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Breaking the Independent Contractor Shield: The Amazon Logistics Personal Injury Case

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This is an unfortunate but timely personal injury case involving a minor where Amazon Logistics, Inc. ("Amazon Logistics") was a Defendant. The accident occurred in Gwinnett County, Georgia, part of the Atlanta metropolitan area. The case was filed in the Gwinnett County State Court and is titled *Civil Action File No. 22-C-07003-S2, Philip Bradfield, individually and as father and natural guardian of minor Gabriel Bradfield, Plaintiff, vs. Amazon Logistics, Inc., Thompson & Carter Entities, LLC D/B/A Fly Fella Logistics and Jowann Cowan, Defendants.*

The jury returned a verdict on August 15, 2024, in the amount of \$16,206,680.92 against all Defendants allocated proportionately. A month later the case was settled.

Background

Amazon Logistics is a subsidiary of Amazon that contracts with third-party entities known as Delivery Service Providers ("DSPs") which in turn enter into independent contractor agreements or employee drivers with drivers to deliver Amazon packages. Amazon Logistics offers start-up financial assistance to DSPs and tightly regulates the services provided by them, such as delivery schedules. Amazon Logistics is not involved in the employment of drivers or the maintenance of equipment. However, DSPs are contractually required to adhere to performance metrics and other guidelines imposed by Amazon Logistics.¹

The incident here occurred in Tyrone, Georgia, on October 10, 2022. Defendant Jowann Cowan ("Cowan"), an employee/independent contractor of DSP Thompson &

Carter Entities, LLC D/B/A Fly Fella Logistics ("Fly Fella Logistics") was driving a delivery van on a residential street when he witnessed several unsupervised children in the street. Upon seeing these children, Cowan stopped the van and waited until the children moved to the left side of the street. Once the children were on the left side of the street, he looked both ways and then, after perceiving that his pathway ahead was clear, accelerated forward at a slow rate of speed, never exceeding five to ten miles per hour. At the same time Cowan decided to accelerate forward, 8-year-old Gabriel Bradfield ("Gabriel") unexpectedly entered the street riding a motorized Razor Dirt Rocket MX350 ("motorized bike"). As this occurred, the delivery van made contact with Gabriel and the motorized bike. The motorized bike was owned by someone who was not a Defendant and was kept in an unlocked garage.

Gabriel was run over and dragged for 21 feet by the van. The injuries he sustained were: a broken pelvis and a severe degloving injury to his leg, which required multiple surgeries, including skin grafts. Gabriel has regained use of his leg, but the scarring is permanent.

The Lawsuit

The evidence adduced in discovery indicated that Cowan was adequately vetted prior to being hired by Fly Fella Logistics, was properly trained on what is known as Amazon Logistics' REPS and Checks Driving System², and was adequately supervised. Before Fly Fella Logistics hired him, Cowan passed a background check, a motor vehicle records check, and a drug test. Before he began driving for Fly Fella Logistics, Cowan completed a training program. The training included information about how to deal

with pedestrians in a subdivision like the circumstances of the accident in this case.

Plaintiff argued that control over its delivery service partners by Amazon Logistics was so significant and effectively made Amazon Logistics the driver's employer. The DSP program, launched in 2018, was designed to expand Amazon's delivery network while reducing costs and increasing efficiency. Under this program, Amazon Logistics contracts with small, independent companies that manage the last-mile delivery of packages to customers.

Each DSP is required to follow rigorous guidelines set by Amazon Logistics. These include mandatory training for drivers, using proprietary apps such as the Amazon Flex app for managing deliveries, and adherence to the performance metrics of Amazon Logistics. DSPs must also maintain insurance coverage with Amazon Logistics named as an additional insured and meet standards for vehicle registration and maintenance. Furthermore, Amazon Logistics provides financial incentives to DSPs to become "Amazon-branded," meaning they use Amazon-branded vehicles and uniforms. In return, these DSP's earn higher rates per delivery.

Trial and Broader Implications

At trial, Plaintiff presented evidence showing that Amazon Logistics DSPs set delivery quotas and monitored driver performance through its apps. Plaintiff also

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contended that Amazon Logistics did not provide adequate training to drivers regarding safety in residential areas where children are likely to be present.

Defendants first contended that the driver acted reasonably and that the responsibility for the accident lay with Gabriel's father and a neighbor who was supposed to be supervising the children. They argued that Gabriel should not have been riding an electric bike intended for teenagers and that the accident would never have occurred if proper supervision had been in place.

At trial, Plaintiff presented evidence showing that Amazon Logistics DSPs set delivery quotas and monitored driver performance through its apps. Plaintiff also contended that Amazon Logistics failed to ensure sufficient training to drivers regarding safety in residential areas where children are likely to be present. Plaintiff presented a reenactment that demonstrated that Gabriel would have been visible to the driver.

After a four-day trial, the jury returned a verdict that allocated 85% of the responsibility to Amazon Logistics for negligent training, 10% to Fly Fella Logistics and its

driver, and 5% to a non-party neighbor who was supposed to be supervising the children. The total award of \$16,206,680.92 included \$16 million for Gabriel's pain and suffering and just over \$206,000 for his past medical expenses.

Amazon Flex

As an aside, Amazon Logistics has another in-house logistics program known as Amazon Flex, an app-based system where Amazon Logistics directly recruits and manages third-party drivers. In *Amazon Logistics, Inc. v. Labor & Indus. Review Comm'n*, 407 Wis. 2d 807 (Wis. Ct. App. 2023), 992 N.W.2d 168 (2023 WI App.), appeal dismissed, 2024 WI 15, 4 N.W.3d 294 (WI 2024), Amazon Flex drivers were classified as employees rather than independent contractors. This distinction highlights the ongoing challenges logistics companies face in defining and maintaining independent contractor relationships amid evolving legal scrutiny.

Conclusion

This case is among the first in Georgia, and one of the first nationally, to address Amazon's liability concerning its delivery

partners' drivers. This case underscores the growing scrutiny plaintiffs' attorneys are placing on the operational realities behind independent contractor relationships. By examining factors such as delivery quotas, performance metrics, and mandatory training programs, they argue that companies like Amazon Logistics exert sufficient control to create an agency relationship with their contractors, potentially exposing them to significant liability.

As courts and regulators continue to evaluate these relationships, logistics companies may need to reassess their practices to balance operational efficiency with compliance and liability concerns. Whether this leads to industry-wide changes or legislative action remains to be seen.

As I have indicated in this publication previously, I believe that the only solution to this control versus independent contractor conundrum for motor carriers is federal pre-emptive legislation. Such legislation would confer independent contractor status on any driver who owns or leases the power unit, regardless of any indicia of control by the motor carrier.³

Endnotes

- ¹ See <https://logistics.amazon.com/>.
- ² An Amazon driver's "REPS and Checks" driving system refers to the company's method of monitoring and evaluating their delivery driver's behavior behind the wheel through a combination of in-vehicle technology, primarily the "Mentor" app, which tracks various driving metrics like acceleration, braking, cornering, seatbelt usage, and potential distractions, essentially assigning a "score" to each driver's driving performance based on their actions on the road; this system is designed to promote safe driving practices and identify areas where drivers might need additional training or feedback.
- ³ See Popowski, David, *A Proposal to Solve the Independent Contractor/Employee Classification Problem in the Trucking Industry*, *The Transportation Lawyer*, July 2015, Volume 17, Number 1.