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[Winter 2011-2012]

PAOLI KUTZMAN, PC

Newsletter

PAOLI PROSECUTES FEDEX GROUND DRIVER



Pictured above: Sergey Buslayev prior to his sentencing on November 23, 2011.

After being found Guilty on counts of Negligent Homicide and Negligent Endangerment, Sergey Buslayev, a long-haul driver for FedEx Ground Package System, Inc. was sentenced by District Judge Dusty Deschamps to a 20-year and 6-months prison term, with 10 years suspended, for his role in the death of Jerry Parrick. In December of 2008, Parrick was serving as a volunteer for the West End Volunteer Fire Department by stationing his emergency vehicle on the shoulder of Interstate 90 to

protect an accident scene west of his location. At the same time, despite the winter road conditions, Buslayev was traveling in his FedEx semi hauling double trailers at an estimated speed of 63-72 mph. Although Buslayev admitted seeing Parrick's emergency vehicle 8/10 of a mile prior to crashing into him, he failed to yield in a timely manner and lost control of his tractor-trailer combination. Buslayev's FedEx tractor-trailer combination crashed into Parrick's truck, killing him.

David Paoli led our firm's representation of the family in their civil lawsuit against FedEx Ground and its two Russian drivers. He negotiated a settlement for the family and then volunteered to help with the criminal prosecution of Buslayev.

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PROSECUTION OF FEDEX DRIVER

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David, serving as a special prosecutor for Mineral County, and Mineral County Attorney Marcia Boris tried the criminal case to a jury in June of 2011. The prosecution's case emphasized Buslayev's excessive speed, failure to yield to emergency personnel, inadequate maintenance of the tractor-trailer combina-

tion, improper braking, fatigue, and several violations of the Federal Motor Carrier Safety Regulations, including Buslayev's inability to communicate in the English language. The Mineral County jury found Buslayev guilty of Negligent Homicide and Negligent Endangerment.

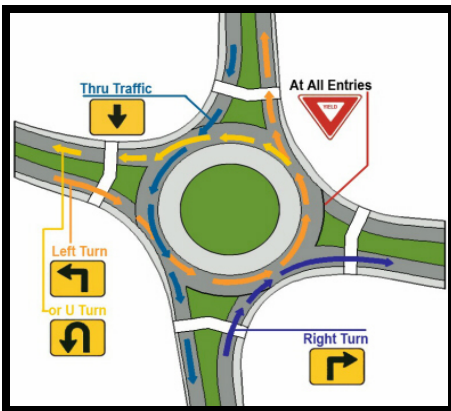
The *Missoulian* covered the story in the following articles:

[Brooklyn Trucker Sentenced to 10 Years for I-90 Crash that Killed Haugan Firefighter](#)

[Concerns Raised over Trucking-Related Crash Deaths](#)

[Trucking Industry Sees Infusion of Immigrants - Safety Concerns Arise.](#)

DRIVING IN A ROUNDABOUT—GENERAL RULES



Several roundabouts have recently been implemented in Missoula, including at Miller Creek, Higgins Street, and on Expressway. We've included some general guidelines offered by the *Montana Department of Transportation* to help you safely navigate these roundabouts.

1. Approach the roundabout as you would a typical four-way intersection. Be in the right approach lane if you intend to turn right, be in the left approach lane if you intend on making a left or U-turn.

2. Upon approaching the roundabout, stay to the right of the splitter island and SLOW DOWN to 10-15 mph.
3. Watch for bicyclists and allow for them to merge into the entry lane.
4. Watch for and yield to pedestrians in the crosswalk or waiting to cross.
5. YIELD to traffic already in the roundabout.
6. Once you're in the roundabout, do not stop except to avoid a collision; you have the right-of-way over entering traffic. Always keep to the right of the central island and travel in a counterclockwise direction. DO NOT PASS other vehicles.
7. Use your right-turn signal and exit the roundabout.
8. As you exit the roundabout, watch for and yield to pedestrians and bicyclists.

*Visit the [Montana Department of Transportation's website](#) for more information.

CMV SAFETY DATA

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out-of-service summary, crash data and safety rating. To obtain a Company Snapshot, visit the [FMCSA SAFER System website](#).

SAFETY MEASUREMENT SYSTEM (SMS): SMS provides an assessment of motor carrier's on-road performance for 24 months of activity. Results are updated monthly. SMS uses data to enhance safety on the roadways by analyzing past and current safety performance information to measure the relative safety fitness of commercial motor carriers. Information includes Federal and State data on crashes, roadside inspections, on-site compliance review results and enforcement history.

To obtain SMS data for a CMV, visit the [FMCSA SMS website](#).

See related article on page 3: [FedEx Ground Package System—What our Recent Search Reveals.](#)

BASIC HAND & ARM SIGNALS

Whether riding a bike or other means of transportation not equipped with signaling devices it is imperative to know and use the correct hand signals to notify other drivers of your intentions. Likewise, it is important to correctly understand hand signals.

Signaling is a matter of safety, courtesy, and is required by law.

STOP OR DECREASE IN SPEED:
The operator's hand and arm must be extended downward.

LEFT TURN: The operator's hand and arm must be extended horizontally.

RIGHT TURN: the operator's hand and forearm must be extended upward.

The person operating a bicycle may signal a right turn by extending the right hand and arm horizontally.

FEDEX GROUND PACKAGE SYSTEM— WHAT OUR RECENT SEARCH REVEALS

COMPANY SNAPSHOT: Using FedEx Ground Package System, Inc.'s DOT number (265752), our search provided a significant amount of information for 24 months prior to the date of the search (12/28/11) including contact information, number of units, number of drivers, yearly mileage driven, operator classification, carrier operation, and type of cargo carried. Data is also available regarding inspections, crashes, and FedEx Ground's safety rating. For example, we were able to find out that during the two years prior to 12/28/11, FedEx Ground was involved in 808 crashes, resulting in 19 fatalities, 271 injuries, and 518 tows in the U.S. Information is also available for Canada.

SMS: Again, we searched for information related to FedEx Ground's performance measurements. Based on a 24-month record ending November 18, 2011, we were able to find out that in regard to driver fitness,

FedEx Ground exceeds the FMCSA intervention threshold relative to its safety event grouping based upon roadside



FMCSA requires all Commercial Motor Vehicles to display their USDOT.

data and/or has been cited with one or more serious violations within the past 12 months during an investigation. Looking further, we can see that of FedEx Ground's 177 driver fitness violations, 94 drivers were not in possession of a medical certificate or had an expired certificate, 26

violations were for a non-English speaking driver, 15 drivers were lacking physical qualifications, and 9 drivers were operating a CMV without a CDL. Specific information regarding each individual violation can also be found in the search results. For example, on June 6, 2011 in Idaho, during a roadside inspection a FedEx Ground carrier was found to have the following violations: improper lane change (unsafe); State/Local laws - speeding in a work/construction zone (unsafe); operating a CMV with more than one driver's license (driver fitness); and unable to understand highway traffic signs and signals in the English language (driver fitness). The driver was operating a tractor hauling two trailers.

PAOLI KUTZMAN, P.C.

257 W. Front St., Suite A
Missoula, Montana 59802

Phone: (406)542-3330

Visit our Website!

www.paoli-law.com

Paoli Kutzman, P.C. is a full-service litigation firm located in Missoula, Montana. We represent individuals and consumers in redressing any number of issues and problems they face. Our attorneys have conducted trials in State and Federal Courts, primarily in Montana and throughout the western United States. Practice areas include:

- Personal Injury;
- Wrongful Death;
- Federal Employers' Liability Act (FELA);
- Product Liability
- Professional Malpractice;
- Insurance; and
- Employment Disputes.



David Paoli with his family and Governor Brian Schweitzer (and Jag) at the Montana Trial Lawyers Association Convention on August 5, 2011.

David Paoli Awarded Montana's Trial Lawyer of the Year

Paoli Kutzman is pleased to announce that David Paoli is recognized as Montana's 2011 Trial Lawyer of the Year by the Montana Trial Lawyers Association. David has enjoyed practicing law in Montana for 23 years. From 2007 to the present, David has been recognized by *Best Lawyers in America*, the oldest and most

highly-respected peer review guide to the legal profession worldwide. David also maintains an *AV Pre-eminent Peer Review Rating of 5 out of 5*, the highest available rating for his high ethical standards and professional ability, generated from evaluations by his peers.