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TRANSPORTATION LAW UPDATE



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Summary Judgment in I-95 Accident Case

The Delaware County Court of Common Pleas recently entered Summary Judgment in favor of a taxi company and its driver who were represented by Rawle & Henderson LLP.

The case involved a collision that took place on July 26, 2014, on I-95 in the area of exit 8, Ridley Township, Delaware County, Pennsylvania. The accident involved two vehicles: a private vehicle driven by Ryan Coup carrying one passenger, Rachel Romanelli, and a taxi, driven by Kimba Kalilou, which had two passengers, Francisco Martinez and Ivette Baeza.

As a result of the accident, three lawsuits were filed. In one suit, Martinez and Baeza, the passengers in the taxi, sued the drivers of both vehicles and the taxi company. In another suit, Rachel Romanelli, the passenger in the Coup vehicle, sued both drivers and, in the third suit, the taxi driver sued Coup, the driver of the private vehicle. The cases were subsequently consolidated for discovery and trial.

The depositions of the parties revealed that plaintiff Rachel Romanelli and defendant Coup were “bickering” in the car immediately prior to the accident. Romanelli testified that, as a result, Coup was distracted, not paying attention, swerving, and driving recklessly. Plaintiff Romanelli testified that Coup lost control of the car while he was in the left lane, he sideswiped the left guardrail, and then he crossed the four lanes to the right where he struck the taxi.

At deposition, plaintiff Martinez testified that defendant Coup crossed multiple travel lanes, began fishtailing and then struck the taxi, which was trying to brake to avoid contact with Coup’s car. Martinez added that he believed that the taxi was speeding and that the speed of the taxi may have contributed to the accident. However, further questioning established that Martinez was using Facebook when the accident took place.

Plaintiff Baeza testified that defendant Coup entered the lane occupied by the taxi and then struck the taxi. She also added that she felt the taxi was driving “a little too fast.” However, she admitted that she was texting when the accident took place.



Nigel A. Greene

When discovery ended, no party produced an expert report to support a claim that defendant Kalilou was negligent.

On behalf of the taxi company and its driver Kalilou, we filed a Motion for Summary Judgment on the basis that plaintiffs failed to produce evidence to support the claim that Kalilou breached a duty of care. The attorneys for Martinez and Baeza opposed the motion and argued that their testimony regarding the speed of the taxi created a factual issue for the jury as to whether that caused or contributed to the accident.

In Sur Reply, we argued that Martinez and Baeza had no rational basis to determine the speed of the taxi based on their perceptions because none of their perceptions could determine the taxi's speed. The witnesses, who were sitting in the back seat, did not see the speedometer of the taxi.

They did not witness any mile markers or time the vehicle as it was traveling. Instead, the witnesses' testimony is based on their "sensations" while using their phones to use Facebook and send text messages. Such feelings cannot provide a rational bases to determine the speed of a vehicle, much less a rational basis to determine whether that speed exceeded the speed limit. Therefore, their testimony cannot create a genuine issue of material fact because it does not qualify as valid lay opinion testimony under PA. R. Evid. 701(1), which requires lay opinion to have a rational basis in the perceptions of the witness.

The Court subsequently granted the Motion for Summary Judgment in favor of our clients.

Rachel Romanelli v. Phoenix Taxicab Company, Inc., et al, CCP, Delaware County, No. 02016-004202

Nigel A. Greene is a partner in our Philadelphia office. He focuses his practice on the defense of commercial motor vehicle companies and their insurers, municipalities, commercial general liability, and premises liability matters. In addition, he serves as an arbitrator in Philadelphia County. He is admitted to practice in the state courts of Pennsylvania, the U.S. District Courts for the Eastern and Middle Districts of Pennsylvania and the U.S. Court of Appeals for the Third Circuit. He received his J.D. from Georgetown University Law Center in 1994 and his B.A. from the Virginia Polytechnic and State University in 1989. He currently serves as Vice-Chair of the ABA Tort Trial and Insurance Practice Section (TIPS) Commercial Transportation Litigation General Committee. This is the third one-year term that Nigel has served in this position. He is a member of the American Bar Association and the Trucking Industry Defense Association.

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NEW ADDITION

David J. Napiorski has joined our Commercial Motor Vehicle Section in Philadelphia as an associate. He concentrates his law practice in the areas of commercial motor vehicle defense, premises liability, product liability, commercial litigation and employment relations. David earned his J.D., *cum laude*, from Rutgers University School of Law in Camden, New Jersey, in 2014. While attending law school, David served as a Senior Notes Editor on the *Rutgers Journal of Law & Public Policy* and as a judicial extern to the Hon. L. Felipe Restrepo of the U.S. District Court for the Eastern District of Pennsylvania. He also worked for the Rutgers Children's Justice Clinic and served as an Equal Justice Works Summercorps Fellow for the Education Law Center in Philadelphia. David earned an M.S. degree in Education & Education Policy, *cum laude*, from the University of Pennsylvania in 2009. He was a high school English and Social Studies teacher in the School District of Philadelphia from 2009 to 2011.



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