



MARCELLO & KIVISTO

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TRANSPORT CENTER UPDATE

March 2013

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Mark Your Calendar!

Marcello & Kivisto, LLC will be hosting a complimentary Trucking Safety and Litigation Issues Seminar on April 16, 2013. The seminar will be held at the U.S. Army Heritage and Education Center in Carlisle, Pennsylvania and will focus on vital safety and litigation issues in the transportation industry.

Speakers and topics include the following;
Steven Byran (CEO of Vigillo) - "CSA by the Numbers - CSA Points and What We Can Learn",
Ray Haight (CEO of Transrep, Inc.) - "Hiring Insight - Analysis of Driver Candidates", **John Schneider** (Oxford Outcomes) - "Applying Medical Economics to Establish the 'Reasonable' Cost of Medical Bills", **Doug Marcello** (Marcello & Kivisto, LLC) - "The Trials of Trial - What You and Your Drivers Encounter in the Trial Process", **Kevin Stuart** (PMTA Director of Safety) - "DOT Inspection of Tractor Trailer - be prepared to go outside for a hands-on experience.

Lunch will be provided at no cost and following the seminar attendees will have an opportunity to



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M&K Upcoming Events:

M&K FREE Trucking
Safety and Litigation
Seminar - Carlisle, PA
- Rescheduled for April
16, 2013. More
information to follow.

tour the facilities at the U.S. Army Heritage and Education Center. More information to follow shortly.

Space is limited, so make your reserve your seat today by contacting Jennifer Mulligan at jmulligan@cdl-law.com or (717) 240-4686.

You can check out the U.S. Army Heritage and Education Center's website by clicking [here](#).

Despite Litigation FMCSA Will Not Delay HOS Enforcement

On January 25, 2013, ATA sent a letter to FMCSA requesting FMCSA delay enforcement of the new HOS rules until the ATA's lawsuit has been decided. Finding that ATA did not demonstrate sufficient harm to the industry and law enforcement, FMCSA has said it will not delay the enforcement of the new HOS rule. ATA was not alone in its request and was joined by the Commercial Vehicle Safety Alliance (CVSA) and the Owner Operator Independent Drivers Association (OOIDA). The changes will require a driver to take a thirty (30) minute break after driving for eight hours and will also limit the use of the 34 hour restart.

Oral argument in ATA's litigation against FMCSA is scheduled for March 15 before the Court of Appeals for the District of Columbia Circuit. The lawsuit challenges the basis for new HOS rule and argues that the rule is too restrictive. For more information click [here](#).

To view a free webinar on the upcoming HOS changes, click [here](#).

There is No Commercial Vehicle Exception to Limited Tort in Pennsylvania

In 1990, Pennsylvania introduced a choice no-fault law under the Motor Vehicle Financial Responsibility Law Amendment. Pursuant to this law, a person buying automobile insurance coverage has choice to purchase limited tort or

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

Upcoming Events in the Industry:

March 11th-14th - TMC 2013 Annual Meeting & Transportation Technology Exhibition - Nashville, TN - for more info click [here](#).

March 18th-20th - ACT's Commercial Vehicle Industry Review & Forecast - Columbus, OH - for more info click [here](#).

March 19th - DOT Compliance Seminar - 9am-12pm - Hosted by PMTA - Camp Hill, PA - for more information click [here](#).

Mar. 20th - CMV Inspection and OOS Criteria Awareness Training - 8am-12pm - Hosted by PMTA - Ephrata, PA - for more information 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

full tort coverage. When a person purchases full tort they have unrestricted rights to bring a lawsuit against a negligent party involved in a motor vehicle accident. A person who has selected limited tort coverage is limited to recovery economic damages only, i.e. medical bills, lost wages, and cannot recover for pain and suffering.

The law, however, does provide for exceptions that will allow a person who has selected limited tort coverage to seek damages as if he/she had full tort coverage. Recently, our firm has handled a case where a party was under the impression that solely because the accident involved a commercial motor vehicle the limited tort plaintiff was no longer limited to economic damages.

However, there is no commercial vehicle exception to the limited tort election and being involved in a motor vehicle accident with a commercial motor vehicle will not automatically allow a limited tort plaintiff to sue for more than just economic damages. Rather, the plaintiff will need to establish that another exception under the Motor Vehicle Financial Responsibility Law applies to overcome the limited tort hurdle.

Offenses Committed in Personal Vehicle May Affect CDL

On February 7, 2013, the Commonwealth Court reversed a trial court's order regarding disqualification for life from operating a motor vehicle. The driver was disqualified from operating a commercial motor vehicle pursuant to 75 Pa.C.S.A. §1611(c) after he was convicted of driving while intoxicated for the second time. The case received some attention because the driver was operating his personal vehicle at the time he was convicted of DUI and still his commercial driver's license was disqualified for life. However this is not the only offense that even if committed in a personal vehicle will affect a driver's commercial driver's license. Certain offenses committed while driving a personal vehicle will still be considered a major traffic offense and will result in the disqualification of a commercial driver's license, i.e. refusing to submit to chemical testing, Leaving the scene of an accident, etc. and other violations can constitute a serious traffic offense against a driver's commercial driver's license. For

- Powerpoint presentation regarding CSA 2010 presented by ATA

- Powerpoint presentation by Dr. Hickman regarding Distracted Driving 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](#)

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instance, speeding over 15 miles per hour in your personal vehicle while in a work zone or school zone, driving recklessly, or driving carelessly in connection with a fatal accident while operating your personal vehicle.

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.

Blog Postings

Keep up to date with our Blog posting. Subscribe to our blog at <http://www.cdl-law.com/blog/>. Follow us on [Twitter](#). Look for regular postings on Sunday, Tuesday and Thursday evenings.

Recent postings include:

- New Towing Law
- CDL Medical Self-Certification
- PA Permitted Loads-Off Interstate=Off Route
- FMCSA Crash-Weighting Research
- Trucking by the Numbers

Webinars On-Line

Several 20 minute webinars on key issues in the trucking industry have been posted to our webpage. These are audio/video presentations that explain the issues and the challenges they present to the trucking industry.

The topics are as follows:

- Aggressive Defense of Trucking Accidents
- New Hires and PSP
- CSA

You can view the webinars by clicking [here](#).

Quote of the Month:

"Everyday is a new opportunity. You can build on yesterday's success or put its failure behind and start over again. That's the way life is, with a new game everyday, and that's the way baseball is."

~ Bob Feller



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.

