

March 9, 2011

Negligent Entrustment Claims in New Mexico Auto Accident Cases Cover a Lot of Ground

When involved in a car accident, among the first task often undertaken is an investigation of the other driver's driving record. It is thought that this evidence will be used at trial to show that the driver was negligent in causing the accident.

In fact, the rules of evidence do not allow the use of prior accidents to show that the driver was negligent in causing the accident. In other words, you cannot use prior negligent behavior to show that the person acted in a similarly negligent manner in causing the accident.

However, the prior accidents and prior driving history may be used for other purposes. Perhaps among the most important and most common use of prior bad driving is to prove a negligent entrustment claim. A negligent entrustment claim essentially states that the defendant was negligent in knowingly allowing a negligent driver to drive the defendant's vehicle.

Negligent entrustment claims can come up in a host of circumstances spanning every situation where an owner of a vehicle allows a negligent driver to drive his or her vehicle. Among the most common are cases where employers allow employees with bad driving records to operate company vehicles.

In fact, these were the facts in the 1991 New Mexico Court of Appeals case of *DeMatteo v. Simon*. In that case, the defendant construction company had allowed a driver with a history of auto accidents and traffic violations to operate its company vehicles. Interestingly, the company acknowledged that that it knew of his many traffic offenses and a number of auto accidents. However, the company denied full knowledge of the employee's rather atrocious driving history stating that he would not have been hired had it been known.

Though the company denied full knowledge of the driver's history, it was clear that the company both had the capacity to conduct a full driving background check and failed to do so. The court stated that the company's knowledge of the employee's questionable driving practices and its failure to investigate further before entrusting him

DISCLAIMER

**Main Office:
400 Gold Ave. SW
Suite 500
Albuquerque, NM 87102
(505) 242-5958**

<http://www.newmexicoinjuryattorneyblog.com/>

with a company vehicle showed an "utter indifference for the safety of others" providing a possible basis for punitive damages against the company.

In the end, the employee's bad driving history was not admissible to show that he was driving poorly at the time of the accident. However, it was admitted to show negligent entrustment which proved far more costly to the company than a simple showing of negligent driving.

Now for the bad news. The case has significance far beyond the facts of the case. As stated, negligent entrustment can arise in a wide variety of situations including allowing teenage family members to drive the family vehicle. Maybe a conversation with the teenage drivers in the house is in order. Sometimes parents must use every tool in their arsenal. Now parents can cite to New Mexico case-law and the possibility of devastating punitive damage awards to support their arguments for safe driving habits.

DISCLAIMER

**Main Office:
400 Gold Ave. SW
Suite 500
Albuquerque, NM 87102
(505) 242-5958**

<http://www.newmexicoinjuryattorneyblog.com/>