. 703-276-3377

if the individual to drive, it has an affirmative duty to determine if the individual is "qualified." To be qualified to drive under the FMCSR, and individual must meet eleven (11) separate criteria:[17]

1. Must be at least twenty-one (21) years old;
2. Must be able to sufficiently read and speak the English language;
3. By reason of experience and/or training, must be able to safely operate the vehicle;
4. Is physically qualified to drive a commercial motor vehicle in accordance with subpart E -Physical Qualifications and Examinations of this part;
5. Has a currently valid commercial motor vehicle operator's license issued by only one (1) state or jurisdiction;
6. Has prepared and furnished the motor carrier that employs him/her with the list of violations or the certificate as required by Sec. 392.27;
7. Is not disqualified to drive a commercial motor vehicle under the ruls in Sec. 391.15; and
8. Has successfully completed a driver's road test, and had been issued a certificate of driver's road test in accordance with Sec. 937.31, or has presented an operator's license or a certificate of road test which the motor carrier that employs him/her has accepted as equivalent to a road test in accordance with Sec. 391.33.

A defendant driver who does not meet on of these criteria subjects both himself and his carrier(s) to liability, which may include a claim for punitive damages.[18]

a. *PHYSICALLY QUALIFIED TO DRIVE*

The Sections 391.41-391.49 of the FMCSR contain the physical qualifications necessary to drive most trucks. These provisions in general require a driver to have adequate vision in both eyes, adequate hearing, be free from psychiatric disorder, epilepsy, high blood pressure, insulin dependent diabetes, certain heart conditions, have adequate use of his or her extremities, and have no current clinical diagnosis of alcoholism. The use of a driver that failed to meet the physical qualifications of 391.41, et. seq., can be the basis for liability against the trucking company and the driver. For example, we are currently handling a case where the driver had monocular vision (vision in only one eye). Under §391.41, monocular drivers can never be qualified to drive a truck. Our trial court has ruled that causal link between monocular vision and the collision is a question for the jury. Further, the trial court has indicated that it will give a negligence per se instruction of this violation of §391.41, applicable to both the drive and the trucking company.

b. *DRIVING TEST*

Section 391.31 of the FMCSR requires a carrier to give each prospective

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[17] §391.11

[18] Smith v. Tommy Roberts Trucking Company. (Ga. App. 1993), 435 S.E.2d 54.

driver a road test, which may be successfully completed before that person is allowed to drive. This test includes not only the ability to handle the vehicle, but also skill in performing pre-trip inspections, coupling and uncoupling of units, and use of the vehicle's controls and emergency equipment. The failure to give this test can form the basis for liability against a trucking company.[19]

c. *APPLICATION FOR EMPLOYMENT*

Section 391.21 of the FMSCR set out very stringent requirements as to the employment application and pre-employment investigation with which the carrier is require to comply. The carrier is required to obtain information about the prospective driver's driving record and employment history for the preceding three (3) years. The applicant must provide a list of employers for three (3) years prior to applying, and must also provide a list of names and addresses of employers for the previous ten (10) years for whom the applicant operated a commercial motor vehicle. In turn, the employer is required to investigate each driver it employs. This investigation includes the requirement that the trucking company inquire into the applicant's driving record during the preceding three (3) years to the appropriate agency of every state in which the driver held a license, and an investigation is to take place withing thirty (30) days of the date of his or her employment begins. The failure to conduct an investigation on the part of a trucking company can lead to liability based under §391.21 if it can be shown that failure to conduct an investigation let to the hiring of an unqualified driver. [20]

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[19] See, Smith v. Tommy Roberts Trucking Co., et al. (Ga. App. 1993), 435 S.E.2d 54, wherein the court noted that the trucking company had failed to determine if the driver was qualified to drive the truck. The record showed that the trucking company had failed to give a driving test, failed to obtain the extensive application of employment, and failed to receive the history of the driver's traffic violations. The court held that these omissions presented a factual question of whether punitive damages could be awarded on the basis that the trucking company hired a driver who was "habitually reckless".

[20] See, for example, Stephens v. A-Able Rents Company, 654 N.E.2d 1315 (Ohio App. 1995) wherein the Ohio Appellate court held that the employer could be liable for doing nothing more than obtaining a driver's traffic record and failing to conduct a pre-employment check as required by the FMCSR. The court noted that had the employer conducted the check it would have been revealed that the driver's history of drug abuse, which the court indicated would be revealed as evidence in the case at bar which involved the driver's attempt at rape of a customer while the driver was under the influence of crack; and, Eagle Motorlines v. Mitchell, 78 So.2d 42 (Miss 1955), wherein the court held the employer liable for failure to discover the driver's drinking habits. Although this case does not specifically discuss the FMCSR, clearly the requirements to conduct and extensive pre-employment investigation mandated by the FMCSR provided for the same duty recognized by the Mississippi court in Eagle Motorlines. Indeed, the court noted that the trucking company "was not at liberty to shut its eyes and close its ears and thus be able to say, 'we did not know, and no facts were known to us whereby we should have known' that Burnham was an incompetent drive. They were charge with a duty to exercise reasonable diligence to find out whether he was a competent drive."

C. A TRUCKING COMPANY'S OBLIGATION TO SUPERVISE ITS DRIVERS.

The FMCSR require diligence of the trucking company not only when it hires the dive, but also during the time that is employs the driver to operate a vehicle. Section 391.25 requires the company to conduct an annual review of each driver's driving record for the twelve (12) months. Section 391.27 requires each carrier to obtain a report from each of its drivers with a list of all violations of motor vehicle traffic laws and ordinances of which the driver had been convicted or of which the driver has forfeited a bond or collateral during the preceding twelve (12) months.

Section 391.15 requires the trucking company to not not only ontain each drivers report of accidents and violations, but also to analyze these reports to unsure that any driver who has a violation proscribed by this section is disqualified for driving for a period of up to one (1) year. The disqualifying offenses under this section include driving commercial motor vehicle with and alchohol concentration of 0.04% or more.

The trucking company's supervision obligations under the FMCSR also include closely monitoring the hours that a driver actually drives a motor vehicle to insure that the driver files correct logs and does not work in excess of the maximum number of hours. The failure of a trucking company to monitor a driver's logs has been held to create a jury question on punitive damages when an arguably fatigued driver caused a collision.[21] A trucking company's failure to institute a program to discover falsification of its drivers' logs would violate various provisions of the FMCSR, including Section 390.11. 391.13. 395.3 and 385.5.

D. TRUCKING COMPANY LIABILITY FOR ENCOURAGING UNSAFE DRIVING PRACTICES.

Most of us can recall the litigation against Domino's Pizza arising out vehicular collisions when its drivers were attempting to deliver pizzas within thirty (30) minutes of the order. The basis of for this litigation was Domino's policy of encouraging their drivers to speed in order to meet the arbitrary delivery deadline. This type of policy, which would encourage speeding on part of truck drivers, is specifically prohibited by the FMCSR. §390.13 provides that a motor carrier should not aid, abet, encourage or require its employees to violate any of the rules of the FMCSR. §392.6 is more specific is this regard in providing that no trucking company shall schedule a delivery in such a way that would require the driver to operate his vehicle at speeds greater than those prescibed by the rules of the road in effect at the location in question. Finally, §395.3 provides that no trucking company shall permit or require any driver to exceed the maximum hours of driving time allowed under the FMCSR.[22], [23]

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[21] Wong v. Marziani, et al,, (US D Ct., N.Y. 1995), 885 F.Supp. 74, at 79.

[22] See, Walt's Drive-A-Way Service, Inc. v. Powell, 639 N.E.2d 857 (Ind. App. 1 Dist. 1994), wherein truck drive who was discharged for refusing to violate FMCSR by driving an excessive amount of hours, had cause of action against employer for wrongful discharge.

[23] See, Haas Carriage, Inc. v. Berna, 651 N.E.2d 284, (Ind. App. 1 Dist. 1995), wherein a former employee brought a wrongful discharge claim against employer which terminated him because he refused to commit an act unlawful under

the FMCSR.

As counsel for the Plaintiff, if you can establish that a trucking company has encouraged speeding by the method in which it pays a driver (for example, by the number of miles driven), or has encouraged other unsafe practices such as driving in excess of the number of hours allowed, you should consider adding a count for punitive damages to your complaint.[24]

E. A TRUCKING COMPANY'S DUTY TO INSPECT, REPAIR AND MAINTAIN THEIR VEHICLES IN A SAFE CONDITION

The FMCSR require that all trucking companies "shall systematically inspect, repair and maintain, or cause to be systematically inspected, repaired and maintained, all motor vehicles subject to its controls.[25]

This general duty of a trucking company to maintain its vehicles in good working order includes a duty to maintain repair records and inspection reports[26], the duty to maintain driver reports, which are to be filed each day on each vehicle driven[27], and a duty to make periodic inspections of each vehicle[28]. The failure to maintain a vehicle in proper working order and safe condition can be the basis for a claim against the trucking company.[29] A trucking company that breaches this duty to maintain its vehicles is a safe condition can be subject to a claim of punitive damages for putting a defective vehicle on the roadway. See, J.B. Transport, Inc. V. Bently, 427 S.E.2d 499 (Ga. App. 1992), wherein the court noted among other violations of the carrier, its putting a "defective tractor-trailer out on the highway" Id. at 505. The court noted that the driver had reported operational defects in the vehicle the day before his post-trip inspection report, and yet the company failed to present any evidence that the defects had been corrected prior to the time of the collision.

V. OBLIGATIONS IMPOSED ON DRIVERS AND TRUCKING COMPANIES BY THE FMCSR

As previously stated, all obligations of a truck driver under the FMCSR are likewise obligations of the carrier for whom he or she drives. Thus, it should be kept in mind that a breach of any following duties or obligations will support a claim of negligence not only against the offending driver, but also against the carrier(s) employing him. The following discussion is limited to provisions of the FMCSR that apply directly to the driver.

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[24] See, for example, Wong v. Marziani, et al,, (US D Ct., N.Y. 1995), 885 F.Supp. 74; Smith v. Tommy Roberts Trucking Co., et al., (Ga. App. 1993), 435 S.E.2d 54; and J.B. Transport, Inc. v. Bentley, 427 S.E.2d 499 (Ga. App. 1992).

[25] §396.3 (a)

[26] §396.11

[27] §396.11

[28] §396.17

[29] J.R. Mabbett & Son, Inc. v. Ripley, et al., 365 S.E.2d 155 (Ga. App. 1988).

The FMCSR provide that every driver is to comply with all applicable regulations and obligations of the FMCSR.[30] §392 of the FMCSR contains most of the specific obligations for drivers. First, §392.2 provides that all vehicles subject to the FMCSR are to be operated in accordance with the laws, ordinances, and regulations of the jurisdiction in which they are being operated. Furthermore, this section provides the FMCSE are to be followed when the FMCSR are to be followed when the FMCSE impose a higher standard than a local law.

§392.3 prohibits any driver from operating a truck his is ability or alertness is so impaired though fatigue, illness, or any other causes making it unsafe for him to drive. This section can often b used in conjunction with §395.3 which set out the maximum driving time allowed for any driver in a 24-hour period, a 7-day period, and an 8-day period.[31]

§392.4 prohibits the use of any amphetamines or "pep pills" while driving and §392.5 prohibits any use of alcohol by a driver within four (4) hours before going on duty, which "alcohol use" being defined as "the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol."[32] §392.7 requires a driver to make a pre-trip inspection vehicle to determine the specific parts and accessaries are in good working order. Likewise §392.8 requires that a driver inspect the emergency equipment of his vehicle to make sure it is in good working order for driving. §392.9 provides for the responsibility of the driver to make sure that his vehicle has been properly loaded, and also provides that a driver is to examine his load and its load securing devices within the first twenty-five (25) miles after beginning a trip, and thereafter, every three (3) hours or one hundred fifty (150) miles of driving, whichever occurs first.[33]

The actual driving of a truck is discussed in §392.14, which deals with adverse weather. **In light of the OMC statistics that almost 25 of the fatal truck collisions and 14% of the non-fatal truck collisions in 1999 occurred in adverse weather, §392.14 is important to remember.**

§392.14 requires using extreme caution in the operation of his truck during hazardous conditions, such as those caused by the snow, rain, etc., adversely affect visibility or traction. This section goes on to say that "speed shall be reduced when such conditions exist". Although §392.14 of the FMCSR does not indicate what is considered a safe speed in hazardous conditions, counsel for the Plaintiff may find assistance in his or her state's Commercial Drivers License Manual. For example, Indiana uses a Commercial Drivers License Manual, which has been prepared by the Federal Highway Administration (FHWA). This manual is provided to

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30 §390.3(e)(2)

31 The FMCSR requires all drivers to keep a daily log setting out a complete record of what they have done in each 24-hour period so it can be ascertained if the driving is in compliance with the maximum driving time set out in §395.3. The daily log is to be sent to the carrier employing the driver withing two (2) weeks of the completion. §395.8(i). However, the carrier is only required to keep these logs for six (6) months. §395.8(k). Therefore, Plaintiff's counsel must file suit and immediately request the logs to ensure the best opportunity of actually receiving them through discovery.

32 §382.107

33 §392.9(b)

individuals who wish to obtain commercial drivers license, a requirement to drive a truck under the FMCSR. The manual includes the following specific instruction concerning reduction of sped in hazardous conditions:

> **SLIPPERY SURFACES.** It will take longer to stop and it will be harder to turn without skidding when the road is slippery. You must drive slower to be able to stop in same distance as on a dry road. Wet roads can double stopping distance. Reduced speed by about one-third (e.g., slow from 55 to about 35 mph) on wed road. On packed snow, reduce speed by one-half, or more. In the surface is icy, reduced speed to crawl and stop driving as soon as you can safely do so.

The above instruction may be very powerful evidence in your case if the collision occurred while the roadway was wet, either because of rain, snow, or ice. Although it may not have the status to warrant a negligence per se instruction, Plaintiff's expert can cite this section in support of an opinion that the truck was traveling too fast for the conditions, a statutory violation in most jurisdictions that would support a negligence per se instruction.

§392.22 requires a driver whose vehicle becomes disabled to activate the vehicle's hazard warning signal flashers and within ten (10) minutes to place warning devices at specified locations in both the front and rear of the vehicle. The failure to abide by these and other provisions of §392.22 concerning the use of emergency signals for a stopped truck has been the basis for liability in a number of cases, wherein such failure was held to be negligence per se on the part of the driver.[34]

CONCLUSION

Once a decision was made by our government to allow the extremely dangerous vehicles commonly referred to as semis on our nation's roadways, the FMCSR were promulgated to promote the safety and reduce the risk of truck collisions. It is common for trucking companies and the drivers they employ to routinely ignore or blatantly violate the safety provisions of the FMCSR. When that occurs and a member of the general public is maimed or killed as a result, only a skillful Plaintiff's counsel well versed in the FMCSR can ensure that justice will prevail.

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[34] See, for example, Brandes v. Burbank, 613 F2d 658 (7th Cir. 1980); Wallace . Ener, 521 F2d 215 (5th Cir. 1975); Thomas v. McDonald d/b/a DAPSCO, 667 So.2d 594, (Miss. 1995); and, Strong v. Freeman Truckline, Inc., 456 So.2d 698 (Miss. 1984).