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## Lawyers In The News

### Estate of worker who fell from truck alleged negligence

The decedent, a 35-year-old male, made deliveries on behalf of his employer. The truck in which he was riding was owned by another company and leased to the decedent's employer.

The decedent and two co-workers made a delivery and got back into the truck. The decedent was riding in the right passenger seat next to the door.

#### ADVERTISEMENT

After traveling for approximately 2/10 of a mile, the truck rounded a curve, and the passenger-side door came open. The decedent, who was not wearing his seatbelt and had not closed the door into its fully latched position, was ejected from the truck.

He received multiple head injuries from which he died two days later.

The decedent had served in the U.S. Navy for four years and was honorably discharged. He never

married and had no children. He was survived by his parents.

The owner of the truck was responsible for its maintenance, the plaintiff alleged. Drivers were to complete inspection reports on the truck each day.

Approximately one month prior to the incident, the decedent's employer sent an inspection report to the truck owner, complaining that the passenger side door latch would not stay closed. The truck was sent to the owner's repair facility and later returned to the decedent's employer.

The plaintiff claimed that the defendant truck owner was negligent in failing to properly inspect, maintain and repair the door on the truck.

The defendant truck owner alleged that the decedent was contributorily negligent by failing to properly close the passenger door and by failing to wear a seatbelt.

The plaintiff countered that it was not unreasonable to travel 2/10 of a mile in a loud delivery truck without realizing the door was not completely closed, and that the failure to wear a seatbelt

was inadmissible.

The plaintiff also established that the area in which the decedent was riding at the time that the door came open was a "private vehicular area" in which seatbelts are not legally required.

The investigating officer confirmed that private vehicular areas are akin to parking lots, and that citations cannot be issued for failing to wear a seatbelt in such areas.

**Type of action:** Wrongful death

**Injuries alleged:** Closed-head injuries resulting in death

**Case name:** Confidential

**Case number:** Confidential

**Court:** Confidential

**Verdict or settlement:** Settlement

**Settlement date:** Confidential

**Settlement amount:** \$1.025 million and workers' compensation lien of \$227,341 waived by decedent's employer

**Special damages:** \$227,341 (workers' compensation lien)

**Experts:** Confidential

**Insurance carrier:** Confidential

**Plaintiff's attorneys:** Donald R. Strickland and Karen M. Rabenau of Twigg, Beskind, Strickland & Rabenau (Raleigh)

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