

## **Berkley Life Sciences Fleet Safety Newsletter Article Series – Article 4 Are You Evaluating Your Company Drivers?**

In 2012, a company driver rear-ended another vehicle, resulting in the death of the other driver. A jury recently awarded \$22.7 million to the family of the deceased driver and \$12.3 million to another driver injured in the accident.<sup>1</sup> Multiple narcotics were found in the company driver's blood, and it is estimated that he was driving 57 mph in the construction zone where the accident occurred and did not apply the brakes even though traffic was stopped. The driver had a history of speeding tickets.

***Could this be one of your company drivers? What impact would a \$35 million judgment have on your company? What about the impact on your company's reputation should one of your drivers be involved in a fatal accident?***

In addition to pointing out the need to have a solid drug and alcohol testing program in place, this case highlights the importance of ongoing monitoring of employee driving records and their compliance with fleet safety policies. Some practices that may have helped to identify and address problems with this driver include:

1. Establish criteria for acceptable motor vehicle records for your drivers and check the driver's Motor Vehicle Record (MVR) upon hire and periodically throughout the course of employment. Typically, strong policies will name violations that are not tolerated (for example, DUI, reckless driving, suspension or revocation of driver's license, multiple speeding violations). *A driver with a history of speeding tickets would have been identified as having an unacceptable driving record under this type of policy.*
2. Ensure that drivers acknowledge in writing that they understand and will comply with the company fleet policy, including all required vehicle safety rules. *Driver acknowledgment of rules prohibiting aggressive driving (such as speeding) and driving under the influence lets them know that the company will not tolerate these behaviors in their drivers.*
3. Institute a disciplinary action plan, including removal of driving privileges when drivers do not have acceptable driving records or when drivers are not complying with the company policy. *Multiple speeding violations would indicate an unacceptable driving record and non-compliance with a policy prohibiting aggressive driving and would have called for disciplinary action against this driver.*
4. Create reporting requirements for traffic violations, accidents, and revocation or suspension of a driver's license. Drivers should also be required to notify the company when they are unfit to drive for certain health reasons, including medications or illness. *Had this driver reported his multiple speeding violations and, if applicable, lawful use of prescribed narcotics to treat a medical condition, the company could have taken appropriate steps to address the safety issues.*

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<sup>1</sup> Source: Automotive Fleet, <http://www.automotive-fleet.com/news/story/2016/05/jury-awards-22-7m-in-fatal-crash-case.aspx>

Telematics can be used to supplement these practices for evaluating drivers. Tracking devices hard-wired into your vehicles can monitor speed, acceleration, and braking. If these devices are used, your company should have policies for monitoring and evaluation of data and follow-up procedures.

[Berkley Life Sciences Fleet Safety Newsletter Article Series – Article 2](#) covers best practices related to the verification of driver qualifications and acceptable driving records to manage your liability exposures related to your drivers.

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