

North Carolina Trucking Accident Law

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December 1, 2021



Tractor trailers and other large commercial vehicles travel the highways and our local roads daily to deliver consumer goods around the country.

With so many trucks, including 18-wheelers, semis, flatbeds, dump trucks, and box trucks, on the roadways, accidents happen. Hundreds of thousands of large-truck crashes occur every year in the United States, with approximately 510,000 reported in 2019 alone. Those accidents resulted in 114,000 injuries and nearly 4,500 fatalities in that same year. Tragically, the frequency of fatal large-vehicle accidents has only increased over time nationwide—with a 29% jump from 2010 to 2019.

A single moment is all it takes for an 18-wheeler to collide with another vehicle. A truck driver may encounter a moment of distraction or fatigue from the long drive. The tractor trailer may have faulty brakes, improper safety equipment, or a failed tire. The truck driver may be driving at high speed in bad weather and dangerous driving conditions.

The physical, mental, and emotional impact from these catastrophic accidents can last a lifetime for survivors and their family members. That's why it's important to be aware of the types of legal issues involved should you or a loved one find yourself in the unfortunate situation of being involved in a trucking accident.

Liability and Damages

As with other personal injury cases, an injured person is only entitled to recover damages from a truck driver or trucking company if the driver or trucking company was "at fault" for the accident. The driver or the trucking company must have been "negligent" in causing the accident, and that negligence must have "proximately caused" the person's injury.

Of course, sometimes, an accident is more than one party's fault. North Carolina is one of only a few states that still recognizes the common law rule of "contributory negligence." That rule provides that if the injured party negligently contributes to the collision—even by just 1%—then the injured party cannot recover at all from the other party. This is a harsh rule that most other states have abolished. However, North Carolina also recognizes exceptions to the rule, such as the doctrine of "last clear chance" (a showing that the other driver had the last opportunity to avoid the accident), and, possibly, when the other driver is "grossly negligent."

If the contributory negligence rule does not apply, or if one of the exceptions to the rule applies, the injured party is able to recover all damages "proximately caused" by the truck driver's (or the trucking company's) negligence. Such damages can include the cost of repairing or replacing damaged physical property, medical bills, future medical costs, lost wages, diminished future earnings, pain and suffering, scarring or disfigurement, loss of use of part of the body, or the permanency associated with any continuing injuries.

The goal of personal injury damages is to make the injured party "whole." This is obviously impossible after a serious or catastrophic loss, but the law does the best it can by awarding monetary damages to compensate, as nearly as possible, for an injured person's loss. Thus, the at-fault truck driver, the driver's employer, their insurance company, or another liable party may be responsible for paying damages for all such losses.

Topics Involved in Trucking Cases

Trucking cases can be particularly complicated given both the particular factual issues and legal issues that may apply.

First, there may be more parties involved in a trucking accident than a typical automobile accident. The driver of the truck, of course, may be at fault. Truck drivers can be self-employed, independent contractors working for a particular company, or employees of a company.

If the truck driver is an employee, the driver's employer may also be responsible for the driver's actions based on the concept of vicarious liability, referred to in legal terms as the doctrine of respondeat superior. It also is possible that vicarious liability may apply in some non-employee situations.

The trucking company may also have independent legal responsibility if it hired an unfit driver or allowed that driver to continue working for the company after the company had known the driver was unfit. If the facts are egregious enough, the injured party may have a claim for punitive damages (additional damages meant to punish the driver and/or the employer).

It's also important to determine the owner(s) of the truck, trailer, and cargo. (These can be different from one another and different from the driver or the trucking company.) Further, it is important to analyze whether additional parties may be liable—including other drivers on the roadway at the time of the accident or even state and local governments that may have allowed hazardous roadway conditions to exist that also led to the accident.

There can be laws that apply to trucking cases that do not apply in automobile accidents. The Federal Motor Carrier Safety Administration ("FMCSA") regulates the trucking industry and sets specific rules for the condition of trucks, their cargo, inspections, driver qualifications, number of hours a driver can be on the road, and other matters. There also can be state or local laws applicable to commercial trucks (so long as federal law doesn't preempt such laws).

If a lawsuit arises from a trucking accident, the litigation process can be complicated. There is a large amount of paperwork and electronic information that often must be requested and analyzed during the "discovery" process. This can include ownership information, systems/tracking data (including GPS), daily logs, alcohol and drug testing results, inspection reports, maintenance and repair records, federal filings, freight and cargo records, employment documents and records, internal policies, and other documentation. It also may be necessary to retain experts, such as accident reconstructionists.

Moreover, time is truly of the essence in these cases. Once a truck has returned to the road after an accident, the electronic data from the accident can be compromised. As such, it is important to hire an attorney as soon as possible, so the attorney can involve the rest of the necessary experts to find and preserve the key

electronic evidence.

As with other personal injury cases, liability insurance plays an important role. Federal law requires that trucking companies obtain certain levels of insurance that are typically much higher than levels required for automobile drivers and owners. However, if the available insurance is insufficient to cover the injured party's losses or doesn't cover a certain type of damages (such as punitive damages), the at-fault party will be individually liable. In addition to liability insurance, there may be medical payments coverage ("med pay") available in the short-term, regardless of fault, to assist with medical bills.

Conclusion

If you are in an accident involving a commercial truck, including, but not limited to, an "18-wheeler," you may have a viable legal claim, depending on who was "at-fault" for the accident. If you do have a claim, the monetary value of your claim will depend on the injuries involved and the damages that may be legally recoverable.

An experienced attorney who knows how to handle these matters can help address these issues and navigate such a challenging situation, particularly if time is of the essence. Doing so can help you or your family member recover the full extent of available damages when the trucking accident is someone else's fault.

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