Texas Federal Court Reaffirms the Savage Rule

June 17, 2021

When a shipper loads a trailer improperly can the carrier still be liable for any damages that occur? According to the *Savage Rule*, the answer can be yes. The *Savage Rule* is engrained in the transportation practices and has been widely adopted and applied by a number federal jurisdictions. The rule states that a carrier maintains the primary duty of safe loading. However, when the shipper assumes the responsibility of loading, it also retains the liability for any defects that are "latent and concealed and cannot be discerned by ordinary observation by agents of the carrier," but any defects that would be discovered by observation will cause liability to shift to the carrier.

The *Savage Rule* was recently applied in the Southern District of Texas in *Dixon v. Leopoldo Logistics, Inc*. In this case, the plaintiff was a veteran driver with over ten years of experience at the time. He arrived at the defendant's loading dock, to pick up a shipment of ceramic tile, which was loaded in 12 shrink wrapped pallets onto the center of the trailer. The loading was exclusively done by the shipper's employees who told the plaintiff to pull away so they could seal the load. However, before the trailer's doors were closed, the driver observed the load for about five minutes from the ground and did not climb in to the trailer to inspect the pallets. After, the driver left to begin the delivery and as he neared his destination, he heard the cargo shift when traversing a downward-spiral ramp. This resulted in the trailer rolling over.

In determining whether the claim could even go forward, the United States District Court for the Southern District of Texas applied the *Savage Rule*. There was no dispute that Leopoldo Garza Logistics, the shipper, assumed the loading responsibilities of the pallets. As such, the Court had to first determine if the defects in the loading latent and unobservable. The Court held that the driver's inspection at the ground level was inadequate. Even though the load may have looked secure from his ground-based perspective, there was nothing preventing the driver from climbing in to the trailer and inspecting the cargo. The driver tried to assert that it was impossible and impractical, but the court noted that there were clear lanes and means to move about the trailer. The plaintiff also noted that a load that heavy should have been "blocked and braced." This is distinguished from previous cases that involved inexperienced drivers who relied on the shipper's assurances for unfamiliar loads. In finding that the defects were observable, the load was not sealed, and inspecting the load was not impracticable the Court dismissed the case.

The *Savage Rule* places great importance on the proper loading of cargo and inspecting that cargo before transportation. The Dixon case serves as a strong reminder that the driver has overall authority when it comes to the safety of the cargo he or she carries. To the extent possible, drivers must inspect their loads and not merely accept a shipper's assurance of proper loading, as the applicability of the *Savage Rule* and the potential shift of liability is a question of fact. Carriers and drivers should head Dixon's lesson: an ounce of prevention is worth a pound of cure. It is better to inspect a load as any dispute or ambiguity of what the driver should have done may be held against them.

Attorney Advertising. This material is for general informational purposes only and does not represent our advice as to any particular set of facts; nor does it represent any undertaking to keep recipients advised of all legal developments. Prior results do not guarantee a similar outcome. © 2026 MG+M The Law Firm