



U.S. Chamber of Commerce
Institute for Legal Reform



Roadblock

Second Edition

**The Trucking Litigation Problem
and How to Fix It**

October 2026

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The Trucking Litigation Problem and How to Fix It

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About the U.S. Chamber of Commerce

The Chamber of Commerce of the United States is the world’s largest business organization. Our members range from the small businesses and chambers of commerce across the country that support their communities, to the leading industry associations and global corporations that innovate and solve for the world’s challenges, to the emerging and fast-growing industries that are shaping the future. For all of the people across the businesses we represent, the U.S. Chamber of Commerce is a trusted advocate, partner, and network, helping them improve society and people’s lives.

About the Institute for Legal Reform

The mission of the U.S. Chamber Institute for Legal Reform (ILR) is to champion a fair legal system that promotes economic growth and opportunity.

ILR’s cutting-edge research program examines the most pressing civil justice issues facing legal systems in Washington, DC, across all 50 U.S. states, and around the world. These papers by some of the world’s foremost legal and economic experts offer potential solutions for a fairer legal system.

“If you got it, a truck brought it” remains as much a truism today as it has been for decades. Trucking moves 72% of the nation’s shipments by value (64% by tonnage) and is far and away the most prevalent mode for transporting all of the top commodities except for natural gas and crude petroleum.¹ Communities throughout the United States rely on trucks to bring them essentials, like food and pharmaceuticals. Trucking connects suppliers to manufacturers and manufacturers to retailers and, ultimately, consumers. In sum, the trucking industry is the lifeblood of the economy.

Chapter 1

Executive Summary

Trucking faces many challenges, such as high diesel prices resulting from geopolitical developments. However, trucking also finds itself in the crosshairs of plaintiffs’ attorneys increasingly using the civil justice system to achieve inflated or disproportionate jury awards or settlements. The trucking industry is in the clutches of the threat of expanding nuclear verdicts. The upward march of awards and settlements in truck accident litigation continues.

This paper updates prior research on truck accident litigation. Despite a long-term and nearer-term reduction in accident rates, the trucking industry has experienced worsening consequences from trends in truck accident litigation. This paper analyzes recent verdicts and settlements that confirm trucking is under siege. A review of 334 verdicts and settlements of all sizes involving truck accidents from June 2023 to July 2026 reveals a mean award of \$16,777,792 and a median award of \$2,991,192.

For plaintiffs’ verdicts alone, the mean award was \$27,969,680 and the median award was \$5,200,000. For settlements alone, the mean settlement amount was \$4,730,967 and the median settlement amount was \$2,150,000. Since the prior paper, the median awards and settlements have increased, demonstrating a worrying upward trajectory.

The paper discusses the impact of these inflated or disproportionate verdicts on the trucking industry and consumers alike. At a time when policymakers struggle to control inflation, the litigation climate is a contributor toward increases in prices of goods across the board.

To better understand this litigation trend, the paper examines various factors driving inflated and disproportionate verdicts. Fraud, RICO claims, and staged accidents have all become common parlance in the trucking industry. So have aggressive and prejudicial plaintiffs’ attorney tactics. The

driving factors, as highlighted by examples in investigations and litigation, include:

- inflated or even fraudulent medical billing facilitated by interconnected networks of plaintiffs’ attorneys, medical practitioners, and medical funders
- “reptile” courtroom tactics utilized by plaintiffs’ attorneys
- the exclusion of relevant and reliable evidence
- the expansion to new categories of defendants to reach more and deeper pockets
- attempts by plaintiffs’ attorneys to establish a standard of care in place of government regulators dedicated to establishing trucking standards
- the dilatory and inflationary effects of third-party litigation funding
- the exploitation of non-economic damages through anchoring

“... [T]rucking also finds itself in the crosshairs of plaintiffs’ attorneys increasingly using the civil justice system to achieve inflated or disproportionate jury awards or settlements. The trucking industry is in the clutches of the threat of expanding nuclear verdicts.”

Trucking, by its nature, is an interstate business. The paper’s research identifies problematic states in terms of award and settlement values. With some jurisdictions worse than others, those jurisdictions are in the most need of reforms to bring relief to consumers.

The paper concludes with a discussion of a number of potential solutions or approaches to rein in the unreasonable inflation of verdicts and settlements, while promoting a civil justice system that effectively provides for just and prompt compensation for those involved in trucking accidents.

These solutions would:

- Limit medical damages to reasonable and customary amounts actually paid as opposed to inflated amounts that may be billed. Concurrently, juries should have more information available to them, including evidence of referral relationships that is relevant to witness credibility or reliability and disclosure of particulars of letters of protection or similar agreements.
- Require law enforcement and professional ethics regulatory bodies to more actively and effectively police fraud or unethical behavior.
- Curb the ability to present inflammatory arguments in support of derivative negligence claims against trucking companies where the company has stipulated responsibility for its driver’s negligence, if any. As the paper discusses, pursuing these claims improperly influences a jury’s findings with respect to the necessary elements of the driver’s negligence and also leads to a duplicative and inflated assessment of fault against the company.
- Establish reasonable caps on non-economic damages. Non-economic damages, e.g., compensation for pain and suffering, are difficult to objectively assess and quantify

but are becoming a larger portion of verdicts than more objective economic damages, like medical expenses reasonably paid or to be paid.

- Curb the practice of “anchoring,” where a plaintiffs’ attorney arbitrarily suggests a number or formula for calculating damages. Non-economic damages should be supported by evidence. Unsubstantiated anchoring has no place in the courtroom.
- Permit evidence of a plaintiff’s failure to use seat belts in determining fault or damages calculations. Seat belt use is required in 49 states, reflecting a policy judgment. States that prohibit the admissibility of seat belt non-use are controverting that policy judgment, especially where tort law has long recognized a duty to avoid or mitigate damages. A properly functioning civil justice system should recognize the duties on all parties and not compensate for injuries that could have been avoided or mitigated by simple compliance with a seat belt law.
- Improve access to federal courts. The research indicates that awards are higher in state courts than in federal courts. For an interstate industry, improved access to federal courts provides access to uniform rules of evidence and

“Policymakers, judges, and ethics regulators must continue to take steps to restore balance and fairness in truck accident litigation.”

- lifetime-appointed judges in place of state court judges, who, often in problematic jurisdictions, are elected with considerable support from the plaintiffs’ bar.
- Clarify the standard of care where Congress has assigned federal government agencies with responsibility to address safety. Brokers and carriers that contract with motor carriers should be able to rely on the designated federal agency’s judgment that a carrier is safe and fit to operate instead of being subjected to a patchwork, nebulous, and shifting standard of care established by plaintiffs’ attorneys. Similarly, when equipment manufacturers, truck rental and leasing entities, and motor carriers equip their trucks with equipment features, they should be able to rely on the appropriate federal agency’s imposition of safety standards as opposed to plaintiffs’ attorneys preferred standards that ignore feasibility. Congress tasks federal agencies with these specific missions and those agencies are staffed with the expertise that plaintiffs’ attorneys lack.

- Curb the dilatory and inflationary impact of third-party litigation funding (TPLF). Third parties, including foreign parties and sovereign wealth funds, are turning to investing in litigation to achieve high returns. This investment distorts the litigating parties’ incentives and sometimes takes control of the litigation away from the plaintiff and their counsel, resulting in protracted litigation and higher settlements. State legislatures are requiring more disclosure and have even prohibited the practice or eligibility to participate outright.

Nobody is unaffected by the health of the trucking industry. In general, it is a low-margin business that cannot absorb the blows of tactics and measures that lead to excessive or inflated verdicts and settlements. Ultimately, all consumers pay for these tactics. Policymakers, judges, and ethics regulators must continue to take steps to restore balance and fairness in truck accident litigation.

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Chapter 2

Facts and Figures

Since the pandemic, the number and size of nuclear verdicts have resumed an upward march. Across industries for cases between 2013 and 2022, the median nuclear verdict (defined as a case resulting in a verdict of \$10 million or more) was \$21 million with a mean of \$89 million.² More recent analyses suggest that in 2024, there were an unprecedented 135 nuclear verdicts, which amounts to a 52% increase from the prior year, and total verdict values more than doubled from the prior year to reach \$31.3 billion.³

The trucking industry has not escaped the clutches of this growing threat of nuclear verdicts; in fact, just the opposite. Roughly one out of four auto accident trials that led to a nuclear verdict involves a trucking company,⁴ and studies across industries repeatedly identify commercial trucking as a particularly targeted sector.⁵

And despite a reduction in the frequency of claims, explosive growth in claim severity has increased costs of all accidents and not just those resulting in nuclear verdicts. These increased costs have negative reverberations throughout the industry. A study of commercial auto liability claims between 2015 and 2024 shows that the frequency of claims has decreased, particularly since the start of the pandemic, going from a measure of 9.8 per \$100 million of GDP to 6.9 claims per \$100 million of GDP over that time period.⁶ The same study

concluded that “[c]ommercial auto losses—and premiums—would be significantly higher if frequency had not fallen so dramatically.”⁷ This corresponds with decreases in heavy-duty truck-involved crash rates—even after traffic volumes normalized post-pandemic.⁸ However, claim severity has increased by 93.5% over the same time period, representing an annual compound growth rate of 7.6% compared to a 3.2% rise in inflation, as measured by the Consumer Price Index.⁹ That increase in severity, at least partly attributable to legal system abuse and resulting excessive verdicts, has erased the benefits of fewer truck involved crashes.¹⁰

Looking specifically at torts involving tractor-trailers, an American Transportation Research Institute (ATRI) study found that the estimated number of cases filed between 2014 and 2023 has increased at an

average rate of 3.7% per year, just above the 3.6% per year increase in the National Highway Traffic Safety Administration’s reporting of truck injury and fatal crashes over the same time period.¹¹ Over a similar but slightly longer time period of 2011–2023, ATRI found the median award in tractor-trailer tort cases increased at an average rate of \$59,122 per year,¹² while the upper quartile of awards (representing the highest 25% of values) increased at an average rate of \$264,789 or 5.7% per year.¹³ In comparison, inflation as measured by the Consumer Price Index, increased by 36% over that same time period, resulting in an average annual rate of inflation of 2.6%;¹⁴ and medical cost inflation, as measured by the U.S. Medical Care CPI, increased by 40% or an average annual rate of 2.8%.¹⁵

Notably, over longer and more recent periods of time, truck safety measurements have improved. In 2000, when the Federal Motor Carrier Safety Administration (FMCSA) first started operating, the rate of fatal crashes involving large trucks was 2.23 per 100 million miles.¹⁶ In 2022, the most recent year for which FMCSA has published in its Pocket Guide, the rate had dropped to 1.59 per 100 million miles.¹⁷ Other data

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indicate that the rate dropped to 1.45 per 100 million miles in 2024.¹⁸ Early estimates suggest an even further decline in the rate of 7%.¹⁹ Admittedly, the decline has not been linear, hitting a low rate in 2009 after the Great Recession and increasing through 2022, but the recent trend is downward again. That trend has not been reflected in the litigation environment.

This paper’s predecessor also considered public perception of the trucking industry as a factor impacting the rising trend in truck accident verdicts and settlements. It noted that, in 2019, a survey showed that a majority of respondents perceived truck drivers as unsafe but that public perception had improved by September of 2022 as a result of the trucking industry’s resilience throughout the pandemic.²⁰ That improved perception appears to have continued. A 2023 survey found that 50% of respondents found truck drivers to be “safer drivers than the general public” and only 14% said they were “less-safe.”²¹ This perception aligns with a University of Michigan Transportation Research Institute study that “found that

“Those increases in median awards paint a troubled picture for an industry that operates on slim margins.”

actions of drivers of passenger vehicles alone contribute to 70% of the fatal crashes with trucks.”²² A separate survey found that 80% of respondents believe truck drivers play a crucial role in the economy, and 81% of respondents think truck drivers frequently or occasionally encounter aggressive or unsafe behaviors from other motorists.²³ These findings suggest a public understanding of the challenges facing truck drivers, yet that does not translate to an improved litigation environment for the trucking industry.

With a backdrop of improving safety and surveys indicating the public recognizing truck drivers’ safety habits, this research examines 334 verdicts and settlements of all sizes involving truck accidents from June 2023 to July 2026. Of those 334 verdicts and settlements, 155 were plaintiffs’ verdicts, 35 were defense verdicts, and 144 were settlements. For plaintiffs’ verdicts and settlements combined, the mean award for the dataset reviewed was

\$16,777,792 and the median award was \$2,991,192. For plaintiffs’ verdicts alone, the mean award was \$27,969,680 and the median award was \$5,200,000. For settlements, the mean settlement amount was \$4,730,967 and the median settlement amount was \$2,150,000.

Our prior paper on truck accident litigation examined verdicts and settlements between June 2020 and April 2023. The mean awards in the same categories were higher in that paper, but the median awards were significantly lower. That earlier dataset included trucking’s first \$1 billion verdict and a high dollar settlement which influenced the means. While lower, the mean awards from this paper’s dataset are still substantial and worrisome. More alarming are the increases in the median awards. For example, according to this dataset, it is just as likely

to see a plaintiffs’ verdict for over \$5,200,000 as it is to see one under that number. Those increases in median awards paint a troubled picture for an industry that operates on slim margins.

Additionally, the prior paper noted that entities that contract with motor carriers, such as freight brokers, who arrange motor carrier transportation for their shipper customers, or shippers themselves, are increasingly being targeted in highway accident litigation. Because 95% of motor carriers have 10 or fewer trucks and are small businesses,²⁴ plaintiffs’

attorneys pursuing excessive verdicts or settlements seek additional and deeper pockets and therefore pursue claims against freight brokers and shippers for direct negligence, such as negligent selection, negligent retention, or negligent entrustment on the part of the freight broker or shipper.

Until May 2026, there was a split in the U.S. Courts of Appeals on whether a federal deregulatory statute preempted such negligent selection claims against freight brokers, but the U.S. Supreme Court held they are not preempted, opening an

anticipated flood of such claims. Following this decision, on July 24, 2026, a Dallas County jury returned a \$604 million verdict finding a freight broker liable under two theories, including negligent selection of the carrier involved in the accident. The case is discussed further herein. Although post-trial procedures and likely appeals remain pending, the jury verdict signals the problem of excessive motor carrier verdicts is spreading and, absent intervening events, will continue to spread.

And despite a reduction in the frequency of claims, explosive growth in claim severity has increased costs of all accidents and not just those resulting in nuclear verdicts.

Chapter 3

Impact of Inflated or Disproportionate Verdicts and Settlements on Trucking and Society

The saying “if you got it, a truck brought it” has been true for many decades and will remain true for the foreseeable future. Trucking is the connective tissue of not only the United States’ economy, but also people’s daily lives.

Trucking moves 72% of the nation’s shipments by value (64% by tonnage) and is far and away the most prevalent mode for transporting all of the top commodities except for natural gas and crude petroleum.²⁵

This includes electronics, pharmaceuticals, foodstuffs, manufactured goods, leather, and cars.²⁶ As the Department of Transportation has noted, “From

farm to market, agricultural products move by all forms of transportation, with trucks carrying the greatest share.”²⁷ Simply put, trucking is essential.

However, despite long- and nearer-term improvements in truck safety, “[c]ommercial automobile liability has been the fastest growing area of tort costs, with an annual growth rate of over 10% between 2016 and

2022.”²⁸ These tort costs include the costs of litigating or resolving claims, compensation paid to injured parties, and the costs of insuring against potential tort claims.²⁹ In a notoriously low-margin business, trucking companies have little room to absorb those costs and remain in business. Inevitably, these costs must get passed on to shippers and, ultimately, the consumer.

Costs of Foods and Goods

Estimates vary on how much transportation costs contribute to the cost of goods. Depending on the goods shipped, transportation costs generally range from 9–14% of the product.³⁰ The Federal Highway Administration has estimated that “\$1 of final demand for agricultural products requires 14.2 cents in transportation services, compared with 9.1 cents for manufactured goods

and about 8 cents for mining products.”³¹ The additional and increasing tort costs facing trucking companies are particularly unwelcome at a time when food prices have skyrocketed, because food and beverage retailers are among the biggest users of truck and commercial automobile transportation. A recent study found that if commercial automobile tort costs were

lowered to the equivalent of the least costly state, households would experience over \$16.5 billion in savings on food expenses.³² More broadly, the study modeled that reducing commercial automobile tort costs to those levels would also generate a positive impact on U.S. GDP of \$523 billion between 2025 and 2034.³³

“A recent study found that if commercial automobile tort costs were lowered to the equivalent of the least costly state, households would experience over \$16.5 billion in savings on food expenses.”

Insurance

The cost of insuring against a potential claim is a component of tort costs. Unsurprisingly, in step with other tort costs such as compensation paid to injured parties, the cost of insurance as well as the risk taken on by carriers through deductibles or self-insurance also continue to outpace inflation. From 2015 to 2024, the average cost of liability premiums for trucking companies increased by 37.8%—4.4 percentage points ahead of inflation.³⁴ For 2025, they rose another 3.9% (compared to inflation at 2.7%) to reach a record 10.6 cents per mile.³⁵

While federal law sets the minimum required liability insurance for most general freight carriers at \$750,000,

most motor carriers maintain coverage of \$1 million or more. In fact, the median coverage limit between 2021 and 2024 ranged from \$1.5 million for fleets with under 26 trucks to \$10 million for fleets with 51–250 trucks, and \$45 million for fleets with over 1,000 trucks.³⁶ Therefore, a large swath of fleets and their trucks are even more acutely affected, because the per-mile costs of excess liability coverage over \$5 million grew at a faster rate than primary liability coverage below that amount.³⁷

None of this is to suggest that insurers writing commercial auto liability insurance policies are profiting. The opposite is true. In 2024, the commercial auto insurance line

experienced a \$4.9 billion loss and its 14th consecutive year of underwriting losses.³⁸ Over the 11 years prior to 2024, the average underwriting loss has been a little over \$2.9 billion.³⁹ These losses mounted despite commercial auto premiums increasing for 59 consecutive quarters, including at a 5.8% rate in Q1 2026.⁴⁰ Notably, within commercial auto liability, there is a growing divergence between physical damage coverage (for the vehicle itself) and liability coverage (for bodily injury and death) as physical damage generated a profit of \$1.5 billion to partially offset the liability coverage loss of \$6.4 billion in 2024.⁴¹ Ultimately, the data suggests there are other forces at play.

There is widespread agreement that outsized verdicts and settlements, litigation abuse, and social inflation are to blame for the pressures on the commercial auto segment.⁴² One study found these factors pushed losses and direct containment costs higher by \$52 billion to \$70.8 billion between 2015 and 2024.⁴³ When referring to spikes in claims losses far exceeding regular inflation, the CEO of the Insurance Information Institute said, “[I]legal system abuse, manifested through excessive verdicts and litigation behaviors, has fueled a structural rise in claim costs that continues to increase costs for insurers and policyholders alike.”⁴⁴

The attention to inflated or disproportionate verdicts should also recognize the hydraulic effect the threat of these verdicts has on settlement values. As noted in the prior paper, the authors of the tome that is credited with giving birth to the “reptile theory,” discussed below, noted that the fear and awareness of the chance of an excessive verdict propelled the notion that inflated verdicts beget inflated settlements.⁴⁵ A 2021 ATRI study of verdicts and settlements under \$1 million found that settlements are often greater than average verdicts for particular injuries.⁴⁶ That was affirmed by a subsequent

“There is widespread agreement that outsized verdicts and settlements, litigation abuse, and social inflation are to blame for the pressures on the commercial auto segment.”

analysis of tractor-trailer tort cases between 2019 and 2024.⁴⁷ And in an analysis of claims data, a leading claims administrator found that, over the last five years, verdict severity has increased at an average of 3.7%, while settlement severity has increased by an average of 12.6%.⁴⁸ Lastly, the median settlement (\$2,150,000) for the dataset examined by this paper (truck accidents between June 2023 and July 2026) was more than ten times higher than the median settlement for the dataset (June 2020–April 2023) examined in the prior paper. Because so many cases are settled before being tried to a verdict, the pace at which settlements are increasing is having an outsized impact.⁴⁹

Settlement creep has a more direct and pronounced impact on trucking, because settlements between \$500,000 and \$5 million are frequently borne by the trucking company as part of a deductible or self-insured retention as carriers take on more risk to offset increasing premiums or scarce insurance availability.⁵⁰ The larger point is that excessive verdicts and

attendant settlement creep are having a negative impact on insurers and motor carriers. Some commercial auto insurers are leaving the markets, creating an even tighter market for insurance purchasers.⁵¹ For publicly traded motor carriers, it is now common to see disclosures in SEC quarterly filings, annual reports, or even special filings about the impact of litigation and insurance costs on financial results. For other motor carriers, the cost pressures can be too much to bear and cause them to exit the industry.⁵²

Universally, the problem of excessive verdicts and settlements increases costs for motor carriers. Even increases of a cent or two per mile are significant, because trucking companies operate on slim margins.⁵³ Because these same motor carriers deliver all varieties of goods and necessities to the majority of communities in America, that availability of coverage at a reasonable price cannot be presumed if the litigation trends continue.

From 2015 to 2024, the average cost of liability premiums for trucking companies increased by 37.8%—4.4 percentage points ahead of inflation. For 2025, they rose another 3.9% (compared to inflation at 2.7%) to reach a record 10.6 cents per mile.

FBI investigations and Racketeer Influenced and Corrupt Organizations Act (RICO) claims are not terms you would expect to come to mind with trucking or commercial transportation litigation. Yet, as the trucking industry faces interconnected networks of plaintiffs' attorneys, medical providers, and financing companies aiming to inflate damages resulting from accidents—even staged accidents—these terms have become part of the lexicon. Inflated billing, improper diagnoses, unnecessary medical procedures and even outright fraud are inflating plaintiffs' injury claims.

Chapter 4

Factors Contributing to Inflated or Disproportionate Verdicts

Growing income inequality, increasing anti-corporate sentiment, and third-party litigation funding have also contributed to the difficulties of defending truck accident injury claims at a reasonably compensatory level. Adding plaintiffs' attorneys' litigation tactics and evidentiary

hurdles further creates an environment ripe for inflated or disproportionate verdicts.

Ultimately, when a trucking company is legitimately at fault for causing an accident, the civil justice system should facilitate prompt and efficient payment of reasonable compensation to the injured or aggrieved. However, a

properly functioning civil justice system should not foster inflated or disproportionate verdicts that end up costing all of society. This chapter will discuss a number of ways that some plaintiffs' attorneys and their associates exploit the civil justice system to engineer inflated or disproportionate verdicts and settlements.

The Interconnected Network

Operation Sideswipe

The prior paper discussed "Operation Sideswipe," the FBI's investigation of a staged accident ring in the New Orleans area. The ring was characterized by the U.S. Department of Justice (DOJ) as a "long-running scheme to defraud insurance companies and commercial trucking companies by staging and litigating fraudulent automobile collisions to collect insurance company payouts."⁵⁴ The scheme resulted in 63 defendants being charged and more than 50 individuals being convicted, including two personal injury attorney ringleaders and their

law firms. It also tragically involved the murder of a cooperating witness.

In announcing the conviction of two attorney ringleaders and their law firms, DOJ further described the scheme as:

Involv[ing] New Orleans area personal injury attorneys (including [the two attorneys and their respective law firms]) paying "slammers" to recruit passengers to participate in purposeful collisions with automobiles, especially 18-wheeler trucks with large commercial insurance policies. The

attorneys would then litigate those cases on behalf of the passengers, often encouraging those passengers to seek medically unnecessary neck and back surgeries to incur medical costs and increase the size of future insurance company settlements. Along with slammers, attorneys, and passengers, the scheme also included "spotters," who drove getaway cars for the slammers, and "recruiters" like [a non-attorney defendant], who facilitated numerous staged collisions by bringing new passengers into the scheme.⁵⁵

“Louisiana transportation officials estimated the scheme drove up insurance premiums by roughly \$600 per Louisiana family.”

In a case that illustrates these schemes, purported accident victims intentionally collided with a tractor-trailer in a passenger vehicle driven by an individual who had previously pled guilty in a staged automobile accident prosecution. The supposed victims then falsely reported to the police that the tractor-trailer struck them and were referred for “treat[ment] by doctors and healthcare providers at the direction of their attorneys.” They subsequently underwent surgeries, resulting in a trucking company and its insurance company paying out \$4.7 million in claims for this one staged accident.⁵⁶ As the Special Agent in Charge of the FBI New Orleans office said, the scheme “potentially impacted every auto insurance policy holder in Louisiana.”⁵⁷ Louisiana transportation officials estimated the scheme drove up insurance premiums by roughly \$600 per Louisiana family.⁵⁸

The scheme also involved a previously disbarred individual who often had the medical bills associated with the scheme directed to his medical financing company. That individual was also recently convicted of conspiracy to commit mail and wire fraud, and two counts of mail fraud, among other crimes.⁵⁹

The Georgia Network

Although Operation Sideswipe was notable for the FBI’s involvement, these types of arrangements between

personal injury attorneys, medical providers, and medical financiers are believed to be inflating alleged damages nationwide. An investigative news reporter helped expose the organized fraud ring investigated as part of Operation Sideswipe. In May 2026, another duo of investigative news reporters wrote about the cozy relationships between plaintiffs’ attorneys, medical providers/clinics, and medical financiers in Georgia in a four-part series in *Legal Newsline*.⁶⁰

To be clear, the investigative series in Georgia does not allege staged accidents, but it does document the referrals and attendant obligations between companies that purchase medical accounts receivables and their “networks” of medical providers and personal injury firms. It also reports on the efforts of defense lawyers for trucking insurers and others to compel production about these relationships, the amounts paid by medical financing companies, and the extent of lawyer-directed care.

Critically, through discovery disputes that have been vigorously litigated to the Georgia Court of Appeals, defendants have been able to obtain information on pricing and medical care that is relevant to defendant allegations of “phantom damages” or inflated claims.⁶¹ It has also turned up agreements between medical funders and doctors whereby the treating physicians agree to be available to testify as an expert

on causation.⁶² As a Georgia Court of Appeals decision held, a treating physician’s financial interest in a case is very relevant to assessing the physician’s credibility and potential bias.⁶³ And it matters. When jurors were told that a law firm had referred thousands of patients to the same doctors at a particular orthopedic clinic, thereby generating millions of dollars in medical bills for the clinic, a Fulton County jury deadlocked over whether to award the plaintiff \$10,000 or nothing, despite plaintiff seeking over \$900,000.⁶⁴ Those same jurors were also shown emails in which doctors coordinated with personal injury attorneys, including seeking requests for approval for surgery.

RICO Cases

In recent years, transportation and trucking firms, as well as insurance companies, have brought RICO claims against various personal injury law firms and their associated medical providers or funders. Although these suits have met mixed success, including one that was dismissed for failing to allege that the law firms and doctors acted with a common purpose,⁶⁵ others have survived motions to dismiss.⁶⁶ One such case, *Uber Technologies, Inc., et al. v. Simon & Simon P.C.*, No. 25-5365 (E.D. Pa.), involves a personal injury law firm in Pennsylvania and describes a similar interconnected network aiming to inflate damages. At this stage of the litigation, the alleged facts have not been proven and the question of liability has not been decided, but the alleged facts fit a familiar pattern.

The plaintiff transportation companies in *Simon & Simon*, alleged that the personal injury law firm’s clients routinely followed a sequence of “referrals to a discrete set of chiropractors or physical therapists, subsequent MRIs, and, ultimately, purported radiofrequency ablation procedures.”⁶⁷ There were also allegations of lawyers directing clients to a specific doctor for pain management treatment, and the plaintiffs alleged that “the treatment records described procedures and clinical observations inconsistent with the timing and details reflected in the underlying imaging and appointment data.”⁶⁸ Together, the transportation companies contend that this scheme “transforms otherwise marginal claims into ‘million-dollar-plus lawsuits’ to drive inflated settlement demands.”⁶⁹

By contrast, the defendants (the law firm and doctors) claimed they were engaged in protected First Amendment petitioning activity. In rejecting that argument, the court said there was a factual issue whether the defendants engaged in sham litigation. In that vein, the court observed that when one of

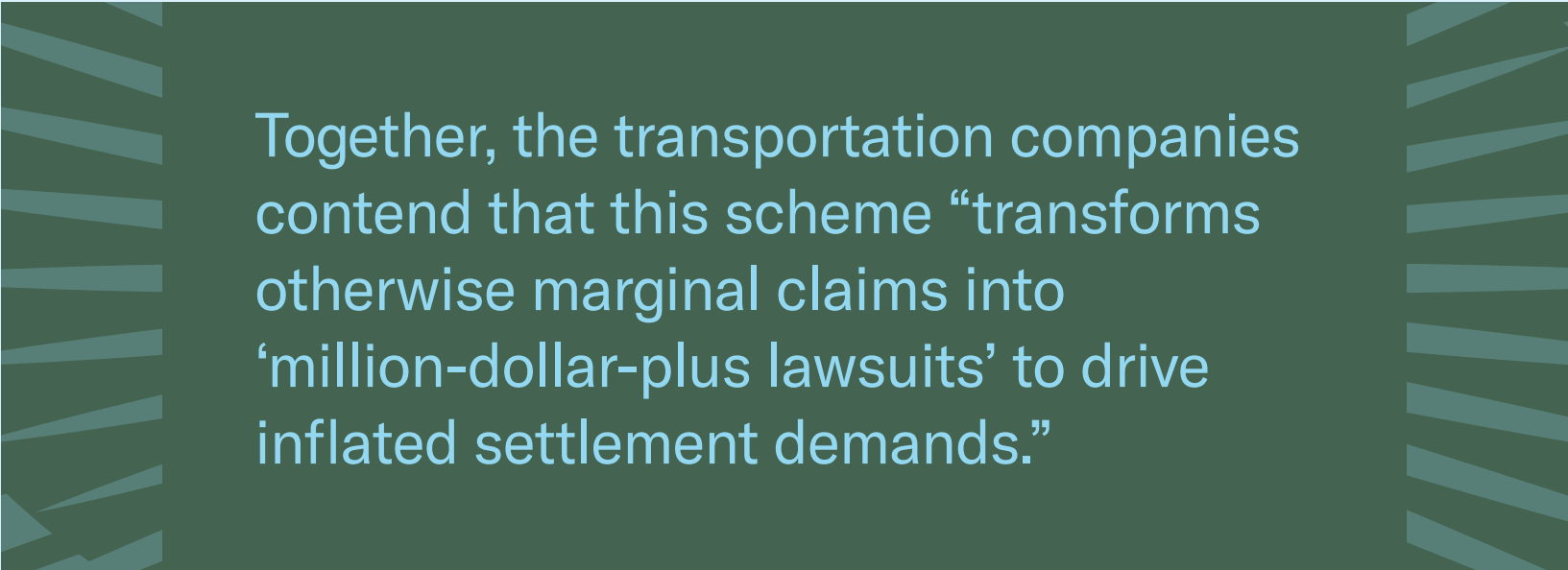
the transportation companies sought discovery from one of the doctors in an underlying accident case, the personal injury law firm dismissed all of its clients’ pending claims against that company involving that doctor in order to avoid discovery.⁷⁰ Although the merits of plaintiffs’ claim have not yet been decided, their allegations have striking parallels to the scheme at the heart of Operation Sideswipe and many similar arrangements throughout the United States.

There are several types of accident injuries that are difficult to objectively diagnose and difficult to distinguish from pre-existing, degenerative conditions. In many instances, the injuries are undoubtedly real, painful conditions meriting medical attention. However, particularly when an interconnected web of referrals between plaintiffs’ attorneys and medical providers are involved, these injuries are susceptible to manipulation or outright fraud intended to inflate damages. Coincidentally, it is common to see these types of injuries claimed in truck accident litigation.

Spinal injuries—often soft-tissue injuries involving damage

to the muscles, ligaments, tendons, nerves, or the spinal cord itself rather than a break of the vertebrae—were the most frequently claimed injury in one review of truck accident personal injury verdicts from August 2011 to August 2023.⁷¹ This research included a review of truck accidents and verdicts between June 2023 and July 2026 and shows the same, with spinal injuries making up 22% of the claimed injuries.⁷² These types of soft-tissue injuries are among the most difficult to objectively measure or disprove or to distinguish from pre-existing injuries or conditions.⁷³

There may be a more sinister reason spinal injuries are so frequent in truck accident verdicts and settlements. In *Simon & Simon*, the transportation companies alleged that personal injury lawsuits depended on “radiofrequency ablation procedures, and future-care reports to support claims for substantial damages, including ‘artificially inflated lifetime damage estimates.’”⁷⁴ And a plaintiffs’ lawyer in Atlanta who wrote a playbook on pursuing personal injury suits agrees with and suggests using this type of



tactic. Among his tips, he advises to have the client see a doctor after an accident, because if nerve damage or spinal injury is diagnosed, radiofrequency

ablations mean, “This is now a seven figure case because RFAs are repeated annually.”⁷⁵ Notably, this paper’s review of accident verdicts and settlements found

that spinal injuries had a mean award of \$11,956,803 and a median award of \$750,000.

Reptile Tactics

Much has been written about the use of the so-called “reptile theory” as a litigation strategy to instill fear and a protective response in the minds of the jurors. As one plaintiffs’ attorney puts it, the “theory operates by presenting trucking companies not as parties to specific accidents but as systematic dangers that threaten community safety through cost-cutting decisions, inadequate training, poor maintenance, and regulatory violations that create ongoing risks requiring jury intervention to protect society.”⁷⁶ Tactics to implement the reptile theory can serve two purposes: 1) they can distract jurors from the legal elements that must be proven in a case to establish liability where it would not otherwise exist;⁷⁷ and/or 2) they can inflame juror sentiment against defendant companies and lead to large awards that jurors believe are necessary to send a message and protect the public. Although the purported neuroscience underpinning the theory has largely been discredited, the tactics can be effective.

The prior paper discussed the case of *Blake v. Werner* in Texas. In brief, the driver of a pickup truck on a divided interstate highway lost control of his

vehicle, crossed the grassy median dividing the highway, and collided with a tractor-trailer driving in its own lane in the opposite direction. The trucking company stipulated that if its driver was found negligent, the trucking company would be vicariously liable for the driver’s negligence, because the driver was acting within the course and scope of his employment by the trucking company. Nevertheless, plaintiffs brought claims directly against the trucking company under derivative theories of negligence in order to bring in evidence about the company’s policies and practices. The surviving mother and two children in the pickup truck (a third child was killed) were awarded roughly \$92 million.

Between the pickup driver and the tractor-trailer driver, the jury found the pickup driver 55% responsible and the trucking company’s driver 45% responsible. However, when considering the derivative theories of negligence against the trucking company itself, the pickup driver’s share dropped to 16% while the tractor-trailer

driver’s share dropped to 14% and the trucking company was allocated 70% responsibility. That meant the trucking company effectively bore 84% of the responsibility as opposed to 45% when considering the negligence of the two drivers involved.

The verdict was initially upheld on appeal. A dissenting judge noted that allowing the derivative negligence claim against the trucking company allowed the jury to “assess the [trucking company’s] liability twice or award duplicative damages to the plaintiff.”⁷⁸ The same judge also noted that the plaintiff’s arguments and reptile tactics “probably inflamed the jury.”⁷⁹ It also likely clouded the jury’s judgment on liability in the first instance.

On appeal to the Texas Supreme Court, however, the court reversed on proximate causation grounds, holding that there was insufficient evidence to establish that the tractor-trailer driver’s actions were a substantial factor in causing the injuries.⁸⁰ The Texas Supreme Court’s reversal suggests the jury’s

“Admitting evidence of the employer’s hiring, training, or supervision practices . . . not only jeopardizes efficiency but also threatens the integrity of the results.”

Without a clear, federal standard, attempting to comply with an evolving standard of care that varies by state and is shaped by plaintiffs’ attorneys will involve significant costs and inefficiencies, ultimately borne by consumers.

sentiments against the trucking company clouded its view of the proximate cause of the accident. In reversing, the court said, “Given a proper understanding of substantial-factor causation—an understanding consistent with the jury charge given in this case—no reasonable juror could assign responsibility for these injuries to anyone other than the driver who lost control of his vehicle and hurtled across a 42-foot median into oncoming highway traffic, thereby causing this accident and these injuries in every legally relevant sense of the word.”⁸¹ The court here notwithstanding, judges (including the trial judge and the intermediate appellate court in this case) often reluctant to overturn a jury’s finding on liability

under the “no reasonable juror” standard. This allows reptile tactics to be more effective.

The court did not address the propriety of admitting evidence of the motor carrier’s hiring, training, or supervision practices, which were tied to derivative negligence. However, Justices Young and Huddle, in a concurring opinion, said, “Admitting evidence of the employer’s hiring, training, or supervision practices . . . not only jeopardizes efficiency but also threatens the integrity of the results.”⁸² The concurring opinion further provided that, if the employer accepts full responsibility, admitting such evidence inflames the jury and “risks inflating damages beyond

their actual amount or distorting the attribution of liability (or both).”⁸³

The likely jury pool today is more susceptible to reptile theory tactics than even a decade ago. There is widespread agreement that mistrust of corporations is on the rise, particularly among Millennial and Gen Z jurors.⁸⁴ In a recent survey, when asked whether large corporations prioritize profits over safety, 85% of all respondents agreed.⁸⁵ It is therefore unsurprising that, as highlighted above, plaintiffs’ attorneys seek to try the motor carrier rather than the truck driver involved in the accident to obfuscate the elements of liability and inflame the jury when it comes to awards.

Exclusion of Otherwise Relevant and Reliable Evidence

The trial judge plays an important gatekeeper role in admitting or excluding evidence to be heard at trial. These issues are often subject to frequent and hotly contested motions

practice pre-trial and can have major implications for the direction and ultimate outcome of a case, especially if the judge does not properly administer his or her gatekeeper role. A 2024

verdict in *Perkins v. Wabash*, a case involving claims against a trailer manufacturer, which has implications for the trucking industry, illustrates this point.⁸⁶ In that case, the decedents

represented by plaintiffs were the driver and occupant of a passenger vehicle that rear-ended a tractor-trailer that was stopped in traffic due to a road-construction lane closure. The passenger and occupant were killed as the car went under the trailer in what is called an underride accident. The plaintiffs sued the trailer manufacturer under a products liability theory, claiming a defective underride guard on the trailer (more discussion of this below) caused the injuries. A St. Louis, Missouri jury awarded \$12 million in compensatory damages and \$450 million in punitive damages (the punitive damages were subsequently lowered to \$108 million per Missouri law).⁸⁷

The trailer manufacturer sought to introduce evidence that the plaintiff driver had a blood alcohol content over the legal limit, which arguably impaired his driving and contributed to the accident. The trailer manufacturer also sought to introduce evidence that neither plaintiff was wearing a seat belt, which could have prevented their deaths in the crash. Both facts were excluded by the judge and kept from the jury and a nine-figure verdict followed.

In contrast, the Michigan Supreme Court recently held that a plaintiff’s blood alcohol concentration is relevant and admissible on the issue of causation.⁸⁸ The Court found

such evidence “is not merely marginally probative, but potentially critical to the issue of causation,”⁸⁹ and would assist the jury in “consider[ing] the role intoxication played in his possible speeding, his rates of acceleration, and his ability to react to [Defendant’s] allegedly unlawful U-turn.”⁹⁰ As to seat belt use, as discussed further herein, a number of states are taking steps to ensure such evidence is admissible. Exclusion of this type of evidence, and other relevant and reliable evidence, can influence the determination of liability in the first instance and the award of damages.

a motor carrier that caused an accident was out of the federal district court in Maryland in 2004.⁹¹ At trial, the jury in that case awarded \$23.8 million against the broker. As those types of claims began to more broadly catch hold from 2010 to 2020, defense attorneys had some success arguing that a federal deregulatory statute that prohibits states from regulating the prices, routes, and services of a broker (or a motor carrier) preempts state law negligent selection claims. Ultimately, a split developed in the U.S. Courts of Appeals on whether a safety exception to the statute’s preemption provision applied to such claims. In May 2026, the Supreme Court held that the safety exception applies and therefore negligent selection claims are not preempted.⁹² As a result, the floodgates for such claims are now wide open.

Not long after the Supreme Court’s May ruling, in July 2026, a Dallas County jury delivered a verdict of \$604 million in compensatory damages (no punitive damages) for a crash involving a driver for a motor carrier that was selected and contracted by a freight broker.⁹³ In *Lipe v. Lupus Superior*, the jury assigned 45% responsibility to the motor carrier’s driver, 32% to the motor carrier, and 23% to the freight broker. However, in addition to determining that the freight broker was negligent in selecting the carrier, the jury also determined that the freight broker exerted such control over the motor carrier’s driver that the driver was an employee or borrowed servant of the freight broker. This leads to additional liability under a separate vicarious liability theory.

The case highlights the difficulty for those involved in interstate transportation of divining what a jury in a particular jurisdiction may determine is the exercise of reasonable care in selecting a motor carrier. According to the facts as known, the motor carrier the freight broker contracted had a satisfactory rating issued by the FMCSA in 2014 and confirmed by additional recent reviews, including a review that occurred after the accident. The FMCSA grants operating authority to for-hire motor carriers if it determines they are willing and able to comply with applicable safety requirements.⁹⁴ The FMCSA also has procedures to assess the safety fitness of motor carriers and assign them a safety rating after conducting a compliance review.⁹⁵ It should be noted, however, that 94.6% of regulated freight carriers have no rating at all.⁹⁶ There are three safety ratings possible: satisfactory, conditional, and unsatisfactory.⁹⁷ A motor carrier receiving a satisfactory rating means the motor carrier “has in place and functioning adequate safety management controls to meet the safety fitness standards prescribed in 49 C.F.R. § 385.5.”⁹⁸ A motor carrier with a final “unsatisfactory” safety rating is prohibited from operating trucks and will have its operating authority revoked.⁹⁹

Here, the plaintiffs argued that selecting the motor carrier was not reasonable, because the motor carrier was above intervention thresholds in two categories of Behavioral Analysis and Safety Improvement Categories (BASICS) established by the FMCSA as part of its Compliance, Safety, and Accountability (CSA) program.

Under CSA, the FMCSA assigns carriers scores in seven BASICS based on roadside inspections and compliance reviews to help the FMCSA prioritize enforcement interventions.¹⁰⁰

The CSA program and its scores, however, have been criticized as painting an unreliable picture of a carrier’s safety performance and not being predictive of future crash risk,¹⁰¹ and, in December 2015, Congress directed the FMCSA to cease making CSA scores publicly viewable. Before Congress directed the scores to not be publicly viewable, the FMCSA included a disclaimer on the site, stating, “Readers should not draw conclusions about a carrier’s overall safety condition simply based on the data displayed in this system. Unless a motor carrier in the [CSA] has received an UNSATISFACTORY safety rating pursuant to 49 CFR Part 385, or has otherwise been ordered to discontinue operations by the FMCSA, it is authorized to operate on the nation’s roadways.”¹⁰²

Nevertheless, it appears that the Dallas County jury likely credited or was persuaded by plaintiffs’ argument that the FMCSA’s scoring system should be used for a purpose for which it was never intended—to establish a reasonable standard of care. FMCSA has long said CSA scores should not be used to “draw conclusions about a carrier’s overall safety condition.” The FMCSA’s grant or revocation of operating authority, which may be informed by the CSA scores, is the government’s true determination of whether a motor carrier can operate. Here, the plaintiffs’ attorneys persuaded the jury that even

The Expanding Target List and the Unknowable Standard of Care

As noted above, plaintiffs are seeking more and deeper pockets in trucking accident cases, including bringing claims against freight brokers who contract with shippers to arrange transportation of the shipper’s freight by authorized motor carriers. This development

raises the issue of how freight brokers and shippers are to know what the standard of care is if contracting with motor carriers that are authorized to operate by the FMCSA is insufficient. Without a clear, federal standard, attempting to comply with an evolving standard of care that

varies by state and is shaped by plaintiffs’ attorneys will involve significant costs and inefficiencies, ultimately borne by consumers.

The first notable high-dollar case where a broker could be held liable for negligently selecting

TPLF provides capital to businesses, law firms, or claimants to fund legal fees, healthcare expenses, retain experts, and generally wear down defendants through a war of attrition.

For auto bodily injury claims that are litigated, those with TPLF last on average 9.6 times longer than those without TPLF.

contracting with a motor carrier with a “satisfactory” safety rating was not exercising reasonable care, even though only 4% of regulated carriers have a “satisfactory” rating. Recall that a “satisfactory” rating means FMCSA determined the carrier has adequate safety management controls. The decision highlights the fluidity and uncertainty of knowing what the standard of care is for freight brokers who operate in interstate commerce.

Justice Kavanaugh’s concurring opinion in *Montgomery v. Caribe Transport II* hits on the immense challenges facing freight brokers that cannot rely on FMCSA’s determination of whether a motor carrier can operate. He noted that “brokers may not always (or even often) be in a good position to objectively assess the relative safety of different trucking companies.”¹⁰³ He further accurately captured the impact of an evolving, state-specific standard divorced from FMCSA’s judgment:

In the real world . . . state tort law can be unpredictable, and the costs to brokers of litigation and insurance may be significant even when brokers prevail in lawsuits. Moreover, the costs of litigation and insurance, as well as the costs of brokers’

conducting more substantial inquiries into trucking companies, will cascade through the economy and be paid in part by American consumers in the form of higher prices.¹⁰⁴

In sum, the lack of a knowable national standard has negative consequences.

The disregard for federal standards also arose in *Perkins v. Wabash*, the trailer case discussed above. The trailer underide guard on the trailer that the decedents in that case rear-ended was compliant with the applicable Federal Motor Vehicle Safety Standards (FMVSS) established by the National Highway Traffic Safety Administration (NHTSA). Nevertheless, the plaintiffs representing the decedents argued that the trailer manufacturer had the capacity to design and manufacture stronger rear impact guards, such as those used in Canada. Notably, at trial, the plaintiffs failed to establish there was an underide guard on the market anywhere that is designed to withstand the speed at which the plaintiffs were estimated to be traveling when rear-ending the trailer. Recognizing that such a design would entail additional costs to the manufacturer, the plaintiffs argued that the

trailer manufacturer prioritized cost savings over stronger protections.

The relevance of NHTSA FMVSS standards in determining the standard of care is not limited to products liability cases. For instance, they are relevant to allegations that a truck rental and leasing company or a motor carrier failed to equip a truck with a particular optional safety feature that is not required by law and the customer or motor carrier did not request. Ultimately, NHTSA’s mission is to “[s]ave lives, prevent injuries and reduce economic costs due to road traffic crashes through education, research, safety standards and enforcement activity.”¹⁰⁵ It is for that reason that Congress authorized NHTSA to “prescribe motor vehicle safety standards” and “carry out needed safety research and development.”¹⁰⁶ Despite the fact this authority extends to commercial motor vehicles, the litigation outlined above raises the specter that a plaintiffs’ attorney—rather than a government agency tasked by Congress with prescribing truck safety standards—will determine what must be on a truck. Courts should not sanction plaintiffs’ attorneys usurping government agencies’ roles.

Third-Party Litigation Funding

Investing in lawsuits for a share of the verdict or settlement started out as a niche practice but has become a massive business engaged in by hedge funds, institutional investors, and foreign sovereign wealth funds. From 2017 to 2021, these types of third-party litigation funding (TPLF) arrangements more than doubled, and, by 2023, had reached a level of at least \$15.2 billion.¹⁰⁷ TPLF provides capital to businesses, law firms, or claimants to fund legal fees, healthcare expenses, retain experts, and generally wear down defendants through a war

of attrition. TPLF funders argue they allow plaintiffs to bring claims and pursue justice that would otherwise be unaffordable.

On the other hand, critics of TPLF argue that the injection of external funding “changes risk tolerance, reduces settlement urgency, and reinforces higher anchoring strategies.”¹⁰⁸ It tends to drag cases out and makes it more difficult and more costly to settle cases.¹⁰⁹ In a survey of its claims data, a leading claims administrator found that in 2025, 4.6% of closed auto bodily injury claims involved some TPLF, with

that number increasing to 5.1% in the first half of 2026.¹¹⁰ For auto bodily injury claims that are litigated, those with TPLF last on average 9.6 times longer than those without TPLF.¹¹¹ And, examining data since 2022, auto bodily injury claims with TPLF have seen an increase in total incurred losses of 361% versus claims without TPLF.¹¹² As the claims administrator’s report summed up, TPLF “extend[s] claim duration, increase[s] resistance to early resolution, and amplif[ies] the ultimate cost of claims that are already predisposed to high severity.”¹¹³

Anchoring

Anchoring is where an attorney introduces an inflated number or artificial formula for damages during argument. The goal is to have that number stick in the jury’s mind regardless of whether it has any basis in the evidence. There is evidence supporting the maxim “the more you ask for, the more you get.”¹¹⁴ Unsurprisingly, studies show that anchoring can lead juries to award excessive amounts, and plaintiffs’ attorneys, being well aware of the efficacy of the tactic, employ it frequently.¹¹⁵ Anchoring is well recognized as contributing to inflated or disproportionate verdicts in trucking but also contributing to increasing settlement values.¹¹⁶ In *Perkins v. Wabash*, the plaintiffs’ attorney argued that the trailer manufacturer had saved \$15 million a year for 30 years preceding the accident by not designing and manufacturing

more protective underide guards. Subsequently, the jury returned a punitive damages award of \$450 million.

Today’s jury makeup is even more susceptible to plaintiffs’ attorneys’ anchoring tactics. They are generally predisposed to higher awards. Survey results show that the number of respondents who said that the amount of damages generally awarded was too low or just right increased to 76% from 58% in 2016.¹¹⁷ As part of that survey, respondents were presented with a hypothetical accident in which a pedestrian was struck by a truck while crossing the street before the walk signal appeared. The truck driver had sped through a yellow light. Respondents were then asked to determine an award amount after being exposed to different attorney-set anchors. When the anchor was set at \$5 million,

the average suggested award against a large corporation was \$3 million versus \$2.4 million for a small or medium business; when the anchor was set at \$50 million, the award was \$13.9 million and \$11.2 million, respectively; and when the anchor was set at \$100 million, the award was \$20 million and \$13.8 million, respectively.¹¹⁸

The foregoing suggests that anchoring works. However, there are some countervailing considerations to a defendant setting a counter-anchor. Some defendants fear that offering a counter-anchor, even if a lowball one, will undercut their case if they are contesting liability. Whether employed by plaintiffs or defendants, arguments for damages should be grounded in evidence, while inflated numbers or artificial formulas should be rejected.

Chapter 5

Problematic Jurisdictions

Trucking is largely an interstate business. Whether operating nationally or regionally, it involves crossing state lines and traversing many jurisdictions. This means operating in jurisdictions with different tort systems and varying propensities for inflated or disproportionate verdicts.

As some jurisdictions earn notoriety for their juries' proclivities toward excessive awards, trucking companies have to assess the risk of operating in those jurisdictions. In some instances, this entails a carrier electing to inefficiently route their trucks around a jurisdiction.

In others, it may mean adding a surcharge for delivery to, or pickup from, such jurisdictions to cover the additional risk, since fleets with greater miles traveled in these types of states experience higher insurance rates.¹¹⁹

The tort risk varies by state and can often even vary within a state. The reasons for these variations can differ. State legislatures may have enacted laws that create a plaintiff-friendly environment while others may enact laws to curb litigation abuses. Judges may decide cases and establish case law that shapes a jurisdiction's litigation climate. And there is an abundance of research indicating the population demographics of the eligible

jury pool within a jurisdiction can have a significant impact on litigation outcomes.¹²⁰

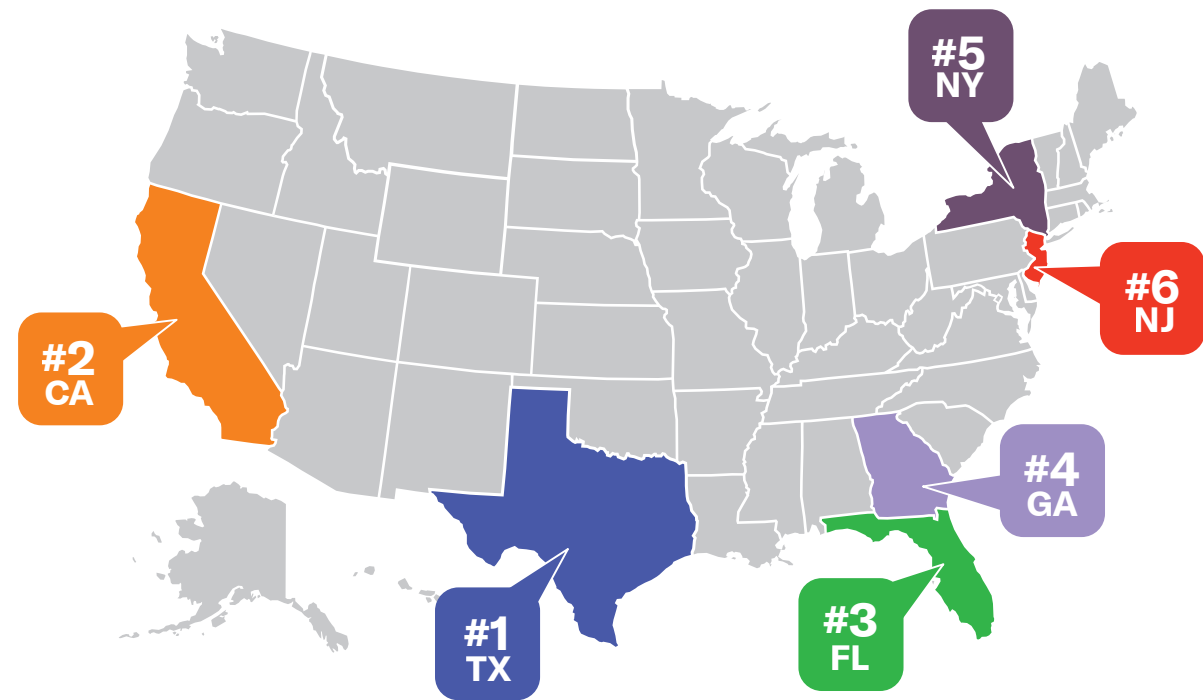
This paper's review of truck accident verdicts and settlements between June 2023 and July 2026 found Texas, California, and Florida to be the clear leaders with Georgia, New York, and New Jersey following. All except for New York were in the top 15 for mean awards. Texas had a mean award of \$20,159,484 (median award of \$2,663,748). California had a mean award of \$9,088,512 (median award of \$3,574,600). Florida had a mean award of \$12,836,431 (median award of \$1,225,000). Georgia had a mean award of \$20,624,267 (median award of \$8,800,000). New York had a mean award of \$4,193,706 (median award of \$1,500,000). New Jersey had a mean award of \$9,097,051 (median award of \$3,966,354). Missouri had the highest mean award at \$91,270,845 and Kentucky followed with \$82,166,453, but they only had 5 and 2 plaintiffs' verdicts and settlements in the database, respectively, versus 51 for Texas and 41 for California.

When it comes to nuclear verdicts past and present, most are generated by state courts versus federal courts.¹²¹ This research finds the same for truck accidents and settlements (including non-nuclear verdicts and settlements). The difference between mean and median awards in federal versus state courts is striking: in federal courts, the mean award was \$2,115,461 and the median award was \$550,179; in state courts, the mean award was \$24,352,386 and the median award was \$4,000,000. This provides yet another stark reminder that venue matters.

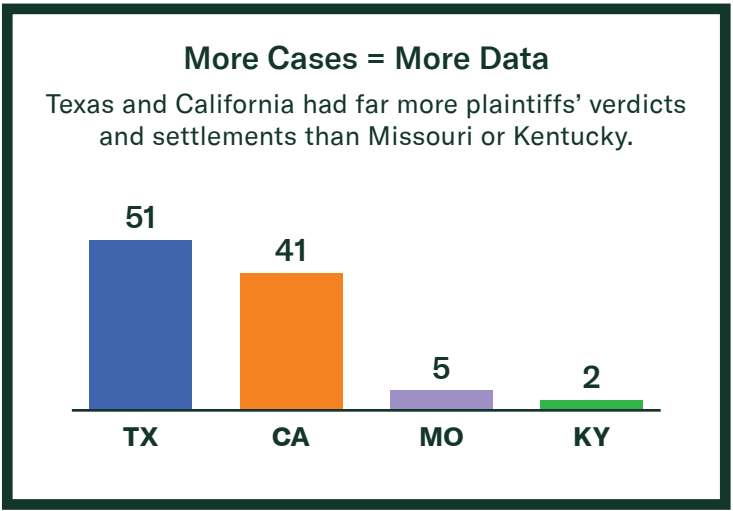
It is important for trucking companies to identify and be aware of problematic states/jurisdictions. That information may help inform how motor carriers service customers that request transportation in, out of, or through those jurisdictions, if at all. They also help identify potential targets for commonsense civil justice reforms.

Top States for Truck Accident Verdicts & Settlements (June 2023–July 2026)

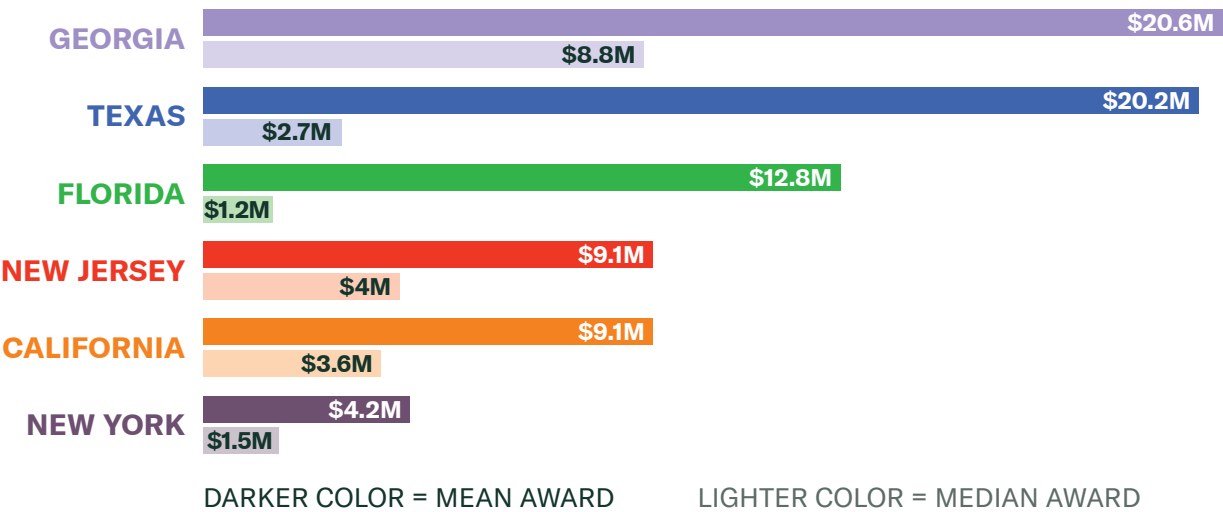
Texas, California, and Florida led the way, with Georgia, New York, and New Jersey following. All except New York were in the top 15 for mean awards.



- Texas, California, and Florida were the clear leaders in truck accident verdicts and settlements.
- Georgia, New York, and New Jersey followed.
- All except New York were in the top 15 for mean awards.



Mean & Median Awards by State

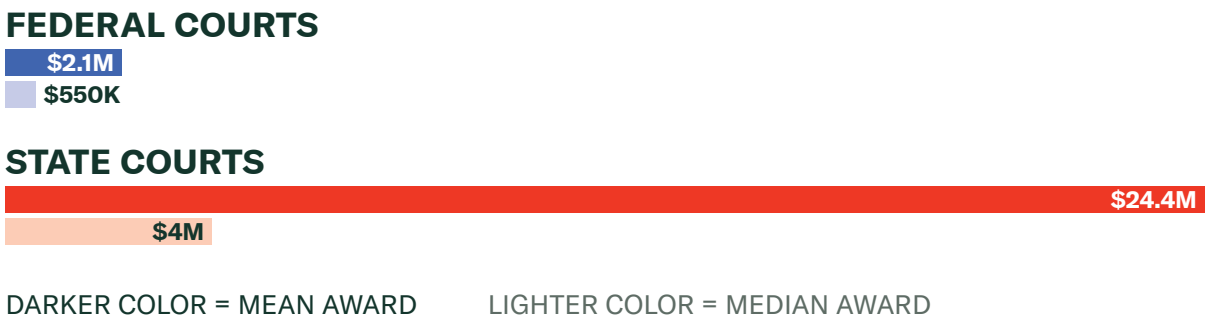


Highest Mean Awards (But Fewest Cases)

MISSOURI MEAN AWARD (5 CASES) **\$91,270,845**
KENTUCKY MEAN AWARD (2 CASES) **\$82,166,453**

High averages reflect very small samples.

Federal vs. State Courts: A Stark Difference



Chapter 6

Solutions

Daily, trucking companies and truck drivers throughout the United States strive to provide safe and efficient transportation services to deliver the goods that communities depend upon. The industry spends tens of billions of dollars annually on technology, training, and other measures to improve and ensure safety performance.¹²² When accidents that are the fault of the trucking company infrequently do occur, a properly functioning civil justice system should provide reasonable and just compensation in an efficient manner to those affected.

Much of this paper has focused on highlighting instances where the civil justice system is not functioning properly. It is being manipulated by plaintiffs' attorneys, increasingly backed by outside funders, to drag out litigation or settlements in pursuit of inflated or

disproportionate awards. With TPLF, medical financing, and attorneys' contingency fees taking their share, the plaintiffs themselves are all too frequently getting less . . . and later. At the same time, the ever-increasing costs of the flawed system are being absorbed throughout the

economy. The system needs reform. In this chapter, the paper will discuss proposed and enacted solutions to address some of the litigation issues affecting the trucking industry discussed herein.

Medical Billing

This paper discussed the methods and means by which interconnected referral networks consisting of plaintiffs' law firms, medical providers, and medical funders work together to inflate verdicts and settlements through improper or unnecessary diagnoses or treatment and withholding submission of medical bills to insurance providers.¹²³ These practices can inflate all types of claims, turning an accident with no injury into a spinal nerve injury requiring lifetime radiofrequency ablations, for example. States

have enacted legislative measures to address the issue, which should be replicated more broadly. A multi-pronged approach, however, is necessary to eliminate the fraud and abuse these networks can foster, while still providing compensation for reasonably incurred and medically appropriate care.

Florida's 2023 civil justice reforms tackled "phantom damages," which, in brief, are those claimed damages for medical services billed rather than those actually paid.

"With TPLF, medical financing, and attorneys' contingency fees taking their share, the plaintiffs themselves are all too frequently getting less . . . and later."

To recap, Fla. Stat. § 768.0427 limits evidence to prove damages attributable to past medical treatment or services to:

1. the amount actually paid by the claimant's insurer plus any out-of-pocket deductible or coinsurance the claimant paid;
2. if the claimant has health insurance but elects not to submit to insurance or seeks treatment under a letter of protection, then the amount the health insurer would have paid plus any out-of-pocket deductible or coinsurance the claimant would have paid;

3. if the claimant does not have health insurance, then the amount that is 120% of the Medicare reimbursement rate for the service or, if there is no applicable Medicare rate, 170% of the applicable state Medicaid rate for the service;

4. if the claimant obtained treatment under a letter of protection and the healthcare provider subsequently assigns the right to receive payment, the amount a third-party funder paid the healthcare provider for the assignment of the right; or

5. evidence of reasonable amounts billed for medically necessary treatment or services.

establish damages for future medical costs. The statute also requires disclosure of aspects of letters of protection (broadly, an agreement that the patient’s medical charges will be deferred and paid out of any recovery in a suit) if medical services or treatment are offered under such a letter. These include an itemized billing per industry codes and disclosure if the claimant was referred for treatment and by whom (if by the claimant’s attorney, that evidence is admissible).

In April 2025, Georgia enacted a comprehensive tort reform bill, SB 68, that included a similar proviso addressing phantom damages.¹²⁴ It amended Georgia’s collateral source rule to allow a jury to consider amounts charged but also amounts paid or actually necessary to satisfy charges under any public or private insurance that covers a plaintiff. If treatment is provided under a letter of protection

or similar arrangement, the following are all considered relevant and discoverable: that letter of protection; charges for medical expenses, which are to be itemized and coded according to generally accepted practices; and, if the account is sold to a medical funder at less than the invoice price, the purchaser of the account as well as the dollar amount for which it was purchased, and the identity of any person that made a referral for treatment. These provisions serve to make more information available to the jury in considering the credibility of witnesses or the appropriate measure of damage. And, as noted earlier, allowing juries to hear about referral networks impacts potential recoveries.¹²⁵

Also in 2025, Arkansas adopted HB 1204, which defines past medical expenses as being equal to what was actually paid and accepted. In June 2026, the Arkansas Supreme Court
- Additionally, there were similar limits placed on evidence to
- adopted amendments to Rule 412 of the Arkansas Rules of Evidence to implement the legislation. Those amendments make evidence of billed medical expenses that are not actually paid or which the plaintiff is not legally responsible inadmissible in Arkansas courts.

Legislative reforms are just one tool to be employed. The criminal investigations and prosecutions in Operation Sideswipe are a prominent example of how federal resources can be leveraged to expose and prosecute fraud rings that cause real-world economic injuries to motor carriers and consumers alike. Through Executive Order 14395 (Mar. 16, 2026), President Trump established the Task Force to Eliminate Fraud. On August 31, 2026, the Departments of Justice, Transportation, and Homeland Security joined with the White House Fraud Task Force to announce a crackdown on fraud

in the issuance of commercial drivers’ licenses in the trucking industry.¹²⁶ The Task Force and interagency efforts’ remit should extend to the types of fraudulent referral networks discussed in this paper. Prosecutions, like those in Operation Sideswipe, not only remove bad actors but also have an important deterrent effect in dissuading other potential bad actors.

The legal and medical professions should also be held to account. While it is true that two personal injury attorneys who spearheaded the New Orleans fraud ring have had their licenses suspended, more rigorous policing of ethical standards applicable to lawyers and doctors by their respective professional bodies is warranted. Allegations of coordinating unnecessary medical care or the performance of unnecessary medical procedures, including surgeries, should be addressed by the entities regulating the

legal and medical professions. Those bodies have failed their professions when state legislatures and Congress are called to step in specifically to address staged accidents.¹²⁷

In those states that have not enacted legislative measures, judges should allow evidence of the existence of, and economic extent of, referral networks. This equips the jury to better assess the credibility and potential bias of testifying medical experts and/or claimed damages. Whether through legislative measures or more rigorous gatekeeping by judges—such as allowing evidence to help the jury assess credibility and financial interests or keeping out evidence that is irrelevant to actual medical damages—reforms are necessary to ensure the jury receives an accurate picture to avoid the award of phantom medical damages.
- Legislative reforms are just one tool to be employed. The criminal investigations and prosecutions in Operation Sideswipe are a prominent example of how federal resources can be leveraged to expose and prosecute fraud rings that cause real-world economic injuries to motor carriers and consumers alike.
- ## Reptile Reforms
- As discussed earlier, plaintiffs’ attorneys use reptile tactics to make a case about a trucking company’s policies and practices rather than focusing on the cause of the accident and the legal elements necessary to prove a claim. By doing so, they either distract the jury and gloss over the required legal elements of a claim, or they inflame the jury to inflate awards. An ATRI study found that employer negligence, including negligent hiring, had a median award of roughly \$4

million, which was higher than the median award for speeding or running a red light, at \$3 million and \$2,237,500, respectively.¹²⁸ Neither outcome is conducive to

an efficient and fair civil justice system. The following can limit opportunities for plaintiffs’ lawyers to exploit reptile theory tactics in trucking cases.

“[P]laintiffs’ attorneys use reptile tactics to make a case about a trucking company’s policies and practices rather than focusing on the cause of the accident and the legal elements necessary to prove a claim. By doing so, they either distract the jury and gloss over the required legal elements of a claim, or they inflame the jury to inflate awards . . .”
- U.S. Chamber of Commerce Institute for Legal Reform | 29

The *McHaffie* Rule or Bifurcation

The *McHaffie* Rule¹²⁹ makes it improper for a claimant to pursue negligent hiring or other derivative direct negligence theories against a motor carrier once it has admitted to being vicariously liable for any negligence of its driver. Most of the highest state courts that have considered this issue have adopted some form of the *McHaffie* Rule.¹³⁰ The *McHaffie* court and others that have adopted the rule reasoned that once an employer has admitted that its employee’s negligence should be imputed to the employer, there is no further need for derivative theories to prove the employer’s negligence. This is because the employer becomes liable for all of the damages suffered by the plaintiff and legally caused by the employee’s negligence, therefore obviating the need to separately establish the employer’s negligence. Moreover, those courts recognize the risk that allowing pursuit of derivative

theories in such instances would allow a jury to hear potentially inflammatory and prejudicial evidence, while also allowing a double assessment of liability against the employer.¹³¹ Neither of these are beneficial outcomes.

Consider these positive, recent state legislative developments: In 2021, Texas passed legislation to allow a motor carrier that stipulates that its driver was in the course and scope of employment to bifurcate the trial. As a result, evidence on the derivative theory of negligence (e.g., negligent hiring, supervision, or entrustment) is reserved until the second phase of the trial and only presented to the jury after the driver’s negligence has been established.¹³² Iowa went further in 2023, at least with respect to negligent hiring claims, by requiring dismissal of a negligent hiring claim if the motor carrier stipulates that the driver who is alleged to have negligently caused the accident was in the course and scope of the motor carrier’s employment.¹³³ And as

part of its comprehensive tort reform package in 2025, Georgia allowed any party, prior to entry of a pre-trial order, to bifurcate trials with the first phase focusing on fault and the second (and potentially third, if punitive damages are alleged) phase focusing on damages.¹³⁴

Although a clean application of the *McHaffie* Rule better protects against manipulation of jurors by trying the company instead of the accident, bifurcation helps keep the initial question of the liability more focused on the accident. These types of reforms take greater urgency where 42% of survey respondents agreed with the proposition that large corporations should pay medical expenses even when they are not directly at fault.¹³⁵ Ultimately, states should take measures to prohibit derivative negligence claims against a motor carrier that has stipulated its driver was in the course and scope of the motor carrier’s employment at the time of the accident.

pain and anguish suffered by one of the decedents before her death in the accident.¹³⁹

In 2023, Iowa enacted legislation specific to trucking to cap non-economic damages at \$5 million.¹⁴⁰ In 2025, Oklahoma enacted a generally applicable limit on non-economic damages at \$500,000 with exceptions for “permanent and severe” injuries and a limit of \$1 million for permanent mental injuries.¹⁴¹

“Ultimately, states should take measures to prohibit derivative negligence claims against a motor carrier that has stipulated its driver was in the course and scope of the motor carrier’s employment at the time of the accident.”

Although a limit set at \$5 million may still allow juries to inflate awards, at least there is certainty of an outer limit to what is otherwise a very subjective

component. Where today’s jurors are “more likely to recommend compensation even in ambiguous scenarios,”¹⁴² damages limits can be an effective safeguard.

Anchoring Reforms

Anchoring is a favored tactic for generating inflated awards that often coexists with inflated non-economic damages awards. By introducing a number or formula for damages during opening or closing arguments, plaintiffs’ attorneys hope that number or concept sticks in the juror’s minds even if there is no evidence to support use of the number or formula. As the Texas Supreme Court put it in *Gregory v. Chohan*, the anchors are argued “to get jurors to think about the appropriate damages award on a magnitude similar to the numbers offered, despite the lack of any rational connection between reasonable compensation and the anchors suggested.”¹⁴³ In some jurisdictions, plaintiffs’ attorneys are authorized to refer to a specific dollar amount during closing argument that

the “attorney believes to be appropriate compensation for any element of damage that is sought to be recovered in the action.”¹⁴⁴

As gatekeepers of what the jury is allowed to consider, judges are authorized to bar arguments that are misleading, inflammatory, or unjust. Unfortunately, judges rarely exercise that authority when it comes to anchoring.¹⁴⁵ For example, the Texas Supreme Court has taken a reasonable approach in the face of a jury’s award of \$38.8 million in damages. There, the plaintiffs’ attorney had urged the jury to use a formula that valued compensation at two cents for each decedent for every mile traveled by the defendant trucking company’s fleet, an anchor that would have produced an award of approximately \$39

million.¹⁴⁶ Noting that non-economic damages are the exception in tort law and are intended to be compensatory and not punitive or exemplary, the court held that the amount of non-economic damages awards must be grounded in evidence.¹⁴⁷ Plaintiffs’ counsel’s unsubstantiated anchoring provided “no rational connection” to the amount awarded and was overturned.

More recently, the Michigan Court of Appeals in *Ayers v. Toth* grappled with a plaintiff’s attorney basing his argument for non-economic damages, at least in part, on what professional athletes make in a year (which was not in evidence). The court refused to vacate the verdict, reasoning that because the verdict was “at least \$10 million below the \$30 to \$40 million dollar professional athlete salaries plaintiff’s counsel cited,” it did not see how the closing argument “altered the outcome of the case to warrant granting a new trial.”¹⁴⁸ Recognizing the

Damages Limits

When the amounts awarded in punitive damages spiraled out of control, the U.S. Supreme Court set constitutional safeguards and many state legislatures followed suit.¹³⁶ To counter this development, plaintiffs’ attorneys arguing that the jury needs to send a message to the company and protect the community have turned to non-economic damages (i.e.,

damages for pain and suffering, loss of consortium, emotional anguish). By their nature, non-economic damages are often impossible to objectively quantify. For nuclear verdicts with a breakdown of damage types, non-economic damages accounted for 37.4% of the total award compared to 10.2% for economic damages over the 10-year period between January

2013 and December 2022.¹³⁷ Data show that the expansion of non-economic damages plays a role in the growth of inflated and disproportionate verdicts.¹³⁸ To put this into perspective, the *Lipe* freight broker liability case discussed above resulted in a \$604 million jury award with no punitive damages, including an award of \$200 million for the

imprecision of assessing non-economic damages, the dissent stated that “there should be no question that the amount a star athlete makes in a year has absolutely no bearing on how much money is needed to properly compensate [the plaintiff] for the pain and suffering he endured or would endure in the future” and that the improper anchoring “was brought up solely for the purposes of fanning the flames of the jury’s passions.”¹⁴⁹ As explained earlier, anchoring impacts a jury’s award,¹⁵⁰ and while this award may not have been as close to the proposed

“ . . . [B]y limiting the practice of unsubstantiated anchoring, judges and legislators would be able to curb the frequency of inflated or disproportionate verdicts.”

anchor in *Chohan*, that does not mean it did not artificially inflate the award.

Although judges should take a more active role in preventing unsubstantiated anchoring arguments, state legislatures can and should play a role in reining in the practice. In 2025, Georgia enacted legislation that prohibits unsubstantiated anchoring.¹⁵¹ It limits arguing the worth or monetary value of non-

economic damages until after the close of evidence and requires that damages arguments are rationally related to the evidence of non-economic damages. Legislation has been introduced in other states but has yet to be enacted. Ultimately, by limiting the practice of unsubstantiated anchoring, judges and legislators would be able to curb the frequency of inflated or disproportionate verdicts.

Mitigation and the Use of Seat Belts

Traditional common law has long placed a duty on the plaintiff to act in a reasonable manner to ensure their wellbeing. By mandating seat belt use, the legislatures in all but one state have determined that seat belt usage is sound public policy that furthers safety and reduces accident costs. However, many states prohibit the admissibility of evidence of seat belt non-use for any purpose, including the corresponding common law duty to mitigate damages.¹⁵² These states, in essence, speak out of both sides of their mouths.

In many, if not most, cases, a plaintiff’s violation of the requirement to wear a seat belt

or another’s failure to wear a seat belt can be relevant to whether a claimed injury may have been avoided or lessened. To be clear, the defendant must still prove a causal connection between the failure to wear a seat belt and injuries that could have been avoided or lessened. States that prohibit such evidence or judges that do so when left to their discretion are unfairly tilting the balance in favor of plaintiffs.

As discussed in the *Perkins v. Wabash* case, the exclusion of evidence of failure to wear a seat belt likely contributed to the \$462 million verdict. There has been progress in state legislatures on this issue, at least

for purposes of admissibility to prove failure to mitigate damages.¹⁵³ In 2024, Indiana passed a transportation policy bill that contained a seat belt use admissibility provision and in 2025, Georgia passed more sweeping legislation that would make non-use admissible on issues of negligence, causation, assumption of risk, apportionment of fault, or for any other purpose.¹⁵⁴ Given that injuries may be completely prevented and others significantly lessened by seat belt use, legislatures should ensure that this relevant evidence can be presented to juries.

A uniform standard of care for equipping vehicles should be decided by dedicated government officials instead of a patchwork, shifting standard of care established by plaintiffs’ attorneys.

Access to Federal Courts

As discussed above, median awards and the likelihood of nuclear verdicts are higher in state courts than in federal courts. Because trucking has such a substantial impact on interstate commerce, Congress should enact legislation that would provide greater access to federal courts in accident

cases involving larger claims. The Forum Accountability and Integrity in Roadway Trucking Act, H.R. 5268, which was introduced in September 2025, would require minimal diversity as opposed to complete diversity of plaintiffs and defendants for commercial motor vehicle accident claims exceeding \$5

million. Expanding access to federal courts would provide litigants with a forum governed by uniform federal procedural and evidentiary rules, presided over by judges who hold a lifetime appointment and are not elected with the substantial financial assistance of the plaintiffs’ bar.

... [M]edian awards and the likelihood of nuclear verdicts are higher in state courts than in federal courts. Because trucking has such a substantial impact on interstate commerce, Congress should enact legislation that would provide greater access to federal courts in accident cases involving larger claims.

safe to operate, and therefore reasonable to contract with, over a standard proposed by a plaintiffs' attorney to suit their particular case. The Texas Supreme Court understood that point in *In re Home Depot*, noting:

[The motor carrier's] safety fitness is regulated and monitored at the federal level. Where, as here, the cargo poses no inherent risk, private parties should not be required to duplicate that comprehensive federal safety regime or qualitatively evaluate and rank the safety fitness of more than a million regulated carriers before

engaging in routine commerce. Such a duty would be neither practical nor workable.¹⁵⁵

Until a uniform, federal standard is implemented, states should follow suit.

Similarly, Congress empowered NHTSA to research and establish truck safety standards, and the FMCSA shares some regulatory authority with NHTSA with respect to commercial motor vehicle equipment. Rather than leaving it to a jury to establish a shifting standard of care on a per-accident basis, the complex area of what equipment or technology should be reasonably

required on a truck should be left to experts singularly focused on that subject. States have adopted legislation that would establish compliance with applicable federal motor vehicle safety standards as the standard of care.¹⁵⁶ Federal legislation, such as H.R. 10050 and its companion S. 5336, is being considered that would do the same and should be enacted.¹⁵⁷ A uniform standard of care for equipping vehicles should be decided by dedicated government officials instead of a patchwork, shifting standard of care established by plaintiffs' attorneys.

Clarifying the Standard of Care

Recent legal decisions expanding the liability of freight brokers and shippers for the selection and contracting of motor carriers will inevitably increase such claims. Plaintiffs' attorneys also increasingly allege that truck and trailer manufacturers, truck and rental leasing companies, and motor carriers have a duty to retrofit trucking equipment or adopt new technologies. In both scenarios, Congress has directed federal agencies to set relevant standards. Legislation to codify those standards as the standard of care in lieu of an ever-shifting, state-specific standard of care influenced by plaintiffs' attorneys without the same technical expertise, would be beneficial.

As noted, freight brokers and, increasingly, shippers are brought into suits under the theory that they were negligent in selecting a motor carrier to transport goods. And as previously mentioned, the FMCSA is the federal agency that Congress authorized to grant and revoke a motor carrier's authority to operate in interstate commerce. Legislation has been introduced over the years, including H.R. 5337 in this 119th Congress, to preempt state law negligent hiring claims if the freight broker ensures that the trucking company it contracts with is properly authorized to operate by the FMCSA, has in place federally required minimum liability insurance, and has not received an "unsatisfactory"

safety rating. While Congress should give the FMCSA more resources to do its job, it should not allow plaintiffs' attorneys to supplant the FMCSA's judgment on who should be legally allowed to operate. Some uniform standards would increase the efficiency of interstate commerce.

As this is being addressed at the federal level, states should also consider adopting an equally clear standard of care. Nothing prevents a state from establishing a standard of care that references a federal agency's expertise. And for the same policy reasons, it would be advisable to defer to the FMCSA's judgment of which motor carriers are

Third-Party Litigation Funding

TPLF is proliferating, magnifying its negative impact on litigation. As noted, TPLF drives higher verdicts, extends the duration of litigation, delays arriving at settlements, and contributes to increasing settlement amounts. Numerous legislative efforts have focused on increased transparency through disclosure of funding arrangements and agreements, consumer protection measures to protect plaintiffs who are taken advantage of by funders, limits on recoveries by funders, prohibitions on funder control of litigation, and restrictions on foreign participation. For example, Tennessee recently enacted legislation establishing a comprehensive regulatory framework for commercial

litigation funding. The law requires litigation financiers to register with the state, prohibits participation by foreign persons and sovereign wealth funds, limits financing charges, imposes joint and several liability for costs and monetary sanctions assessed against funded parties, prohibits funders from exercising control over litigation decisions, and requires disclosure of litigation funding agreements to the court and parties. New Hampshire enacted narrower legislation prohibiting litigation funding by foreign entities or persons of concern or entities controlled by either.¹⁵⁸

Some state legislative measures are trending toward stricter regulation. North Carolina recently enacted a provision

that would ban certain forms of TPLF outright.¹⁵⁹ And while Ohio did not go as far, its new law regulating TPLF also prohibits funding companies from paying or accepting referral fees involving attorneys or medical providers.¹⁶⁰ In all, 20 states now have some form of legislatively enacted TPLF reforms. More states continue to look at ways to rein in the dilatory and inflationary impacts of TPLF on litigation outcomes.

Chapter 7

Conclusion

The trucking industry consists of hard-working individuals who work every day to ensure the nation's citizens enjoy the groceries, medicines, and electronics that feed, care for, and entertain them.

Trucking is a low-margin business that serves the public. Yet, through the tactics discussed in this paper, the plaintiffs' bar paints the trucking industry as a threat. Moreover, the plaintiffs' bar views the trucking industry as an inviting target for excessive and disproportionate verdicts that enrich plaintiffs' attorneys and third-party litigation funders.

The upward trend in verdicts awards and settlements has been documented before and is once again affirmed

by this paper. This trend has real impacts on the costs and availability of insurance and even the continued viability of a trucking company's operations. Trucking companies have to take into account particularly problematic jurisdictions and adjust their operations accordingly. Ultimately, all these actions result in higher costs of goods of all types to consumers.

The implementation of commonsense measures by policymakers, judges, law enforcement, and

professional ethics bodies can bend this unsustainable trajectory without forfeiting the availability of prompt and reasonable compensation for accident victims. As this paper demonstrates, the drivers of these inflated and excessive verdicts play out in cases and investigations on a daily basis. It is past time to enact or enforce the identified measures to help ensure the trucking industry can continue to deliver goods without passing on inflated costs to consumers.

Appendix A

Methodology



Endnotes

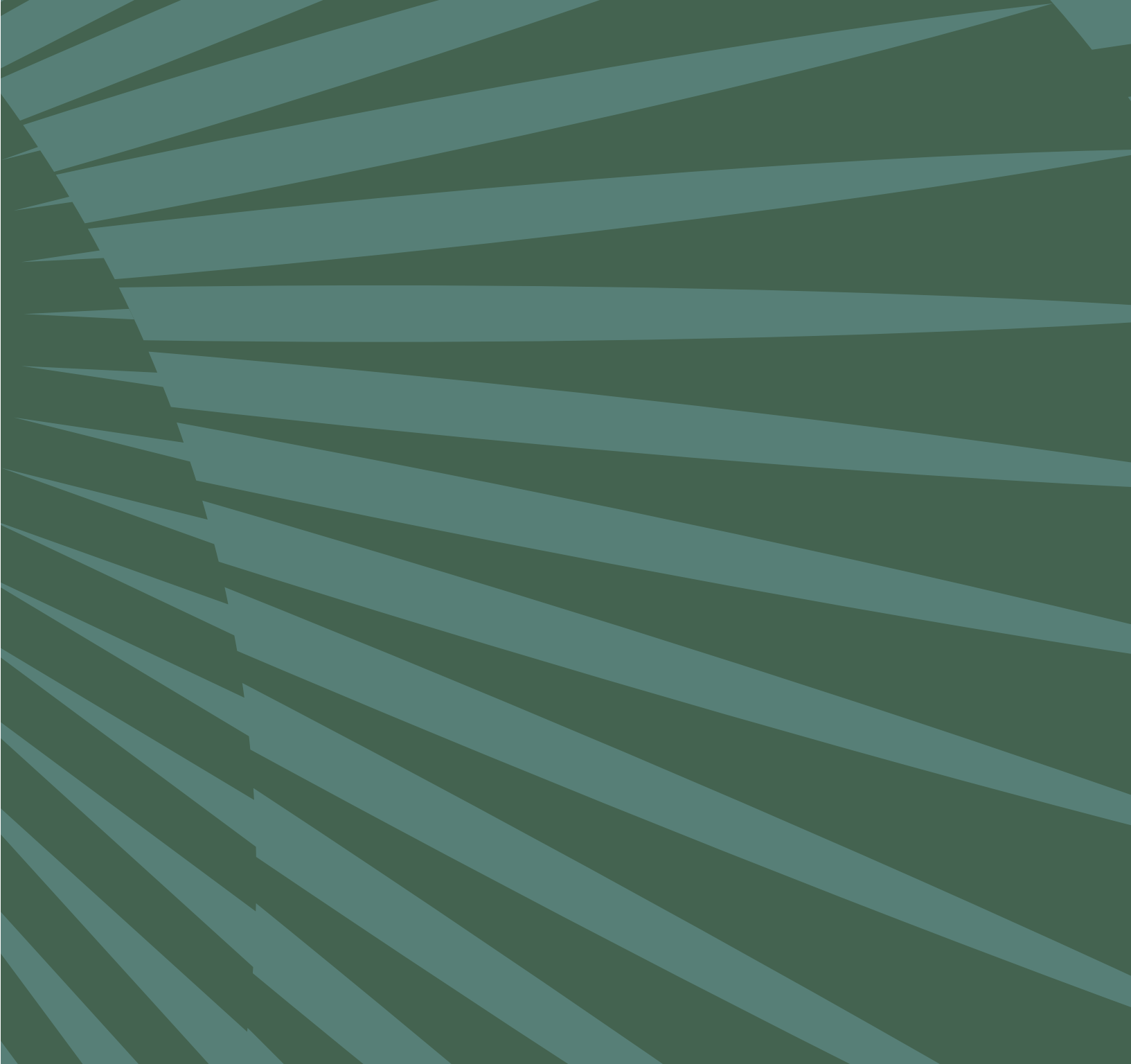
This paper’s analysis is based in part on the development of a database of 334 verdicts and settlements (excluding arbitrations) of all sizes involving large truck accidents from June 2023 to July 2026.

The information in the database primarily originates from Westlaw’s Jury Verdicts and Settlements (JVS) database. That database contains jury verdicts, settlements, judgments, and arbitrations of all sizes from U.S. state and federal court cases. JVS compiles information including, but not limited to,

case type, jurisdiction where the case was tried, factual information about the case (including type of injury), and amount of award. The database developed for this paper was supplemented with verdicts and settlements reported in TopVerdicts.com for 2023 and 2024 or reported in media sources during the covered time period and for which total award information was available. While the database likely captures a large percentage of the commercial large truck accident verdicts and settlements during this time period, the nature of

jury verdict reporting and the often confidential nature of settlements makes it highly unlikely that any database will capture all commercial large truck accident verdicts and settlements.

When reporting on the size of the awards, whether mean or median, defense verdicts were excluded. The damage awards utilized for calculation purposes were the damages awarded by the jury. Those damage awards do not reflect subsequent reductions by the trial court or on appeal.



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125 *Supra* note 64.

126 U.S. Department of Justice Press Release, *U.S. Attorneys and Department of Justice Join Departments of Transportation and Homeland Security and White House Fraud Task Force to Launch Historic Interagency Effort to Crack Down on Fraud in Trucking Industry* (Aug. 31, 2026).

127 See, e.g., H.R. 2662, 119th Cong. (2025); S. 5058, 119th Cong. (2026); H.R. 12069, 119th Cong. (2026); N.Y. A.B. 3851 (2025) (similar provision enacted as part of New York’s FY 2026 budget).

128 ATRI Litigation Study, at 25.

129 The rule derives from the Missouri Supreme Court’s decision in *McHaffie v. Bunch*, 891 S.W.2d 822 (Mo. 1995).

130 ILR Nuclear Verdicts Study, at 60, n. 218.

131 *Supra* note 80.

132 Texas HB 19 (enacted June 16, 2021).

133 Iowa SF 228 (enacted May 12, 2023).

134 Georgia SB 68 (enacted Apr. 21, 2025).

135 Swiss Re, *supra* note 85.

136 *State Farm Mutual Ins. Co. v. Campbell*, 538 U.S. 408 (2003).

137 ILR Nuclear Verdicts Study, at 13.

138 Sedgwick, at 9.

139 Jury Charge Form, *Lipe v. Lupus Superior*, *supra* note 93.

140 *Supra* note 133.

141 Oklahoma SB 453 (enacted May 22, 2025).

142 Swiss Re, *supra* note 85.

143 *Gregory v. Chohan*, 670 S.W.3d 546, 558 (Tex. 2023).

144 *Perez v. Live Nation Worldwide, Inc.*, 2020 WL 4258745, at *15 (N.Y. Sup. Ct. July 24, 2020) (quoting N.Y. CPLR 4016(b)). In *Perez*, the plaintiffs’ attorney argued for \$85 million in future pain and suffering and the jury awarded \$85.75 million.

145 See, e.g., *Quintero v. National Railroad Passenger Corp.*, 2022 WL 4093120, at *13 (W.D. Wash. Sep. 7, 2022) (noting the absence of case law in the Ninth Circuit or Washington prohibiting anchoring arguments).

146 *Chohan*, *supra* note 143.

147 *Id.* at 550.

148 *Ayers v. Toth*, 2026 WL 1450500, *10 (Mich. Ct. App. May 21, 2026).

149 *Id.* at *16 (Riordan, P.J., dissenting).

150 Swiss Re, *supra* note 85.

151 Georgia SB 68, amending O.C.G.A. § 9-10-184 (enacted Apr. 21, 2025).

152 States that have yet to allow admission of use of seat belts as evidence include: Alabama, Arkansas (statute permitting use deemed unconstitutional), Connecticut, Delaware, District of Columbia, Idaho (not available in pleading but may be available in pre-trial motion with respect to mitigation of damages), Illinois, Kansas, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Montana, New Hampshire, New Mexico, North Carolina, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming. Wisconsin limits the reductions of an award to no more than 15%. Michigan, Nebraska, and Oregon limit reductions of an award to no more than 5%. Missouri limits reductions of an award to no more than 1%.

153 Indiana HB 1090 (enacted Mar. 12, 2024).

154 Georgia SB 68 (enacted Apr. 21, 2025).

155 *In re Home Depot U.S.A., Inc.*, No. 25-0317, slip op. at 10 (Tex. May 15, 2026).

156 Texas HB 4218 (enacted June 10, 2023); Indiana HB 1162 (enacted Mar. 13, 2024); Arizona HB 2461 (enacted Apr. 10, 2024); Louisiana HB 785 (enacted Aug. 1, 2024).

157 S. 5336, Uniform Vehicle Safety Standards Act of 2026, and its companion bill, H.R. 10050.

158 New Hampshire HB 1384 (enacted July 2, 2026).

159 North Carolina HB 315 (enacted June 22, 2026).

160 Ohio HB 105 (enacted July 7, 2026).

Notes

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