Sudden Medical Emergencies in the Trucking Industry: Federal Motor Carrier Safety Regulations to the Rescue

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Sometimes a motor vehicle accident is not the fault of the truck driver nor of other motorists. In some instances, an accident is precipitated by an unexpected medical event, such as a heart attack, a stroke, or passing out due to a sudden drop in blood pressure, experienced by one of the drivers. In such situations, the law in many states provides a defense to the driver who experienced the sudden medical event and thereby lost control of the vehicle. So long as the medical event was not reasonably foreseeable, the driver is not responsible for the ensuing accident.

Lawsuits that arise under these sets of facts present questions as to whether the driver had a genuine medical event and whether the medical event was foreseeable. Often these questions are not as straightforward as one might expect. And if the driver who experienced the medical event was in the course and scope of his employment at the time of the accident, an additional question is whether the employer had reason to believe the driver was susceptible to the medical event.

Fortunately for motor carriers, the Federal Motor Carrier Safety Regulations ("FMCSRs") provide added protection to motor carriers when confronted with claims arising out of a motor vehicle accident precipitated by a sudden medical event experienced by its truck driver.

Regardless of the lawsuit's venue, all U.S. motor carriers are required to have their truck drivers obtain a medical examination before being permitted to drive a commercial vehicle. The motor carrier can then rely on this medical certificate to conclude the truck driver is medically clear to drive, absent specific knowledge of a medical issue at some point later. While the plaintiffs bar so often attempts to use the FMCSRs against the trucking industry, this FMCSR requirement is one area in which a motor carrier's compliance with the regulations can be used as an affirmative defense to a personal injury or wrongful death lawsuit.

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The Scenario

A good case analogy for this theory of defense is found in *Cline v. Dart Transit Co.*[1] The lawsuit arose out of a motor vehicle accident that occurred on December 21, 2016, between two commercial motor vehicles: one operated by the plaintiff and the other operated by a truck driver as an independent contractor of a motor carrier. The truck driver sustained a heart attack while driving, which caused his vehicle to cross the highway median and strike the plaintiff's vehicle.

Four months prior to his fatal heart attack, the truck driver had a medical issue that was reported to the motor carrier as a heart attack. The motor carrier placed him on a Safety Hold during his period of recovery, which lasted several weeks. Before he could resume operation of a vehicle under the motor carrier's authority, the motor carrier required the truck driver to undergo a new Department of Transportation ("U.S. DOT") physical with a nationally registered medical examiner of his choice.

During his October 2016 physical, the medical examiner medically certified the truck driver to drive commercial motor vehicles for one year, believing he had fully recovered from his heart attack. As such, at the time of the fatal accident, the truck driver was medically certified to operate a commercial motor vehicle.

During the lawsuit, the plaintiff's attorney took the deposition of a corporate representative for the motor carrier. Explaining the medical certification process during his deposition, the corporate representative explained that it sent the truck driver to a medical examination because "we knew that there was something there. We're not doctors. You know, we don't – we can't diagnose. We can't prescribe." Rather, the U.S. DOT medical examiners "are the medical experts. They can do the assessment."[2]

After the truck driver obtained his medical clearance, the motor carrier had no notice of any specific issues concerning the truck driver's health or ability to perform his job. This remained the case until the fatal heart attack occurred two months later.

The Sudden Medical Emergency Defense

In *Cline*, Ohio law was the substantive state law that governed the claim. And yet the FMCSRs also came to bear on the affirmative defense of sudden medical emergency. This means that while the law on the sudden medical emergency may vary from state to state, the federal regulations concerning medical certification of truck drivers could play an important role in

any case arising out of a truck driver's sudden medical event.

In Ohio, when the driver of an automobile is suddenly stricken by a period of unconsciousness that he has no reason to anticipate, he is not chargeable with negligence for his inability to control his vehicle.[3] A sudden medical emergency is a complete defense to a negligence claim.[4]

In *Roman*, the Supreme Court of Ohio rejected a narrow interpretation of the sudden medical emergency doctrine that would have limited the defense to only those drivers with no history whatsoever of the illness that caused the unconsciousness, meaning "all drivers with any history of illness [would be] unable as a matter of law to prevail on a sudden medical emergency defense."[5] Instead, the *Roman* Court established a broad view of the doctrine, explaining the defense is a simple inquiry into "whether the defendant driver should have been driving at all."[6]

Other states have also adopted a similar form of the sudden medical emergency defense.[7]

FMCSRs

In Ohio and other jurisdictions, the test is essentially an inquiry into whether the defendant driver should have been driving at all. Whether a commercial truck driver should be driving at all "falls within the province of the U.S. DOT."[8]

Congress delegated to the Secretary of Transportation the authority to prescribe driver qualifications for commercial truck drivers.[9] Pursuant to this authority, the U.S. DOT promulgated the FMCSRs under which a person "shall not drive a commercial motor vehicle" without a "medical examiner's certificate that [the person] is physically qualified."[10] Specifically, "the medical examiner is required to certify that the driver does not have any physical, mental, or organic condition that might affect the driver's ability to operate a commercial motor vehicle safely."[11] A driver is physically qualified if, among other things, he has "no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure."[12]

When motor carriers need to determine whether a driver is physically qualified to operate a commercial motor vehicle, they are "entitled to rely on medical determinations made by medical professionals[.]"[13]

In fact, motor carriers who second-guess the medical examiner's certification, or who otherwise require certain drivers to undergo additional medical testing, potentially violate the Americans with Disabilities Act ("ADA"). Absent "'evidence of current performance problems or observable evidence suggesting that a particular employee will pose a direct threat,' employers can require periodic medical examinations of employees in only two instances: (1) where the employees are in positions affecting public safety (e.g., police officers and firefighters); or (2) where the medical examinations are required or necessitated by other law or regulation (e.g., Federal Aviation Administration and Department of Transportation medical certifications, Occupational Safety and Health Act standards)."[14]

This means a motor carrier's reliance on the opinions of the DOT medical professional is a sound practice not only because the DOT-certified physician is authorized and qualified to make such determinations, but also because it allows the motor carrier to comply with the ADA and to avoid potentially discriminating against its drivers on the basis of a medical disability. In other words, the medical certification process established by the DOT allows motor carriers to simultaneously ensure their drivers are physically qualified to drive and stay within the bounds of the ADA.[15]

Application of These Principles in *Cline v. Dart*

In the *Cline* case, it was undisputed that the truck driver was medically certified to drive on the date of the accident. The truck driver had obtained his medical certification in October 2016 and he was not required to obtain another certification until October 2017. Consistent with the regulations and the applicable case law, the motor carrier appropriately relied on the informed results of the DOT medical examination to determine that the truck driver was physically qualified to drive. After the truck driver resumed operation in October 2016, there was no evidence that either the truck driver or the motor carrier was aware of any medical issues that would have prompted the need for additional medical testing. Thus, had the motor carrier required the truck driver to undergo additional medical testing or monitoring, this potentially could have been in violation of the ADA. In any event, neither had any reason to believe on the date of the fatal accident that a heart attack was imminent.

The U.S. District Court for the Northern District of Ohio agreed and granted summary judgment in favor of the motor carrier and the truck driver's estate.[16] The Court reasoned that the truck driver "was medically certified by the DOT – the body vested with authority to determine whether a commercial driver is fit to drive – at the time of the fatal accident."[17] The Court explained that the motor carrier "was entitled to rely on that certification and [that this] reliance . . . was reasonable."[18] In fact, the motor carrier "might have violated the ADA had [it] subjected [the truck driver] to restrictions or further testing."[19] The Court added that "[n]o one, including the DOT-certified medical examiner who cleared [the truck driver] to drive commercial motor vehicles, predicted a heart attack was imminent[.]"[20]

Final Thoughts

When defending against a lawsuit arising out of a truck accident precipitated by a sudden medical event experienced by the defendant truck driver, the FMCSRs can provide a shield for the motor carrier and the truck driver. So long as the motor carrier and truck driver have no actual knowledge of a specific medical condition that would suggest it is unsafe to drive, the medical clearance given by the medical examiner is a key fact that establishes the truck driver was permitted to drive commercial motor vehicles on the date in question. This key fact can exonerate the motor carrier and truck driver from liability for an accident that was not the truck driver's fault.

Endnotes

1 2021 WL 1697913 (N.D. Ohio Apr. 29, 2021).
2 *Cline*, 2021 WL 1697913 at *2.
3 *Roman v. Est. of Gobbo*, 99 Ohio St. 3d 260, 791 N.E.2d 422 (Ohio).
4 *Id.* at ¶ 1.
5 *Id.* at ¶ 52.
6 *Id.* at ¶ 51.
7 *See, e.g., Jones v. Cobbs*, No. 1045 WDA 2020, 2021 WL 2399779 (Pa. Super. Ct. June 11, 2021) (the sudden medical emergency defense "negates negligence and precludes liability where a motor vehicle accident is caused by the defendant's sudden and unforeseeable incapacitation or loss of consciousness"); *Cottrell v. Laidley*, No. 2018-02994, 2021 WL 1398909 (Mass. Super. Mar. 11, 2021) (foreseeability "arises when the operator suffers warning symptoms of a physical failure during the actual operation, but neglects to heed such warnings and continues to operate the vehicle or when the operator suffers from a condition which indicates, from a medical viewpoint, a fairly immediate likelihood that it will result in an attack rendering him unconscious."); *Tanner v. Sherwood*, 98 Mass. App. Ct. 1112, 155 N.E.3d 766 (2020) ("a sudden and unforeseeable physical seizure rendering an operator unable to control [her] motor vehicle cannot be termed negligence."); *Hernandez v. Mishali*, No. 3D19-1544, 2021 WL 1773834 (Fla. Dist. Ct. App. May 5, 2021).
8 *Hensley v. United Parcel Service, Inc.*, 2014 WL 903166 1, 3 (W.D.N.C. Mar. 7, 2014); *see also Harris v. P.A.M. Transport, Inc.*, 339 F.3d 635, 638 (8th Cir. 2003) ("[D]river fitness falls squarely within the regulatory scheme (and substantive expertise) of DOT.") (internal quotations omitted); *Prado v. Continental Air Transport Co.*, 982 F.Supp. 1304, 1308 (N.D. Ill. 1997) ("The court will not abrogate clear congressional intent which vests driver fitness issues in the Secretary of Transportation."); *Mead v. Lattimore Materials Co.*, 2018 WL 807032, *1 (N.D. Tex. Feb. 9, 2018) (medical certification in accordance with the DOT regulations ensures the driver's continuing ability to safely operate a commercial motor vehicle).
9 *See* 49 U.S.C. § 31102(b)(1).
10 49 C.F.R. § 391.41(a).
11 49 C.F.R. § 391.43(f).
12 49 C.F.R. § 391.41(b)(4).
13 *Green v. Pace Suburban Bus*, 2004 WL 1574246 (N.D. Ill. Jul. 12, 2004); *Michael v. City of Troy Police Dept.*, 808 F.3d 304, 307 (6th Cir. 2015) ("An employer's determination that a person cannot safely perform his job functions is objectively reasonable when the employer relies upon a medical opinion that is itself objectively reasonable."); *Campbell v. Fed. Exp. Corp.*, 918 F. Supp. 912, 918 (D. Md. 1996) (motor carriers are entitled to rely on medical professionals' determinations).
14 *Jackson v. Regal Beloit America, Inc.*, 2018 WL 3078760, *8 (E.D. Ky. Jun. 21, 2018) (quoting EEOC Guidance, Part D.18, 21); *see also Nichols v. City of Mitchell*, 914 F. Supp. 2d 1052, 1061 (D.S.D. 2012) ("where an employer develops a suspicion regarding the employee's health, but has no justified concern about employee's ability to perform her job, the ADA prevents the employer from requiring the employee to submit to a medical examination").
15 *See Albertson's, Inc. v. Kirkingburg*, 527 U.S. 555, 119 S. Ct. 2162, 144 L. Ed. 2d 518 (1999) (summary judgment for motor carrier employer was appropriate in ADA case where the motor carrier relied on truck driver's failure to obtain a DOT medical card in its decision to fire the truck driver).
16 *Cline*, 2021 WL 1697913 at *8.
17 *Id.* at *5.
18 *Id.*
19 *Id.*
20 *Id.* at *8.