



ARTICLE OF THE MONTH

ARTICLE OF THE MONTH

Staged Accidents and “Serious Injury” Claims

What the FedEx Litigation Signals for Transportation Companies Under New York Law

By: Patrick James, Partner

A recently filed federal action by FedEx has brought renewed attention to automobile insurance fraud and the litigation risks it poses to transportation and trucking companies operating in New York. In a 92 page complaint filed in the Southern District of New York, FedEx alleges that a Brooklyn based personal injury law firm, working with affiliated medical providers and related entities, orchestrated a scheme involving staged or exaggerated motor vehicle accidents designed to inflate injury claims and extract settlements from commercial defendants.

According to the complaint, the alleged enterprise targeted routine, low impact collisions involving FedEx delivery vehicles, including incidents where property damage was minimal, and no police or emergency responders were called. FedEx alleges that accident participants were later referred to a network of doctors and clinics, where they were diagnosed with serious spinal injuries and routed through extensive chiropractic treatment, followed in some cases by injections or surgical procedures. The lawsuit further alleges that medical treatment was financed through law firm connected arrangements and that litigation was used as the primary leverage once the statutory prerequisites for a personal injury action were met.

FedEx brings the action under the federal Racketeer Influenced and Corrupt Organizations Act (RICO), alleging that the coordinated use of staged accidents, medical referrals, billing practices, and lawsuits constituted an enterprise designed to manufacture liability exposure and drive recoveries based on economic pressure rather than the merits of individual claims. While the allegations remain unproven, the case provides a useful illustration of how New York’s no fault and bodily injury framework can transform ordinary fleet accidents into high value litigation.

Under New York's no fault system, codified in Insurance Law Article 51, individuals involved in motor vehicle accidents may obtain medical treatment and lost wage benefits regardless of fault. As the Court of Appeals has recognized, the system emphasizes prompt access to care rather than early adjudication of causation. *Pommells v. Perez*, 4 N.Y.3d 566 (2005). From a defense standpoint, this means medical treatment often begins, and sometimes escalates, before accident mechanics are examined in any meaningful way, even where property damage is minimal and no injury is reported at the scene.

Exposure increases once a claimant seeks to recover non economic damages. To do so, the plaintiff must satisfy the "serious injury" threshold set forth in Insurance Law § 5102(d). Although the statute was intended to "weed out frivolous claims," *Toure v. Avis Rent A Car Sys., Inc.*, 98 N.Y.2d 345, 350 (2002), practitioners know that threshold litigation often turns on medical proof developed well after the accident. The categories most frequently relied upon, significant limitation, permanent consequential limitation, and the 90/180 day rule, are driven less by collision dynamics than by treatment history.

New York courts permit plaintiffs to rely on objective medical evidence, including quantified range of motion findings and diagnostic imaging, to raise triable issues of fact even in low impact cases. *Perl v. Meher*, 18 N.Y.3d 208 (2011). Where competing medical opinions exist, courts are often reluctant to resolve cases early, forcing defendants into prolonged medical causation disputes. *Lamb v. Rajinder*, 129 A.D.3d 715 (2d Dept 2015). From a defense perspective, this is often where cases turn, regardless of how the accident actually occurred. For transportation companies whose vehicles operate continuously in dense traffic environments, this dynamic can result in settlement pressure untethered from the severity of the collision itself.

Transportation defendants regularly see minor accidents reframed over time through extended chiropractic care, pain management treatment, injections, or surgery. By the time litigation is underway, the focus frequently shifts away from fault and toward alleged permanency, with accident mechanics fading into the background, sometimes entirely. This reality makes fleet operators particularly vulnerable to claim strategies that rely on medical escalation rather than objective evidence of trauma.

What distinguishes the FedEx litigation is its attempt to address these issues at an enterprise level. Rather than defending individual claims in isolation, FedEx alleges that repetitive treatment patterns and referral relationships were used across multiple cases to manufacture injury claims and drive settlements. The assertion of civil RICO claims reflects growing frustration among large commercial defendants with confronting the same litigation patterns repeatedly and resolving claims solely to avoid the economics of defense.

From a practical standpoint, the implications for transportation companies are case specific. New York law continues to permit early challenges to serious injury claims where defendants can demonstrate a lack of causation, material gaps in treatment, or pre existing or intervening conditions. See *Pommells*, 4 N.Y.3d at 574–75. Developing those defenses requires early action. Prompt collection of photographs, vehicle data, driver statements, and prior accident information often determines whether a defendant can meaningfully challenge injury claims before they gain litigation momentum.

Strategically, transportation defendants should assume that medical proof, not accident mechanics, will drive the trajectory of most New York automobile cases. That reality makes targeted early discovery, appropriate medical authorizations, and focused summary judgment motion practice under CPLR § 3212 critical tools in individual matters. For companies operating fleets in New York, understanding how serious injury claims are actually litigated, and tailoring investigation, discovery, and motion practice in each case accordingly, remains critical to controlling exposure.