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# NC Court of Appeals Case Highlights Importance of Post Accident Reviews and Discipline by Company

BLOG | SEPTEMBER 5, 2013

The North Carolina Court of Appeals in *Springs v. City of Charlotte* recently held that the plaintiff was entitled to punitive damages due to the company's failure to adequately train and discipline an employee driver following a series of minor accidents. The minor accidents with which the court was concerned resulted in a combined property damage total of only \$269.08 for the company and \$800 for the third parties. The case highlights the importance of a company's post accident reviews, discipline and corrective training.

The fact pattern in *Springs* arises out of a traffic accident on June 16, 2004. Defendant Napier, employed by Transit Management of Charlotte ("TMOC"), was operating a large bus owned by the City of Charlotte ("City"). Earl Springs, the driver of the van, was travelling with his wheelchair-bound wife, returning from a medical appointment. While the Springs were stopped at a red light, Defendant Napier crashed into the back of the van at a rate of speed between 25 and 45 miles per hour.

Lynda Springs filed suit alleging negligence against the driver, TMOC and the City. She also asserted negligent entrustment, hiring, and retention claims against TMOC and the City.

At trial, the plaintiff argued that TMOC's retention of Defendant Napier constituted willful or wanton conduct. Plaintiff presented evidence that while employed by TMOC, Defendant Napier was involved in four "preventable" accidents from January 6, 2002 through April 6, 2004. These preventable accidents consisted of (1) striking a car waiting at an intersection, (2) striking a utility pole with the side mirror, (3) striking a stopped car in the rear, and (4) forcing a car into the curb.

Plaintiff's mass transit safety expert testified that other than counseling or an interview with Defendant Napier, no intervention took place on the part of Defendants "in terms of assessing what the problems were or trying to correct behavioral deficiencies that seemed apparent." Plaintiff's expert opined that due to Napier's history of preventable accidents, there was a higher risk and a higher probability that he would be involved in additional accidents. The expert concluded that it was, therefore, foreseeable that Napier would be involved in another collision.

In response, defendant TMOC presented evidence that these accidents resulted in minimal losses, with the combined property damage total of only \$269.08 for the City and \$800 for the third parties. However, TMOC's own expert acknowledged on cross examination that Napier's other four preventable accidents violated TMOC's safety and

operating procedures. The expert further testified that the multiple accidents made it likely or foreseeable that a pattern and trend was developing.

All issues were submitted to the jury which returned a verdict in favor of the plaintiff. In addition to a compensatory award of \$800,000, the jury also found that Mrs. Springs was injured by TMOC's willful or wanton conduct and was entitled to recover \$250,000 in punitive damages from TMOC.

Defendants appealed the denial of their motion for judgment notwithstanding the verdict (JNOV), and for a new trial as to punitive damages. In affirming the trial court's denial, the North Carolina Court of Appeals relied solely on the language of North Carolina's punitive damages statute. Pursuant to N.C. Gen. Stat. § 1D-1, the purpose of punitive damages is "to punish a defendant for egregiously wrongful acts and to deter the defendant and others from committing similar wrongful acts." An award of punitive damages requires that the claimant prove compensatory damages and the presence of an aggravating factor – fraud, malice, or willful or wanton conduct. Under the statute, the existence of an aggravating factor must be proven by clear and convincing evidence.

In rejecting TMOC's post-trial motions, the trial court reasoned that the fact Napier "was not terminated and given no or minimal additional training to improve his safety performance . . . creat[ed] an imminently foreseeable risk of injury and a reckless indifference to the rights and safety of Lynda Springs and other citizens on the highways of Mecklenburg County." Based upon evidence of the previous accidents and the experts' testimony, the North Carolina Court of Appeals affirmed the trial court and held that the evidence "cannot be said to be insufficient as a matter of law to get the issue of punitive damages to the jury."

The *Springs* case highlights the importance of meaningful post accident reviews, discipline, and corrective training. In order to successfully defeat a claim of punitive damages after *Springs*, a company may need to prove that it engaged in more than just "counseling or an interview" with a driver following an accident, however minor.

**About the author:** David Senter's practice focuses on the field of complex civil litigation, with an emphasis on the defense of trucking and transportation, product liability, and insurance defense cases. For questions about this article, please contact David.

***Lynda Springs v. City of Charlotte, et al.*, — N.C. App. —, 730 S.E.2d 803 (2012), *disc. review denied*, — N.C. —, 736 S.E.2d 756 (2013)**

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#### CONTACT US

Phone: 919-782-6860

Fax: 919-782-6753

#### OFFICE

Young Moore and Henderson, P.A.

3101 Glenwood Ave. Suite 200

Raleigh, N.C. 27612

#### MAILING ADDRESS

Young Moore and Henderson, P.A.

P.O. Box 31627

Raleigh, N.C. 27622-1627