

VIII. Types of Trucking Cases

Each trucking case, like each automobile collision, is different. But trucking cases can be categorized into certain types that have similar issues. There are six general types of trucking cases: (1) Left Turns; (2) Underrides; (3) Stopped Trucks; (4) Rear End Collisions; (5) Improper Manuevers; and (6) Cargo Shifts.

A. Left Turns

When a truck turns left in front of a passenger vehicle, the truck driver must have ample time to complete the turn without the passenger vehicle having to slam on brakes to avoid a collision. Because of the size and length of the tractor trailer and the heavily trafficked areas where deliveries are made, the truck driver must be patient and cautious before making a left turn. Many times drivers are in a hurry and attempt a left turn when they know the only way the turn can be safely made is if the approaching driver slows down and stops to avoid a collision. This kind of maneuver often leads to catastrophic results.

In left turn cases, driver fatigue is usually not an issue. The driver may have been distracted or inattentive but the fact that he was actually making a maneuver at the time of the accident is indicative that he was not asleep. Similarly, there are rarely problems with maintenance or repair of the vehicle since braking is not an issue. Instead, the driver will be subject to heavy cross-examination on the appropriateness of his maneuver given the instructions contained in the CDL Manual. There also may be issues of negligent hiring and retention if the driver has a history of improper maneuvers or accidents.

B. Underrides

When a tractor-trailer makes a turn or a maneuver which causes the trailer to block the roadway, there is always the potential that the driver of a passenger vehicle will not see the trailer in time to stop and will ride under the trailer. These collisions are usually fatal as the driver is decapitated by the side of the trailer.

Underride Accident

INSERT UNDERRIDE PICTURE

In this case, our client was catastrophically injured when a trailer was left across a roadway in heavy fog.

The most important issue in an underride case is the visibility of the trailer. The inquiry should focus on the lighting and weather conditions at the time of the accident and the lights, reflectors and retroreflective taping on the side of the trailer. It is important to photograph and perform an inspection of the trailer as soon as possible. Many times the trailer will have retroreflective taping on the side but there will be dirt or other material obscuring the taping. Conspicuity issues include the ability of the trailer to blend into the surroundings so that the approaching driver does not recognize the trailer across the roadway and instead believes he is seeing the bridge or overpass that is normally in that area.

Conspicuity Issues

INSERT BRIDGE PICTURE

A driver may fail to recognize a trailer in the roadway in the dark because it looks like the bridges or overpasses in the area that are familiar to the driver.

C. Stopped Trucks

A tractor-trailer that is stopped in or on the side of the roadway is always a potential hazard. Motorists approaching from the rear often fail to see the vehicle until it is too late to avoid a collision. Federal regulations require drivers to place warning markers behind their stopped vehicle to alert motorists of the tractor-trailer's presence in order to alleviate the risk of running into the rear of the stopped trailer.

Warning Triangles

INSERT WARNING MARKERS PICTURE

We have handled many cases where the truck driver's failure to place warning markers contributed to a motorist colliding with the rear of the trailer.

The issue in colliding with a stopped truck case is how long the vehicle had been stopped and whether the markers had been placed appropriately. Under the FMCSR, the driver should immediately activate his hazard lights and then place caution markers behind his vehicle once he is stopped. The driver will inevitably claim he had just stopped his vehicle prior to the collision and did not have time to place the warning markers. It is important to obtain cellphone records, 911 call reports and Qualcomm messages to determine how long the driver was stopped in the roadway.

D. Rear End Collisions

The most prevalent type of truck case is where the tractor-trailer rear ends a stopped or slowing passenger vehicle. In this situation, the lawyer is faced with a multitude of potential issues. The truck driver may have fallen asleep or been fatigued so his drivers logs must reviewed for potential hours of service violations. The tractor-trailer may have been overweight. The truck driver's weight tickets must be obtained to see if the weight of the vehicle played any role in the accident and his prior history of overweight citations must be looked at to see any pattern of abuse. The tractor-trailer's brakes may have failed or may have been out of adjustment so the vehicle needs to be inspected and repair and maintenance records must be reviewed. The truck driver may have been speeding and ECM data or a good accident reconstructionist can show whether speed was a contributing cause to the collision.

E. Improper Manuevers

Many accidents occur when the truck driver makes an improper lane change, fails to obey a stop light or stop sign or fails to maintain his lane. These cases often involve driver fatigue issues, and the lawyer needs to explore any potential hours of service violations. The driver may have a history of traffic violations and erratic maneuvers which will lead to a claim for negligent hiring or retention. The lawyer will need to retain an accident reconstructionist to examine the scene and inspect the vehicles to make sure the evidence is preserved to prove how the accident occurred.

F. Cargo Shifts

When a vehicle is improperly loaded, the load may shift causing the tractor-trailer to jackknife or overturn. The truck driver will usually tell the investigating officer that something unusual with the load caused the vehicle to behave strangely leading to the accident. In such a situation, the lawyer should consider a claim against both the motor carrier and the shipper. It is important to preserve through photographs and otherwise any evidence about how the load was secured.