

## LOGO LIABILITY: Without proper insurance motor carriers, drivers could face a truckload of

Georgia drivers share the highways with many commercial vehicles. More traffic leads to more accidents.

As a common carrier who leases drivers and their tractors, don't be surprised if you or your insurer has to pick up the tab for these accidents.



**LEGAL VIEWPOINT**  
By Dennis Keene  
and Erin Raley

### Typical scenario

Tom Truckdriver owns and operates a 379 Peterbilt.

He enters into an independent contractor agreement with Motor Carrier to haul a load of paper products from Georgia to Illinois. Motor Carrier puts its logo and Interstate Commerce Commission (ICC) number on Tom's truck.

Tom delivers the paper products and seeks a return load to ease the expense of returning to Georgia empty.

After finding a return load, Tom makes his way back to Georgia. After a couple of days, Tom is crossing into Georgia from Tennessee when he rear-ends Carl Carowner.

Carl is severely injured, remains in the hospital for four weeks and is permanently disabled.

### How can Carl recover for his injuries and property damage?

In order to recover for his damages, Carl could file a lawsuit directly against Tom. However, Tom may not have sufficient insurance coverage to pay for Carl's medical bills and property damage, and Tom does not have enough personal assets to pay for the bills.

Is Carl without recourse? Maybe not.

In some states, Carl could file a claim against Tom and Motor Carrier under the legal theory of respondeat superior.

Respondeat superior is a theory that allows an injured party to sue an employer for the negligent acts of its employee. However, to successfully reach Motor Carrier's money, Carl must establish that Tom was an employee of Motor Carrier at the time of the accident.

This might be tough to do because in some states, Tom is viewed only as an independent contractor, not an employee of the motor carrier.

In order for Carl to make his case under a theory of respondeat superior, he would have to show:

- 1) that Motor Carrier had the right to control the manner in which Tom performed his job and;
- 2) that Tom was acting within

the scope of his employment with Motor Carrier at the time of the accident.

Since Tom was not driving for the benefit of Motor Carrier on his way back to Georgia, these points would be difficult to prove.

In all likelihood, a claim against Motor Carrier would not help Carl recover for his losses under the doctrine of respondeat superior in some states.

### "Logo Liability" rule

Motor Carrier may, however,

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face liability based on federal law, and specifically, the ICC regulations relating to the leasing of tractors by interstate motor carriers.

The ICC requires interstate common carriers, who lease drivers and their vehicles, to maintain automobile liability insurance on those leased vehicles and further places liability on those carriers for the negligent acts of the drivers.

In a majority of states, if Tom continues to display Motor Carrier's logo and ICC number (which Tom is required to do when hauling goods interstate for Motor Carrier), he will be classified as a "statutory employee" of Motor Carrier, even though at the time of the accident he was finished delivering goods for Motor Carrier. This is known as the "logo liability" rule.

Carl can sue Motor Carrier under a theory of respondeat superior because the law creates an employer-employee relationship between Motor

Carrier and its driver, Tom, for the benefit of the injured driver.

Under the "logo liability" rule, Carl has more sources to recover for his injuries because of the involvement of Motor Carrier and its insurer.

In a minority of states, the ICC requirements discussed above are interpreted more narrowly. These states tend to limit the scope of Motor Carrier's liability based on the given facts.

Under the test employed in these states, Motor Carrier would not be liable for the accident between Tom and Carl, because it occurred while Tom was not on Motor Carrier's business, regardless of whether the logo was displayed.

A motor carrier that leases a commercial motor vehicle from an owner-operator, such as Tom,

should heed the potential liability the carrier is exposed to for the negligent acts of a leased driver.

Additionally, a motor carrier should analyze its insurance policies, as insurers will often exclude coverage under a lease arrangement, which leaves the motor carrier at financial risk for the owner-operator's acts.

As states differ on the application of these rules, liability may or may not exist - depending on your location.

So, Georgia truck drivers and interstate motor carriers should properly insure their interests because a truckload of trouble might be just around the corner.

Dennis Keene and Erin Raley are attorneys with Hunter Maclean, where they practice in the business litigation group.



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