CARLOCK COPELAND
CIVIL LITIGATION

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Editorial Staff

Eric Frisch, Partner
efrisch@carlockcopeland.com

If you have questions or comments, contact: efrisch@carlockcopeland.com.

The Computer Fraud and Abuse Act

How Employers Can Use an Anti-Hacking Statute to Prevent Employee Theft

By: William P. Jones and John L. Bunyan

The Federal Computer Fraud and Abuse Act imposes criminal penalties and creates civil causes of action for damages against individuals who access improperly the computers of the Federal government, financial institutions, and other businesses in interstate commerce. The Act was intended to stop computer hackers looking to steal government secrets or banking account numbers. But courts have increasingly been confronted with questions of how the Act applies to current and former employees who have taken documents or information from their employer's computers.

The ambiguity comes from the Act's broad prohibition against anyone who "knowingly and with intent to defraud, accesses a protected computer without authorization, or exceeds authorized access."[1] An outside hacker with no relationship to an employer would clearly violate this language if he accessed an employer's computer system. It is a more difficult question, however, when a current employee who is authorized to access an employer's computer system uses that access to take customer information or other data. There is currently a split in the Federal courts as to whether this employee "exceeds authorized access" under the Act in that scenario.

Some courts, including the Eleventh Circuit, have concluded that an employee "exceeds authorized access" if he accessed his employer's computer in violation of the employer's established policy on permissible uses.[2]

Continued next page

Along with non-compete agreements and laws protecting trade secrets, the Computer Fraud and Abuse Act gives employers another tool to use to keep their client and other confidential information from ending up in the hands of rival businesses or, even worse, criminals.

In *United States v. Rodriguez*, the defendant used his access as an employee of the Social Security Administration to obtain personal information on numerous women from its databases. The Social Security Administration had an established policy that prohibited employees from obtaining information from its databases without a business reason, informed its employees of this policy through mandatory training sessions and posted notices, and required its employees annually to sign acknowledgment forms after receiving the policies in writing.[3] The Eleventh Circuit concluded that the defendant exceeded his authorized access in violation of the Act because the Social Security Administration had an established policy that use of its databases to obtain personal information was authorized only when done for business reasons and the defendant had conceded that his access of the victims' personal information was not in furtherance of his employment duties.[4] The Eleventh Circuit further noted that the defendant's use of the information was irrelevant to whether he violated the Act if he obtained the information without authorization or as a result of exceeding authorized access.[5]

Other courts have interpreted the phrase "exceeds authorized access" more narrowly to apply only where an employee accesses files and data that his computer privileges do not allow him to access.[6] For example, in *United States v. Nosal*, the defendant convinced workers at an employer that had a policy that forbade disclosing confidential information to use their computer privileges to download client information from a confidential database and transfer it to him.[7] The Ninth Circuit concluded that an employee "exceeds authorized access" when he is authorized to access only certain data or files but accesses unauthorized data or files, not where the employee has unrestricted access to a computer but is limited in the use to which he can put the information.[8] The Ninth Circuit expressed concern that the government's construction of the Act would expand its scope far beyond computer hacking to criminalize any unauthorized use of information obtained from a computer, such as checking personal e-mail or reading the news.[9] The *Nosal* court also expressly disagreed with decisions such as *Rodriguez* interpreting the Act to cover violations of corporate computer use restrictions because they failed to consider the effect on millions of ordinary citizens caused by the Act's definition of "exceeds authorized access" and ignored the established principle to construe ambiguous criminal statutes narrowly. [10]

This split in the circuits on when an employee "exceeds authorized access" under the Act seems destined for a resolution by the United States Supreme Court. In the meantime, employers in Georgia can take advantage of the Eleventh Circuit's broad interpretation of the Act to deter disgruntled employees from using their computer privileges to access and steal valuable client information. Employers should establish a broad written policy prohibiting employees from using their computer privileges to access or obtain information from its databases for a non-business reason, distribute a written copy of the policy to all employees that warns them that they may face criminal penalties and civil liability if they violate it, and require all employees to sign a statement stating that they received a copy of the policy. Along with non-compete agreements and laws protecting trade secrets, the Computer Fraud and Abuse Act gives employers another tool to use to keep their client and other confidential information from ending up in the hands of rival businesses or, even worse, criminals.

Resources

1. 18 U.S.C. § 1030(a)(4).

2. United States v. Rodriguez, 628 F.3d 1258 (11th Cir. 2010) cert. denied, 131 S. Ct. 2166 (U.S. 2011); United States v. John, 597 F.3d 263 (5th Cir. 2010); Int'l Airport Centers, L.L.C. v. Citrin, 440 F.3d 418 (7th Cir. 2006).

3. Rodriguez, 628 F.3d at 1260.

4. Id. at 1263.

5. Id.

6. Nosal, 676 F.3d at 856..

7. O.C.G.A. § 9-3-26 (2013).

8. Id. at 856-57.

9. Id. at 859-60.

10. Id. at 862-63.

William P. Jones
Partner
Commercial Litigation, Construction Litigation and Employment Law
404.221.2232
wjones@carlockcopeland.com

John L. Bunyan
Partner
Commercial Litigation and Appellate Law
404.221.2305
jbunyan@carlockcopeland.com

Carlock Copeland in the Community

Charleston Office Makes 30 Christmas Wishes Come True

The Carlock, Copeland & Stair Charleston office supported the **HALOS Angel Tree** this year. HALOS's primary goal is to provide resources and special opportunities to abused and neglected children. The office fulfilled more than 30 HALOS children's Christmas wishes, and the outpouring by the entire office was overwhelming.

Team effort, from the collection of funds to the purchasing and wrapping of the gifts, was another reminder of how fortunate we all are and what a wonderful family we have in the Charleston Office.

Firm News & Notes

CARLOCK, COPELAND & STAIR OPENS CHATTANOOGA OFFICE

Our Firm has opened a new office in Chattanooga, TN to complement offices in Atlanta, GA and Charleston, SC.

Angela C. Kopet has joined the Firm and will be leading the expansion as Managing Attorney for the Chattanooga office. Angela, a Top Rated Lawyer by *The American Lawyer* magazine and Martindale-Hubbell® in Georgia and Tennessee, will guide existing clientele into expanded relationships across the Southeast, providing cost and productivity benefits, and strengthening relationships with existing Carlock Copeland counsel. In addition, she will establish new connections in Tennessee and work to bring the Firm's legal services to an expanded base of businesses, insurers and insureds. Angela will be assisted by Carlock Copeland attorneys currently licensed in Tennessee.

"Our Firm will celebrate 45 years in January, and it's exciting to reach that benchmark with a new office, new opportunities and a future focused on growth and service," says executive committee member Michael Ethridge. "When I met Angela at an industry event, her enthusiasm, professionalism and experience demonstrated that she would be an ideal leader for our new office and could play a significant role in our Firm growth overall. Our 45th may just be our best year yet."

Angela C. Kopet has practiced in the area of general liability defense and insurance coverage since 1995. She successfully defends corporations, insurers and insureds in a wide variety of litigation matters in local and appellate courts throughout Georgia and Tennessee as well as Federal courts in both states. She is also licensed in Washington D.C.

CHARLESTON OFFICE WELCOMES THREE NEW ATTORNEYS

Carlock, Copeland & Stair, LLP welcomes three attorneys, William J. Farley III, Steven R. Kropski and Alexandra Saber, to their Charleston office.

William J. Farley III's practice is focused primarily in the areas of medical malpractice, automobile and motor carrier accidents, and commercial litigation. Prior to joining Carlock Copeland, Will practiced in North Carolina and focused on the areas of workers' compensation defense, general civil litigation, and business transactional law.

Steven R. Kropski concentrates his practice in the area of professional malpractice defense, and construction and commercial litigation. Prior to joining Carlock Copeland, Steve practiced with a prominent business law firm in Buffalo, New York.

Alexandra Saber practices general civil litigation, including construction litigation and the representation of design professionals, contractors and subcontractors. Prior to law school, Alex attended the University of North Carolina at Chapel Hill, majoring in Political Science. Alex graduated cum laude from the University of South Carolina School of Law in 2014. During law school, Alex earned a Cali Award in Advanced Legal Writing and served as the Associate Editor in Chief of the South Carolina Law Review.

WERDESHEIM SELECTED AS LEGAL ELITE BY GEORGIA TREND

Partner **Peter Werdesheim** was recognized as one of Georgia's top attorneys in the area of General Practice/Trial Law in Georgia Trend's annual Legal Elite list. Georgia Trend compiles the Legal Elite list by tallying ballots that are sent to every practicing lawyer in the state. Pete practices in commercial litigation with an emphasis on professional liability and real estate matters.

WETMORE RE-ELECTED TO SCDTAA BOARD OF DIRECTORS

Sarah Elizabeth Wetmore of our Charleston office was recently re-elected to the Board of Directors for South Carolina's state legal defense organization, the South Carolina Defense Trial Attorneys' Association. This will be Sarah's second term as a Board member. She is the first attorney from Carlock Copeland to be elected to the SCDTAA Board.

SPRINKLE NAMED GENERAL COUNSEL FOR CARLOCK, COPELAND, & STAIR

Carlock, Copeland & Stair congratulates **Shannon M. Sprinkle** on being selected to serve as the Firm's General Counsel.

As General Counsel, Shannon will be responsible for the overall management of legal concerns and services for the firm. Specifically, she has primary responsibility for management of the firm's professional liability processes and risk management and will advise the firm on a wide variety of issues.

For the past 10 years, Shannon has focused her practice on professional malpractice and real estate related claims.

Common Misconceptions Regarding the Applicability of Federal Motor Carrier Safety Regulations

By: Erica Holzman

There is a common misconception that only tractor trailers or drivers with a commercial driver's license (CDL) must comply with the Federal Motor Carrier Safety Regulations (FMCSR) and other state safety regulations. In fact, the FMCSR can apply to various drivers, vehicles and organizations such as church vans, school shuttles, or large pickup trucks. The applicable regulations are generally determined by the vehicle's gross vehicle weight rating and the vehicle's purpose.

Gross Vehicle Weight Rating (GVWR)

The GVWR is a rating applied by a vehicle manufacturer and represents the maximum total weight of a vehicle including the cargo, passengers and fuel. The GVWR, a safety standard used to prevent overloading, is one method used to determine whether a vehicle is subject to regulation. Generally, there are eight classes of vehicles as determined by GVWR, but Class 3 (GVWR of 10,001 to 14,000 pounds) and Class 7 (GVWR of 26,001 to 33,000 pounds) are especially important when considering the FMCSR.

Many types of vehicles, for-profit, non-profit, passenger or load carrying, can fall under FMCSR.

Commercial Driver's License (CDL)

A vehicle's GVWR is one of the methods used to determine the type of license required to operate that particular vehicle. A Commercial Driver's License (CDL) is required if (1) the vehicle's GVWR exceeds 26,000, (2) the vehicle is designed to carry sixteen (16) or more passengers, or (3) the vehicle is used in the transportation of hazardous materials.

Individual states may require drivers to obtain a CDL to operate other vehicles even though those vehicles are not covered by the federal regulations. Therefore, all drivers need to check the requirements in their state rather than rely on the minimum standards contained in the FMSCR.

Federal Motor Carrier Safety Regulations (FMCSR)

Contrary to common belief, a driver and vehicle can be subject to the FMCSR even if a CDL is not required. The determining factor is whether the vehicle meets the definition of a "commercial motor vehicle" as stated in the federal regulations. A commercial motor vehicle is defined as any self-propelled or towed motor vehicle used on the highway in interstate commerce to transport passengers or property when the vehicle: (1) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or (2) Is designed or used to transport more than eight passengers (including the driver) for compensation; or (3) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or (4) Is used in transporting hazardous material in a quantity requiring placarding.[2]

Any interstate vehicle that meets this definition is subject to the federal safety regulations. Therefore, a vehicle may qualify as a commercial motor vehicle for most rules under the FMCSR, but may not require a CDL to operate. For example, rental moving trucks, shuttles, or large pick-up trucks and vans may be operated without a CDL, but may still be subject to the FMCSR. This frequently causes confusion and inadvertent non-compliance with the FMCSR.

For intrastate carriers, the safety regulations of the state in which the carrier is registered apply. Many states have adopted the FMCSR either in whole or in part. Georgia, for example, adopted the federal regulations in 1972 for for-hire carriers, and the federal regulations have applied to both private and for-hire companies since 1984.[3] In states such as Georgia, the FMCSR apply to intrastate carriers.

US DOT Numbers

In addition to being subject to Federal safety regulations, any interstate vehicle which meets the definition of a commercial motor vehicle must be identified with the name of the company and US DOT Number. In Georgia, as well as approximately 30 other states, intrastate carriers that meet the definition of a commercial motor vehicle are also required to obtain a US DOT number for identification.

Alcohol and Drug Testing

To make matters more confusing, alcohol and drug testing requirements of the FMCSR define a commercial vehicle more akin to the definition under the provisions for CDL requirements rather than the more general standard above. Generally, the alcohol and drug testing requirements apply to commercial vehicles that have a gross vehicle weight rating of 26,001 or more pounds, are designed to transport 16 or more passengers, or transport hazardous materials.[4] Therefore, the alcohol and drug testing requirements may not apply to all companies that are subject to other Federal safety regulations.

Private Commercial Vehicles

Another common misconception is that the FMCSR do not apply to private commercial vehicles. A "for-hire" motor carrier of property hauls the property of another for compensation, whereas a private motor carrier of property hauls its own property as a part of its business. Examples of private carriers include a farmer hauling his own crops from the farm to the wholesaler or a construction company hauling its equipment to a job site. Private motor carriers operating commercial vehicles are subject to most, but not all, of the regulations that a for-hire motor carrier is subject to.

Private Carriers of Passengers (PMCPs)

As of January 1, 1995, private carriers of passengers are also

subject to the Federal regulations. Private carriers of passengers (PMCPs) are categorized in to two groups:

Business PMCPs provide private interstate transportation of passengers in the furtherance of a commercial purpose such as businesses who use busses to transport employees. Business PMCPs do not include companies that provide transportation to the general public as those carriers are considered "for-hire" and are already subject to the FMCSR.

Nonbusiness PMCPs provide private transportation of passengers that is not in furtherance of a commercial purpose such as churches or other charitable organizations that use busses to transport their members.

While private motor carriers may be exempt from some of the Federal record keeping requirements, many of the Federal regulations are applicable to business and non-business PMCPs. There is an exception, however, for carriers operating vehicles that carry between 9-15 passengers and that are not operated for direct compensation. These carriers are generally only required to file a motor carrier identification report, obtain and use a DOT Number to identify their vehicles, maintain an accident register, and comply with the prohibition against texting and using hand-held phones.

Misconceptions Regarding FMCSR Applicability Can Lead To More Violations and Greater Liability

Under these standards, there are far more vehicles subject to the FMCSR than for-hire tractor-trailers, and most will be subject to the following parts of the FMCSR: CDL Requirements (Part 383), Qualification of Drivers (Part 391), Driving a Commercial Motor Vehicle (Part 392), Parts and Accessories (Part 393), Drivers' Hours of Service (Part 395) and Inspection, Repair and Maintenance (Part 396). These include commonly violated regulations such as those concerning driver logs and drivers' hours of service, pre-employment driver screening and driver qualification files, and vehicle maintenance and inspection programs. The parts of the FMCSR that govern Controlled Substances and Alcohol Use and Testing (Part 382) and CDL Requirements (Part 383) apply to vehicles with a capacity of 16 or more passengers, a GVWR of 26,001 or more, or that transport hazardous materials. The majority of these regulations also apply to most private carriers although there are some differences in application, especially as to record keeping, for private carriers of passengers.

There is a widespread misconception that the FMCSR only apply to for-hire tractor trailers or CDL drivers. This misconception leads to frequent noncompliance with the applicable safety regulations. A breach of the FMCSR, even when inadvertent, can expose a carrier to not only enforcement and discipline by the FMCSA, but also to tort liability if the violation is the cause of an injury. Examples of causes of action that can arise from a breach of the FMCSR include negligent hiring, retention and entrustment, negligent operation, negligent inspection and maintenance, and negligence per se. Therefore, it is vital to understand when the FMCSR are applicable.

Resources

1. See 49 CFR Part 383.

2. 49 CFR Part 390.5

3. See Georgia Department of Public Safety Transportation Rulebook, Motor Carrier Safety Regulations

4. 49 CFR Part 383.5

Legal Update: December 2014
Collins Amendment Affects Restart Hours

On December 16, 2014, President Obama signed a $1.1 trillion spending bill. The bill included an amendment (the "Collins Amendment") that suspended "restart" hours of service requirements that were instituted in July of 2013.

Hours-of-service regulations have been in place for decades in an effort to reduce or eliminate driver fatigue. However, the regulations have become more strict over the past fifteen years. For example, in 2003, the DOT ruled that drivers couldn't work more than a 14-hour "on-duty" period. More recently, as a result of a 2011 US DOT rule, drivers had to take a 30-minute rest break within the first eight hours of their shift, and more contentiously, drivers had to take a 34-hour "restart" period once every seven days. That 34-hour rest period had to include two consecutive overnights between 1:00 am and 5:00 am. In effect, this rule reduced the total driving hours allowed in a week from 82 to 70 hours. The changes contained in the 2011 rule went in to effect in July of 2013, and were met with significant opposition from the trucking industry.

The Collins Amendment, however, suspended the 34-hour restart rules which were set forth in FMCSR 395.3 (c) and (d). According to the bill, the restart rules that were in effect prior to July 1, 2013 "shall be immediately in effect." Therefore, any period of 7 or 8 consecutive days may end with the beginning of an off-duty period of 34 or more consecutive hours, and there is no restriction on the number of restarts a driver can take in a week. The more restrictive restart provisions that were in effect after July 1, 2013 are suspended through September 30, 2015 pending a study of the operational, safety, health and fatigue impacts of the restart provisions.

Erica L. Holzman
Associate
Trucking & Transportation Law, General Liability, and Insurance Coverage & Bad Faith
404.215.2443
eholzman@carlockcopeland.com

We're in this to win.

Defense Verdict for Plastic Surgeon in Medical Malpractice Wrongful Death Action

Dan McGrew and **Neil Edwards** recently obtained a defense verdict for a plastic surgery physician practice in Fulton County State Court. The case involved a 33 year old mother of two who died following an abdominoplasty surgery.

Plaintiff alleged that the plastic surgeon's post-operative care was inadequate because various consultations and diagnostic tests were not ordered soon enough. Further, Plaintiff alleged that the practice placed financial pressure on the plastic surgeon, caused her to take on too many procedures, and thereby contributed to the cause of death.

Prior to trial, Dan and Neil successfully persuaded the Court to dismiss many of the claims against the practice and to exclude potentially damaging, but prejudicial, testimony against the plastic surgeon. During trial, testimony showed that the post-operative treatment was appropriate under the circumstances. The defense team argued that the ultimate outcome, while unfortunate, was simply unforeseeable and not caused by the plastic surgeon.

After the close of evidence, Plaintiff's counsel argued that the evidence was overwhelming against the plastic surgeon and asked the jury to return a verdict of $12 million. The jury found that neither the plastic surgeon nor the practice was negligent and returned a verdict for all Defendants.

Court of Appeals Affirms Dismissal of Renewal Action as Untimely

John Bunyan and **Shannon Sprinkle** won affirmance of the dismissal of a renewal action against a guardian ad litem filed by the parent of children she represented in a proceeding to modify visitation rights. John and Shannon previously obtained a dismissal of Federal claims brought by Plaintiff and successfully defended that dismissal on appeal to the Eleventh Circuit. After Plaintiff refiled claims for defamation and intentional infliction of emotional distress that the Federal court declined to consider, the trial court granted John and Shannon's motion to dismiss Plaintiff's claims because he failed to timely refile them under Georgia's renewal statute.

The Court of Appeals affirmed the dismissal, agreeing with CCS's argument that the renewal clock started to run when the Eleventh Circuit affirmed the dismissal of the plaintiff's previous lawsuit, not when it entered its mandate. Thus, Plaintiff had filed his renewal action four days too late under Georgia's renewal statute. The Court of Appeals also agreed with John and Shannon's argument that the Federal supplemental jurisdiction statute did not give the plaintiff more time to refile his claims than Georgia's statute.

Defense Verdict in Wrongful Death Trial

Tom Carlock, Broderick Harrell and **Eric Frisch** obtained a defense verdict in a wrongful death case against a neurosurgeon. The case involved a 53 year old male who underwent a successful C5-C6/C6-C7 anterior cervical discectomy and fusion. The surgery was completed without complication, but the patient developed minor post-operative swelling. The surgeon was informed of the issue; he evaluated the patient and issued orders to admit the patient to the intensive care unit for close monitoring for signs of possible airway obstruction, including neck swelling, shortness of breath and difficulty breathing. The ICU nurses were measuring the patient's neck circumference and contacted the surgeon to advise that the circumference had increased by 1 cm, but the patient was otherwise stable with no signs of respiratory distress. Thus, the instructions for continued close monitoring were continued. All experts testified that neck circumference measurements do not equate to neck swelling and provide no useful information about a patient's respiratory status. Over the next several hours, the patient began experiencing actual observable neck swelling and difficulty swallowing, but the ICU nursing staff did not notify the neurosurgeon. The patient went into respiratory arrest more than five hours after the last time the nurses contacted the neurosurgeon and resuscitation efforts were unsuccessful. Plaintiff alleged that the neurosurgeon should have evaluated the patient, ordered diagnostic tests or re-intubated the patient when he was notified that the patient was stable, but had an increase in neck circumference.

Appellate Courts Confirm that Homeowner's Policies Do Not Cover Auto Accidents

Fred Valz and **Erica Parsons** obtained a ruling from the Georgia Supreme Court, affirming the grant of summary judgment to Allstate in a case involving a question of coverage under a homeowner's policy for the death of a teenage girl arising from an auto accident. The plaintiffs/appellants attempted to argue that the exclusion should only apply when the vehicle belongs to or was being operated by an insured under the policy, but the trial court granted summary judgment to Allstate, finding that the policy unambiguously excluded coverage for damages arising from the use of any motor vehicle. The Court of Appeals confirmed that homeowner's policies clearly do not provide coverage for damages arising from the use of a motor vehicle, regardless of who owned or was operating the

vehicle. Plaintiffs petitioned the Georgia Supreme Court for certiorari on the issue, but the court denied the petition and affirmed the lower courts' rulings in favor of Allstate.

Summary Judgment for Defense in Multi-Family, Multi-Million Dollar Construction Defect Case

Sarah Wetmore prevailed on a motion for summary judgment in Charleston County. Her client was dismissed from a multi-family construction defect case with millions of dollars in damages being claimed by the plaintiffs. Despite Plaintiffs' expert's opposing Affidavits, the Court agreed with Sarah's arguments based on the language in her client's contract and granted the motion. **Jack Daniel** and **Suzanne Hogg** assisted with the handling of the case.

Defense Verdict in Medical Malpractice Case in Dougherty County

Ashley Sexton and **Lee Gutschenritter** obtained a defense verdict in a medical malpractice case after a one-week jury trial in Albany, GA. The main issue with regard to their client, a psychiatrist, was whether he had appropriately conveyed information concerning a critically high blood glucose value to a 32 year-old patient who was diagnosed with schizophrenia, autism, Asperger's syndrome, and borderline mental retardation and who was living in a group home with full time caseworkers present. The central piece of evidence in the case was a phone message slip on which the psychiatrist had documented that he called the patient and patient's caseworker with the information and that they would go to the emergency room and follow up with the patient's primary care doctor. The patient never reported to the emergency room and died two weeks later after he was found in a diabetic coma. Throughout the case Plaintiff contended that the phone message slip was fabricated and/or did not establish that a caseworker had been notified that the patient needed to be taken to the emergency room. There were multiple non-party liability claims presented at trial, including claims against the group home where the patient lived and the patient's other physicians who failed to properly monitor his blood glucose over a period of several years. There was also a non-party liability claim against the physician who treated the patient in an urgent care setting a few days before his death who diagnosed him with the flu and sent him home with instructions to drink Gatorade. In closing argument the plaintiff's attorney asked the jury to return a verdict awarding $5 million for the full value of the patient's life against the psychiatrist. The jury deliberated for less than an hour before returning a defense verdict in favor of the psychiatrist.

Defense Verdict in $1.7M Auto Accident Case

Fred Valz and **Beth Albright** obtained a defense verdict in Fulton County State Court in an auto accident case. In the case, both the plaintiff and the defendant contended that they had the green light and that the other ran a red light. Plaintiff, who was ejected from his vehicle and was in a coma for weeks, sought $1.7 million in damages for the severe and extensive injuries he sustained. Despite a sympathetic Plaintiff and an attempt by Plaintiff's counsel to discredit the defendant, the 12 person jury deliberated for two hours before returning an unanimous verdict in favor of the defendant.

Defense Verdict for Surgeon in Wrongful Death Case

Partners **Tom Carlock** and **Eric Frisch** obtained a defense verdict in Floyd County Superior Court in a wrongful death case against a vascular surgeon. The case involved a 64 year old male who suffered from a vascular occlusion of the lower leg. He underwent a peripheral vascular procedure, which the doctor had to stop because he could not clear the blockage. After removing the catheter, the doctor attempted to close the insertion site with a Star Closure device without success. The patient was on heparin, so the doctor gave Protamine to reverse the effects. The patient suffered a reaction to Protamine and arrested. The patient was revived, but suffered an anoxic brain injury. Plaintiff alleged that the patient was at an elevated risk for the reaction, that the doctor should not have given Protamine, and that there was a failure to intervene in a timely manner.

Facing Summary Judgment, Plaintiff Dismisses Negligence Suit Against National Roofing Manufacturer

Billy Newcomb and **Joe Hoffman** represented a national roofing manufacturer in Forsyth County Superior Court against claims that it failed to maintain a safe working environment for outside vendors. Plaintiff alleged she suffered serious personal injuries when she was struck by a forklift while she was on the company's premises servicing a firm alarm system. Billy and Joe moved for summary judgment on the grounds that Plaintiff contractually waived and released the claims she asserted in the lawsuit. Billy and Joe also filed a counterclaim against Plaintiff for contractual indemnity. Rather than respond to the motion for summary judgment, Plaintiff conceded defeat and dismissed the lawsuit.

All cases shared are for informational purposes only. Past success does not indicate the likelihood of success in future cases.

CARLOCK COPELAND
CIVIL LITIGATION

Return To:
Carlock, Copeland & Stair, LLP
191 Peachtree Street NE
Suite 3600
Atlanta, Georgia 30303

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Common Misconceptions Regarding the Applicability of Federal Motor Carrier Safety Regulations

CARLOCK, COPELAND & STAIR, LLP

Atlanta Office
191 Peachtree Street NE, Suite 3600
Atlanta, Georgia 30303

404.522.8220 P 404.523.2345 F

Charleston Office
40 Calhoun Street, Suite 400
Charleston, SC 29401

843.727.0307 P 843.727.2995 F

Chattanooga Office
920 McCallie Avenue
Chattanooga, TN 37403

423.551.4345 P 404.523.2345 F

www.CarlockCopeland.com

New Website

In 2014, after researching how our clients and contacts interact with us online, we decided to rework www.carlockcopeland.com and relaunch it in a responsive format. Now, news, cases, contact information, events and more can be accessed easily via desktop, laptop, tablet and mobile device.

New Blogs & Publications

In 2011, we launched our first blog on coverage and bad faith, www.InsuranceCoverageCorner.com, and in 2013, www.YourEPLLawyer.com, which features employment law content in a blog or e-digest format. In 2015, expect to see new media to cover construction law, product liability and cyber liability.

2/10 Seminar: Land Use, Current Issues in Subdivisions, Annexation and Zoning

Doug MacKelcan will present the Ethics portion of this National Business Institute Seminar, in Charleston, SC. Visit www.nbi-sems.com.

5/6 Construction Defect Litigation: From Start to Finish

Tyler Winton will present at this National Business Institute seminar in Charleston, SC. Visit www.nbi-sems.com.