

***Cabral v. Ralphs Grocery Co. (2011) 51 Cal.4th 764***

Drivers parking alongside freeways are not exempt from the duty of drivers to exercise ordinary care for others in their use of streets and highways.

**FACTS/PROCEDURE**

On February 27, 2004, Hen Horn, a tractor-trailer truck driver employed by Ralphs, drove his eastbound delivery route on Interstate 10. That evening, as he often did, Mr. Horn pulled off the paved road and onto the dirt portion of the freeway shoulder to eat the meal his wife prepared him. Adelelmo Cabral was driving home from work in Interstate 10's eastbound lanes when he lost control of his car, veered suddenly off the freeway, and collided with the rear of a Ralphs tractor-trailer rig parked on the freeway shoulder. The shoulder was marked by a CalTrans sign: "Emergency Parking Only". Mr. Cabral died at the scene. A negative toxicology report and expert witness testimony suggested he had either fallen asleep at the wheel or suffered an episode of an undiagnosed medical condition while driving. Mr. Cabral's wife and children filed a wrongful death case against the truck driver and Ralphs Grocery.

At trial, the jury returned a verdict in favor of the Cabral family, finding that the Ralphs driver had been negligent in parking his truck adjacent to the freeway. Further, the trial denied Ralphs motion for judgment notwithstanding the verdict. On appeal, however, the Court of Appeal reversed, finding that Ralphs could not be held liable because its driver owed no duty of care to passing motorists with respect to where he parked his truck alongside the freeway.

**HOLDING/DISCUSSION**

The California Supreme Court reversed. The Court held that the employer owed a legal duty to avoid a collision between the decedent and the employer's stopped truck. Civ. Code § 1714, subd. (a) establishes the general rule in California: each person has a general duty to use ordinary care for the safety of others and is liable for injuries arising out of a failure to exercise reasonable care in the circumstances.

Here, the facts of the current case showed there were no grounds to find an exception to the general rule. The possibility that drivers might lose control of their vehicles, veer onto the shoulder area, and collide with another obstacle was not "categorically unforeseeable." Further, public policy did not clearly demand truck drivers be able to take nonemergency breaks along the side of freeways in areas where regulations permit only emergency parking, without opening the door to possible civil liability for a resulting collision.

Here, the court also held that "substantial evidence" supported a finding that had the truck driver not stopped on the shoulder where the collision occurred, Mr. Cabral likely would have come to a stop without involvement in a fatal crash. Thus, Ralphs owed a legal duty to avoid a collision between the decedent, even if he was primarily at fault, and the employer's stopped truck.