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Mann v. Redman Van & Storage Co**A** **Mann v. Redman Van & Storage Co., 2013 U.S. App. LEXIS 21047** (Copy citation)

United States Court of Appeals for the Ninth Circuit
October 10, 2013**, Submitted, Portland, Oregon; October 17, 2013, Filed
No. 12-35373

Reporter: **2013 U.S. App. LEXIS 21047** | 2013 WL 5648953

DAVID K. MANN; ELIZABETH S. MANN; DELANEY MANN; MACKENZIE MANN, Plaintiffs - Appellants, v.
REDMAN VAN & STORAGE CO., INC., Defendant - Appellee.

Notice: PLEASE REFER TO [FEDERAL RULES OF APPELLATE PROCEDURE RULE 32.1](#) GOVERNING THE CITATION TO UNPUBLISHED OPINIONS.

Prior History: **[1]** Appeal from the United States District Court for the District of Montana. D.C. No. 9:10-cv-00128-DLC. [Dana L. Christensen](#), Chief District Judge, Presiding.
[Mann v. Redman Van & Storage Co., 2012 U.S. Dist. LEXIS 51911 \(D. Mont., Apr. 12, 2012\)](#)

Disposition: AFFIRMED.**Core Terms**

district court, new trial, cable, negligence per se, spoliage, pigtail, train, truck, weight of the evidence, abuse of discretion, time of an accident, jury's verdict, nonnegligent, truck driver, turn signal, tort law, detach

Counsel: For DAVID K. MANN, ELIZABETH S. MANN, DELANEY MANN, MACKENZIE MANN, Plaintiffs - Appellants: [Tyson E. Logan](#), Mel C. Orchard, III, Esquire, Attorney, [The Spence Law Firm, LLC.](#), Jackson, WY; [James A. Manley](#), Esquire, Attorney, Manley Law Firm, Polson, MT.

For REDMAN VAN & STORAGE CO., INC., Defendant - Appellee: [Perry Joel Schneider](#), Attorney, [Milodragovich, Dale & Steinbrenner P.C.](#), Missoula, MT.

Judges: Before: SILVERMAN, W. FLETCHER, and [CALLAHAN](#), Circuit Judges.

Opinion

MEMORANDUM*

The Manns, Plaintiffs-Appellants, appeal from a district court's denial of their Rule 59 motion for a new trial following a jury verdict in Defendant-Appellee Redman's favor. The Manns and defendant Redman's employee, Anderson, were involved in an accident in 2008. Anderson was driving a semi-truck on a two-lane highway. He slowed to make a left turn as the Manns attempted to pass Anderson's **[2]** truck in the left lane. The two vehicles collided. The Manns brought suit against Anderson's trucking company alleging that the company's negligence had caused them serious injury. At trial they presented a variety of theories of negligence, including arguments that 1) Anderson's trailer's pigtail cables had detached and therefore the turn signal was not working at the time of the accident, in violation of Montana law, and 2) Redman had violated federal record-keeping, training, and testing regulations relating to Anderson. The jury found Redman not negligent. The Manns moved for a new trial, arguing that the verdict was against the weight of the evidence and that the district court improperly instructed the jury. The district court denied the motion, and the Manns appealed.

We review a district court's decision not to grant a new trial, its formulation of the jury instructions, and its decision not to give a proposed spoliation instruction all for abuse of discretion. [Kode v. Carlson](#), 596 F.3d 608, 611 (9th Cir. 2010); [Jones v. Williams](#), 297 F.3d 930, 934 (9th Cir. 2002); [Millenkamp v. Daisco Foods Int'l, Inc.](#), 562 F.3d 971, 981 (9th Cir. 2009).