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Past and Future Driving Evidence: Limited Admission in New Mexico Auto Accident Claims

In auto accidents cases, one might expect that the driving record of the negligent driver would be fully admissible at trial to help show that the person was at fault for the subject accident. Unfortunately, this is not always the case.

For instance, pre-accident driving records are not admissible to show the driver was negligent in the current accident. However, it may be admissible for other purposes such as a negligent entrustment claim. A negligent entrustment claim most often arises where an employer allows an employee with a bad driving record to drive a company vehicle. The company may then be held liable for any injuries or other damages caused by the employee under a negligent entrustment theory.

Post-accident driving records, no matter how bad, are often inadmissible at trial. Neither past driving behavior nor future driving behavior can be used to show the person was negligent in the current auto accident. Neither may future driving be used to prove a habit of bad driving under New Mexico law. Finally, unlike past driving behavior, future driving is not admissible on a negligent entrustment claim.

In order to show negligent entrustment, the company must have known of the employee's negligent driving habits. The company may be held to knowledge of the employee's prior driving behavior. This is the case even if the company does not have direct knowledge but could have discovered the driving history through background checks.

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On the other hand, an employer cannot be imputed knowledge of bad driving habits based upon future driving behavior. Thus, without more, the employer will not be held liable under theories of negligent entrustment for the employee's actions in causing an auto accident. The employer may very well be liable on a number of other grounds, but not by way of negligent entrustment.

In short, though one might expect the driving behavior of a negligent driver to be most relevant evidence to prove fault, there are fairly strict limits on when and for what purpose driving behavior is admissible at trial in a car accident case. The injured person may simply have to rely on other evidence of fault than the driving history or driving habits of the other driver.

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