HOW TO LITIGATE A TRUCK WRECK CASE

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About Me

- First generation lawyer.
- Truck accident lawyer with 11 years experience.
- Practice on both sides of the aisle.
- Lead counsel in a wrongful death case for $27,000,000+ in 2018.
- Lead counsel for Fortune 100 companies.

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About Me



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Overview of Course

- Truck accidents from stem to stern.
- The First Call and Initial Investigation: What to do?
- Pleadings: What claims/defenses to assert?
- Discovery: What discovery is reasonable and necessary?
- Expert: Are experts needed?
- Common Issues: What legal issues commonly arise?

Disclaimer

- Every good lawyer has a disclaimer, right?
- The world of truck wrecks is complex, the injuries often severe, and the defendants' well resourced.
- Tread lightly when entering this world. It's good to team up.
- Call me or email me anytime

The First Call and Initial Investigation: What to do? (Pause)

Actions Triggered

- Sending a preservation letter
- Sending open records requests
- Marshalling Evidence
- Monitoring Treatment

What evidence is important in a truck case?

- The Federal Motor Carrier Service Administration ("FMSCA") is a branch of the U.S. Department of Transportation ("DOT").



- Regulates trucking companies and truck drivers.

- Regulations are voluminous.

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FMCSA Regulations

- Regulations are accessible on their website: fmcsa.dot.gov



Commonly Litigated Regulations

- Licensing, 49 C.F.R. § 383
- Hiring and Training, 49 C.F.R. § 391
- Driver's Hours of Service, 49 C.F.R. § 395
- Drug/Alcohol testing, § 382.301
- Inspection and Maintenance of Tractor Trailer, 49 C.F.R. § 396

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Licensing, 49 C.F.R. § 383

A commercial motor vehicle license ("CDL") is required

- "No person shall operate a CMV [Commercial Motor Vehicle] unless such person has taken and passed knowledge and driving skills tests for a CLP [Commercial License Permit] or CDL [Commercial Driver's License] that meet the Federal standards contained in subparts F, G, and H of this part for the CMV that person operates or expects to operate." 49 C.F.R. § 383.23

- Each state has additional criteria as well.

Age Requirement

- The person must be 18 years of age or older. 49 CFR § 383.71.
- Even then, you can only drive intrastate. To drive interstate, you must be 21.

Written Exam

- Available at eregulations.com

- Every truck lawyer should read it to see what the manual requires for the facts of their case



For example (since we're talking about licenses), here's an excerpt

Penalties for False Information

- Pursuant to 49 CFR 383.73(j), if a State determines, in its check of an applicant's license status and record prior to issuing a CLP or CDL, or at any time after the CLP or CDL is issued, that the applicant has falsified information contained in subpart J of this part, in any of the certifications required in § 383.71(b) or (g), or in any of the documents required to be submitted by § 383.71(h), the State must at a minimum disqualify the person's CLP or CDL or his/her pending application, or disqualify the person from operating a commercial motor vehicle for a period of at least 60 consecutive days.

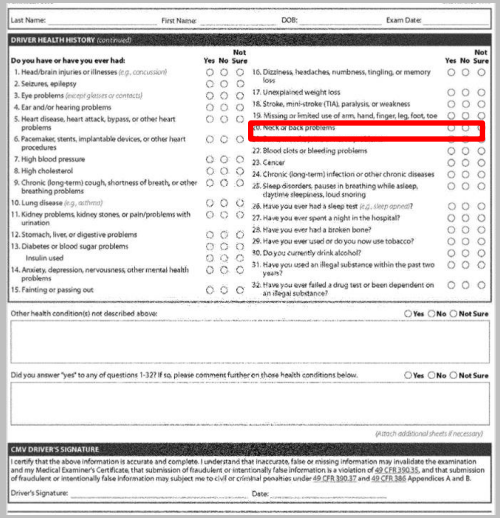
Road Skills Test

- A driver must complete a road skills test with a commercial vehicle. This is similar to the driver's test we all took but applies to commercial vehicles. 49 C.F.R. 383.133

Medical Fitness Exam

- Every driver must pass a medical fitness exam (yearly). 49 C.F.R. § 391.43
- Looks at health history, eyesight, physical abilities.
- These can be helpful if you (a) suspect the driver may have a physical disability or (b) are being sued by a truck driver for personal injuries.

Example Page from Medical Fitness Exam. Real World Example, Mr. S.



Last Name: First Name: DOB: Exam Date:

DRIVER HEALTH HISTORY *(continued)*

Do you have or have you ever had:	Yes	No	Not Sure
1. Head/brain injuries or illnesses *(e.g., concussion)*	○	○	○
2. Seizures, epilepsy	○	○	○
3. Eye problems *(except glasses or contacts)*	○	○	○
4. Ear and/or hearing problems	○	○	○
5. Heart disease, heart attack, bypass, or other heart problems	○	○	○
6. Pacemaker, stents, implantable devices, or other heart procedures	○	○	○
7. High blood pressure	○	○	○
8. High cholesterol	○	○	○
9. Chronic (long-term) cough, shortness of breath, or other breathing problems	○	○	○
10. Lung disease *(e.g., asthma)*	○	○	○
11. Kidney problems, kidney stones, or pain/problems with urination	○	○	○
12. Stomach, liver, or digestive problems	○	○	○
13. Diabetes or blood sugar problems	○	○	○
Insulin used	○	○	○
14. Anxiety, depression, nervousness, other mental health problems	○	○	○
15. Fainting or passing out	○	○	○
16. Dizziness, headaches, numbness, tingling, or memory loss	○	○	○
17. Unexplained weight loss	○	○	○
18. Stroke, mini-stroke (TIA), paralysis, or weakness	○	○	○
19. Missing or limited use of arms, hand, finger, leg, foot, toe	○	○	○
20. Neck or back problems	○	○	○
22. Blood clots or bleeding problems	○	○	○
23. Cancer	○	○	○
24. Chronic (long-term) infection or other chronic diseases	○	○	○
25. Sleep disorders, pauses in breathing while asleep, daytime sleepiness, loud snoring	○	○	○
26. Have you ever had a sleep test *(e.g., sleep apnea)*?	○	○	○
27. Have you ever spent a night in the hospital?	○	○	○
28. Have you ever had a broken bone?	○	○	○
29. Have you ever used or do you now use tobacco?	○	○	○
30. Do you currently drink alcohol?	○	○	○
31. Have you used an illegal substance within the past two years?	○	○	○
32. Have you ever failed a drug test or been dependent on an illegal substance?	○	○	○

Other health condition(s) not described above: ○ Yes ○ No ○ Not Sure

Did you answer "yes" to any of questions 1-32? If so, please comment further on those health conditions below. ○ Yes ○ No ○ Not Sure

(Attach additional sheets if necessary)

CMV DRIVER'S SIGNATURE

I certify that the above information is accurate and complete. I understand that inaccurate, false or missing information may invalidate the examination and my Medical Examiner's Certificate, that submission of fraudulent or intentionally false information is a violation of 49 CFR 390.35, and that submission of fraudulent or intentionally false information may subject me to civil or criminal penalties under 49 CFR 390.37 and 49 CFR 386 Appendices A and B.

Driver's Signature: Date:

What do the licensing requirements mean for the initial call?

- Preservation of the Medical Examiner Certificate.
- Preservation of CDL License
- Review of materials that a driver must know and follow to see how it applies in your case.

Real World Example

- Mr. Young McDriver is driving a truck from Alabama to Georgia. The truck is hauling CO_2. After he crosses state lines, his insulin level drops, he passes out, and crashes into a passenger vehicle.

- Where, does our lawyer brain go with this?

Hiring and Training, 49 CFR 391

The Application

- Written application for employment which includes (a) 3 years of prior addresses; (b) list of all current and former CDLs; (c) 3 years or prior accidents; (d) 3 years of prior employers, if not applying to drive a truck, and 10 years of prior employers if driving a truck.

- The written application is certified.

- The application may contain important information.

The Investigation

- The trucking company is required to complete an investigation into the driver.
- An inquiry with the State DOT for 3 years of prior motor vehicle citations. 49 CFR § 391.23
- A request (written or oral, with documentation) to the DOT covered employers for 3 prior years. The request is focused on accidents and alcohol/drug tests Id.
- These documents may be important to a case and should be preserved.

Annual Inquiry

- The trucking company inquires with the State into the MVR of their driver at least once a year. 49 CFR §391.25.

- The trucking company requires the driver themselves to certify a list of any traffic tickets which resulted in conviction or payment for prior 12 months. 49 CFR §391.27.

- These inquiries may be important and should be preserved.

Is a Road Test Required by the Employer?

- Generally speaking, no. "In place of, and as equivalent to, the road test required by §391.31, a person who seeks to drive a commercial motor vehicle may present, and a motor carrier may accept…[a] valid Commercial Driver's License as defined in §383.5 of this subchapter, but not including double/triple trailer or tank vehicle endorsements…." 49 CFR 391.33

- Some employers still perform a road test. These can be important to preserve.

- Real world example with backing.

Driver Qualification File

- The truck company must maintain a "driver qualification file."

- This file must include:
  - Application
  - MVR
  - Road Test or copy of license if exception is used
  - Yearly inquiry into MVR from state
  - Annual review of the record
  - Yearly driver identified list of prior citations.
  - Medical Examiner Certificate

- This may be important to preserve.

Training

- Training is generally not required: "The Federal Motor Carrier Safety Regulations generally do not require trucking companies to train their drivers. For instance, when a driver has a valid CDL, the motor carrier may accept the CDL in lieu of subjecting the driver to a road test." Ortiz v. Wiwi, 2012 U.S. Dist. LEXIS 137881 at *12, No. 3:11-CV-00033 (M.D. Ga. 2012).

- The FMCSR does require limited training for "entry-level drivers" (i.e. drivers with less than 2 years of experience) in the following areas: (a) driver qualification, (b) hours of service, (c) driver wellness, and (d) whistleblower. 49 CFR 380.503.

- Some companies still provide training, so it should be requested if you think driver training is an issue.

Real World Example

- Driver McDriverson is operating a bus. He's a recent hire for MARTA, the Atlanta bus authority. He had previously drove for Greyhound, Atlanta Charter Bus, and DeKalb County School Systems. While driving the bus, he rear ends a passenger vehicle.

- What issues do we spot here?

Driver's Hours of Service, 49 C.F.R. § 395

Rules governing hours of service

- A truck driver has specific rules that control the number of hours that they can operate a truck.
- This includes hours controlling the number of hours a truck driver can operate a truck in a single day, as well as the number of hours in a week.
- The big ones are discussed below.

Property Carrying: 14 Hour Driving Window

- There is a 14-hour driving window limit.
- A driver is permitted a period of 14 consecutive hours in which to drive his vehicle. This does not mean he can drive this whole time (discussed in the next slide)
- Once that period expires, the driver is required to take 10 consecutive hours off before driving again. This regulation is § 395.3(a)(2).

Property Carrying:
11 hours of driving. Break required.

- During the 14 consecutive hour period explained above, a driver is permitted to operate his truck for up to 11 total hours.
- The driver must take a 30 minute rest break after 8 hours of driving.
- The thirty-minute rest break requires that a driver not drive more than 8 hours consecutively without stopping for at least 30 minutes.
- This could be a meal or another time when the driver is not driving. The regulation is § 395.3(a)(3).

Property Carrying: 60/70 Hour Limit

- There is a 60/70-hour limit for on duty time. This limit is based on a 7 or 8 day period respectively.

- The 7 day limit applies if the company operates trucks 6 days per week. The 8 day limit applies if the company offers trucks 7 days a week.

- This is sometimes referred to a "weekly" limit. Importantly, however, the 7-8 day period does not have to begin at the start of the week. It refers to the days immediately prior to the current day.

Property Carrying:
60/70 Hour Limit, Example Chart

DAY	HOURS
1. Sunday	0
2. Monday	10
3. Tuesday	8.5
4. Wednesday	12.5
5. Thursday	9
6. Friday	10
7. Saturday	12
8. Sunday	5
TOTAL	67 hours

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100 Air-Mile Exception

- The 100 air-mile exception exempts a driver from the log-book reporting requirements, as well as the 30 minute break requirement.

- To qualify for the exception, the driver must operate within a "100 air-mile radius" of his normal work reporting location. The driver must return to this work reporting location within 12 hours.

- The driver is still subject to the 10 hour off duty requirement and 11 hour driving requirements. This exception is found in § 395.1(e)(2).

16-Hour Short Haul Exception

- This exception allows you to extend the 14 hour driving window to 16 hours once every 7 consecutive days.

- To take advantage of this, you must (a) leave and return to the same reporting location each day and for the 5 prior days; (b) be off duty 10 consecutive hours each day; (c) released from work within 16 hours of duty; and (d) not used this exception more than once.

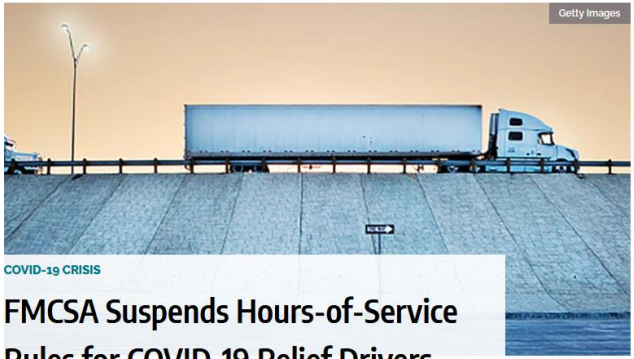
Adverse Driving Condition Exception

- In the event of unexpected adverse conditions, the truck driver may drive an additional 2 hours during the 14 hour period outlined above, to complete the run.

- The conditions must (a) occur during the original 14 hour period and (b) be unexpected at the beginning of the run.

- This exception is located at This exception is found in § 395.1(b).

Coronavirus Exception



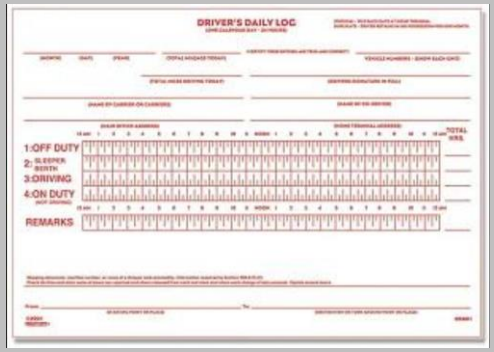
Passenger Carrying Commercial Motor Vehicles

- The hours of service rules are different for passenger carrying commercial motor vehicles

- The general rules are:
  - No more than 10 hours of driving, following 8 hours off duty
  - No more than 15 hours on duty, following 8 hours off duty
  - 60/70 for 7 and 8 day periods

The log books may be important, depending on the facts

- Only required to keep for 6 months, 49 C.F.R. § 395.8(k).



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Real World Example

- Mrs. Daily Trip Driver is in accident while delivering bread to a Kroger grocery store. She works for Dave's Organic Bread. She left at 7:00 am that morning. However, because of the accident, she did not return the plant until 8:00 pm that night. Is a log required?

Drug/Alcohol testing, § 382.301

Initial Employment Drug Screen

- "(a) Prior to the first time a driver performs safety-sensitive functions for an employer, the driver shall undergo testing for controlled substances as a condition prior to being used, unless the employer uses the exception in paragraph (b) of this section." §382.301

- The exception is for an employee who has exited rehabilitation, recently.

- No pre-employment alcohol test is required.

Alcohol/Drug Testing after certain accidents

- A truck driver does not have to receive a screening just because he was involved in an accident.

- The accident must meet certain requirements.

Chart for Drug/Alcohol Testing

Type of Accident Involved	Citation Issued to the CMV Driver	Test Must Be Performed by Employer
Human Fatality	Yes	Yes
Human Fatality	No	Yes
Bodily Injury With Immediate Medical Treatment Away From the Scene	Yes	Yes
Bodily Injury With Immediate Medical Treatment Away From the Scene	No	No
Disabling Damage to Any Motor Vehicle Requiring Tow Away	Yes	Yes
Disabling Damage to Any Motor Vehicle Requiring Tow Away	No	No

Random Drug/Alcohol Tests

- The regulations require truck drivers to submit to random alcohol and drug tests.
- The percentage of truck drivers that a company must test is subject to change each year. In the original code section, § 382.305, was 10% of drivers tested for alcohol in a year and 25% for drug tests within a year.
- Depending on the facts and circumstances of the case, drug/alcohol screens may be important to preserve.

Inspection and Maintenance of Tractor Trailer, 49 C.F.R. § 396

Duty to Inspect and Maintain

- The Federal Regulations require a trucking company to inspect, repair, and maintain their vehicles in working conditions.
- The truck, trailer, and equipment must be in good working order.
- The company must maintain repair records for 18 months. § 396.3

Full Detailed Inspection, Yearly

- The Federal Rules require a full detailed inspection of the tractor and trailer at least once a year.

- This is commonly called the DOT inspection.

Driver Daily Inspection Reports

- Drivers are required to perform pre-trip and post-trip inspections.
- These inspections are cursory in nature and include the following:
  - Service brakes including trailer brake connections;
  - Parking brake;
  - Steering mechanism;
  - Lighting devices and reflectors;
  - Tires;
  - Horn;
  - Windshield wipers;
  - Rear vision mirrors;
  - Coupling devices;
  - Wheels and rims; and
  - Emergency equipment.
- Must be maintained for 3 months. 396.11

"Out of Service" Order

- "Motor vehicles and intermodal equipment declared "out-of-service." (1) Authorized personnel shall declare and mark "out-of-service" any motor vehicle or intermodal equipment which by reason of its mechanical condition or loading would likely cause an accident or a breakdown. An "Out-of-Service Vehicle" sticker shall be used to mark vehicles and intermodal equipment "out-of-service." 49 CFR § 396.9.

- Expert advice required.

Real World Example

- Mr. Driver Man is backing out of a facility when he accidentally strikes another vehicle. In the police report, he says that "his mirrors didn't show the car there."

- What are we wanting to look for here?

Now that we know what evidence may be important, how do we secure it?

Plaintiff's Attorney: Preservation Demand

- Formal letter that notifies the Defendant that you plan to file a claim and identifies relevant evidence.
- Sent via certified mail or some other method that permits tracking.
- Once received, it triggers a duty on the company to ensure relevant items are preserved.

Example Preservation Demand in a Truck Wreck (Pause, What to include?)

Although you should already know that potential claims may result from the Incident, you are hereby placed on formal notice of potential claims regarding the above-referenced matter. These potential claims include, but are not limited to, claims related to personal injury, pain and suffering, and any and all claims which may be related to the above-referenced incident.

It is hereby demanded, pursuant to Georgia law, that you preserve any and all items, pictures, videos, receipts, documents, records, related in any way to the incident. Georgia law requires that you preserve any relevant evidence, and your failure to do so will result in sanctions against you. Baxley v. Hakiel Indus., 282 Ga. 312 (2007). "Spoliation refers to the destruction or failure to preserve evidence that is necessary to contemplated or pending litigation. Such conduct creates the presumption that the evidence would have been harmful to the spoliator." Id. (internal citations omitted). These sanctions can include, but are not limited to, striking of the answer.

This preservation request specifically includes but is not limited to the following items:

Potential Items

- Videos
- Photographs
- The vehicle
- Manuals
- Training materials
- Recordings
- Communications
- Driver Qualification File
- Drug/Alcohol Tests
- GPS Info
- Maintenance records
- Daily inspection report
- Hours of Service Logs
- Weight tickets

Defense Attorney: Securing Evidence

- Coordinate with local personnel.
- Phone call with proper folks.
- Work to preserve any relevant materials.
- Communicate with client upon completion.
- Consider inspection of vehicle/equipment.
- Maintain info for your file.

Law on Spoliation

- If a defendant spoliates evidence, there is potential for sanctions.
- There are a number of elements, including if the person was acting in good or bad faith.
- One of the most important factors, in our experience, is the relevance of the item.
- If a requested item has no bearing on the facts, it will not result in spoliation. Ballard v. Keen Transp., Inc., No.:10-cv-54, 2011 U.S. Dist. LEXIS 5487 at *16-17 (S.D. Ga. Jan. 19, 2011); Fred's Store of Tenn., Inc. v. Davenport, 307 Ga. App. 58 (2010); Sharpnack v. Hoffinger Indus., 231 Ga. App. 829 (1998)

Steps after Initial Investigation

- Like any claim, you will build your evidence, investigating witnesses, medical treatment, liability, causation, and damages issues.
- Truck companies are required by law to have insurance, so there is likely a carrier to notify.
- Attempts at pre-suit negotiation are made.

Pleadings: What claims/defenses to assert?

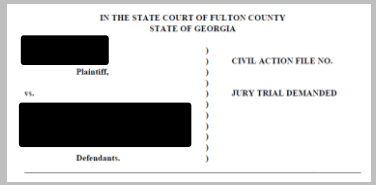
The Complaint

- Negligence
- Negligence, *per se*
- Negligent hiring, training, or retention
- Direct Action
- Punitive Damages
- Attorney Fees

Negligence and Negligence *per se*

- This driver committed a violation of what a reasonable driver would under the same or similar circumstances.
- This is the basis of any good tort claim. In most cases, we tell our folks to not gum up the works with unnecessary claims.
- Keep firing torpedoes until the thing goes belly up.

Example Complaint



IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

[redacted]
Plaintiff,

vs.

[redacted]
Defendants.

CIVIL ACTION FILE NO.

JURY TRIAL DEMANDED

COUNT I: NEGLIGENCE

21.

Plaintiff incorporates the preceding paragraphs 1 through 20 of the Complaint as if full restated herein verbatim.

22.

Defendant [redacted] negligently operated his motor vehicle, proximately causing the crash at issue, and personal injuries to Dr. [redacted]

23.

Plaintiff is entitled to recover from Defendants all damages proximately caused by Defendants' negligent acts and omissions, in an amount to be proven at trial.

Negligent Hiring

- For over 60 years, Georgia followed the "Respondeat Superior Rule."

- This rule stated: "if a defendant employer concedes that it will be vicariously liable under the doctrine of respondeat superior if its employee is found negligent, the employer is entitled to summary judgment on the plaintiff's claims for negligent entrustment, hiring, training, supervision, and retention unless the plaintiff has also brought a valid claim for punitive damages against the employer its own independent negligence." Quynn v. Hulsey, 850 S.E.2d 725 (Ga. 2020).

- The Supreme Court overruled this doctrine in 2020.

The Quynn Decision (Pause)

- The Supreme Court ruled that the apportionment statute, OCGA § 51-12-33, abrogated the Respondeat Superior Rule.
- A jury must be able to consider the employer's separate negligence in hiring.
- Accordingly, now a claim for negligent hiring against the employer may proceed even if it does not support punitive damages.
- Is this a better decision for the plaintiffs or defendants?

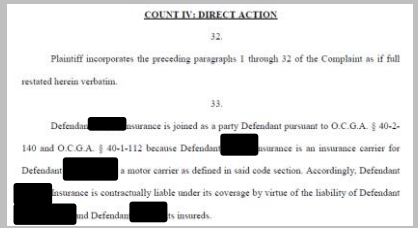
Is Quynn better for Plaintiffs or Defendants?

- Plaintiffs:
  - More probing into truck company's practices
  - Additional depositions and documentation
  - Another line on the verdict form for negligence

- Defendants:
  - More discovery.
  - Better liability position for the company.
  - Easy to understand and follow regulations.
  - If followed directions, company looks responsible.

Direct Action Statute

- Georgia, and other states, has a direct action statute.
- This means that a trucking company's insurer may be named as a direct party to the lawsuit.



COUNT IV: DIRECT ACTION

32.

Plaintiff incorporates the preceding paragraphs 1 through 32 of the Complaint as if full restated herein verbatim.

33.

Defendant [redacted] insurance is joined as a party Defendant pursuant to O.C.G.A. § 40-2-140 and O.C.G.A. § 40-1-112 because Defendant [redacted] insurance is an insurance carrier for Defendant [redacted] a motor carrier as defined in said code section. Accordingly, Defendant [redacted] insurance is contractually liable under its coverage by virtue of the liability of Defendant [redacted] and Defendant [redacted] its insureds.

Punitive damages

- In general, punitive claims are very hard to maintain int the typical truck accident case.
- "In automobile collision cases, punitive damages are not recoverable where the driver at fault simply violated a rule of the road." Miller v. Crumbley, 249 Ga. App. 403, 405 (2001)
- The fact that the driver was driving too fast for conditions, drug paraphernalia found in the car, driver had .03 BAC, and the driver yelled at the pregnant victim after the accident was not enough to justify punitive damages. Coker v. Culter, 208 Ga. App. 651 (1993)

Attorney Fees

- The rules for attorney fees in trucking accident cases are the same for standard torts.
- O.C.G.A. § 13-6-11 permits attorney's fees for post-suit behavior that is egregious.
- In general, you're not going to get these.

The Answer

- The answer is, in large part, dictated by the Complaint.

- The affirmative defenses should include, the following, if applicable:
  - Contributory negligence (all drivers have a duty to mitigate)
  - Statute of Limitations (2 years, generall)
  - Jurisdiction/Venue
  - Mitigation
  - Causation issues (pre-existing, degenerative conditions0

Answer

IN THE STATE COURT OF DEKALB COUNTY
STATE OF GEORGIA

[redacted]
Plaintiffs,

v.

[redacted]
Defendants.

CIVIL ACTION
FILE NO. [redacted]

ANSWER

AFFIRMATIVE DEFENSES

At the time of preparation of this Answer, the Defendants are unaware of all facts or circumstances giving rise to the claims set forth in the Complaint. The following affirmative defenses are raised so as not to be waived as a matter of law, and will be relied upon to the extent that the facts developed by way of discovery and/or produced at the time of trial show the same to be applicable; otherwise, they will be withdrawn.

Discovery: What discovery is reasonable and necessary?

Discovery

- Interrogatories
- Requests for Production
- Requests for Admission
- Depositions
- Third Party Requests for Production

Interrogatories

- Plaintiff's interrogatories, generally, will follow the key rules discussed earlier.
  - Licensing, 49 C.F.R. § 383
  - Hiring and Training, 49 C.F.R. § 391
  - Driver's Hours of Service, 49 C.F.R. § 395
  - Drug/Alcohol testing, § 382.301
  - Inspection and Maintenance of Tractor Trailer, 49 C.F.R. § 396
- Some of these regulations may not fit your case. For example, if there is no fatigue, then there is likely no Hours of Service issue.
- There are a lot of other federal and state rules and regulations. Be sure and review them in detail to see if any fit your case.

Defense Interrogatories

- In general, the interrogatories will be much like any other personal injury case.
- The focus is usually on injuries, damages, causation, and pre-existing issues.
- Medical information is key.

Requests for Production (Forms, Available)

- Plaintiff RPDs will focus on documents related to the accident, the vehicle, the driver. In general, these include the following:
  - Daily inspection reports;
  - Maintenance records;
  - Hours of Service records;
  - GPS info; and,
  - Driver Qualification file

- Defendant RPDs will focus on injuries, damages, causation, and pre-existing issues.

Example: RPD

24.

Any and all training materials provided to DRIVER.

25.

DRIVER's complete driver's qualification file, pursuant to 49 CFR 391.51.

26.

DRIVER's complete personnel file.

27.

DRIVER's post-accident drug and alcohol testing results.

28.

All lease contracts or agreements covering DRIVER or the tractor-trailer at issue.

29.

All data or print-out from an on-board recording device, black box, electronic control module, or GPS system for the tractor-trailer for the day of the incident.

Requests for Admissions

- Some attorneys focus on detailed requests for admission on facts that are obviously in dispute.
- At our firm, we use them more for authentication of evidence and limiting issues to the real ones at issue.
- Sending a laundry list of RFAs on issues that are clearly in dispute (e.g. Admit you caused this accident) are generally unhelpful.

Depositions

- The depositions needed in any case will vary from case to case.

- The following is a list of folks that may need to be deposed, depending on the facts:
  - Plaintiff
  - Driver
  - Witnesses
  - Police Officer
  - Company representative
  - Expert accident reconstructionist
  - Medical Experts

Third Party Requests for Production

- Wise Plaintiffs and Defense lawyers make wise use of third party RPDs.

- The potential third parties to send requests, in the common case, depending on facts and circumstances are:
  - Employers
  - Medical providers
  - Health Insurers

Expert: Are experts needed?

Accident Reconstructionist

- There are accident reconstruction experts that specialize in truck accidents.
- Former police officers, Engineers.
- These experts will inspect the vehicles (if available), evidence related to the accident, and render an opinion as to the cause.
- They are extremely helpful and extremely pricey.

Medical Expert

- This follows a standard PI case.
- The question is: can you demonstrate to a jury that the injury was/was not related to this accident without the benefit of expert testimony?

Common Issues: What legal issues commonly arise?

The most commonly litigated issues

- Negligent Hiring, Training and Retention.
- Punitive Damages
- Discovery Disputes
- Only defense lawyers can eat briefs for dinner.
- You get more flies with honey than vinegar.

Resources

- Websites with info:
  - Federal Regulations: ecfr.gov
  - Federal Motor Carrier Safety Admin: fmcsa.dot.gov
  - Georgia Department of Driver Serv.: dds.georgia.gov
  - Georgia Motor Trucking Association: gmta.org
  - Truck Safety Coalition: trucksafety.org
  - Our website: wpcarr.com
- Treatise on Trucking Law: store.legal.thomsonreuters.com
- Other attorneys. Call or email me any time for forms, questions, advice

Conclusion

- This is a short overview of truck cases. There are many other issues that we did not touch and nuances to the issues that we did.
- Before tackling a truck accident case, be sure you have extensive knowledge on the ins and outs of a truck case.
- When in doubt, you can associate a truck accident attorney to assist you. If you have any questions, please feel free to email me or call me.