THE BEGINNER’S GUIDE TO TRUCKING ACCIDENT CASES
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We can’t offer a specific roadmap for every personal injury case, but we can highlight the situations and scenarios involved with a majority of cases. Specifically, read on for an introduction to the following:

- **Glossary of Key Terms**: Understand the specific language used in personal injury cases.
- **The Scene of the Accident**: Learn about the critical time period immediately following an accident.
- **Liability and Insurance**: Gain insight into the complicated workings of healthcare and insurance, and the different resources lawyers have to learn important information about trucking companies.
- **Pursuing a Case**: Familiarize yourself with some of the key questions a lawyer may ask when deciding whether or not to pursue a case.

**GLOSSARY OF KEY TERMS**

There are a number of terms related to trucking accident cases that are used in a specific way. Before digging in any further, take a look at the following terms and their definitions as they relate to trucking accident law:

- **Trial Lawyer** – An attorney who specializes in defending clients before a court of law.
- **Civil Complaint** – A legal document describing the facts and legal reasons that a person has to make a claim or file suit against another person.
- **Plaintiff** – The person filing a civil complaint.
- **Defendant** – The person against whom a civil complaint is filed.
- **Trucking Accident Case** – Refers to a legal action in which a person files a civil complaint against another person or company specifically involved in trucking. They say they were caused injury or harm because of a negligent or careless action of the trucker or trucking company.
- **Claim** – This is another word for the legal action filed by a plaintiff in a personal injury case. This term can also be used in reference to insurance, meaning the formal request made for payment from the insurance company to cover medical bills or other expenses.
- **Evidence** – The available facts and information used to establish an individual’s claim.
- **Liability Insurance** – A type of insurance policy that protects the defendant from the risk of lawsuits for things like malpractice, personal injury, or other forms of negligence.
- **Deductible** – In insurance, the deductible is the amount of money that the insured person must pay before the insurance company will pay money toward a claim.
- **Copay** – A small payment required at the end of a doctor visit. This is different from a deductible because copays are specific to outpatient doctor visits, prescription benefits, and other services, while a deductible applies generally to any bills to be paid by the insurance company. Copays do not count toward your deductible.
- **Carrier** – Any person or company that transports people or goods professionally. In this context, a carrier is the trucking company hired to transport and deliver goods.
- **Tractor-Trailer** – A two-part term referring to a complete semi-truck, which is the semi-tractor/front cab, and the attached trailer containing the goods.
- **Hours of Service** – Regulations enforced by the Federal Motor Carrier Safety Administration (FMCSA) limiting the amount of time drivers can spend behind the wheel, designed to promote safe driving.
- **ECM** – The Electronic Control Module, commonly referred to as a black box, which is used to record information about a vehicle’s operation and driver during a brief window of time before and during an accident.
- **Accident Deconstructionist** – A specialist who works to collect and interpret information available from the scene of an accident. Usually, this person will use photographic evidence combined with data from special truck equipment, including camera footage, GPS data, and records from inside a truck’s ECM.
THE SCENE OF THE ACCIDENT

When an accident happens, it’s a terrifying experience. Even minor accidents with large semi-trucks can cause severe damage, and can shake up even the safest of drivers. And while those first hours following an accident can be the most difficult, they are also often the most important when it comes to building a case against either the truck driver, the carrier, or the maintenance company responsible for overseeing the safety and upkeep of the truck.

In most trucking accidents, it’s normal for the carrier whose truck was involved to send an attorney to the scene immediately. That attorney’s job is to control the flow of information and to do anything they can to limit the carrier’s liability. As emergency crews arrive and cleanup begins, the truck driver and their attorney may already be looking at GPS systems, ECMs (black boxes), camera footage, and other records available to preserve evidence they want to preserve or remove evidence that isn’t good for them.

This is obviously very different from normal traffic accidents, in which both parties tend to exchange information, call the authorities, and contact insurance companies to begin the process of filing a claim. In these trucking accident cases, by the time a potential plaintiff gets around to filing a legal claim against the carrier, that company may have already been building a case for weeks.

Most crucial at the start of a case is that you collect just as much information as the potential defendant before they have a chance to alter it. Many successful plaintiffs in trucking accident cases will create their own “crash teams” to make sure evidence is reviewed immediately. This team typically consists of an investigator (that might be an attorney), a photographer or videographer, and an accident reconstructionist who can access black box information to get an idea of how fast the driver was moving at the time of the accident, as well as other key data.

As a special note, keep in mind that most black boxes only keep in information about the most recent trip of their vehicle. As soon as the truck in question is started and driven away, that may mean that the data relating to the accident is lost forever. Above all else, the truck must not be driven away before black box data is retrieved. This is also important so a photographer (which may even be the driver with a cell phone) can get plenty of photographic evidence of the scene of the accident.

Once the evidence is gathered from the scene of an accident, the real difficult work begins. The trucking industry is complicated. Some drivers are employed full time by one carrier, whose clients hire them to ship goods. Other times, however, drivers may act as their own carriers, owning only a single truck and hired by brokers to connect them with companies in need of shipping services. These complex relationships mean that there can be many possible guilty parties involved with a case, and that means lots of evidence to collect.

At this point, it’s the job of an attorney or investigator to collect all information available about the driver, the carrier, or broker, and any other parties professionally involved. This way they can determine who is liable for the accident.

The first step is for the plaintiff to send a letter of representation to both the truck driver and the carrier to formally request that those companies preserve any logs, photographs, or communication records between their drivers, dispatchers, and attorneys.

Next, the investigator will begin gathering publicly available information about the carrier. The Federal Motor Carrier Association maintains records on every trucking company in the country for six years, and all of their records are available through the Freedom of Information Act. The attorney will request all of these records, and will also access information in a government website called SAFER, which allows users to search for a carrier’s ratings, reviews, and any violations they’ve made in the past. That information is all based on their assigned Department of Transportation number, which is visible on every truck.

With a clearer picture of who the carrier is, how the driver and the carrier are connected, and what that company’s past record of safety is, an attorney can begin making a case using the available evidence from the scene of the accident. In most cases, GPS or black box data will clearly indicate that a driver was driving too fast, or didn’t break in time to avoid an accident. Even if that information is unavailable, drivers will have logs and receipts from when they loaded their trailers, which can be used to indicate unusually high speed of travel.

A final and very important consideration that must be made when evaluating liability is that of insurance. Some brokers hire small, one-truck carriers because they are cheaper to hire. But that may also mean that, since those carriers are only responsible for one truck, they do not have enough liability insurance coverage to pay for any damages resulting from the accident. That then becomes a liability of the broker. Ultimately, if it can be proven that a driver or carrier is liable for the accident, the case will come down to insurance, as we’ll explain in the next section.

LIABILITY AND INSURANCE

MOST CRUCIAL AT THE START OF A CASE IS THAT YOU COLLECT JUST AS MUCH INFORMATION AS THE POTENTIAL DEFENDANT BEFORE THEY HAVE A CHANCE TO ALTER IT. MANY SUCCESSFUL PLAINTIFFS IN TRUCKING ACCIDENT CASES WILL CREATE THEIR OWN “CRASH TEAMS” TO MAKE SURE EVIDENCE IS REVIEWED IMMEDIATELY.

WITH A CLEARER PICTURE OF WHO THE CARRIER IS, HOW THE DRIVER AND THE CARRIER ARE CONNECTED, AND WHAT THAT COMPANY’S PAST RECORD OF SAFETY IS, AN ATTORNEY CAN BEGIN MAKING A CASE USING THE AVAILABLE EVIDENCE FROM THE SCENE OF THE ACCIDENT.
When it comes time to pursue a case, typically a plaintiff seeks out a trial lawyer who specializes in trucking accident cases to help them explore the details of their own case and determine whether it’s worthwhile or even possible to move forward with legal action.

An attorney will review the following information before determining whether to pursue a case:

**Impact:** What burden has the injury placed on the plaintiff? Are there significant medical bills, emotional damages, or loss of income that are a direct result of the injury?

**Evidence:** Is there enough evidence to prove the liability of the defendant? This is where those photographs and investigations from the very beginning of a case are critical, as well as other information available about the carriers, drivers, and maintenance companies involved with the case.

**Timeline:** Are we still within the allowed timeline for legal action? Most claims are required to be made within 2 years of the incident, and if a claim is to be made against a governmental entity, they must be notified of a plaintiff’s intent to sue within 180 days.

**Available Money:** Finally, and this is something often overlooked by would-be plaintiffs unfamiliar with personal injury law: are there available funds that would remedy the plaintiff’s financial need? In most cases, an attorney will try to understand what liability insurance coverage the defendant would have, or if there are other funds available to pursue. Note that while it is possible to seek punitive damages in Indiana, the state typically reserves most of these funds, and they are often not a viable option.

Keep in mind that the aim of most trucking accident cases is to help the plaintiff pay for expenses and loss of income as a result of an injury, and not to get extra funds from the defendant. In many states, it’s not even legally possible to pursue getting money for things like pain and suffering above and beyond medical bills and repaying lost wages. Some cases may still be worth a lawyer’s time to pursue if it means the trucking company at fault is prevented from causing future accidents, but even in those cases, there needs to be some money available to pay for the law office’s time.

If the attorney decides that there isn’t enough of an impact on the plaintiff’s life, that there isn’t enough evidence, that the timeline doesn’t work, that the case won’t result in better safety standards for the defendant, or that there just isn’t enough available money to make a case worthwhile, they will discuss with the client whether it is advisable to move forward with the case.

Hopefully this guide has made you more familiar with some of the important terms and concepts relating to a majority of trucking accident cases. Keep in mind that every case is unique, and there is no such thing as a “normal” case.

This document only reflects trends we have noticed which can cause cases to fail or succeed, and is in no way intended as legal advice or legal counsel. If you have further questions, or have a specific case you wish to pursue, make sure that you contact a licensed, experienced attorney to help you explore the specific details of your situation.

ABOUT CLINE FARRELL CHRISTIE LEE & BELL

Cline Farrell Christie Lee & Bell are an Indianapolis, Indiana law firm with over 20 years of experience serving clients in the areas of personal injuries, wrongful death, medical malpractice, and truck and motor vehicle accidents. With compassion and a focus on fairness, Cline Farrell Christie Lee & Bell are deeply committed to helping their clients move forward in life with peace of mind.