

Linhart v. Heyl Logistics LLC
(U.S. Dist. Ct. Oregon)
No. 1:10 CV-3100-PA
February 1, 2012

Broker, Heyl Logistics, was found liable for negligent hiring of the motor carrier, Washington Transportation. At the time of the accident, the driver, Clarey, was employed by Range Transportation. The driver fell asleep at the wheel and hit Linhart, who was standing outside of his truck on the shoulder of the road. The shipper was Nestle and the driver was hauling a load of water bottles from California to Oregon. The broker, Heyl Logistics, was operating under contract with Nestle which provided in part that Heyl needed the consent of Nestle before hiring any motor carrier. The terms of the contract were not followed. The contract further stated that Heyl agreed to be solely responsible “to ensure that all carriers hired by Heyl were in compliance with all applicable federal, state and local laws, rules and regulations.” As prior case law has shown, the word “ensure” is generally meant to mean “guaranty”. In effect, Heyl guaranteed that carriers it hired would be in compliance with applicable federal, state and local laws. This is a practical impossibility. Heyl could contractually require the carriers it hires to agree to such terms but it could not “guaranty” such compliance. Heyl entered into a contract with I&J Transportation. I&J entered into a Subhaul Agreement with Range Transportation. Range would haul for I&J under I&J authority. Many loads were brokered in this manner. In June 2008, Heyl learned that I&J was not operating its own equipment and terminated the agreement. Forest Rangeloff, one of the owners of Range, notified Heyl that it was now operating under authority of Washington Transportation, which was operated by his twin brother, Eric. Heyl notified the owner of Washington Transportation, Eric Rangeloff, of a vetting process needed before loads would be assigned. The process included obtaining a copy of Washington’s USDOT permit, a copy of their insurance certificate, and signing a Broker/Carrier Agreement. On July 22, 2008, Washington provided the requested documents. Heyl was not named as a certificate holder on Washington’s insurance. At the time Washington was hired, it was operating under a 2004 operating authority and had six days left on its insurance certificate before expiration. A Broker/Carrier Agreement was signed by Forest Rangeloff on behalf of Washington Transportation. Brother Eric later denied Forest had authority to sign on behalf of Washington.

While operating under the Washington certificate, payments were made payable to both Washington Transportation and Range Transportation. As you can see, the arrangements were at best, “muddy”. Prior to the accident, Washington’s operating authority was “revoked”, however it was

allowed to continue to operate under a cease and desist order while a payment schedule was worked out for various fines. A payment schedule was never consummated. In July 2008, prior to the accident, Washington's insurance certificate expired, and its operating authority was ultimately revoked. Heyl apparently kept poor records and it could not prove that at the time it hired Washington, Washington's authority was in effect and that its insurance was valid. According to the Court, the essential question was whether Heyl was negligent when they hired a sub-carrier (Washington) without federal operating authority and without insurance and without checking the safety ranking. On the date of the accident, Clarey was driving for Washington Transportation, although he was an employee of Range Transportation. The accident occurred on September 25, 2008. During the investigation, the driver admitted to using methamphetamine one or two days prior to the accident. He pleaded guilty to negligent homicide and driving under the influence and was sent to jail. The tractor involved in the accident had I&J written on the doors but was owned by Range Transportation. The USDOT number was in the name of I&J. Heyl claimed that they thought that the load had been given to Washington Transportation. Jury instructions included, "Plaintiff must prove by a preponderance of evidence that Heyl was negligent in assigning the load to Washington through Forest Ranglehof, owner of Range Transportation, and that the negligence of Heyl caused the accident resulting in Linhart's death." If the jury found negligence on the part of Heyl, it had to decide the comparative fault between Clarey, the driver, and Heyl. Heyl, on the other hand, had to prove by preponderance of evidence that I&J was at fault and then assign comparative fault.

The decision of the jury was sealed by direction of the Court. However, press releases claimed the total verdict was \$5.2-million. Further investigation revealed that compensatory damages were awarded in the total amount of \$50,000 and that Heyl was held liable for 20% of it, namely \$10,000. The jury found Heyl liable for punitive damages in the amount of \$1.67-million, which is about 32% of the total \$5.2-million. Thus, the driver was held liable for \$3.53-million. Court papers indicate that at the end of the case, Heyl was dismissed with prejudice which means there was a settlement. Heyl apparently had some insurance, and Heyl was the only party which had any financial resources. Ironically, under Oregon state law, 70% of punitive damages awards goes to the state, thus Plaintiff's attorney is certainly interested in early settlement.

Because Heyl maintained poor records of its carrier qualification process, it had no records of the Federal Motor Carrier Safety Administration screen which showed the carrier's status as of the date of hiring. Under a Freedom of Information Act action, Plaintiff's attorney was able to find the "screens"

maintained by the FMCSA two weeks after the accident, but not at the date of the accident. Two weeks after the accident, the records showed that Washington Transportation's authority had been revoked and its insurance had lapsed.

This is a case where sloppy recordkeeping and all kinds of red flags regarding payment, insurance, who was driving what truck, for what entity all were poorly monitored.

It is no wonder that the jury found Heyl liable for 20% of the compensatory damages and 32% of the punitive damages. Ironically, because Heyl had insurance, the case was settled for far less than the jury verdict indicated, most likely within insurance limits.

The case also illustrates the value of retaining a copy of the carrier status, (active), and insurance (on file and not cancelled) , as shown on the FMCSA website.

Proper use of the TIA Carrier Selection Framework might have saved a life and avoided this unfortunate lawsuit.

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