

# Spanish Train Crash Serves As Warning About Employee Texting

by Donald Scarinci

Employers who do not yet have cell phone policies should look no further than the tragic train crash that occurred in Spain earlier this summer. The train operator was using his cell phone at the time of the high-speed crash that claimed the lives of 79 people.

Given the proliferation of the cell phone, workers are understandably tempted to remain "connected" while on the job. At the same time, business more frequently occurs outside of the office via smart phones and other technology. A recent National Highway Traffic Safety Administration survey revealed that drivers cite work-related communications as a reason to use cell phones while driving.

While cell phones may improve productivity, cell phone use behind the wheel not only increases the injury risk for employees, but also could result in [employer liability](#). Under the doctrine of respondeat superior, an employer may be held legally responsible for the negligence of its employee, if the employee was acting within the scope of his or her employment at the time of the crash.

In the Spanish train crash, the risk of liability is increased because the train driver was talking to a co-worker at the time of the crash. However, courts have also imposed liability in [distracted driving](#) accidents that occur outside of normal business hours and involve employee-owned vehicles and electronic devices.

Spanish railroad company, Renfe, did not have any prohibitions against cell phone use on the job. To limit the potential for liability, New Jersey businesses should implement and aggressively enforce employee cell phone policies that restrict cell phone use behind the wheel. While New Jersey has some of the strongest cell phone laws in the country, employees must understand that distracted driving can also have consequences in the workplace.

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