



# Fleet Safety on Trial: Are You Protected from Negligent Entrustment?

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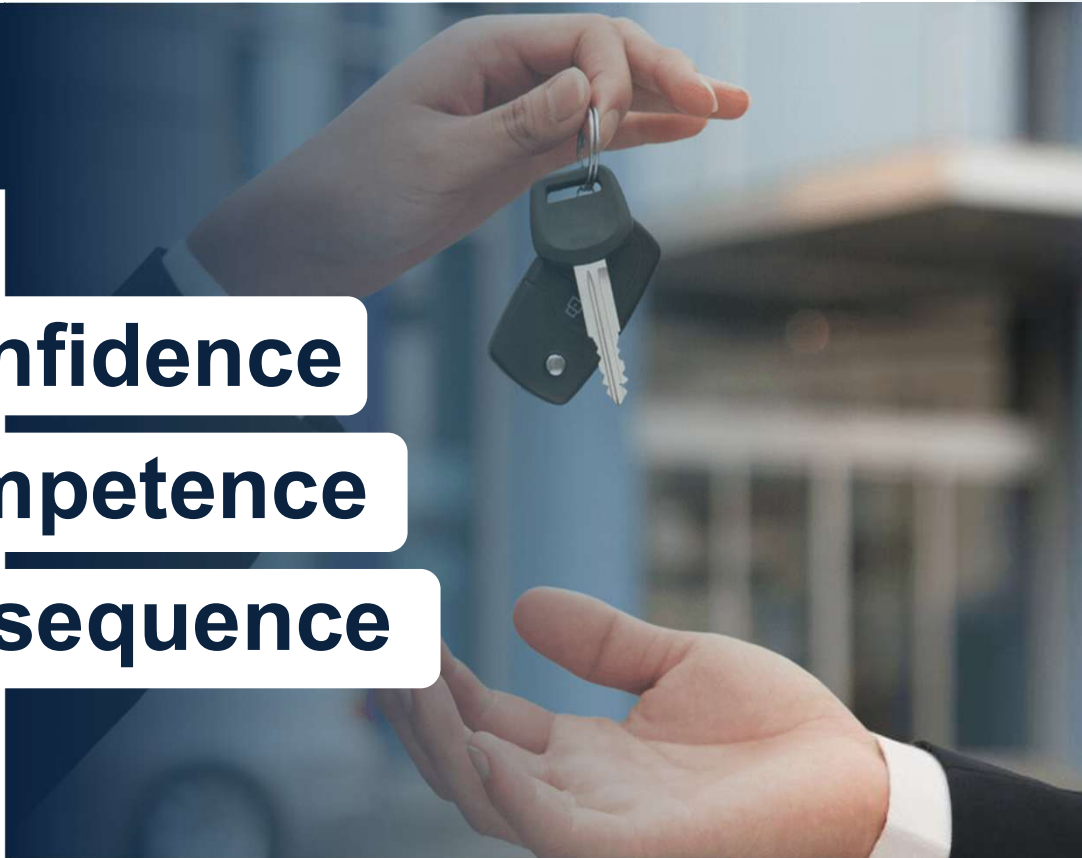




**Confidence**

**Competence**

**Consequence**



## **Agenda**

1. What is Negligent Entrustment?
2. Who is at Risk?
3. Case Study
4. Common Pitfalls
5. Be Prepared

# What is Negligent Entrustment?



“**Negligent entrustment** occurs when an employer or vehicle owner entrusts a company vehicle to an employee or driver whom they knew, or should have known, was incompetent, reckless, or otherwise unfit to operate the vehicle safely, and that entrustment results in injury or property damage.”

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## **Entrustment:**

- Company gave permission or authority to use the vehicle.

## **Unfitness or incompetence:**

- The driver was not capable of operating the vehicle safely

## **Knowledge:**

- Company knew or reasonably should have known of the driver’s unfitness (e.g., bad driving record, DUIs, revoked license, lack of training).

## **Causation:**

- The negligent entrustment was a proximate cause of the accident or damages

# When could my company be at risk?



## **COMPANY OWNED VEHICLES**

When used for business.

## **COMPANY OWNED VEHICLES**

When used for personal business.

## **EMPLOYEE-OWNED VEHICLE**

When used for company business.

## **RENTED VEHICLES**

When used for company business

# Branded Vehicles – Risks



- **Rolling Billboard – Elevated Reputational Risk**
  - Driver becomes the public reflection of your company’s views and values.
  - Photos/news coverage can cause significant brand damage.
- **Rolling Target – Increased Legal & Liability Exposure**
  - Lawsuits often name the company directly, even if ownership or use of the vehicle is disputed.
  - May pursue punitive damages such as negligent entrustment, supervision, or hiring because the brand visibility implies corporate oversight.
- **Higher Settlement & Claim Severity**
  - Jurors and adjusters may perceive branded fleets as “deep pockets.”

# CASE STUDY



# Case Study



## Facts

- A tractor-trailer owned by XYZ Trucking and driven by employee Driver Doe rear-ended a pickup truck.
- The collision resulted in the death of a 33-year-old plaintiff.
- Driver Doe had a poor MVR – prior suspension, 2 moving violations within the last 5 years and 1 DUI 10 years prior
- Driver Doe was operating on a suspended license on the day of the crash.
- Telematics data showed repeated unsafe behavior on the part of the driver that transmitted notices to Safety. XYZ Trucking did not intervene.
- Plaintiff's family/estate sued both the Driver Doe and XYZ Trucking

# Case Study

## Outcome



### **Claim of negligent entrustment brought against XYZ Trucking**

- Company entrusted the tractor-trailer to a driver whose competence, driving record or fitness to safely operate were deficient in ways the company knew or should have known.
- Arguments included both
  - Ordinary negligence
  - Gross/Wanton/Willful misconduct – punitive damages.

### **Verdict / Damages**

- Total verdict: \$5,369,200
- Compensatory damages: ~\$869,200 for wrongful death
- Punitive damages:
  - \$500,000 assessed against the driver (Gross/wanton)
  - \$4,000,000 assessed against XYZ Trucking company for gross/wanton/willful negligent entrustment



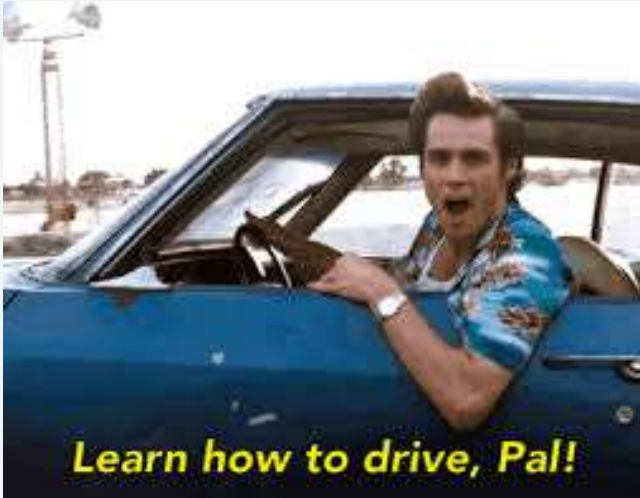
**“Negligent entrustment isn’t about what happened on the road — it’s about the decisions made before the engine started.”**



# Common Pitfalls



# Employer Liability Risks



## **Negligent Hiring**

When an employee causes harm to others and the employer should have known of the individual's potential to cause harm but did not take steps to mitigate the risk (i.e., not hiring the individual).

## **Negligent Entrustment**

Occurs when a person allows an incompetent driver to drive his or her vehicle, and that person causes harm to another person or entity

## **Negligent Training/Supervision**

Employer fails to train or inadequately trains an employee, and the employee then injures another person.

# Let's Start at the Beginning



## 1. Missing or Vague Fleet Safety Policy

- No **written** procedures for equipment or vehicle use
- Lack of **signed** acknowledgments from employees
- Policies exist but are not **communicated, enforced, or documented**.
- Allowing exceptions or “favors” that bypass normal safety protocols.

## 2. Inadequate Driver Qualification Process

- No formal driver qualification or vetting process.
- Assigning vehicles to employees without verifying training, license class, or experience.
- Allowing non-employees, contractors, or unauthorized persons to use company vehicles.
- Assuming leased operators, temp workers, or subcontractors are properly vetted.
- Failing to verify insurance, licensing, or training of non-employee drivers.

# Turning a Blind Eye



## 3. Failing to Check or Monitor Driver Records

- Not reviewing Motor Vehicle Records (MVRs) before assigning a vehicle.
- Skipping annual or periodic MVR reviews.
- No incident tracking or follow-up documentation.
- Lack of evidence management took corrective action when risks were known.

## 4. Ignoring Red Flags

- Continuing to allow a driver to operate after accidents, DUIs, or serious citations.
- Overlooking patterns of moving violations or prior crashes.
- Ignoring suspended, revoked, or restricted licenses.
- Overlooking complaints, near-misses, or internal reports of unsafe driving.
- Failing to act when supervisors or coworkers raise concerns.

# Inconsistency in Training & Monitoring



## 5. Poor or Inconsistent Training

- Failing to provide defensive driving or fleet safety training.
- Not training drivers on vehicle-specific hazards (trailers, heavy loads, or equipment).
- No documented training or retraining after incidents.
- No formal training programs for high-risk tasks
- Minimal oversight of new or temporary workers

## 6. Mismatch Between Policy and Practice

- Having strong written policies but not knowing them or enforcing them
  - F&P Senior Risk Control Advisors can help you craft an accessible and functional Safety Plan that fits your company needs
- Allowing exceptions that undermine safety standards
- Failing to monitor compliance or conduct audits

# Inconsistency in Training & Monitoring



## 7. Assuming Insurance Covers Everything

- Not realizing that punitive damages may not be covered
- Overlooking gaps in coverage for non-owned vehicles or contractors
  - Risk Advisors are a great resource to discuss your needs here

**There is only one thing worse than not having the tools in place - having the tools and not using them.**

# Case Study

## Review



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# Best Practices





To help shield from negligent entrustment claims, companies need to be **proactive, vigilant, and consistent** in how they **manage risk**, especially when entrusting employees with vehicles, equipment, or other potentially dangerous tools.



# Best Practice Recommendations



## 1. Smart Hiring & Screening

- Conduct thorough background checks including Motor Vehicle Records (MVRs), criminal history, and license verification
- Use standardized evaluation criteria for driver qualifications and risk profiles
- Require signed disclosures and consent forms for record checks

## 2. Policy Development & Enforcement

- Create a formal fleet safety policy that defines business vs. personal use of vehicles. Have the employee sign and acknowledge this.
- Establish written procedures for selecting, training, and supervising employees who handle high-risk tools or vehicles
- Include disciplinary protocols for violations, with progressive consequences

# Best Practice Recommendations



## 3. Driver Oversight & Vehicle Management

- Review MVRs annually or more frequently
- Use telematics to monitor driving behavior (speeding, harsh braking, etc.)
- Maintain vehicles regularly with documented inspections and repairs
- Restrict use of company vehicles to authorized, qualified personnel only

## 4. Training & Education

- Provide initial and ongoing training for all employees handling dangerous equipment or vehicles
- Conduct toolbox talks and refresher sessions on safety, defensive driving, and emergency procedures
- Educate supervisors on spotting red flags and enforcing policies.

# Best Practice Recommendations



## 3. Documentation & Audits

- Keep detailed records of training, inspections, policy acknowledgments, and disciplinary actions
- Conduct regular audits of fleet operations, employee qualifications, and compliance
- Respond to telematics alerts and BASIC safety measurement system data promptly

## 4. Legal & Insurance Safeguards

- Review insurance policies regularly to close gaps (e.g., non-owned vehicle coverage)
- Consult legal counsel to tailor contracts to your company's needs, your state's laws and industry risks



**QUESTIONS?**



# Thanks!

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