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## Taxi Cooperative Held Responsible for Taxi Driver's Negligence

By Matthew Trostler, Esq.

Emanuele Secci was awarded more than \$330,000.00 after a jury determined that a taxi driver was negligent in causing a motor vehicle accident. The main issue before the court was whether the taxi company could be held responsible for the negligence of the taxi driver. The jury found that the driver was an agent of the taxi company and, therefore, the company was found vicariously responsible for the acts of the driver. The trial judge agreed with defense counsel that there was insufficient evidence for the jury to determine that the driver was either an agent or an employee of the company and granted the taxi company's motion for judgment notwithstanding the verdict.

On appeal, Secci claimed there was substantial evidence of agency to support the verdict. The court of appeal agreed and reversed the trial judge. Although the jury determined that the driver was not an employee of the company, the court of appeal noted that the taxi company controlled significant aspects of the driver's work and therefore there was sufficient evidence to find that the driver was an agent of the company, even though the driver was classified as an independent contractor.

There is precedent for holding that an independent contractor can ostensibly act as an agent of another. For example, trucking companies have been held responsible for the negligent acts of independent contractor drivers based on regulations from the Department of Transportation and various state laws. Other common carriers have been held vicariously liable for the negligent acts of independent contractor drivers when transporting hazardous materials or simply driving large vehicles on public highways.

There is also precedent for holding taxi companies liable for the acts

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of independent contractor drivers. In 1991, a driver was determined to be an "employee" for worker's compensation purposes as there was sufficient evidence of control over the driver by Yellow Cab. In 2008, the National Labor Relations Board determined that an employer/employee relationship existed between another cab company and cab driver due to the significant exercise of control over the driver.

In the *Secci* case, the court noted that the driver was provided a manual which was kept in the vehicle, credit card charges went through the company before the money was received by the driver, drivers underwent a training course administered by the company, drivers signed an acknowledgement that their lease could be terminated by the company, the company provided road supervisors in case of accident and all drivers were required to submit reports of accidents. The court also made it clear that even though the Department of Transportation or local municipalities provided rules which the company passed on to the drivers, the jury could analyze that evidence to support an agency finding even if those requirements were not imposed by the taxi company itself. If the jury were not allowed to analyze requirements imposed by public regulators, the court argued that the incentive to be careful would be reduced and that innocent victims would have no financial recourse.

This case is different than the cases involving Uber drivers. The majority of the Uber cases center on whether the drivers were misclassified as independent contractors instead of employees. Here, the primary issue is whether a company can be held vicariously responsible for the negligent acts of an independent contractor. Specifically, the court of appeal held that a jury could review requirements imposed by public regulators as evidence of agency. The court of appeal accepted the jury finding that the taxi driver in the *Secci* case was not an employee of the company. However, the court of appeal has now held that evidence not in control of the company can be used to determine agency against the company.

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