



TRANSPORT CENTER UPDATE

January/February 2012

Vol. 4, Issue 1

DEFENSE VERDICT- MARYLAND FEDERAL COURT

Doug Marcello achieved a defense verdict in a recent trial in the Federal Court for Maryland. The case arose from an alleged sideswipe accident involving a school bus.

The bus driver claims that our client's load struck the school bus she was driving. She claimed that she suffered back and shoulder injuries requiring surgeries as a result of the accident. Her medical bills to date were \$40,000.00.

She further claimed that she has been disabled for working since the December, 2006 accident and suffered permanent injuries. She claimed lost wages to date of \$180,000.00.

We contested both liability and damages. The jury found that our client was not negligent.

HIPPA Does Not Apply to MROs

Recently the Office of Drug & Alcohol Policy & Compliance issued a statement clarifying that Medical Review Officers (MROs) and contact with an employee's treating physicians. Specifically, the Health Insurance Portability and Accountability Act (HIPPA) does not apply to MROs who are acting under 49 CFR Part 40 as



MK CONTACT INFORMATION

Marcello & Kivisto, LLC
1200 Walnut Bottom Rd.
Third Floor, Suite 331
Carlisle, PA 17015

T: (717) 240-4686

F: (717) 258-4686

www.cdl-law.com

[Transportation Legal News
Blog](#)

Douglas Marcello, Esq.
dmarcello@cdl-law.com

Sonya Kivisto, Esq.
skivisto@cdl-law.com

Angela N. Rainey, Esq.
arainey@cdl-law.com

Alyssa Adams, Esq.
aadams@cdl-law.com

M&K Upcoming Events:

For more current updates on events, follow M&K on [Facebook](#) and [Twitter](#).

part of their verification process. MROs do not need and MUST not attempt to obtain an employee's permission in order to confer with the employee's prescribing physicians. Rather an MRO is encouraged to follow-up with a treating physician or pharmacy when suspicions or question arise during a verification interview. To see a copy of the statement click [here](#).

Final Rule To Harmonize Schedule I Drug Requirements

FMCSA has published a final rule that will be effective on February 29, 2012. The new rule amends the physical qualifications for drivers and the instructions for the medical examination reports to make clear that under no circumstances is a driver who uses Schedule I drugs qualified to operate a commercial motor vehicle. To see a copy of the rule click [here](#).

NYC'S New Cross Over Mirror Law

On January 13, 2012, new legislation went into effect requiring cross over mirrors to be installed on all trucks that 1) qualify as commercial vehicles, 2) are registered in New York and 3) operate in New York City on streets (other than expressways). The mirrors are to be installed on the front of the vehicle and will enable a driver to see anything that is at least three feet tall, passing a foot in front of the truck for the length of the truck. The new law can be found under Section 375-10e of the New York Vehicle and Traffic Law. For more information click [here](#).

The New York State Motor Truck Association has indicated that a violation under this new law will be considered a "fix it" violation. Meaning that a violator will be given one business day to correct the violation and if the violator makes the correction the ticket will be dismissed. The documentation establishing that the violation was corrected needs to be provided to the court before the summons return date. If a violation is not corrected the violator will be subject to a \$150 fine (for the first offense) plus court costs.

Upcoming Events in the Industry:

Mar. 3rd-6th - PMTA 84th Annual Management Conference, Omni Bedford Springs Resort, Bedford, PA.

Mar. 4th-7th - TCA's 2012 Annual Convention, Kissimmee, FL. For more info click [here](#).

Mar. 24th - 2012 TruckPAC Clay Shoot, for more info click [here](#).

Mar. 27th - Attentive Driving - Countermeasures for Distraction Forum, hosted by NTSB at the NTSB Conference Center, Washington, D.C., for more info click [here](#).

Documents and Resources Available From M&K

If you are interested in obtaining copies of the following, please call or email.

- Hours-of-Service Rules Safety Impact 2010 Analysis compiled by ARTI in May 2010

- Accident preparedness DVD and/or forms

- Powerpoint presentation regarding CSA 2010 presented by ATA

- Powerpoint presentation by Dr. Hickman regarding Distracted Driving

New CSA BASIC Fact Sheet

On January 18, 2012, FMCSA published a new Behavior Analysis and Safety Improvement Category (BASIC) fact sheet on the CSA program's website. You can click [here](#) to view the new fact sheet. It is important for drivers and motor carriers to be aware of the implications of CSA. The fact sheet is meant to assist drivers and motor carriers to comply with the Federal Safety Regulations as well as educate them on the seven BASICS and applicable regulations.

ATRI Has Updated Its List of Idling Laws

In January 2012, ATRI published on its website updated versions of its compendium of state idling laws. The update includes two new regulations as well as a regulation that will be effective in the near future. To view the new compendium and cab card click [here](#).

2012 PA Truck Driving Championships

The Pennsylvania Truck Driving Championships have been scheduled for June 8th and 9th. They will be held at the Wildwood Conference Center at the Harrisburg Area Community College (HACC) in Harrisburg, Pennsylvania. The Truck Driving Championships recognize the best Pennsylvania truck drivers in a two day competition. To get more information or to get information on how to register a driver click [here](#).

Free Presentations for Your Driver Meetings

We provide FREE presentations at driver's meetings geared toward our client's topics of interests. Recently, we finished filming a mock trial cross-examination of a driver as part of a new presentation.

Please let us know if you are interested.

Study presented at
M&K Seminar

To see M&K's recent case results and articles click [here](#).

Other Resources

FMCSA Distracted Driving Instructional Videos click [here](#).

[PA Motor Trucking Association](#)

[American Trucking Association](#)

[Trucking Industry Defense Association \(TIDA\)](#)

[Federal Motor Carrier Safety Administration](#)

[PA Travel InformationTo-Go](#)

[National Traffic and Road Closure Information](#)

For more resources click [here](#)

STAY CONNECTED:
You can now follow, M&K, LLC on the web!



[Transportation Legal News Blog](#)

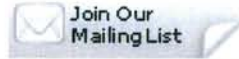
Quote of the Month:

The wise don't expect to find life worth living; they make it that way.

~ Anonymous

About Our Firm

Founded in 2005, **M&K, LLC** is dedicated to and focused upon transportation law and the needs of their transportation clients. Since opening in 2005, **M&K, LLC** has expanded its office to provide clients with the attention and availability they deserve.



DISCLAIMER: The Information Contained in this Newsletter is NOT Legal Advice.

