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Truck Driver Sues Ex-Employer for Mischaracterizing Fatal Car Crash as 'Preventable'



"The report concluded that there 'were no signs of impairment or reckless driving from' operator Eugene Mercer," the complaint said.



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Employment Law




Emily Cousins
Litigation Reporter








A Bridgeport truck driver is suing his former employer, U.S. Xpress, for defamation and breach of contract after he was fired for what the company called a “preventable accident.” It was later found that the other driver was under the influence of drugs and alcohol at the time, and the truck driver was exonerated.

Lewis Chimes of the Law Office of Lewis Chimes, counsel for plaintiff Eugene Mercer, said Mercer is in his early 50s with a disability that requires a wheelchair.

“He’s a really great guy with an interesting background,” Chimes said.

Counsel for U.S. Xpress, Peter Joseph Murphy and Sarah Niemiroski of Shipman & Goodwin, did not respond for comment.

According to the complaint, Mercer was driving a tractor-trailer, and as he had almost completed his left turn onto the access road, the driver of an SUV, David Jenkins, drove directly into the trailer, killing Jenkins immediately, the [complaint](#) said. The crash took place in Bordentown, New Jersey, on Nov. 29, 2021, while Mercer was fulfilling his regular delivery duties, according to the complaint.

A preliminary report on the day of the crash concluded that Jenkins was driving at a high speed and was not able to stop, and found 85 yards of skid marks made by Jenkins, according to the complaint.

“The report also concluded that there ‘were no signs of impairment or reckless driving from vh#2’ operator Eugene Mercer,” the complaint said.

According to the complaint, police found that Mercer could not have seen the SUV traveling at approximately 100 mph before he began his left turn. In addition, the local prosecutor’s office declined to prosecute Mercer, the complaint said.

U.S. Xpress hired an “investigation firm and an attorney to monitor law enforcement’s developing conclusions and the preliminary results of their investigations,” the complaint said.

However, U.S. Xpress on Dec. 11, 2021, before the police investigation was complete, fired Mercer, and characterized the accident as “preventable,” the complaint said.

When Mercer attempted to find employment elsewhere, he was unable to because his former employer would say that the accident was a “preventable accident” to potential employers, the complaint said.

In addition, when the police investigation found that Jenkins had been under the influence at the time of the accident, U.S. Xpress denied Mercer’s internal termination appeal, the complaint said. The company did not update its conclusion that the accident was preventable, the complaint said.

Mercer then appealed the defendant’s finding to the U.S. Government’s Crash Determination Preventability Program, the complaint said. He was exonerated on Nov. 22, 2022, as the accident was found to be “non-preventable.”

The lawsuit against U.S. Xpress was removed to federal court on Wednesday, but Chimes said Mercer has an arbitration provision in his employment agreement.

“The arbitration agreement says that any claim must be done through arbitration, and it must be done in Chattanooga, Tennessee, where U.S. Xpress has its headquarters,” Chimes said. “They have been trying to compel him to go do his case in arbitration in Tennessee.”

Chimes said they anticipate the defendant will file a motion to stay the proceedings, and make Mercer argue his case in Tennessee. However, Chimes said this would be a “severe” hardship.

Read the complaint:

Case 3:23-cv-00042 Document 1-1 Filed 01/11/23 Page 1 of 21

EXHIBIT A

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