

SOUTH CAROLINA Lawyers Weekly

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Jury returns eight-figure damage award in crash – \$44.63 MILLION VERDICT

Online retailer Amazon.com's Delivery Service Partner Program is a network of independently owned businesses that provides "last mile" delivery of packages to Amazon's customers. Amazon vets, selects, and contracts with DSP members, who hire "delivery associates" who drive the delivery vehicles and turn packages over to the customers.

Amazon owned the van that Kevin Blekicki, the delivery associate, was operating on a route designed by Amazon when it collided with plaintiff's motorcycle in September 2021.

At trial, counsel for Amazon argued that the independently owned delivery service partner and the delivery associate were independent contractors and not agents of Amazon.

Plaintiff's counsel argued that Amazon controls and directs nearly every aspect of the delivery service partners and delivery associates' work, assigns packages to the routes and consistently monitors delivery associates' driving for issues such as speeding, hard braking, cornering and distracted driving using Amazon-required mobile technology.

Through discovery, plaintiff's counsel learned that the delivery associate had more than 90 counts of distracted driving as recorded by the Amazon-required software and reported to Amazon in his five months of employment before the collision.

A forensic review of the driver's cell-phone records on the date of the colli-



sion revealed extremely high data usage. A digital forensics expert testified this was consistent with viewing high resolution videos, including at the time of the crash. The forensic imaging of the phone also revealed numerous other instances of distracted driving, including posts on his social media accounts depicting him filming videos while operating a moving vehicle; access to adult entertainment websites; and a significant YouTube watch history.

The jury found that Amazon was vicariously liable for the acts of the delivery service partner and delivery associate and was grossly negligent in the hiring, supervision and retention of the associate given what was or should have been known about his driving habits.

The jury awarded \$11.11 million in economic damages, \$3.3 million in noneconomic damages, and \$30 million in punitive damages against Amazon. Jurors also awarded \$175,000 in punitive damages against the delivery associate and \$50,000 against the delivery service provider.

Action: Vehicle collision and principal-agency relationship

Injuries alleged: Traumatic brain injury and numerous orthopedic injuries, including a massive rotator cuff tear, multiple transverse process fractures and annular bulges of the lumbar spine, and cervical disc protrusion ultimately necessitating a cervical fusion procedure and the placement of two permanent spinal cord stimulators.

Case name: Shannon Shaw v. Amazon.com Inc., Amazon.com LLC, MJV Logistics, Kevin Anthony Blekicki, Amazon Logistics Inc. and Amazon.com Services Inc.

Court/case no.: Dorchester County Common Pleas Court / 2021-CP-18-02173

Judge: Maite Murphy

Amount: \$44.63 million

Highest offer: \$1.25 million

Date: Dec. 7, 2023

Most helpful experts: Scott Green, digital forensics, Sara Lustig, LCP; and Tricia Yount, economist (for the plaintiff)

Attorneys: David B. Yarborough Jr., Alexandra Heaton and William E. Applegate IV of Yarborough Applegate Law firm, Charleston, and Nicholas "Nick" Clekis of Clekis Law Firm, Charleston (for the plaintiff); Jeremy Stephenson and Rebecca Rayner of Wilson Elser Moscowitz and Dicker (for Amazon) and Francis Ervin of Rogers Townsend and Thomas (for MJV Logistics and Kevin Blekicki)