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Lawsuits involving Amazon drivers have brought multimillion-dollar verdicts

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FEBRUARY 1, 2025, 1:05 AM CST (</MAGAZINE/ISSUE/2025/02/>)



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Amazon's Delivery Service Partner program was created to lower lawsuit risks, but some say it may not work. (AP Photo/Damian Dovarganes)

A Georgia lawyer who recently won a large personal injury verdict involving Amazon and a contract driver says when determining if a business is an employer, electronic apps used to manage routes were enough to prove liability by the online shopping giant.

Lawyers have different views about what the lawsuit means for similar cases going forward. But both sides agree that since the pandemic, the number of businesses using contract drivers continues to grow.

The \$16.2 million jury verdict in *Bradfield v. Amazon Logistics*, handed down in August 2024, came out of Gwinnett County, northeast of Atlanta. It involved a boy crossing the street who was hit by an Amazon contract driver in a Ram van. The parties entered a confidential high-low agreement prior to trial, and the case has settled, Michael Goldberg, who represented the plaintiff, told the *ABA Journal*.

After the 2022 accident, the boy required multiple skin grafts and surgeries, according to the complaint. The driver worked for Thompson & Carter Entities, which was doing business as Fly Fella Logistics. All three were named as defendants, along with Amazon Logistics, the retailer's delivery network.

The jury found Amazon was 85% at fault for the boy's injuries; the driver and his employer were 10% at fault; and a neighbor who had agreed to watch the boy was 5% at fault.

"Prior to this verdict, most cases involved common law claims that a company exerted control over a claimed independent contractor because a manager controlled the way the contractor did his work. Technology can have just as much control over a worker as a manager," Goldberg says.

As an example, he mentions the Mentor app, which "grades the driver's driving behavior to see if they are a safe driver."

Besides finding that Amazon exercised control over the driver and the contractor, creating an employer-employee relationship, the jury determined that Amazon was negligent when it came to training for the driver.

When asked for comment, Amazon referred the *ABA Journal* to a website for its Delivery Service Partner program, which was created for small businesses to "build teams and a driver network from within their communities." The website notes that the program, launched in 2018, includes more than 10,000 electric delivery vehicles in its fleet that are equipped with technology including blind spot warning, adaptive cruise control and manual parking assist.

Partners must carry general liability, workers' compensation, business automobile and cargo liability insurance policies, according to a statement from Amazon.

Amazon argued at trial that when the accident occurred, the boy, 8, was using an electric bike, which he got from the neighbor's garage, Courtroom View Network reported. Neither the boy's parents nor the neighbor paid attention to warnings that the bike was not meant for people under the age of 13, Amazon argued.

Liability logistics

The Delivery Service Partner program was created to help Amazon lower its lawsuit risks, but ultimately that may not be a successful strategy, according to some plaintiffs lawyers.

“Amazon has not been caught flat-footed by this decision and knew at some point that they would become directly embroiled in personal injury litigation for the actions of its nationwide fleet of independent drivers,” says Adam Smallow, a Baltimore personal injury lawyer.

According to Goldberg, the *Bradfield* verdict is expected to have far-reaching implications for the future of gig work and corporate accountability. Some defense attorneys disagree.

Kevin Foley, who is co-chair of Reminger’s trucking and commercial transportation practice group and based in Ohio, says while the *Bradfield* case is significant, he doesn’t believe it will set a precedent because there are too many variables, including different state laws.

Foley compares companies using contract drivers to hiring a cleaning service. Just because you give the cleaner instructions, that doesn’t mean you’re the cleaner’s employer, he says. Contractor concerns

The case illustrates a tension at the core of today’s gig economy, says Timothy Lytton, a professor at Georgia State University College of Law.

“On the one hand, the business model of gig economy companies like Amazon and Uber is to deliver lower prices by reducing labor costs, including liability from accidents caused by employees by insisting that its drivers are independent contractors,” he says. “On the other hand, these companies build their brands by delivering a consistently high level of service to consumers. This requires control over how the drivers who interface with consumers do their job, and that makes the drivers less like independent contractors and more comparable to employees, which increases the company’s liability exposure.”

As the gig economy matures, Lytton believes more courts will find that contract drivers are technically employees. It remains to be seen, he adds, whether the companies will be successful promoting legislation deeming the drivers independent contractors.

The *Bradfield* case is not the first time liability has been found in lawsuits involving Amazon and contract delivery drivers.

In 2023, after an Amazon contract driver hit and injured a 45-year-old motorcyclist in South Carolina, a jury held Amazon liable for \$44.6 million in damages, including \$30 million in punitive damages. In that case, Amazon argued that its delivery service partner and driver were independent contractors, but the jury determined that Amazon controlled essential aspects of their work.

According to *The State*, evidence was presented suggesting the driver was watching pornography on his phone when the accident occurred.

Another case involving an Amazon contract driver is pending in Los Angeles County Superior Court. A driver making deliveries in a high-crime area left the key in the ignition with the doors open and the van running while he ran out to make his delivery. Someone stole the van and crashed into a 67-year-old street vendor, killing him.

Samuel Dordulian, who represented the street vendor's family, looked into the amount of control Amazon had over its driver in this case, asking how the employee was hired, who trained him and if the delivery company had hiring decisions. Dordulian says the delivery driver, who worked for an independent delivery company, was wearing an Amazon uniform and driving a truck with the Amazon logo.

"The primary question comes down to control," Dordulian adds. "Does the larger entity have sufficient control over a driver who is supposedly not an employee of that entity?"

This story was originally published in the February-March 2025 issue of the ABA Journal under the headline: "The Truck Stops Here: Lawsuits involving Amazon contract drivers have recently brought multimillion-dollar verdicts."

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