

COMMERCIAL TRUCK DRIVERS HAVE DUTY TO PARK SAFELY, NOT JUST LEGALLY

In *Connie B. Lawson v. Safeway Inc.* (191 Cal. App. 4th 400), a large Safeway commercial truck was parked legally on the side of U.S. Highway 101 (“101”) close to an intersection. The tractor trailer blocked the view of oncoming traffic for a driver of a pickup truck attempting to cross and turn onto the 101. This pickup truck then collided with two motorcyclists (plaintiffs) who were traveling on the 101. Plaintiff sued for personal injuries against Safeway, the commercial truck driver, the pickup driver, and the State of California. A jury awarded substantial damages to the plaintiffs and apportioned 35 percent fault to Safeway and the commercial truck driver, 35 percent to the State of California, and 30 percent to the pickup driver.

On appeal, both Safeway and the commercial truck driver claimed that he did not owe a duty of care to the plaintiffs because he parked in an area that was not prohibited by the *Vehicle Code* or any other statute or ordinance. The Court of Appeal upheld the judgment for plaintiffs, holding that the risk of harm was great enough to allow a jury to determine whether the commercial truck driver bore some responsibility for the accident based on where he had parked.

The Court ruled that the principal consideration in deciding whether a duty is owed is the foreseeability of the harm. This foreseeability is not to be limited to what is “more probable than not,” but instead is expanded to include whatever is likely enough in the setting of modern life that a reasonably thoughtful person would take account of it in guiding practical conduct. At the same time, the Court noted that it must also be mindful of the extent of the burden to defendants and consequences to the community of imposing the duty at issue.

It is an inevitable, everyday aspect of today's driving that other drivers' views will be blocked by the myriad of SUV's, vans, and large trucks on the road. However, the Court was persuaded that a duty to park safely, as well as legally, arose in this case because the parked vehicle in question was a 65-foot long, 13½-foot tall, and 8½-foot wide commercial truck. The evidence also showed that: the drivers of such commercial trucks are specially licensed, and are professionally trained to be aware of the risk of blocking other drivers' sight lines when parking; the truck was parked at a high-speed, well-traveled intersection; and a safe parking spot was available *right around the corner*.

Under these circumstances, the Court concluded that the jury was allowed to determine whether the commercial truck driver bore some responsibility for the accident. Thus, businesses who employ such drivers must train them to avoid parking company vehicles in a way that is unsafe for other drivers, even if otherwise legally parked, and to find safe and appropriate parking spaces based on their particular surroundings.