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Report From Counsel

Spring 2014

Big Trucks Threaten Highway Safety

We all know the feeling: that uncomfortable tightening of the chest we get when we look into our rearview mirror and see an 80,000-pound 18-wheeler truck barreling down on our back bumper. This feeling is not entirely irrational. According to federal statistics, such trucks cause thousands of collisions each year. Given a truck's size and weight, common sense tells us that a collision between a big rig and a car—or even an SUV—is likely to turn out badly for the car or SUV.

In a collision between a truck and a passenger automobile, the fatalities occur in the automobile 98% of the time. Annual truck crash fatalities are equivalent to a major airplane crash every other week of the year.

Some of the reasons are obvious: Trucks are bigger, heavier, and longer than cars; they need more room to maneuver; and they take a lot more road to come to a stop. Many collisions involving trucks are caused by the same things that cause run-of-the-mill car accidents: poorly maintained trucks, speeding, overly aggressive driving, failure to

yield the right-of-way, or bad driving conditions caused by rain or snow, etc. However, there are many other causes of these collisions, causes that are very avoidable.

One of the biggest causes of crashes is excessive truck size. An 80,000-pound truck is more than twice as likely to be involved in a fatal accident as a 50,000-pound

truck. Furthermore, it causes more “wear and tear” to the roads.

Trucks are also getting longer, with the industry-standard trailer having grown from 40 feet long in the 1960s to 53 feet long today. Longer trucks mean larger blind spots, resulting in more accidents.

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New Hours-of-Service Rules for Truckers Are Dangerous

For many years, the government has regulated the number of hours that truckers are allowed to drive, in an effort to keep tired truckers from being behind the wheel of large trucks. Recently, these rules were changed to let truckers drive up to 11 hours straight, without a rest, and up to a maximum of 80 hours per week.

As many as 13% of crashes involving large trucks list driver fatigue as a factor, with 4,000 people a year being killed and 100,000 getting injured in such crashes. A record number of truckers admit to driving while tired and even to falling asleep while driving.

Despite these statistics, challenges to the new rules by a coalition of safety organizations were rejected by the courts. The negative effect of the new rules on highway safety is easy to imagine.

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The Perils of Asbestos Exposure

For years, exposure to asbestos was common in many industries, including on construction sites, in shipyards, in factories, and in automotive repair shops. Asbestos was eventually banned for most uses because it causes a number of different kinds of health problems for those who have been exposed to it. Of these, among the most serious is asbestosis.

Asbestosis is a respiratory disease caused by inhaling asbestos fibers. It is a disease that develops slowly, taking between 10 and 40 years to develop. Because of this slow onset, victims often don't know that they have it until years after they were exposed.

The inhaled asbestos fibers irritate the lungs, causing an inflammation. In an attempt to protect themselves, the lungs form a kind of scar tissue around the fiber, called "fibrosis." The fibrosis affects the victim's lung function, leading to shortness of breath and the feeling of not being able to catch one's breath. The lungs are progressively less able to take in oxygen and expel carbon dioxide. Among the other effects of asbestosis are the presence of a chronic cough, the inability to perform as much physical activity due to a lack of oxygen, chronic chest pain, and congestive heart failure. Over the longer term, asbestosis can lead to disability or even death.

Asbestosis can also lead to a kind of cancer known as "mesothelioma" or to lung cancer. The exact connection between lung cancer and asbestosis is not well understood, but most doctors believe that exposure to certain kinds of asbestos can increase a person's chances of getting lung cancer, especially if

that person is also a smoker.

Before its symptoms become pronounced, asbestosis may be detected only by using X-rays or CT scans of the lungs, which will show the scarring and thickening of the lung tissue that is characteristic of the disease. Many people are thus not diagnosed until it is too late, because until they have symptoms, they see no need to have their lungs examined.

If you learn that you suffer from asbestosis, it is important to consult with a qualified lawyer. It may be possible to recover compensation for injuries due to asbestos expo-

sure, but it takes an experienced attorney to understand how to bring such a suit.

An asbestosis lawsuit often has to name dozens and dozens of asbestos manufacturers and employers as defendants because it is hard to know who is directly responsible for the injuries. Proof of an asbestosis claim also requires gathering complex medical evidence and using it to prove the connection between the asbestos exposure and the injuries suffered. In a case that complex, it does not pay to go it alone.

Case-by-Case

In a recent victory for safety advocates, the family of a man killed by a tired trucker was awarded \$58.5 million by a jury.

The lack of care exhibited by the trucking company was staggering: The driver was new and had received none of the training required of people driving big rigs; he had been on the job 13 hours straight; the registration of the truck he was driving had expired; the truck and its equipment was faulty, so it should not have been in service at all; and the evidence showed that the trucking company paid its drivers by the job, not by the hour (giving them incentive to hurry), and that it had received citations for safety violations at twice the rate of other companies.

Given all of this, one might not be surprised to learn that this driver recklessly pulled out in front of a married father of five. The father died on the way to the hospital.

The jury awarded the family \$11.5 million in compensatory damages and \$47 million in punitive damages. It also took the unusual step of admonishing the trucking company directly, saying that it hoped that its judgment "will clearly communicate that we expect a much higher standard of safety and training in the trucking industry."

Weather the Storm

The recent typhoon in the Philippines is a dramatic reminder that millions of us are vulnerable to destructive storms that cause injuries, deaths, and property damage on a scale that is often hard to comprehend. Here are some tips for preparing yourself and your family for dealing with a damaging storm.

Stock Up

The moment when you are in the crosshairs of an approaching storm is no time to be scurrying around town for necessities. Before the storm hits:

- Put together an emergency kit, with such items as a whistle, dust masks, flashlights (with batteries), drinking water, basic first aid items, and any needed medications;
- Fuel up your vehicles and a gas generator;
- Recharge your cell phones;
- Keep at least a three-day supply of nonperishable foods;
- Make sure fire extinguishers have adequate pressure;
- Inform your local utility and fire department if someone in your home uses special medical equipment; and
- Keep some cash on hand.

Batten Down the Hatches

To secure your property and valuables as best as time and other circumstances will allow, shut all windows, blinds, shades, and drapes and, over the longer run, consider installing impact-resistant windows or hurricane shutters. To keep them from becoming projectiles, move indoors all outdoor objects that are vulnerable to high winds. Park cars on the highest ground available, but

not under trees, and move valuable personal property and important documents to higher floors if flooding is possible.

When the Storm Hits

During a severe storm, stay in a centrally located room in your house that doesn't have windows. If flooding or even significant wetness is an issue, don't use devices you need to plug in, and avoid using landline phones. Skip baths and showers until the storm has passed. Be on the lookout for downed power lines and live wires. And as you hunker down, be glad if you took steps to stock up and otherwise prepare for the storm.

Help Is Here

The period of time following an accident is one of confusion and uncertainty. There are many things to take care of. Hiring a good lawyer is one of them.

Many times, people don't know where to go when they need legal help. If you or a loved one has been injured in an accident, call us. We will vigorously represent you and make sure that you are justly compensated for your injuries. That's our job.

Renter's Insurance

For many reasons, the rental market has been hot in recent years. The market for renter's insurance, however, is still ice-cold. Despite the fact that some 96% of homeowners have insurance, as compared with only about a third of renters, renters are half again as likely to be burglarized as are homeowners.

Many renters (especially new ones) falsely assume that the landlord's insurance also covers them. Typically, it does not. Others assume that they cannot afford renter's insurance, but the truth is that rates are fairly low. Because a renter's policy does not cover the cost of the building itself, rates are usually far less than they would be for a homeowners policy on the same structure.

Before buying renter's insurance, determine how much you need. Value your belongings and decide whether you want to insure them for their actual value or the amount it would cost to replace them, which is often far higher. Determine what risks to cover and the level of deductible (the higher the deductible, the lower the policy cost).

Then call an agent or shop online. Some insurers will give you discounts if you bundle policies, buying renter's insurance, for example, from the same insurer who covers your car.

The time to buy renter's insurance is before disaster strikes, so if you are renting, don't be caught short.

Dangerous Trucks

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Additionally, many roads (including interstates) were designed when trucks were shorter, and their ramps and merge lanes were not designed to handle today's longer trucks. As a result, these trucks cross over into other lanes of traffic, increasing the danger of a collision.

Larger, longer, and heavier trucks require more braking time, meaning that they are more likely to be in a collision because they cannot stop. For example, a truck weighing 100,000 pounds can take up to 25% longer to stop than one weighing 80,000 pounds.

Other truck-related collisions are caused by a driver's inexperience in operating a particular kind or size of truck. Still other collisions are caused by tired truckers who have been on the road for too long and are fatigued, an increasing problem with the deregulation of

the trucking industry, changes in the ways goods are shipped to a "just-in-time" delivery system, and recent changes in the rules governing how long a trucker may drive before he is required to stop for a rest.

Suits involving truckers are often more difficult to prove than other kinds of collision suits, for several reasons. First, it may be difficult to find the trucker after the collision. The nature of a trucker's job means that he might be involved in a collision in a state far from where he lives and to which he will never return.

Trucking companies are also very skilled in defending themselves against negligence claims (which, to them, are just a part of doing business), and they can be very aggressive in denying claims, because every dollar that they pay out in compensation to accident victims is a dollar that does not go into their pockets.

Finally, most commercial big-rig accidents involve far more parties than the typical fender bender (the driver, the trucking company, multiple other drivers, the shipper, the insurance adjuster, and the insurer, just to name the most common), and the legal relationships among all of these parties can be difficult to unravel.

A person who has been involved in a collision with a trucker is entitled to recover an amount necessary to compensate him for his injuries. The complexity of these cases means that you should consult an experienced attorney and should NOT rely on the trucking company's insurance adjuster to look out for your interests.

Call us if you or a loved one has been involved in a big-rig collision. We will be happy to discuss the matter with you and work to get you the compensation that you deserve.

Actual resolution of legal issues depends upon many factors, including variations of facts and state laws. This newsletter is not intended to provide legal advice on specific subjects, but rather to provide insight into legal developments and issues. The reader should always consult with legal counsel before taking action on matters covered by this newsletter.