

Missouri Lawyers WEEKLY

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Jury sides with fired Kansas truck driver



Joseph K. Eischens



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By ALAN SCHER ZAGIER
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A Clay County jury awarded more than \$1 million to an eastern Kansas truck driver who was fired after he was diagnosed with multiple sclerosis.

Fifty-six-year-old Loyd Broyles Jr. of Olathe, Kansas sued J.B. Hunt Transport Inc. in Clay County Circuit Court in December 2011,

roughly 18 months after his dismissal. Broyles worked for two years at the company's Kansas City terminal, primarily delivering supplies to Home Depot business and residential customers in greater Kansas City.

According to the suit, Broyles was diagnosed with the autoimmune disease in March 2010. A company-ordered medical evaluation under federal Department of Transportation rules determined that while Broyles had difficulty walking, he remained physically fit to continue as a commercial driver. He returned to work in early April, 2010 after agreeing in writing to not take medicine prescribed for his MS while at work.

The suit says Broyles' bosses

pulled him off the job less than three weeks later and ordered him to return for another medical exam. The second evaluation also cleared Broyles to continue driving.

He was sent for a third medical test in early May 2010, at which time a nurse said Broyles needed to take a functional capacity test before returning to work. The suit, which claimed violations under the federal Americans with Disabilities Act, says Broyles passed that test but was again denied clearance to work, this time being told that he needed to pass a "skills performance evaluation."

At his doctor's request, Broyles took a company-administered driving evaluation test in June 2010 and "passed with flying colors," said plaintiff's attorney

Joseph Eischens of Thornberry, Eischens & Brown in Kansas City.

The neurologist subsequently wrote that "from a neurologic standpoint, I do not recommend any specific job restrictions. He appears to be capable of safely driving a tractor trailer." Broyles wound up driving for another company before retiring in December 2012.

The case went to trial on Aug. 25, with the jury determining three days later that Broyles deserved punitive damages as well as \$45,057.59 in lost wages. The next day, the jury deliberated for 65 minutes before deciding to award Broyles \$1 million in damages.

Defense attorney Mitchell Evan Wood did not respond to an interview request. **MO**

\$1.045 million verdict

DISABILITY DISCRIMINATION

- Venue: Clay County Circuit Court
- Case number/date: 11CY-CV13999-01/Aug. 29, 2014
- Judge: Janet Sutton
- Last pretrial demand: \$55,000 (first day of trial)
- Last pretrial offer: \$5,000
- Special damages: \$45,057.59 in lost wages
- Caption: Loyd A. Broyles v. J.B. Hunt Transport, Inc.

■ Plaintiff's attorneys: Joseph K. Eischens and Randall W. Brown, Thornberry, Eischens & Brown, Kansas City

■ Defendant's attorney: Mitchell E. Wood, The Halbrook Law Firm, Prairie Village, Kansas