Enjuris® Finding answers after your accident



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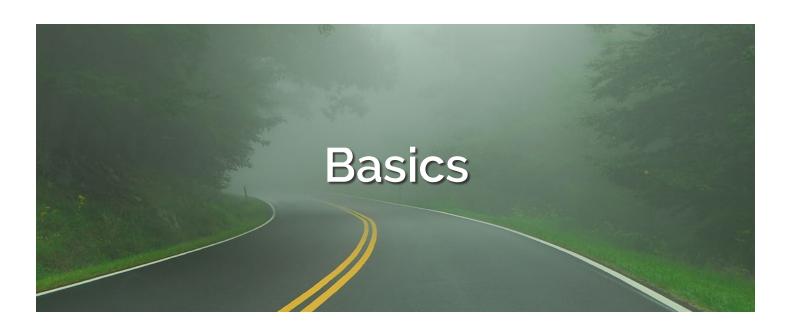
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An introduction to truck accidents

Hurt. Alone. Afraid. Confused.

If you or someone you love were in a truck accident, you might be feeling all of those things, and then some. But help is on the way.

This book is packed with information that's designed to take you through the nuts and bolts of how to handle the legal aspects to a truck accident recovery, including dealing with the insurance companies, who might be at fault, finding a lawyer, and what to do if you have some (or all) of the liability.

In addition, we offer resources for a variety of traumatic injuries that you might have experienced, along with what to do if you're filing a wrongful death claim for a family member or how to file a workers' compensation claim if you're a truck driver.

So let's jump right in — starting with the how and why, and moving through all of your questions, but especially this one:

What's next?

For even more information and answers, visit our Truck Accidents page at Enjuris.com.



How truck accidents happen

Truck accidents can be even scarier than car crashes because they're more likely to result in death or serious injury than a collision between 2 passenger cars. A "big rig" tractor trailer or semi-truck can weigh more than 30,000 pounds, which means your passenger car is no match. In fact, the average passenger vehicle weighs only around 4,000 pounds.

Aside from the weight factor, the driver in a large commercial truck is usually riding high up in the cab, while the driver of the car is much lower to the ground.

These and other factors can lead to devastating results if you're in a truck accident.

Truck accidents are most often caused by driver error — on the part of the truck driver or another motorist..

Many of these accidents are preventable.

Common causes of truck accidents

1. Driver fatigue

Driving a truck is a high pressure, high-stress job. Often, trucking companies will require drivers to deliver goods to a certain destination within a short period of time. That means they're driving long distances with few breaks and little rest.

Sometimes, the number of miles to be driven requires several days on the road at a time and the drivers have too few hours of sleep (and even less *quality sleep*). As a result, they lose concentration and coordination and are slower to react to road situations — not to mention the dangerous possibility of actually falling asleep while driving.

There are laws and regulations for how many hours a trucker can drive in one shift, how much sleep is required, and when rest breaks must be taken. However, many companies don't follow these rules and driver fatigue remains a big problem.

2. Distracted driving

<u>Distracted driving</u> is a problem everywhere, and it's as much an issue on your local roads as it is on the highways. Distracted driving is any activity that diverts attention away from the primary task of driving.

Let's face it — driving for long distances can be boring. In rural areas, a driver might not have a good radio



signal, so there's not much entertainment. That boredom might lead a trucker to risk texting, looking at their phone to find a podcast or playlist, eating, or doing something else to stay occupied. Even where there are good radio stations, the simple act of reaching over and playing with the dial takes the driver's eyes and concentration off the road.



Facing Facts:

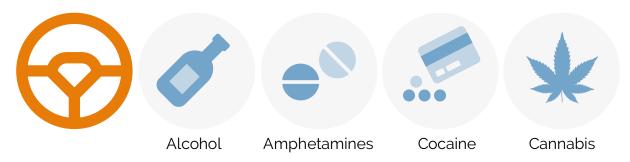
When a driver takes their eyes off the road, even for a split second, there's the possibility of disaster. The National Highway Traffic Safety Administration (NHTSA) estimated that 10% of fatal crashes and 15% of injury crashes in 2015 were because of distracted driving.

3. Alcohol and drugs

You might not think of trucking as having a high rate of alcohol and drug abuse, but it does. Some truckers use amphetamines and cocaine to stimulate themselves to stay awake while driving.

A recent study <u>reported by Reuters Health</u> showed that 30% of truck drivers admitted to taking amphetamines on the job. A reported 20% used marijuana and 3% used cocaine. These drugs keep the drivers awake unnaturally and they also compel them to take more risks like driving faster, unsafe lane changes, and making risky maneuvers in bad weather. Once those stimulants begin to wear off, the drivers are more likely to fall asleep at the wheel

Some irresponsible truckers use these substances to make it through grueling shifts:



Source: https://americanaddictioncenters.org/rehab-guide/truck-drivers



4. Speeding and overtaking

Sometimes it's not possible for a driver to make a delivery in the time allotted by their employer but they might try anyway.

Because of the pressure to make tight deadlines, a driver might drive faster than what's appropriate for a vehicle that size, or maybe faster than is suitable for the road conditions. If a driver thinks they might lose their job if goods aren't delivered at a certain time, they're more likely to speed to get there. And that might mean speeding right up behind a small passenger car.

If you've ever looked in the rearview mirror to see an 18-wheeler bearing down on you from behind, you're going to do what it takes to get out of the way. Often, getting out of the way means swerving off the road or into another lane, which can lead to an accident.

5. Poor training and maintenance

There are regulations and requirements for how many hours of training a driver must take in order to drive a commercial vehicle. Yet some drivers manage to get on the road without meeting those requirements.

Bad weather happens everywhere, whether it's wind, rain, or snow. It takes ample experience and training to learn how to drive in bad weather safely, especially when maneuvering a large commercial truck. It's crucial that a trucker drive even slower than usual (and slower than the posted speed limits) in poor weather conditions to prevent skidding, hydroplaning, or jackknifing.

3%

6%

17%

A low 3% of truck drivers were driving with a BAC over .08 at the time of their fatal accident (compared to 29% of passenger vehicle motorists).

Sundays have the fewest reported accidents out of all the days of the week, with only **6%** of truck accident deaths.

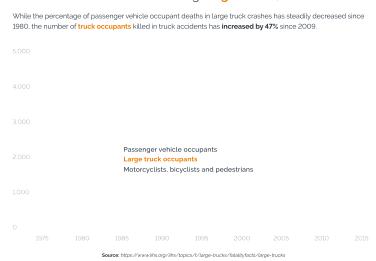
Of the nearly 4,000 truck crashes in 2016, **17%** of the fatalities were either the truck driver or the passenger.

55%

In 2016, **55%** of commercial truck drivers and passengers died when their vehicle rolled over. This number is higher than SUV and pickup truck rollover fatalities.

60%

Deaths in Crashes Involving Large Trucks, 1975-2016





If the driver isn't trained for how to properly manage poor conditions, they put themselves and other motorists at risk.

The trucking company is also required to inspect each truck before it gets on the road, but this often doesn't happen. There are costs associated with maintenance, and it takes time — valuable time that the companies know can be used instead to make deliveries. So sometimes the routine maintenance falls by the wayside and a truck is on the road without being safe for the trip.



Enjuris Tip:

If a truck is poorly maintained or has defective parts, there are several parties that could be liable: the manufacturer of the part, the manufacturer of the truck, the trucking company that operates the truck, or the mechanic responsible for repairs or maintenance.

If you've been in a truck accident that's attributed to equipment failure, you might be able to bring a product liability lawsuit.

6. Improper cargo loading

You might be thinking:

How does a truck's cargo load affect me?

Each load has to adhere to specific weight, size, length, width, and height limits. If the truck is carrying hazardous materials, there are even stricter regulations for how it must be handled.

Still, mistakes happen and errors can mean that a load makes a truck too top-heavy or likely to tip over. If a load falls onto the road, it can cause a catastrophic accident. Likewise, hazardous materials could catch on fire or create other dangerous situations.

Please note that this is an e-book provided for educational purposes only. The information in it is not legal advice. Talk to a licensed attorney about all legal issues that could potentially affect your case.

Find a lawyer now



Common truck accident injuries

Truck accidents with passenger cars tend to result in more serious injuries than collisions between 2 or more passenger cars. Sometimes the aftermath of a truck accident can stick with a person for life, which is why it's crucial that you receive the money you need to handle your ongoing and future medical and life care expenses.

1. Back and neck injuries

Your back and neck include small and fragile bones and ligaments that can be easily injured from impact. Whiplash can happen when your head and neck snap forward but your torso stays in place. It's an injury that might not appear immediately but you might experience pain and other symptoms hours or days after a crash.

2. Spinal cord injuries

A spinal cord injury could result in partial, temporary, or complete paralysis of your lower body and torso. Your spine is the information superhighway of your body—its nerves carry messages from your brain to all of your other body parts. If your spine is injured, there's not usually an easy fix. It can involve many months or years of treatments, surgeries, physical therapy, adaptive devices, and you might be permanently disabled.



Enjuris Tip:

Common spinal cord injuries include:

- · Lumbar spinal cord injuries
- Cervical spinal cord injuries
- Thoracic spinal cord injuries
- Rehabilitation and therapy after spinal cord injuries

3. Head and brain injuries

Head injuries could be as minor as a bruise that goes away on its own or a mild concussion. But a traumatic brain injury can have long-lasting effects.



For more about how to recognize a traumatic brain injury and what to do, check out the following resources:

- Traumatic brain injury rehabilitation and therapy
- Concussions and auto accidents
- Resources to help after a brain injury

4. Burns

Since a truck is larger, it often causes more damage upon impact than a passenger car would, and there's a high risk of rupturing fuel tanks. A fire can spread fast and engulf the truck or surrounding passenger cars. A driver or passenger in a nearby vehicle could suffer severe 3rd-degree burns that are painful and cause permanent disfigurement.

Read more about **burn injuries** and your legal options.

5. Amputation and disfigurement

Amputation or disfigurement could happen because of the impact itself, or as a result of another injury like a severe burn. In a truck accident, an amputation could happen because of being crushed in the collision. If you endured amputation or disfigurement, you likely require continuing medical treatment, and you might also require adaptive devices like prosthetics in order to function in your daily life.

You might also need caretakers to assist with daily needs, and those costs add up fast. Don't sell yourself short — make sure that your legal team will work for the money you'll need to be well-cared for throughout your life.

6. Internal injuries

Even if you're fortunate enough to avoid spinal injury or head trauma, you might still suffer internal injuries that can be serious. Although an airbag is designed to protect you, strong force from an airbag can cause blunt abdominal trauma. You might experience injury to your bladder, spleen, liver, pancreas, or kidneys.

Torso and rib injuries are also common in truck accidents. They're not considered internal injuries on their own, but harm to these parts of your body can be dangerous because they surround your vital organs. A broken rib could puncture a lung or create other internal damage.



7. Cuts, bruises, broken bones, and lacerations

You might hear that someone suffered "minor cuts and bruises" from an accident and think they got off easy. But while cuts and bruises are less severe than head or spine trauma, they still can require treatment and cause permanent injury. Cuts happen because of shattered glass, sharp metal, or unrestrained objects inside your car that become airborne in a crash. Sometimes a cut could result in a disfiguring scar or even life-threatening infection. What's more, most states require you to provide reasonable aid to anyone injured in the crash.

A truck accident usually involves blunt force trauma, and that can leave other motorists with broken or shattered bones. Often, this is a treatable but painful injury.

8. Fatality

Truck accidents also result in a high number of fatalities. According to the most recent data recorded by the NHTSA, there are more truck crashes than ever before, with nearly 5,000 deaths each year.

About 27% of the deaths were truckers, and the remaining 73% were drivers or passengers in the other vehicles involved in the collisions.



What to do after a truck accident (8 steps)

First and foremost, assess your own condition, the condition of your passengers, and those in other vehicles involved in the crash if you're able to do so safely. While each of the following steps can be an important part of your legal case, you never want to jeopardize your own safety (or someone else's) unnecessarily.

If you need to call an ambulance and do nothing but wait for it to arrive, that's okay.

1. Call the police.

In most situations, this is 911. If you're on a highway, the 911 dispatcher will route your call to the local law enforcement agency and emergency responders. Let the dispatcher know approximately how many people are involved in the accident (it could be multiple vehicles) so that they can send as many ambulances as needed.

Even if the accident seems "minor," get a police report anyway. A police report is the best way to have immediate documentation of the accident, and the police will maintain accurate records of all of the involved vehicles.

2. Document the evidence at the scene.

Again, this is something you should only do if you're uninjured and if it's safe to be out of your vehicle and walking around. If you're on a busy highway and the police aren't there yet to direct traffic, you don't want to be wandering around on the road.

Documentation can include photos, contact information for witnesses and everyone involved in the crash, and other notes about road or weather conditions or other factors that might have affected the accident.

Read more about how to take accident scene photos after a crash.

It's especially important to take photos if the weather could've played a role in drivers' visibility or the road was slick. Forensic experts can testify about past weather conditions, but a picture can say a thousand words.

Documentation also includes gathering information from other involved parties. Try to collect the following information:

- The other driver's name, home address, phone number, and email address
- The other driver's insurance company and policy number



- The other driver's license number
- The **name** and **contact information** for truck driver's employer and trucking company
- The truck **license plate number** and other identifying information (along with those of any other involved vehicles)

3. Write down witnesses' contact information.

A witness is anyone who saw or observed the crash in any way. It could be someone in one of the involved vehicles, a bystander, or a person in a nearby vehicle that wasn't involved.

You don't have to take witness statements. That's the police officers' job. But if it's a very active scene with a lot of injuries and damage, there could be a lot of emergency situations that require the police's attention before they get to interviewing witnesses. Well-meaning bystanders who stopped to help will likely leave once it seems like the emergency response team has things under control. Once they leave the scene, it's very difficult to track them down again and they might have valuable information to share.

If you're able to do so, approach several witnesses and ask for their contact information. A name, phone number, or email address is all you need to stay in touch. You can either pass that information to your lawyer when you get one or provide it to the police if they're performing an accident investigation.

4. Seek medical attention.

Even if you don't think you're hurt, get a medical evaluation for yourself and your passengers because you might have suffered injuries that don't show immediate symptoms. If you end up requiring medical attention later for an injury, it might be hard to demonstrate that it was related to the accident. You might have a symptomless injury such as internal bleeding, which could be difficult (if not impossible) for you to realize. A doctor will be able to diagnose your condition.

Even if you've been examined by an emergency medical technician at the scene, request a full medical evaluation at a hospital or your doctor's office.



Not sure if you'll remember to do everything you're supposed to after an accident?

Download a free printable version of our <u>post-accident report form</u> and keep it in your glove box.



5. Get your vehicle appraised.

Your car might appear to have only minor damage but, like the human body, sometimes the damage is internal and not visible to the untrained eye. However, you should NOT go straight to your neighborhood body shop and have your car repaired immediately.

Why not?

Because the repair estimate needs to be part of your insurance claim. Each insurance company has different requirements for what must be submitted in order to pay for your damages. Some have apps that require you to photograph each external side of the car, others require you to bring it to a body shop that's on an approved list.

If roadside assistance is included with your insurance or you belong to a travel association that offers towing, have your vehicle transported to a local body shop. But make sure the shop knows not to perform any work until you've cleared it with your insurance company. Even if you're sure the car is safe to drive, take it to a mechanic or body shop for an assessment.

6. Words matter: what not to say after an accident.

It feels nice to be nice.

You might feel understandably angry that the truck driver caused an accident, but being unpleasant to the other drivers won't get you anywhere. On the contrary, most of us tend to say things when we're agitated or stressed that we don't mean or later regret.

Instead, keep a cool head after an accident so that you can measure your words and avoid saying something that might hurt your case down the road.

Don't admit fault or liability. Even if you *know* you were at fault, keep it to yourself. Don't lie, but simply don't talk about the details. Save that conversation for your lawyer. You might be partially responsible, but there might be other factors that could reduce your liability. It's your lawyer's job to find and highlight these factors.

The police are going to try their best to do a thorough job of reconstructing the accident. They'll ask you (and witnesses) for a statement, but you don't need to admit fault. Again, don't lie because that will damage your credibility. It's better to say nothing at all than to make statements that might later be shown to be untrue.





Enjuris Tip:

You're under no obligation or requirement to talk with the insurance company — yours or anyone else's. You're always free to say, "I'm working with a lawyer and they'll contact you."

Remember that your insurance adjuster isn't your friend or ally. It's common for an insurance adjuster to call someone who was in a crash to "express concern" or "check in," but that's not the whole story. It's actually a tactic to get you to say that you're "fine" or "good," which they can later use against you to offer a smaller settlement. These people are trained to elicit those kinds of responses, so be prepared for that.

Remember, too, that your insurance adjuster isn't really on your side, either. Their objective is to pay out as little money as possible — that's how insurance companies make a profit.

So, who is on your side? **Your truck accident lawyer**. It's their job to be your advocate and get you as much money as possible to cover your injuries and damages.

7. Avoid posting to social media.

A truck accident is often more serious than an accident between passenger cars. If the crash involved a big cleanup, road closures or a fatality, it could be newsworthy. You might see photos or articles from your local news stations, but resist the urge to comment.

Likewise, don't post anything to your own social media networks that might indicate your physical or emotional condition, or how you think the accident happened. You might want to let your family and friends know what happened and how you're doing, but avoid doing so on social media as this can cause legal issues later.

Even a seemingly innocuous post like, "This wreck happened today — I'm a little banged up, but don't worry, I'll be fine!" can hurt your case in court. Instead, only contact your close friends and family directly (offline) if you want to share information or talk about the incident.











Remember that anything you post online can appear in court or depositions. Even if you delete it, screenshots might exist, or someone might be called to testify about what they saw online. It's always best to be discreet on social media if you're involved (or potentially will be involved) in any legal proceeding.

8. Call a truck accident lawyer.

Whether you were in the truck accident or you're a family member of someone who was, getting a truck accident lawyer involved as soon as possible could be the key to your legal case.

As a loved one of an injured person, you might not be able to follow each of the steps listed above after an accident if you weren't at the scene, but you can help your loved one work through the complicated insurance and legal process.

A truck accident lawyer can also help in a variety of ways. One is that they'll work to get you the settlement amount you need in order to cover all of your medical treatments and lost wages, both current and future.

A truck accident can be complicated because there are often more parties involved such as the driver's employer, the trucking company, the shipper or manufacturer. There are also a variety of specific federal regulations associated with trucking, so it's about more than simply following the rules of the road.



Enjuris Tip:

Need help finding the best truck accident attorney near you? Use our <u>free online directory</u> to locate the right lawyer.





Types of truck accidents

Weight and speed aren't the only causes of truck accidents. The amount of time trucks spend on the road, their proportions, and specific maintenance requirements also play a role in how a truck operates.

Understanding various types of truck accidents can help you anticipate a problem on the road and hopefully avoid it.

Tire blowout truck accidents

You're driving on the highway and see a big chunk of rubber tire in the road or on the shoulder. You know right away that it means a truck had a tire blowout. But why does it happen? And did it lead to an accident?

A tire blowout is a dangerous situation. For one thing, it can happen at any time. Also, it can cause both the truck driver and other drivers nearby to react in unpredictable ways.

What happens if a truck driver loses control of their vehicle due to a tire blowout?

The truck might:

- Swerve into another lane
- Rollover
- Jackknife



One way to protect yourself from being involved in a truck accident caused by a tire blowout is to avoid driving alongside a truck for any longer than necessary. If the truck has a tire blowout, flying debris can hit your car windshield, which could cause you to lose control of the car. Or it could land in the middle of the lane, which might require you to make a sudden swerve.

An airborne piece of tire can fly faster than you think. You might not have enough time to get out of the way before it hits your car, and it could shatter your windshield on impact.

What causes truck tire blowouts?

A tire blowout happens when there's a cut or break in the tire, or if there's a small puncture that causes the tire to gradually lose air over time. There are several reasons why a tire blowout might happen:

- Worn out tires from excessive use
- Defective manufacturing
- Tire air leakage
- · Low or high air pressure
- · Lack of general maintenance
- Unbalanced cargo load
- Dangerous road conditions

A trucker has a responsibility to check for signs that a tire is likely to blow out by performing routine maintenance and looking for:

- · Cracking or cuts in the sidewalls
- Uneven or excessive tread wear
- Bulges
- Excessive vibration

Rollover truck accidents

A truck rollover accident is scary for anyone nearby. They're relatively common and often tragic. You've probably driven past the aftermath of a rollover accident. Sometimes they happen because a trucker took an exit ramp or turn too fast, but they can also be the result of other factors like a poorly weighted truck.



Basics > Types > Fatalities > Insurance > Fault > Settle > Advice > Workers' Comp > Hiring a Lawyer > Safety > Appendix

The most common causes of rollover truck accidents are:

- Speeding
- Sudden swerves or lane changes
- Improper cargo loading
- Dangerous roads or weather conditions
- · Failure to perform proper maintenance
- Driver error including fatigue, distraction, or improper training

What's the difference between a "tripped" vs. an "untripped" rollover accident?

A **tripped rollover** is when something outside the truck causes it to roll over. This type of rollover can happen when the truck hits a guardrail, another vehicle, or some other object on the road.

An **untripped rollover** is usually caused by a fast or poorly maneuvered turn. If a truck is top-heavy or the cargo is not weighted evenly, the truck can roll.

Underride truck accidents

An underride accident occurs when a passenger car collides with a truck from the rear or side and slides underneath the truck. Because the truck is so much higher than the car, the front and top of the car is often crushed. This type of accident often leads to serious injury or fatality.



Facing Facts:

The Insurance Institute for Highway Safety (IIHS) reported 250 fatalities from a car colliding with the rear of a trailer and 302 fatalities from a car colliding with the side of a trailer in the period of a year.

Some trucks have an underride guard, which is a metal barrier designed to prevent a smaller car from sliding underneath. However, an underride guard might not be strong enough to withstand the impact of a high-speed collision.





In the News:

Some federal lawmakers have introduced legislation aimed at preventing underride crashes. These laws require all tractor-trailers to be equipped with an underride guard on the sides and front. Opponents say that underride guards aren't proven to increase safety and this requirement would pose economic hardship for smaller trucking businesses. Proponents and safety advocates argue that guards would reduce underride collision fatalities.

What causes an underride accident?

An underride accident could be caused by:

- Improperly maneuvered turns or lane changes
- A truck making a fast stop, leading to a rear-end collision
- A truck's inconsistent speed outside the flow of traffic
- A car in the truck's blind spot when the truck changes lanes
- A truck driver failing to signal when turning

Unsecured load accidents

Federal regulations have a variety of requirements for cargo loading. In general, any cargo must be firmly immobile and secure on a truck using appropriate restraints based on the weight and type of cargo and the truck. That's one reason why you see weigh stations and scales along highways and interstates. Each trucking company must ensure that a load passes federal regulations.

There are even more regulations when it comes to hazardous cargo like nitrogen, gasoline, or other substances. When an accident involves a truck carrying a substance that could be toxic for nearby drivers or residents, either by breathing fumes or exposure through soil or water, there are even more considerations than the people immediately injured.





Facing Facts:

The AAA Foundation for Traffic Safety reported that in a 3-year period, there were more than 200,000 crashes, 39,000 injuries, and more than 500 deaths from debris in roadways. Nearly 37% of all deaths in these crashes were from the driver swerving to avoid hitting debris on the road.

This is how unsecured loads can contribute to truck accidents:

- Jackknife accidents. A heavy load can make it more difficult for a truck driver to brake efficiently, and that can cause a jackknife. That means the trailer swings around and faces the opposite direction from the cab.
- Rollover accidents. Loose cargo that shifts during a turn can throw off the equilibrium of the truck, which could cause the truck to rollover. If this happens alongside or in the path of another car, it can be disastrous.
- Cargo spill. Even if the cargo isn't toxic, any spill on a highway or roadway is potentially dangerous to other drivers. It could leave miles of debris that cars need to swerve around, it could create visibility hazards if anything is airborne, or it could lead to slippery roads on a day when drivers aren't anticipating that kind of road surface.

Fallen truck cargo can include raw materials like lumber or sheet metal, or any kind of consumer goods. Really, anything can be dangerous if it's on the road and doesn't belong there.



In the News:

A truck rollover crash in Menasha, Wisconsin left 4 people injured and 3 vehicles damaged when a milk truck overturned. Local fire and public works departments had to spend 3 hours cleaning up the spill.

Some cases of unsecured loads aren't caused by commercial trucks. They can be caused by other drivers who are traveling with unsecured furniture or appliances, items that aren't properly secured to a roof rack that come loose, or a tow trailer that separates from the cab.



Basics > Types > Fatalities > Insurance > Fault > Settle > Advice > Workers' Comp > Hiring a Lawyer > Safety >

Jackknife accidents

A big rig or 18-wheeler usually consists of a cab and a trailer. "Jackknifing" is when those 2 parts fold at the joint. In other words, something causes the back of the tractor-trailer to swing forward, which creates a sharp angle between the cab and the rear. When that happens, the truck is facing 2 different directions.

During a jackknife, the driver no longer has control over the movement of the trailer. A car could easily get swept under the swinging trailer

A jackknife truck accident could be caused by:

- Equipment malfunction
- Locked wheels
- Brake failure or speeding
- Weather conditions
- Loose cargo
- Debris
- Incorrect maneuvering

Often, a jackknife accident happens because of a combination of high speed and steep angles or turns. This causes cargo to shift, which creates an imbalance of weight. The other likely scenario for a jackknife accident is slippery roads. Even a small skid can cause a large truck to jackknife.

Hazmat truck accidents

We've talked about how certain types of truck accidents happen. But there's another element to truck accidents that has to do with the type of cargo a truck is hauling.

Even worse than your "average" truck accident is one that involves a truck carrying hazardous cargo — also known as hazmat trucks (for "hazardous materials").

There are several reasons why a hazmat truck accident is often more dangerous than other kinds of truck accidents.



- 1. A hazmat truck might be carrying gasoline or another liquid that, if spilled, makes the road slippery. An accident happens in a split second. If one car collides with a truck and the substance spills, the other drivers nearby can lose control of their vehicles on the slippery pavement. This increases the risk of a multi-vehicle pileup.
- 2. In most situations, solid goods being transported by truck are well-positioned and tightly tethered within the cargo area of the trailer. Even if a truck needs to make a sudden maneuver, the goods should stay tightly positioned as they were loaded. But if the truck has a tank filled with liquid, that liquid will slosh from side to side and can throw the truck off balance because its center of gravity has shifted. That makes it more likely to be involved in a rollover or jackknife accident.
- **3.** Exposure to toxins often results in injury that doesn't show symptoms immediately. If you've been in a truck accident, you're probably first looking for visible injury to yourself and your passengers. But if a toxic gas has been released into the air, that's just as dangerous and you can't see it.



In the News:

A truck carrying airbag inflators in Quemado, Texas, exploded...with tragic consequences. An accident in the middle of the night left nearby residents shaken when they heard what sounded like a bomb. Two people in a passing vehicle were injured, and a woman was killed in her house from the fire. In fact, the 14,000 cylinders of airbag propellant caused such an intense explosion that there were broken windows and roof holes in homes 2 miles away.

Types of materials transported by hazmat trucks

A tractor trailer is a truck that hauls items like furniture, food products, construction materials, or any other solid. If the cargo is loaded and secured properly, it should be stable within the trailer. If the truck gets into an accident and its cargo spills on the road, then it might be a mess to clean up but it's not going to cause harm from exposure to fumes or other toxins.

A hazmat truck or tanker, on the other hand, carries liquid or gas cargo, or flammable or explosive solids.

The Federal Motor Carrier Safety Administration (FMCSA) defines 9 classes of hazardous materials. These classes should be marked by a visor card on all four sides of the vehicle transporting the substance:



Class 1: Explosives

This includes anything that could create an explosion, become projectiles, blasting agents, or detonating devices.

Class 2: Gases

Flammable and non-flammable compressed gas, including toxic gases are included within this category.

Class 3: Flammable liquid

A flammable liquid could be gasoline, diesel or jet fuel, motor oil, kerosene, ethanol, and others.

Class 4: Flammable solids and spontaneously combustible materials

Sulphur, activated charcoal, aluminum powder, and magnesium are considered flammable solids, along with other household goods.

Class 5: Oxidizers and organic peroxides

These chemical compounds enhance the burning of other materials.

Class 6: Toxic materials and infectious substances

Rat poison, for example, is toxic but not a gas or liquid. This class also includes infectious biological materials. An infectious biological substance is any pathogen that could cause disability or death if a human or animal is exposed.

The most dangerous infectious substances for humans are Bacillus anthracis (anthrax), Escherichia coli (verotoxigenic), Hepatitis B virus, Marburg virus, and Mycobacterium tuberculosis. For animals, the most dangerous are African swine fever virus, foot and mouth disease virus, and Sheep-pox virus.

Class 7: Radioactive materials

A radioactive spill could affect the environment and nearby residents for years, decades, or centuries. Any material that's considered radioactive requires special handling and management.



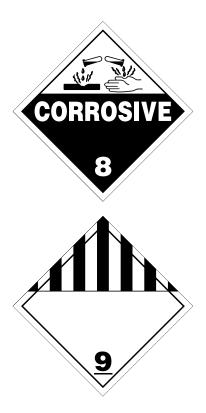
Class 8: Corrosive materials

This class includes strong acid or base materials that can quickly burn and corrode.

Class 9: Miscellaneous

This is a catch-all for any substance that's hazardous but doesn't fall into any of the other categories. Lithium batteries are one example. Chances are you have lithium batteries in your home — they're commonly found in mobile phones, cameras, and other consumer electronics. When handled correctly, they're not a hazard. However, they generate a large amount of energy and are highly flammable and explosive under certain conditions.

Dry ice forms carbon dioxide gas, which then lowers the percentage of oxygen in the air. That's why, in some circumstances, it could actually cause a person to asphyxiate.



Trucking companies must follow specific federal regulations when hauling hazardous cargo. These guidelines are designed to ensure that the cargo will remain safe, even in the event of an accident. However, no amount of safety planning can account for every situation.



In the News

A trucker in Ouachita County, Arkansas was killed in a large explosion while hauling a load of ammonium nitrate on U.S. 278. His truck brakes caught fire, and the trucker tried to extinguish the blaze. The explosion left a 15-foot deep crater in the highway and leveled trees nearby. The trucker was trying to help people nearby to safety, but he was killed and 3 firefighters were injured at the scene.

Injuries caused by hazmat truck accidents

Truck accident injuries can be severe and life-changing. Many accidents between a passenger car and a big rig result in harm that includes <u>traumatic brain injury</u>, <u>spinal cord injury</u>, <u>amputation</u>, and a range of



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other medical conditions.

When an accident involves a hazmat truck, the injuries might be completely different.

Fire or explosion hazard

Substances like gasoline and propane can ignite and cause an explosion or fire that causes burns or fatalities. Not only does this affect the vehicles directly involved, but it can also harm other people anywhere in the immediate area, along with the first responders on the scene.

A burn injury caused by touching something hot could be mild and contained to the skin. But a burn from an explosion or vehicle fire is more likely to be a 3rd-degree burn, or one that leads to permanent disfigurement or death.

Next time you're on the highway, look closely at the big rigs you pass. You'll probably see that many have pipes underneath or on the sides of the trucks. These are called **wet lines**. A wet line is the pipe used to load the fuel on and off the truck. There can be up to 30 to 50 gallons of fuel that remain in those lines when the truck is in motion.

These wet lines are on the exterior of the vehicle, which means that in the event of a collision, there's a good chance that a car can hit a wet line. If that happens, the gas can spill onto the road and all over other vehicles. Gas on pavement is slippery. If gas spills suddenly, you could easily lose control of your car. The other cars around you can also lose control, which leads to the possibility of a multi-vehicle pileup.

If 50 gallons of gasoline spill onto the road, it can create a fire of up to 5,000 square feet. In other words, the "leftover" gas contained only in the wet line on the side of a truck could cause a devastating fire with millions of dollars in damages, severe injuries, and fatalities.

Airborne substances

One of the primary dangers associated with gaseous toxins is that once it's in the air, it can't be contained. Depending on the wind and climate, fumes can travel miles from the accident site.

Exposure to toxic gas can lead to temporary irritation to the skin and eyes, and also long-term and untreatable respiratory and neurological conditions. Depending on the type of gas, saturation of the air, and climate, it could affect people at close range or even people in their homes far away.





Fatal truck accidents

A truck accident is almost always serious. If you're able to walk away with minor cuts and bruises, consider yourself one of the lucky ones.

Maybe the truck accident that changed your life wasn't *your* accident at all. Losing a loved one in an accident is traumatic, shocking, and devastating. It can be especially worrisome if you relied on that person for financial support. You might be wondering what to do, where to turn, and how you're going to make ends meet.

Unfortunately, no amount of money will bring your loved one back. But compensation can help you keep your family afloat financially and provide a sense of closure and justice.

A personal injury lawsuit that arises after a fatal truck accident is called a "wrongful death" action.

Who can file a wrongful death claim?

A wrongful death claim can be filed by an individual who represents the deceased person's estate. In most cases, a wrongful death claim can be filed by these people:

- Spouse or partner
- Child

Sibling

· Other financially dependent person



Each state has its own laws for who can represent a deceased person in a wrongful death claim. Most states follow 1 of 2 legal systems:

- 1. Lord Campbell's Act: This law sounds archaic, but it's a British legal principle that remains in several states today. It says that only a designated beneficiary can bring a wrongful death claim. The beneficiary would be eligible based on their relationship to the deceased, and will usually begin with the spouse or children. If there are no survivors who meet the state's legal criteria, the right to sue would be passed to the next category of survivors. If there are no survivors at all, there's no right to bring a wrongful death lawsuit.
- **2. Loss-to-estate system:** In states that follow this system, the only people who can file a wrongful death claim are those who are representatives of the deceased person's estate. Any damage award would become part of the estate as a special trust and would be dispersed among the deceased person's beneficiaries.

When you file a wrongful death claim, you're essentially acting on behalf of the deceased person. Your role is to be the plaintiff in their absence since they can't represent themselves.

When can you file a wrongful death claim?

A wrongful death lawsuit is a way to file a claim for someone who would have a personal injury lawsuit if they'd survived. In other words, there needs to be a defendant who caused the person's death because of negligent or intentionally harmful actions.

In a wrongful death action resulting from a truck accident, you need to prove that someone involved in the accident was negligent.

There can be several defendants in a truck accident:

- Truck driver
- Truck driver's employer
- Trucking company
- Cargo shipper
- Truck or truck parts manufacturer

If the accident was the result of negligence on the part of one or more of the involved parties, and that negligence was the cause of your loved one's death, you can bring a wrongful death lawsuit.



Damages in a truck accident wrongful death claim

In any civil personal injury lawsuit, the only remedy is to recover "damages" in the form of money.



Enjuris Tip:

It's worth noting that a wrongful death lawsuit is a civil action and is unrelated to criminal proceedings. A defendant could be charged with a crime if law enforcement believes that their actions were criminally negligent, but this would be a separate trial from your wrongful death claim.

YOU cannot charge someone with a crime. Only the government (federal, state, or local) can charge a person with a crime. If convicted, they could be sentenced to pay a fine, community service, probation, or jail time.

Read about the differences between criminal and civil cases.

The types of damages you can recover in a truck accident civil lawsuit are divided into these 3 categories:

- **1. Economic**, which covers costs for medical treatment prior to death, loss of financial support, and funeral and burial expenses. It can also cover expenses like loss of future expected earnings, loss of benefits like pension plans or medical insurance, loss of inheritance because of untimely death, and the value of goods and services that the deceased person would have provided to the family if they'd lived (like childcare, house cleaning, etc.).
- Non-economic, which includes pain and suffering, emotional distress, and loss of consortium.
- **3. Punitive**, which is a damage award that's for the purpose of punishing the defendant. This would only be awarded in cases where the defendant's behavior is found to be especially harmful or reckless, and is rare in truck accident cases.

One more thing to keep in mind:

A fatal accident is newsworthy and might be covered on your local news stations or in the paper. Lawyers might contact you to offer their services because they know that you've lost someone in the crash.

It's always best to find a lawyer based on your own research and their reputation. It might be tempting to hire



the first person who calls because it saves you the time of calling around. But that person might not be the bestqualified or most experienced to take your case. They're also not allowed to reach out to you to solicit business.

Read more articles about damage awards:

- · How your settlement value is calculated
- Types of personal injury compensation
- · Calculating pain and suffering
- · Loss of consortium: Affection, Companionship, and Love

How a truck accident lawyer handles a wrongful death lawsuit

If you've recently experienced the shock and sadness of the death of a family member, your mind is probably swirling and you're just trying to take things day by day. However, hiring a lawyer quickly can help your case.

Your truck accident lawyer will act immediately to preserve evidence from the trucking company by doing the following:

- **Sending a spoliation letter.** This document is a memo to the trucking company that requires it to preserve evidence from the collision.
- **Inspecting the truck.** Your lawyer will hire an expert who can determine if there were maintenance issues that could've caused or contributed to the accident.
- Obtaining documents from the trucking company. Driver logs, maintenance records, and other documentation is important for building a case and determining who's at fault.
- Interviewing witnesses. The longer you wait to interview a witness, the more facts can be lost or forgotten. We've all had a situation where we've rolled something around in our brains enough times that we're no longer sure that something happened exactly the way we originally thought. Witnesses might be a valuable part of your case, and it's important to take a statement while their memories are fresh.
- **Hiring accident reconstruction experts.** These people can be engineers, mechanics, or anyone who specializes in accident forensics. They'll evaluate the road conditions and other factors in order to determine what happened.





Handling insurance after a truck accident

We want to believe that if someone says "I'm sorry," they really mean it.

Sometimes it's true.

But if the apology comes from an insurance adjuster or representative after you've been in a truck accident, chances are it's not sincere.

Don't be swayed by an apology

Many insurance companies will use an **apology program**, which is a specific set of guidelines used to train adjusters to "apologize" to accident victims as a way of avoiding claims or convincing you to settle for less than your claim is worth.

Here's how it works:

You were in a collision with a commercial truck. Later that day, you receive a call from the trucking company's insurer. A pleasant-sounding adjuster says, "We're so sorry you got hurt." She then offers to send you a check for the full replacement value of your car.

Or maybe she'll say that she's going to make you a "reasonable" settlement so that things don't get messy by hiring lawyers.



But there's a difference between empathy and apology.

Empathy

An expression of empathy is when someone is sorry that something happened to you, but without acknowledging fault.

"I'm sorry you were hurt."

Apology

An apology is offered if someone believes that they've made a mistake.

"I'm sorry you were hurt when our driver hit your car."

Often, an adjuster is trained to express empathy that sounds like an apology without actually apologizing because doing so would acknowledge fault. Just because someone uses the word "sorry" doesn't mean they're making an apology or admitting responsibility.

Resist the temptation to trust a kind-sounding voice and accept a financial offer. They're not calling you to be nice. They're calling because studies show that when an injured person believes they've received an apology, they're more likely to settle the claim for less than they deserve.

The claims adjuster might also call to "check in" on you. They might say they wanted to see how you're doing following the crash. The best way to answer is not at all. Even if you say "I'm fine," it can come back to haunt you if you wind up in court. By telling the adjuster you're "fine" or "good," you're letting them know that you're not injured.

Remember this: You never need to answer the phone if a claims adjuster calls. If you do, you're always within your rights to tell them you'd rather the claim be handled by your lawyer. They can't require you to speak with them.

Even if you think you are fine or good, keep it to yourself. You don't want to lie, but you also want to protect yourself in case symptoms of an injury crop up later, which does happen—especially in truck accident cases.

Please note that this is an e-book provided for educational purposes only. The information in it is not legal advice. Talk to a licensed attorney about all legal issues that could potentially affect your case.

Find a lawyer now





Enjuris Tip:

Once you accept an insurance settlement offer, you can't change your mind. You might end up with more injuries or expenses than you originally thought, and your costs could end up being higher than anticipated. But once that settlement agreement is signed, the rest is up to you. Always consult your lawyer before accepting any settlement offer from an insurer.

How to work with the other insurance company

The trucking company pays a premium to its insurer, just like you do for your own car insurance. And, like your insurance, the premiums increase when the trucking company is liable for crashes.

The insurer is responsible for paying out the claims, regardless of how much they make in premiums. Because trucking accidents are often more serious than accidents between passenger cars, these insurance claims can amount to large sums of money.

Here are a few things to keep in mind if you're confronted by a trucking insurance company:

- 1. The insurer's objective is to pay out as little as possible for each claim. Because... of course. Why spend more of their own money than absolutely necessary? And remember this: YOU aren't their customer. The trucking company is. The insurer is a business, too. It needs to pay out the lowest possible settlement in order to remain profitable. By minimizing their payouts, they keep premiums low. Keeping premiums low keeps their customers happy, and then they stay in business.
- The insurance adjuster knows things you don't. They know how much your injuries are actually worth. They also have access to databases with comparables (which is information about payout amounts for similar accidents) and other industry information.
- 3. The insurance adjuster is trained to elicit certain responses from you. It can be as innocent-sounding as "How are you?" and if you say "good," that could work against you later. If they try to make small talk, try to avoid it. If the adjuster asks anything about the accident, decline to answer those questions, even if they seem harmless. They want you to say something that puts more liability on you and takes it away from the trucking company.

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Find a lawyer now



Remember, it's not being naive or uninformed if you fall into an insurance adjuster's trap. For one thing, you've just been involved in an accident. Even if you feel fine, you're probably at least a little shaken from the emotional turmoil and stress of the event and you might not be thinking straight. Keep in mind that asking these questions in a way that influences your response is the adjuster's job, and they have scripts to follow and training that teaches them to do this.

- **4.** The insurance adjuster is trying to work within their settlement authority. The insurance company has already calculated what it thinks your case is worth. The adjuster is authorized to settle for up to an amount that is likely far below the actual value of your claim. The adjuster is motivated to settle for as far below the claim value as they can because that's what shows their value to their boss. But you don't (and shouldn't) have to accept it.
- **5. Some insurance companies will purposely delay the claims process.** The insurer made you a settlement offer. You declined. Suddenly, your phone calls are no longer being returned. Your emails remain unanswered. There's paperwork that never gets processed. It's unethical (and sometimes illegal), but an insurance company might try to run out your statute of limitations.

The statute of limitations is the amount of time you have to file a lawsuit. It might be different depending on the state where you live. An insurance company might drag its heels long enough that you're unable to file legal recourse.

Read more about insurance bad faith.

6. Don't use the service providers they recommend (unless you want to). You might be required to go to a specific body shop to get a quote for the cost of a car repair because it's authorized by the insurer. But you can choose your own doctors and vehicle repair technicians. The service providers recommended by the insurance company aren't necessarily providing you the most low-cost and high-quality services.

How to work with your *own* insurance company

There are going to be 2 (or more) insurance companies involved in the claim process. In a truck accident, there can be several parties involved.

Regardless of who's involved on the trucking company side, there's also going to be your insurance company. While your insurance company is a necessary part of the process, remember that your insurance adjuster is NOT your lawyer.



Your insurance company has its own best interests in mind, not yours. The objective is to pay out as little as possible on any claim because every payment it makes costs the company money. If there's any liability on your part, that affects how it negotiates with the opposing insurance company.

Your insurance adjuster might be conducting negotiations with other insurance companies, but it's not necessarily representing you. That's why if your own insurance company presents a settlement offer from the other insurer, or offers payment on your claim, you should still have a personal injury lawyer review the amount to make sure you're getting a fair offer.

When to hire an attorney to negotiate with insurers (and why)

When should you hire a personal injury lawyer following a truck accident?

Immediately.

That way, when the insurance company calls, you can tell them to talk to your attorney directly.

In what could be a complicated case with many different parties involved, your lawyer is the one person you can count on to represent YOU. Your lawyer will try to minimize your liability, manage the communication, conduct negotiations, and work with insurers to get the highest possible settlement for you.

And like the insurance company, your lawyer knows what your case is actually worth. Your attorney knows the deceptive tactics and strategies that adjusters use to get you to agree to a lowball settlement offer. And they know exactly how much time you have to file a lawsuit.

Unlike the insurance company, though, your lawyer's job is to advocate for YOU and secure the money you need to cover your bills and expenses. Your lawyer won't settle for an amount that's lower than what you deserve.

If the insurance company won't agree to the desired settlement, you can file a lawsuit. Your lawyer will advise you of what your best options are and provide guidance through the entire process.





Who's liable in a truck accident?

Before you receive a truck accident settlement, you must prove that the truck driver and trucking company are at fault for your injuries and damages. There are several important differences between establishing liability in a truck accident versus crashes between 2 passenger cars.

Differences between truck accidents and car crashes

If you're in a collision with another car, there are only 2 groups of parties involved:

- You (and your insurance company)
- The other driver(s) (and their insurance companies)

It's likely that the liability will be split between you and the other driver, unless there were some additional factors like a bicyclist or act of nature that caused the crash.

Liability is the legal term for responsibility, duty, or obligation. Every person has some duty to another — generally, your duty is to act in a way that's reasonable based on the situation.

Read more about <u>liability</u> and <u>personal injury claims</u>.



As a driver, you have a duty to be careful, follow the rules of the road, and exercise good judgment in order to protect yourself and anyone else who shares the road from harm.

That's true for drivers of passenger cars, big rigs, and everything in between. But there are additional factors if the accident involves a commercial truck.

The driver might be at fault, but liability might be on several other parties, too. Unlike an accident that involves you and another passenger car driver, you need to know who is driving that truck in order to establish liability.

What are the liability issues in a truck accident?

Several parties can be liable in a truck accident, and what often makes these cases complicated is determining who is liable for what, and to what extent.

First, you should know that there are 3 main types of truck drivers:

- 1. Owner-operators: These people own the trucks they drive and either lease to a trucking company or are independent contractors. If they lease to a trucking company, it means that they have a contract to haul freight for that company using their own trucks. If they're independent contractors, they likely haul loads for several companies.
- **2. Company drivers:** A company driver is employed by a specific trucking company and drives only that company's trucks.
- **3. Independent owner-operators:** These drivers drive their own trucks to haul their goods, and they might own a small fleet.

Who the liable party is in a truck accident depends on which of these categories they're in.

1. Vehicle maintenance

In addition to driving responsibly, you also have a duty to ensure that your vehicle is generally safe and operating as it should. Certainly, a car can fail without warning — brakes might go out, power steering problems, or other mechanical troubles that could cause an accident. But if your car has had routine inspections and you've performed the required maintenance, those kinds of issues wouldn't be your fault.

If the accident was caused because the other driver's car had a maintenance issue that the driver should have known about and repaired, that would increase their liability.

The person or company who owns or leases the vehicle is responsible for its maintenance. There are



likely provisions in a contract between the owner and the shipper, or whoever is involved, with respect to maintenance. You won't have any way of knowing what's in those contracts; that's something your lawyer will need to ask for during the discovery process.

If the accident was caused by faulty brakes or other mechanical malfunction, liability could be on the manufacturer of the truck or the part. If mechanical experts determine that's what happened, those parties could be added as additional defendants in a lawsuit.

2. Driver's employment

This is another area where your lawyer needs to discover who hired the driver, or if they were self-employed. The driver could be:

- Employed by an independent agency that leases drivers to a trucking company
- · A purely independent contractor hired directly by the trucking company
- An employee of the trucking company
- · Self-employed and operating a truck they own

Even if the accident is caused by driver error (speeding, distracted driving, fatigue, or poor maneuvering), the company that employs the driver might bear some fault. Driver error is a major cause of trucking accidents and injuries, and sometimes it's because a driver has been on the road for too long a shift, went too many hours without sleep, or didn't take enough rest stops. Often, the employer is to blame for these situations.

The driver's employer might be liable if the driver was intoxicated or under the influence of drugs.

3. Cargo load problems

There are very specific requirements for how a truck must be loaded. Aside from the size and weight of the truck itself, they're transporting raw materials, in-process inventory, or finished goods between manufacturing plants or to a retail distribution center.

The Federal Motor Carrier Safety Administration (FMCSA) regulates the safety of interstate commercial driving. There are restrictions on weight, types of material, and method for how a load is hauled.

If a load isn't secured or balanced properly, or if it's too heavy for the vehicle, it makes the truck more dangerous. It might impact the driver's ability to stop the truck quickly, or it can increase the rollover risk.

Lots of trucks are hauling hazardous materials.

Here are just a few examples of hazmat loads that could be dangerous in an accident:

Fuel (gasoline, diesel, propane, kerosene)



- · Fuel-powered equipment
- · Dry ice
- Items containing mercury
- · Refrigerant gases (liquid nitrogen or carbon dioxide)
- Oxygen tanks
- Consumer electronics with lithium batteries
- Fertilizer compounds and ammonium nitrate fertilizers

Sometimes a hazmat load might cause a fire that engulfs nearby cars. It can also release vapors into the air that are harmful for you to breathe, even for a short time. The vapors can even harm people who live or are present near the scene of the accident, depending on the substance and the amount that permeates the air.

If the shipper didn't load cargo according to its regulations and you were injured in an accident involving a hazmat truck, the liability could be on the shipper of the materials in addition to the trucking company that employs the driver.

Product liability truck accident claims

Product liability is included within the category of legal claims known as **strict liability**. Product liability is when you're injured by a defective product.

Read more about strict liability and product liability in personal injury cases.

Although the trucking company is responsible for the truck's maintenance, there can be problems with the way the truck was designed or manufactured.

The most common product liability claims in truck accident cases involve:

- Brake failure
- Defective trailer hitch
- Steering problems
- Load straps
- Coupling systems
- Tires



- Locks
- Hydraulics

Most passenger cars have a single manufacturer that makes and assembles the parts. Big rigs, on the other hand, can have components that come from several manufacturers.

If the accident was caused by failure of a part of the truck, the manufacturer of either the truck or the part might be a responsible party.





Truck accident settlements

Why settle?

Because a truck accident settlement can be the key to quickly getting the money you need to cover expenses for your losses.

"Losses" doesn't mean just material things. Sure, you might need to replace your vehicle and its contents. But you also might have lost wages from time out of work or expenses paid for services like house cleaning, cooking, and transportation. And then there's medical costs for diagnostic testing, treatment and rehabilitative therapy, or pain and suffering.

The purpose of a personal injury lawsuit is to make the plaintiff "whole." Money can't take away physical or emotional pain, and it certainly can't bring back a loved one lost in a fatal accident. But the legal process is intended to compensate an injured person in a way that returns you to the condition you'd be in if the accident or harm had never happened in the first place.

In a civil lawsuit (which is any lawsuit that's not criminal), the only recovery is money. A **settlement** is when the parties negotiate an amount of money and the defendant pays the plaintiff the agreed-upon amount in exchange for the plaintiff not moving forward with a lawsuit. A settlement can be reached at any time during the legal process, including during a trial.



5 benefits of settling a truck accident lawsuit (for plaintiffs)

A good settlement benefits all parties. Here are some reasons why a settlement might be better than a trial:

1. A trial is time-consuming.

It can take years for a lawsuit to get to trial, and then there could be an appeal. If there's an appeal, the case goes to a higher court and sometimes the entire process begins again, which takes even more time. In addition to not having closure while the trial is taking place, you also don't have money to pay medical expenses or other costs while you're waiting for resolution.

You might have to testify.

If the trucking company claims you were liable for any part of the accident, you might need to answer questions about how the accident happened and what role you might have had. You might also need to testify about the details of your physical or mental condition before and after the accident in order to demonstrate to the judge or jury how injured you are and how much money you require. For some people, testifying before a jury is stressful and complicated.

3. Attorney fees can increase at trial.

Most personal injury lawyers work for a contingency fee, meaning they don't get paid until you win a case or receive a settlement. When you receive a damage award, your lawyer gets a percentage of the award that you agreed to when you signed a retainer contract. Often, the lawyer's percentage is about 33% of what you recover. Most contracts will raise that percentage to about 40% if the case goes to trial.

In some states, if you win less at trial than what the defendant originally offered to settle, you might even need to pay the defendant's attorney fees (in addition to your own).

4. You lose privacy at trial.

A settlement can be private, including the amount of money you recover. When you go to trial, everything becomes public record. Witness testimony, evidence, and award amounts are available for whoever wants to view the trial or read a transcript. That includes any cross-examination by the other side that attempts to make you appear untruthful, unreliable or untrustworthy.

It might also include deeply personal information about your medical or mental conditions either before or after the accident. The settlement agreement is a contract, and it's common to include a non-disclosure clause, which means neither party is permitted to share it publicly.



A jury is unpredictable.

You might think (and your lawyer might agree) that you have an air-tight case and that any jury or judge will take your side. But you don't know who's on the jury, what personal baggage they bring with them, and why they make the decisions they do. Sometimes a jury makes a decision that no one saw coming, so a jury trial is always a calculated risk.

Benefits of settling a truck accident lawsuit (for defendants)

So far, we've discussed all the reasons why a settlement benefits you, but what's in it for the defendant? The reasons why you might want to avoid trial are all factors for the defendant, too.

If the defendant is a large trucking company or other well-known business, the last thing it wants is a public trial. A settlement makes the case "go away." A defendant can offer a settlement agreement without admitting liability. For the purposes of protecting their reputation and insurance coverage, this is a big benefit.

In all likelihood, you will be involved in a small handful of collisions in your lifetime. This one might be more serious than others because a truck accident often results in more severe injuries than accidents between passenger cars.

But while you're trying to cover your medical costs and focus on this one lawsuit, the trucking company might be defending itself against dozens or hundreds of lawsuits just like yours. It might not want to spend time or money going to trial for your case. The easier it is to reach settlement, the sooner it can move on.

How much can you recover in a truck accident settlement?

The FMCSA regulates minimum insurance coverage amounts for trucking companies based on the type of freight being hauled. However, a large commercial truck like a semi or 18-wheeler can cause devastating injuries to occupants of a passenger car. Often, the insurance coverage doesn't even come close to covering the medical costs of an injured passenger car driver, which could reach into the millions of dollars.

If you were in a truck accident, you can recover damages for these losses:

- **1. Medical expenses,** including diagnostic testing (like MRI, CT scans, ultrasounds, or bloodwork), prescription medications, hospital and doctor visits and other treatment.
- Lost wages, both past and future, including long-term disabilities.



- 3. Lost earning potential
- 4. Property and vehicle damage or replacement
- 5. Pain and suffering
- 6. Wrongful death, if you're a survivor of a family member who died in a truck accident.

How much your truck accident case is worth will be determined by adding up all of the damages listed above. Only an experienced truck accident attorney can accurately calculate the value of your claim and determine what a fair settlement offer is.

What factors affect a truck accident settlement?

There are 2 main aspects to any legal claim: injury and liability.

Injury is the harm you suffered from another person or company's behavior. A more severe injury leads to higher amounts of damages because you require more intensive and long-term medical treatment as well as more missed days of work.

Liability refers to who caused the accident. Both sides will look at material from police reports, accident reconstruction experts, accident scene photos, and any other available evidence to determine how the accident happened.

How liability is determined depends on where you live. There are 4 legal models for determining fault:

- 1. Pure contributory negligence: You can't recover any damages if you were at all at fault.
- 2. Pure comparative negligence: Your damage recovery amount is reduced by the percentage for which you're at fault.
- 3. Modified comparative fault (50% rule): You can recover damages if you're 50% or less at fault.
- 4. Modified comparative fault (51% rule): You can recover damages if you're 51% or less at fault.



The chart below shows which states follow each of these rules:

Pure Contributory Negligence	Pure Comparative Negligence	Modified Comparative Fault (50% Rule)	Modified Comp (51% R	
No damages can be recovered if you shared any fault	Damages you can recover are reduced by your % of fault	Must be 50% or less at fault to recover any damages	Must be less than 51% any damages	at fault to recover
Alabama	Alaska	Arkansas	Connecticut	New Hampshire
District of Columbia	Arizona	Colorado	Delaware	New Jersey
Maryland	California	Georgia	Hawaii	Ohio
North Carolina	Florida	Idaho	Illinois	Oklahoma
Virginia	Kentucky	Kansas	Indiana	Oregon
	Louisiana	Maine	Iowa	Pennsylvania
	Mississippi	Nebraska	Massachusetts	South Carolina
	Missouri	North Dakota	Michigan	Texas
	New Mexico	Tennessee	Minnesota	Vermont
	New York	Utah	Montana	Wisconsin
	Rhode Island	West Virginia	Nevada	Wyoming
	Washington			

Fatality also plays a role in determining the amount of a settlement. If you were injured, you can figure out the dollar value of costs incurred.

But how do you put a value on a person's life?

A wrongful death lawsuit might result in a larger settlement that might even include punitive damages.

How much you can recover from a truck accident settlement depends on a lot of factors. Although there are online calculators and formulas to figure it out, your best bet is to work with your truck accident lawyer to come up with a reasonable demand figure.

Read more about how to calculate damages.



The best scenario in a truck accident is to reach a quick settlement, but negotiation is an art. Your lawyer knows how to minimize your liability and establish what expenses you need covered.

Your lawyer also knows it's unlikely that you'll end up with precisely the dollar figure in your demand letter, but you, your attorney and the trucking company can hopefully meet in the middle in a way that provides the compensation you need and deserve.

Typical Factors Used to Determine Injury Claim Value of an Accident

OVERVIEW

Future wage losses predicted



Pain and suffering (general damages)



Damage to any property or things you own



Wages or salary lost due to missing work

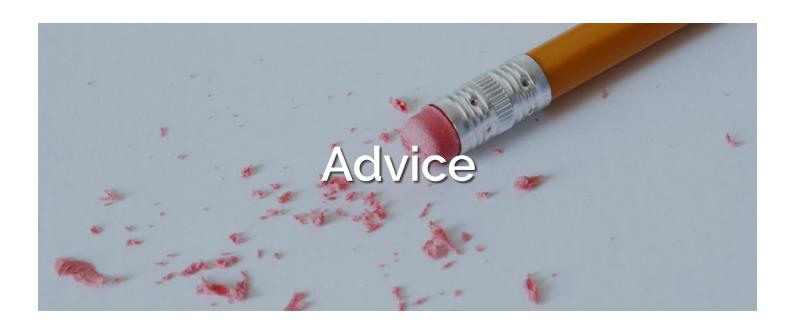


Medical bills



Future medical care costs





Common mistakes in a truck accident case

No one is prepared for the truly unexpected. And, as much as you might want to deal with it your own way, you also want to be sure that you're keeping an airtight legal case intact. Don't let a desire to share on social media or "handle" things yourself get in the way of receiving the compensation you need and deserve.

How to protect your rights after a truck accident

Let's look at how to protect your legal case after a truck accident and avoid common mistakes:

Tip #1: Seek medical attention immediately.

If you feel like you weren't hurt in an accident, you might be tempted to skip the hospital or doctor and just go on your merry way. But don't! Some injuries, like concussions or back problems, don't appear right away.

It's important to visit a medical facility or hospital right away to get a full assessment of your physical condition. That way, if symptoms appear in the days or weeks following an accident, you're able to show that the accident was what caused the injuries.

Tip #2: Gather evidence at the scene.

If you're in a physical condition to evaluate the scene, and if it's safe to do so, try to gather evidence that might be useful in court. Certainly, if you need medical attention, leave the investigating to someone else. Likewise, if



the accident was in traffic and there are other cars passing nearby or it's unsafe to be walking around, then don't put yourself in more danger.

A police report and other documentation will be crucial to your case. Any information you can take down about the other vehicle, including the license plate, registration number, and any indicators of ownership are important, in addition to the driver's CDL (commercial driver's license).

If you can take note of weather and road conditions, signs or road signals, or other factors — even if they don't seem significant to you at the time — it can be beneficial to present as clear a picture of the scene as possible.



Enjuris Tip:

Part of evidence-gathering is taking photos. Fortunately, almost everyone has a phone in their pocket that doubles as a camera. If it's safe to do so, use your phone to take photos of the condition of all involved vehicles, the intersection or roadway where the accident happened, the weather conditions, road conditions, any other hazards, and even the debris from the crash. A picture can be worth a thousand words. Consider these tips for taking accident scene photos after a car crash.

Tip #3: Take contact information for witnesses.

Witnesses can make or break a legal case. If there were witnesses to the accident, get their names and contact information. The police should do this as part of their reporting, but an accident scene can be chaotic and the police might be more involved in helping people who are injured, redirecting traffic around the accident, or cleaning up the area.

Before a witness leaves the scene, get their name and phone number. It might help you later on.

Tip #4: Be careful about posting on social media.

We live in a culture that's accustomed to sharing the details of our personal lives in a public way. It might feel natural to hop straight into your favorite social network and share with your friends or followers that you've been in an accident — but try to resist.

It might seem innocent to post: "I was in an accident today, but don't worry - I'm fine!:)". You might feel like you're just letting your friends and family know what's going on without making them worry.



But, that "I'm fine" can lead to big issues in a legal case. If the insurance adjuster or opposing attorney discovers that you said you were fine, they might interpret that to mean you don't deserve any money for medical treatment, lost wages, or related expenses.

Once something is online, you don't own it.

Deleting a post later doesn't purge it from ever having existed. If your case ends up at trial, or there's a deposition, that opposing attorney could call your mom to the stand and say, "Did you read on Facebook an hour after the accident that your daughter said she was 'fine'?" If she's under oath, she has no choice but to answer yes.

And that could cost you a lot of money.

Even if you avoid posting anything about the accident itself, your social media presence in the days, weeks, and months that follow might say a lot about your condition.

It's not necessarily that you need to quit all social media following an accident, but you need to be mindful of what you say or show because any photo or comment that indicates liability or physical condition can work against you in a legal proceeding.

Social media blunders: an example

You were in a truck accident and suffered serious back injuries. You need to take some time off work until your injury fully heals. You decide to make a claim for lost wages and medical treatment, including the possibility of surgery.

But some days are less painful than others, and some days you don't notice the pain at all.

On one of those great days when you don't feel much pain, your friend begs you to come along to a water park for some fun in the sun.

Why not?

As you enjoy just one whirl down a water slide, your friend takes your picture, capturing a smile on your face and arms up in the air in jubilation. Later, she posts the picture on Instagram, tagging you and adding a caption: "Nothing stops us from having fun!"

Several months later, the day of fun is a distant memory, and you're in the thick of a legal case against the trucking company that was responsible for your accident. You sit across a deposition table from lawyers



with piles of papers and stern expressions. Your own lawyer sits beside you, and you're ready to go to bat for everything you need to recover.

You answer the questions about your condition truthfully. Some days, you feel a lot of pain. Less on other days, but you're not ready to return to your job and you continue physical therapy and medication to manage your ailments.

Then, the opposing lawyer pulls out a screenshot of the photo of you on the water slide. Arms outstretched, a smile on your face, and the date just a few weeks after the accident.

What now?

Tip #5: Let your lawyer communicate with the insurance company and any of the parties involved.

In other words, don't talk with the insurance company.

In most truck accidents, liability is complicated. There can be fault on the part of the driver, the driver's employer, the distributor, the manufacturer, or... you. There could be several insurance companies involved, and each will try to reduce its level of responsibility.

Your truck accident lawyer is the best person to manage this communication in order to keep your liability as minimal as possible.



Words to the wise...

Never agree to a settlement without your lawyer's input. The insurance company might call you and try to make a "reasonable" offer, but the likelihood is that the offer is far less than what you can receive based on your lawyer's negotiations. Don't try to negotiate your own settlement. Once you agree to a settlement offer, you lose the right to pursue the claim further.

Tip #6: If asked for a recorded statement, consult your lawyer.

If the insurance adjuster asks you to make a recorded statement, you can refuse. The insurance company is going to use some practiced, tricky tactics to get you to admit fault. No matter how savvy you think you are, don't give them the opportunity to get you to say something that will harm your case.



Along those lines, the insurance adjuster might ask you to sign a blanket medical authorization that would allow them to receive your medical history. You should politely refuse since this could include irrelevant or private information that the insurance company could use to reduce the amount of your claim.

Tip #7: Be aware of the statute of limitations for a truck accident in your state.

Different states have different time periods for when you must file a claim. If you miss the deadline, the court can refuse to hear your case. (See the Appendix section at the end of this ebook to find out what the statute of limitations is for truck accident cases in your state.)

Avoid the biggest mistake after your truck accident

What's the biggest mistake after a truck accident?

The biggest mistake is not hiring a truck accident lawyer right away. You might have been in collisions with passenger cars before, and everything worked out fine. This happens all the time.

But truck accidents are a different beast.

For starters, there can be several entities involved, and there could be shared liability. In addition, the trucking company and its insurer will do almost anything to make the situation go away, including making offers that sound enticing and that might seem like a lot of money.

If you have serious injuries, though, your expenses will add up fast and you need an experienced lawyer who can determine not just what you need now, but what you'll need in the future.





Basics for injured truckers

Trucking is a huge industry in the U.S., and it's only getting bigger. The American Trucking Association estimates that there are 3.5 million professional truck drivers nationwide.



Facing Facts:

There are an estimated 15.5 million trucks operating, and 2 million of those are tractor trailers. In fact, 7.4 million Americans have jobs related to the trucking industry, and truck drivers are the most dominant job in many states.

Although trucking jobs are in high demand, the profession isn't without its risks and dangers. The Bureau of Labor Statistics ranks driving as the deadliest profession, estimating that there are about 1,000 fatalities per year from driving occupations.

You already know that truck driving can be hazardous because of the possibility of an accident. But there are other health hazards related to the profession.

Workers' compensation guarantees benefits to an employee if they're injured at work. Most employers are required to provide workers' compensation coverage to employees, though the specifics vary by state.



What are workers' compensation benefits?

In general, workers' compensation covers the following:

- Medical treatment, which includes doctor or hospital visits, diagnostic testing (such as MRI, CT scans, ultrasounds, X-rays, and blood tests), surgery, prescription medication, medical devices and prosthetics, ongoing therapies, and other costs.
- Lost wages, including past, present, and future earnings.
- · Death benefits, which include some funeral expenses and a percentage of weekly compensation to surviving dependents.

Workers' compensation laws vary by state, as do the time periods you have for filing a claim, so be sure to check your state's requirements.

As a truck driver, you might face risks that you wouldn't in other jobs. There are 2 kinds of injuries that can be covered by workers' compensation:

- Traumatic injuries, or those suffered from a specific accident or incident.
- Occupational injury or illness, which is an illness or condition that develops gradually over time.

Traumatic injuries from a trucking accident

A traumatic injury can be anything from a "minor" trauma like a slight concussion to a life-altering injury like a spinal cord injury, traumatic brain injury, or amputation.

Often, especially in an underride accident or when a truck is rear-ended (or the truck rear-ends another vehicle), the truck driver fares significantly better than the driver of the passenger car. Because of the height of the truck cab, along with the relative weight of the truck compared to the car, your injuries might be less severe.

However, a truck driver can be severely injured, especially if it's a rollover or jackknife accident.

Occupational injuries or illnesses from trucking

An accident isn't the only way you can be hurt as a truck driver. Your job is more than just sitting behind the wheel — and even if it was limited to sitting behind the wheel, there are still some overuse and stress injuries



that can happen from driving for long hours.

Repetitive stress injuries

A <u>repetitive stress injury</u> is caused by repeated motion or positioning that happens during the course of your normal activities. You might hear other terms like "cumulative trauma disorders," "repetitive motion disorders," or "overuse syndromes," these all refer to similar conditions.

A repetitive stress injury usually affects soft tissues that include nerves, tendons, ligaments, and muscles. These conditions include:

- Carpal tunnel syndrome
- Trigger finger
- Bursitis
- Tenosynovitis
- Ganglion cysts
- Tendinitis
- Epicondylitis (tennis elbow)

You might experience pain, numbness, tingling, or other sensations in almost any part of your body due to repetitive stress. Driving can cause these conditions, depending on your posture, how you sit in the truck, how you drive, and the number of hours you're driving at a time.

Musculoskeletal disorders

Disorders of the neck, back, and upper extremities can be caused by loading or unloading boxes, cartons, containers, tanks or bins from the truck. They can also be caused by using dollies or loaders, or even working on truck tires. Often, these disorders are the result of overexertion.

A back or neck injury is sometimes caused by lifting cargo or equipment, but it can also happen because of less strenuous activity like climbing into the cab of a truck. Often, the effects of strenuous activity like lifting or bending are exacerbated because they follow several hours of sitting still.

Many back and neck injuries in truckers are aggravated by the vibration of the truck and bouncing off the seat as you drive.

Back and neck injuries are also common among truck drivers because of the design of the truck cab, which affects your posture. As your workspace, and where you spend up to 8 or 10 hours a day, how you sit in the seat,



how mirrors are positioned, and where your body is relative to the controls (steering wheel, transmission, and others) can affect your musculoskeletal system.

Falls from heights

Within your duties as a trucker, you might need to climb onto high places on a vehicle, use ladders or stairs, or make deliveries to upper floors of a building, warehouse, or construction site.

You could fall on stairs, into an unsecured opening, or when exiting the truck. Often, knee and back sprains happen to truckers who fall when disembarking from the vehicle.

Struck-by or struck-against injuries

If you've ever loaded or unloaded a truck, you know that lifting a hitched trailer, opening a cargo container, or attaching a trailer can allow movement of vehicle parts like lift-gates, winch bars, pallet jacks, boxes, or cartons. Many truckers are injured from being struck by these objects or any loose cargo.

Health concerns for truck drivers

There are some less obvious health issues that face truck drivers, too. These include:

- **Obesity and stress.** It's well-known that obesity, stress, and smoking can lead to chronic health conditions like diabetes, cardiac issues, and cancer.
- **Substance abuse.** Some truck drivers use stimulants to stay awake. This can lead to dependence and other addiction-related issues.
- Exposure to hazardous chemicals. A truck driver has near constant exposure to diesel fumes, which can cause chronic lung problems. In addition, depending on what kind of cargo you're hauling, it might include a substance like chlorine or nitrogen, which could be harmful. A hazmat truck accident that leads to a chemical spill could create an exposure situation that leaves you with respiratory problems or other injuries.

How to file a workers' compensation claim for a trucking injury

The main aspect to any workers' compensation claim is proving that your injury was caused by your job.

Sometimes this is easier said than done.



Certainly, if you were in a truck accident and have injuries that were caused by the accident, your workers' compensation claim should be straightforward.



Enjuris Tip:

Workers' compensation is no-fault insurance. That means you're covered for any work-related injury, even if you were at fault. This is especially important in a truck accident. There can be several people or companies at fault in a truck accident, but workers' compensation insurance should always cover your injuries.

If you have a problem like a repetitive motion injury or musculoskeletal condition that has been developing slowly over time, it's going to be more difficult to prove that it was the direct result of your job. When you visit your doctor for diagnosis, be sure to tell them what you do for a living and how it might be related. It's important that your doctor's records reflect that the condition could be related to your job.

It's also crucial that you know your employment status. If you're an independent contractor, you might not be covered under workers' compensation insurance. How workers' compensation treats independent contractors varies by state.





How to find the best truck accident lawyer

Finding the right lawyer to handle your lawsuit can be an intensely personal and challenging process. It's both factual and emotional — you want to know that the law firm you choose is experienced and reputable. It's also important to have a trusting, comfortable relationship with your legal representative.

Although you probably want to find a truck accident lawyer quickly, it's important to do your research and find a law firm that will be best suited to you and your situation.



Enjuris Tip:

Don't accept the services of a lawyer who contacts YOU. Lawyers aren't permitted to be "ambulance chasers" and solicit business because they learn on the news or elsewhere that people are injured. If a law firm calls you and offers its services, say no. A reputable firm won't hassle you to get business.

7 factors to consider when hiring an attorney

1. Reputation

Reputation is possibly the best gauge for how successful your lawyer is and how they'll work with opposing counsel. If you can get word-of-mouth referrals from friends, coworkers, or other people you know personally, that's the best way to find a good lawyer.

If a lawyer has been successful and responsive to other clients, it means that in addition to being good at their job, they also probably have the respect of other lawyers in the community. If your case is in a small city or town, lawyers and judges know one another's reputations. You want to work with an attorney who already has the respect of the community.

If you don't have referrals, you can ask a prospective lawyer for a list of client references. You can also search online for reviews, news articles, and other information that would indicate whether people have had generally positive experiences with the firm.

2. Experience

Most lawyers will have some sort of bio on their websites that will include personal information such as where they went to school, how many years they've been practicing, and perhaps some notable cases they've won.

Commercial truck accidents, in particular, are a specialty. A personal injury lawyer might be very experienced in slip and fall lawsuits, but that doesn't necessarily mean they'll be a great choice for a truck accident.

During your first meeting with a lawyer, don't be afraid to ask questions about how many similar cases they've handled. Did they win? Settle? These are important figures for you to know before you engage a law firm.



Be prepared: what a personal injury attorney may want to know from you in your first meeting

Download a free printable checklist.

3. Resources

A truck accident might require several experts to establish liability. Depending on the nature of the accident,



your lawyer might require accident reconstruction experts, traffic engineers, medical experts, actuaries, and others who will help build your case based on the available evidence.

An experienced truck accident lawyer will have a roster of experts they rely on for these kinds of cases. Ask your lawyer about those experts. How many times have they worked together? How much experience do the experts have? Does your lawyer have the financial resources to hire the best experts?



Enjuris Tip:

The norm in the legal industry is that a personal injury lawyer isn't paid by the client until the lawsuit comes to a successful resolution. The lawyer <u>earns a percentage of the settlement or verdict</u> amount.

But that means the lawyer pays for expert witnesses until the case concludes. That's an investment on the lawyer's part, and you should be confident that the firm is prepared to spend that money before your settlement or verdict is awarded.

Part of your lawyer's job is to thoroughly investigate your claim. A police report doesn't always tell the whole story. Especially if there are questions about who was liable and how much each party was at fault, the lawyer will need to hire professionals who can recreate what happened and how.

4. Negotiation skills

Negotiations might turn out to be the most important part of your lawsuit. Think of it like a balancing act. Your lawyer will present the facts, use strategy and tactics, and formulate a strong argument for why you should recover damages and how much.

Each state has its own laws for damages. In some states, if you're found to have any portion of liability, you might not be able to recover damages.

Part of your lawyer's role is to minimize your responsibility for the accident. Being a plaintiff in a truck accident case isn't always about being on the offensive. Sometimes you need a little defense, too.

The trucking company might try to make you responsible for all or part of the crash, and your lawyer will try to reduce your portion of liability as much as possible.



5. Dedication

All the experience in the world doesn't matter if your lawyer is too busy to give your case the attention it deserves. To get a feel for how dedicated the prospective attorney will be in representing you, ask yourself the following questions:

- How responsive was the law firm when you first called or emailed?
- Did a lawyer get back to you that day?
- Was your call returned by an assistant or secretary, or by the lawyer directly?
- How quickly were you able to get an appointment to meet with the lawyer?
- Once in the office, did the lawyer give you their undivided attention, or did they seem distracted?

Your lawyer *will* be busy. That's almost always a given as most law firms are bustling with activity. But your case is just as important as any other. A good law firm has the staff and capability to be available when you need them.

6. Comfort

Choosing a lawyer can be similar to choosing a doctor or therapist. If your case involves serious injuries, as truck accident claims often do, there might be some awkward moments when you need to share deeply personal issues with your lawyer. Your lawyer will need to know exactly how your injuries affect your lifestyle.

For instance, maybe you've experienced sexual dysfunction as a result of the accident. Or perhaps you're suffering from depression or other mental health concerns.

Don't hold back from sharing every detail with your lawyers. The more effects the accident has on your life, the more you might be able to recover in damages. Don't leave out important parts of your story just because you're embarrassed to share. Your lawyer can only help you to the extent that you let them — and that means being open and honest about how you're affected by the accident.



A word to the wise...

Under attorney-client confidentiality rules, your communications with your lawyer are privileged. That means your lawyer is required by law to maintain your confidentiality. However, when sensitive information is relevant to the outcome of your case, it will need to be shared with opposing counsel, the insurance companies, and the court. Talk with your lawyer about how your information will be shared, with whom, and in what context.



If you feel like your lawyer isn't listening with compassion and care for your situation, perhaps you need a different lawyer. Unfortunately, compassion isn't taught in law school. Your lawyer might be a caring person, but maybe you just don't mesh together. It happens, and it's nothing to feel bad or guilty about. You're entitled to the best representation in a way that makes you feel most comfortable.

Bear in mind that most lawyers rely heavily on assistants and paralegals for day-to-day communication with clients. You might have had a pre-screen phone call with an assistant before the lawyer would meet with you to learn more about your case.

Often, the assistants are nearly as knowledgeable about the legal process as the lawyers. They're the ones who handle the nitty-gritty of court deadlines, process serving, and the other details of litigation.

Chances are that the majority of your communication with the firm will be with an assistant, so those people should be professional, caring, and competent, too. You can ask to meet the paralegal or assistant who will be handling your case because it's good to have a rapport with that person as well.

7. Payment

The general standard in personal injury lawsuits that you don't pay your lawyer until there's a successful resolution of your case. The lawyer earns a *contingency*, or percentage of your settlement or verdict award. If your case isn't successful, then you should have no legal fees.

That generally works in your favor because you don't need to pay up front. If a lawyer agrees to take your case, it's a good indicator that they think your claim is likely to be successful. Any contingency fee payment arrangement is a risk for them because if you recover nothing, they don't get paid.

But be wary of additional fees. Some lawyers will raise the percentage of their contingency fee if the case ends up going to trial. Some might bill you for other expenses.

Get your attorney fee agreement in writing. Be willing and prepared to negotiate for a lower fee. Some lawyers will budge a little on fee percentages, but not everyone. If you're considering 2 lawyers in the same city whose practices are about the same size and reputation, their costs should be fairly similar. Always shop around to ensure you're getting a fair deal.

Read more about how to negotiate personal injury attorney fees.

The bottom line is that you deserve to be compensated for the injuries you suffered in your accident. A truck accident lawyer can be the key to recovering damages that will allow you to get back on your feet and pay your bills, along with covering your future expenses.



Basics > Types > Fatalities > Insurance > Fault > Settle > Advice > Workers' Comp > Hiring a Lawyer > Safety > Appendix





Tips for preventing a truck accident

If you're an experienced driver, chances are you've had a heart-stopping moment when you had to swerve out of the path of an 18-wheeler changing lanes, or you've seen one barrelling behind you at what seemed like a dangerous speed.

It's scary.



Facing Facts:

The Federal Motor Carrier Safety Administration (FMCSA) published its most recent <u>statistics</u> about truck crashes:

- 57% of fatal crashes involving large trucks occurred in rural areas
- · 27% percent were on Interstate highways
- 13% were both—rural Interstate highways
- There were 13 fatal large truck crashes per million people in the U.S. in 2017

<u>Defensive driving</u> is a useful skill for any driver, but there are a few techniques that you should keep in mind specifically when you're in the proximity of a large truck, whether on or off the highway.



How to prevent all types of truck accidents

Often, being involved in a truck accident is simply bad luck — being in the wrong place at the wrong time. But there are a couple of ways that you can protect yourself by being a defensive driver.

Below, you'll find 10 tips for motorists and 10 tips for truckers. But we're starting with 2 big ones that are crucial for *everyone* on the road:

Tip #1: Don't drive distracted

First, keep your attention on the road at all times. That means avoiding your phone — whether it's for texting, finding music or podcasts, or even relying on your GPS. The phone is always a distraction. If you need GPS directions, use an audible app that gives spoken instructions so you don't need to turn your eyes to the screen.

Even a hands-free phone or device is dangerous!

You might think a phone conversation is no different from talking with a passenger, and people do that all the time with no trouble.

But it's not the same and here's why:

When you have a passenger, that person sees and hears the same external things that you see and hear going on around you as you're seeing and hearing as the driver. If there's a siren approaching from behind and you need to pull over, or if the car ahead suddenly stops, your passenger will automatically pause the conversation in anticipation of what's about to happen.

But if the person is on the phone, they're still talking. Then, you're still trying to focus on your phone call, and it pulls attention away from what's going on outside.

Distracted driving includes any other task that you might be doing, too. Eating can be a distraction, as can noisy passengers.

Stay focused, and stay safe.

Tip #2: Leave lots of room

Second, one of the best things you can do to minimize your risk of a truck accident is to leave plenty of space between your vehicle and other vehicles on the road. That means leaving plenty of room ahead if you're following a truck, and passing quickly without lingering alongside.

The more space you allow, the more time you have to react if you need to stop or swerve quickly.



10 tips to prevent a truck accident (for motorists)

- **1.** Allow more space when following a truck than you would with a passenger car. A larger vehicle limits your visibility of what's ahead, including slowed or stopped traffic, construction, or other hazardous travel conditions. By leaving plenty of space between your vehicle and the truck in front of you, you have more opportunity to react if you need to make a sudden stop or maneuver.
- **2. Leave space when passing in front of a truck.** A truck is much heavier than a passenger car, which means it requires more distance to stop. Don't cut in front of a large truck. If you can't pass with plenty of room, then stay in your lane.
- 3. Stay out of a truck's blind spot. There's a little trick to help you know if you're in a truck's blind spot: look at the truck's side mirrors. If you can't see the truck driver's face in the mirror, then the truck driver can't see you. It's safer to pass a truck on the driver's side. They have a much bigger blind spot on the passenger side. In other words, you should pass in the left lane while the truck is to the right.
- **4. Be careful where you pull over on the highway.** If you need to pull off the highway in between exits, try to find a wide shoulder or a designated pull-off spot. Many accidents happen because a car is pulled over and swiped by a passing truck that swerves a little onto the shoulder.
- **5. Use caution if a truck is turning.** A truck needs more clearance to turn than a car. Plus, truck drivers have less visibility. If you need to judge a truck's speed as it approaches an intersection or how much space it will need to clear a turn, always allow more room, rather than less. Assume that the truck is moving faster than you think it is and requires most of the intersection to make a turn.
- **6. Never play "chicken" with a truck.** If you think a truck is going to try to pass you or get in front of you, let it. The highway isn't a time to be "right" or faster, even if you think you have the right of way. Even if you don't want to allow the truck to get in front of you, let it happen. Not doing so can have deadly consequences.
- **7. Pass quickly.** Only pass a truck when you can see that there's plenty of space ahead to do so swiftly. You don't want to linger in the lane beside a truck for any longer than necessary. Tire blowouts and rollovers happen frequently and you don't want to be alongside a truck when one of these events happens.
- **8. Be predictable.** This is important in any driving situation, but especially when it comes to driving around large trucks. Use signals clearly so that a truck driver can see what you intend to do and can adjust their own driving accordingly. Never change lanes or turn without using your signals.
- 9. Avoid distracted driving. Yes, we've said it before, but it really can't be overstated. Highway driving, in



particular, can be long and boring. But don't let yourself become too fatigued or distracted while driving. Just remember that the other drivers are bored, too. Plan your trip before you leave so that you have good music, audiobooks, podcasts, or whatever you like for entertainment already queued up. Don't be fiddling with your phone or the car radio while driving. If you need to change things up, wait until you get to a rest area or find a safe place to pull over. If you begin to feel tired, take a break. Don't wait until you start to nod off, because then you're already in a dangerous situation.



Enjuris Tip:

Remember that <u>distracted driving</u> is more than just the phone. You could be distracted by unwrapping a sandwich, noisy passengers, or even the sun's glare. Make sure that you're always staying alert and focused on the road. **Anything that takes your hands off the wheel, your eyes off the road, or your mind off the task of driving is a distraction.**

If you use a GPS, have the audible instructions turned on so that you're not looking at the screen. Let it tell you where to go using voice commands.

10. Anticipate weather conditions. Storms happen almost everywhere, and sometimes they pop up fast and with little warning. Bad weather creates dangerous driving conditions. You can set a weather app on your phone to alert you if a dangerous storm is coming your way. If a bad storm does suddenly arise, head for the nearest exit or rest area to wait it out.

10 tips to prevent a truck accident (for truckers)

What if you're not the driver of a passenger car — you're the truck driver? Although the truck driver often fares better than other drivers in a crash, injuries and fatalities do commonly happen and you don't want to live with that guilt. Besides, driving a big rig is a responsibility not only to yourself, but to your employer and every other motorist and passenger on the road.

We tend to think of truck accidents as happening at high speeds on the highway (and they do), but every truck must eventually get off the highway in order to travel to the final destination — and accidents also happen on local roads and within proximity of the warehouses or other drop-off locations.

As you head out on a delivery, keep these tips in mind so you can help to prevent a truck accident:



- **1. Drive at a legal and reasonable speed.** A speed limit is just that... a limit. Not a suggestion, and not a minimum. It's the maximum speed at which you're allowed to drive on that particular stretch of road. You'll need to adjust your speed if you're driving in bad weather or if there are other conditions that would make it safer to drive more slowly. You have a job to do. Getting your cargo to its destination quickly is definitely part of doing your job well. But no one benefits if you don't get it there safely not your employer and certainly not you.
- 2. Plan ahead. Part of being a trucker is making deliveries to new destinations. Just like any driver, it's important to be familiar with your route before you leave. Since a truck might not be able to use the same roads, entrances, exits, and underpasses as passenger cars, it's important to get the lay of the land ahead of time if possible. A GPS is great, but it's often not designed for the needs of a big rig. It's also not a one-stop-shop for mapping. It's always a good idea to check a map ahead of time and then compare with the GPS so that you have a full picture of your route. Know your bridge and trestle clearances so that you don't cause an accident because your truck gets stuck somewhere it can't fit.
- 3. Connect with the customer. We hear about fatal truck accidents happening mostly on highways, but every truck needs to exit a highway to get to the warehouse, retailer, or other delivery destination. Sometimes the local roads can be just as tricky to navigate (if not more so) than highway driving. Reach out to the customer or manager at your delivery location. Call ahead, let them know approximately what time to expect delivery, and ask if there are any particular road hazards or special conditions that might affect your driving. This will take an extra minute or two up front, but it will save you hassle and potential danger when you arrive.
- **4. Conduct a pre-check.** Similar to planning your route, you should plan your delivery. If you're pulling into the rear of a crowded shopping area or another populated space, know that passenger cars might take short-cuts in places where they don't belong. Or there could be other delivery vehicles coming and going. If you don't have a clear sight line of where you need to go, park your truck, get out, and look at where you need to be and plan how you're going to get there. This can prevent you from blind-siding another car, rolling your truck, or even hitting a pedestrian.
- **5. Rely on your spotter, but only to a point.** Having a spotter is helpful in certain situations. But remember that the spotter is often only watching just one part of the truck. Maybe they're looking for overhead clearance and not the front right corner. Or maybe they're watching the back end of the trailer and not checking for overhead clearance. The spotter is just one person, so you need to also be watching all of the points yourself. Again, if you need to get out of the driver's seat to get a visual, then do so. Better safe than sorry.
- **6. Follow the rules about driving hours, and get plenty of sleep.** There are strict regulations about how many hours you can be behind the wheel, the number of breaks you need to take, and the number of hours you need to sleep per day. These might be the most important rules you follow as a truck driver. A drowsy driver is



a dangerous driver. You have quotas to fill, deliveries to make, and deadlines to meet. It's not an easy job, and doing it well means being efficient. But it's important to be efficient in ways that don't cut corners on your sleep times or safety.

- **7. Never drive under the influence of alcohol or drugs.** It's tempting for some weary truckers to use amphetamines or cocaine as stimulants while driving, but this is not a safe solution to driver fatigue. When you use these drugs to stay awake unnaturally, it raises your likelihood of taking greater risks like speeding, unsafe lane changes, or other poor maneuvers. Plus, you're actually more likely to fall asleep at the wheel when the stimulants wear off.
- **8. Stay focused.** Just like any driver, avoid distracted driving. Never send or read a text message while driving, or perform any tasks other than driving. Follow the same rules as any other driver plan your radio station, playlist, or other entertainment before you leave so you're not searching for something on your phone or on the radio while behind the wheel.
- **9. Know your vehicle.** You must have a valid CDL (commercial driver's license) in order to drive a truck. It's important that you're familiar with the type of vehicle you're driving, how it operates, and how to know if something's wrong. Maintenance issues are a common cause of truck accidents. Brake failure, broken cargo restraints, and steering problems can mean tragedy on the road. Know when a noise or rattle can be an indicator of a maintenance concern that needs to be addressed.
- **10. Know what you're hauling.** It seems like common sense to know what's in the truck you're driving, but if you're an independent contractor or you work through an employment agency, you might drive for different companies every day. However, it's crucial that you know what to do if there's an emergency and you've got a truck full of hazardous material. Even a minor accident can become a big problem if you've got cargo that includes substances that are harmful if released into the air or water.





Resources to help after a truck accident

It can be hard to know where to turn after a truck accident. Your lawyer will be looking at the legal aspects that pertain to your unique case—like who's at fault, who the parties are in a truck accident, how the accident happened, and how much your case is worth.

The first task is to get your physical recovery underway. Fortunately, there are a lot of organizations that can help provide resources and support for your injuries. While you might be able to find more resources in your local community or state, below we've provided a list of national organizations that are ready to help.

Traumatic brain injury resources

If your accident resulted in a traumatic brain injury (TBI), or if you're a caregiver for someone with a TBI, you're not alone. Learning from others, taking the advice of professionals, and seeking comfort and support from others who've been through similar experiences can be valuable. Start with these resources:

- Brain Injury Association of America
- The Brain Injury Recovery Network
- Brain Injury Network
- Family Caregiver Alliance
- National Resource Center for Traumatic Brain Injury
- BrainLine



- Cambridge Center for Behavioral Studies
- Commission on Accreditation of Rehabilitation Facilities (CARF)
- The Centers for Disease Control and Prevention (CDC)
- <u>Lash & Associates Publishing Inc.</u> (brain injury books, software, and resource center for traumatic brain injury, concussion, blast injury, PTSD and stroke)
- National Aphasia Association
- Model Systems Knowledge Translation Center (MSKTC) (traumatic brain injury fact sheets)
- Vestibular Disorders Association (VeDA)
- Well Spouse Association (devoted to the needs of individuals caring for a chronically ill or disabled spouse or partner)
- Adaptive Sports and Recreation Association (provides sports and recreation programs for children and adults with physical disabilities)

Spinal cord injury resources

If you suffered a spinal cord injury, there are a variety of resources available. Each of the organizations listed below includes local chapter contact information, support suggestions or groups, tips for living with a spinal cord injury, and information to learn more about your injury and potential treatments and services.

- The Shepherd Center
- American Trauma Society
- Christopher & Dana Reeve Foundation
- Family Voices
- United Spinal Association
- Help Hope Live (supporting community-based fundraising for people with unmet medical and related expenses)
- Spinal Cord Injury Model System Information Network

Financial resources for people with disabilities

"Disability" can mean a lot of different things, and you might require resources for anything from <u>acquiring a service animal</u> to <u>modifying your vehicle</u> to accommodate your transportation needs.



One of the most daunting aspects of a newly acquired disability is determining how to cover the costs associated with the disability, and how you're going to make ends meet financially.

Your best resource for solving financial challenges after a truck accident is your personal injury lawyer. But if you want to do some research on your own, here's a good list to start with:

- · How to keep control of student loan payments when an injury prevents you from working
- How to include loss of wages when calculating damages in a personal injury case
- Benefits for children with disabilities
- Amputee Coalition
- · Application for social security disability benefits
- Benefits.gov
- <u>Ticket to Work Program</u> for Social Security beneficiaries to return to work
- <u>abilityJobs</u> is a job-seeker tool for finding employment
- SourceAmerica is a job opportunity platform for people with disabilities

Resources for financial recovery after a truck accident

Although Social Security and other disability benefits might be a big help following a truck accident, they might not be enough to fully secure your financial future. Those benefits might cover the basics of your day-to-day life, but they won't help you to replace everything you've lost.

Here's how to determine whether you qualify for Social Security disability benefits.

Although Social Security is a federal program, you apply through your state Social Security process. There might be other disability benefits that you can obtain through your state, as well.

For example, any government benefits you receive will never compensate you for pain and suffering associated with the kind of severe injuries that you might have from a truck accident, or the kind of pain and suffering you experience from the loss of a loved one.

Here are some additional financial resources to help you get started:

- How does a pre-settlement lawsuit loan work?
- How do I find the best lawsuit loan company?



- How much do lawsuit loans cost really?
- Negotiating lawyers fees how do accident lawyers charge? Are there any hidden costs?
- Options for covering your medical costs after an accident
- Guide to Social Security Disability Benefits

Truck accident FAQs

A truck accident is usually more complicated than a collision with a passenger car. For one thing, there are often several parties at fault. Also, truck accidents often cause severe injuries. If you've been in a truck accident, you're probably trying to figure out where to turn and what to do next.

These truck accident FAQs can get you on your way to recovery.

Q: What's classified as a "commercial truck"?

A commercial truck could be a "big rig" or any vehicle designed for transporting commercial goods. It could include 18-wheeler tractor trailers, the delivery vehicles you might see in your neighborhood, tanker trucks, or other large freight trucks. The drivers of these trucks must have a commercial driver's license (CDL).

Q: What are common causes of truck accidents?

Truck accidents could be caused by a variety of factors, and sometimes it's a combination of more than one. Here are some of the most common causes:

- Truck driver error (speeding, failure to brake on time, poor maneuvering)
- Passenger car driver error (for example, failure to properly gauge a truck's speed or traveling in the truck's blind spot)
- Mechanical failure
- Cargo load problems
- Failure to reduce speed in bad weather
- Driver fatigue, drug use, or distraction

Q: Why are truck accident injuries more serious than other car accidents?

Any accident involving passenger cars can result in severe injury or fatality. But truck accidents raise that risk because, quite simply, a truck far outweighs a passenger car. The average passenger vehicle weighs about



3,000 pounds. A big rig with its cargo load could be up to 80,000 pounds. If that truck hits a small car, there's no way the car can withstand that impact.

In addition, many truck accidents happen on highways when they're traveling at high speeds. Speed plus impact of a heavy vehicle usually leaves occupants of a passenger car with severe and catastrophic injuries.

Q: Is it true that there's no liability on the trucker if a truck jackknifes?

Yes and no. Sometimes, a court will find that the driver had to jackknife in order to avoid some other accident. For example, if the road was very slippery and the driver was operating the truck at a reasonable speed for the weather, the driver could avoid liability.

If a truck driver had to make an abrupt turn in order to avoid another stalled vehicle and the truck jackknifes, that might also be a situation where it's determined that the jackknife couldn't be prevented.

However, if the driver was speeding or negligent for some other reason (like distracted driving or an unsafe lane change), they would likely be at fault in a jackknife accident.

Q: Who's at fault in a truck accident?

That's a complicated question. It's complicated enough that Enjuris has an entire page explaining truck accident liability. The short version is that there might be several parties that bear some percent of the liability. These might include:

- Truck driver
- Driver's employer
- Trucking company
- Shipper
- Truck or part manufacturer

Even if the accident was caused by truck driver error, sometimes their employer is legally liable for their negligence. This depends on the terms of a driver's employment contract—whether they're an employee or <u>independent contractor</u>—and other considerations.

If the driver was negligent because they'd been on the road for more hours and with less sleep than federal regulations require, that might also be the trucking company's fault.

There will be a lot of questions about liability, depending on the type of accident and the results. If a truck tipped over, it's possible the cargo wasn't loaded properly. Who's responsible for that? It might be the shipper,



or it could be the trucking company. All of these questions can be answered through the discovery process in a lawsuit. Your lawyer will likely request copies of contracts and other documents that will set forth who has legal liability.

If the accident was caused by a mechanical failure like a problem with brakes, steering, cargo restraints, a faulty hitch, or something else, it's possible that the manufacturer of the truck or the part is to blame. If that happens, it would mean a <u>product liability lawsuit</u>, rather than a regular personal injury case.

Q: What if I'm at fault for the truck accident? Can I recover anything?

Maybe. There can be several factors involved in a truck accident, so you might share liability with another party. In some states, you can't recover anything if you were at fault for any part of the accident.

In others, you can recover based on your percentage of liability. For instance, if the court finds that you were 15% liable for the crash, you could receive damages reduced by 15% of the total award.

Some states limit recovery based on whether you were more or less than 50% at fault. The chart below outlines what the fault system is in your state.

Pure Contributory Negligence	Pure Comparative Negligence	Modified Comparative Fault (50% Rule)	Modified Comparative Fault (51% Rule)	
No damages can be recovered if you shared any fault	Damages you can recover are reduced by your % of fault	Must be 50% or less at fault to recover any damages	Must be less than 51% any damages	at fault to recover
Alabama	Alaska	Arkansas	Connecticut	New Hampshire
District of Columbia	Arizona	Colorado	Delaware	New Jersey
Maryland	California	Georgia	Hawaii	Ohio
North Carolina	Florida	Idaho	Illinois	Oklahoma
Virginia	Kentucky	Kansas	Indiana	Oregon
	Louisiana	Maine	Iowa	Pennsylvania
	Mississippi	Nebraska	Massachusetts	South Carolina
	Missouri	North Dakota	Michigan	Texas
	New Mexico	Tennessee	Minnesota	Vermont
	New York	Utah	Montana	Wisconsin
	Rhode Island	West Virginia	Nevada	Wyoming
	Washington			



If there's any possibility of shared fault between you and any other party, your lawyer's job is to minimize your liability. The insurance companies or lawyers for any other party (the trucking company, for example) might say that the accident was all your fault, and your lawyer will try to defend you if that happens.

Q: How much can I receive in damages for a truck accident?

Personal injury damages cover your medical costs, property loss, lost wages, and any other expenses you've had as a result of the injury.

It's important to begin keeping a record of expenses associated with the accident right away. Keep a note of every medical appointment, medication cost, any adaptive devices (wheelchair, crutches, prosthetics, etc.), lost wages, expenses for life activities that you can no longer do on your own (if you need an aide to help with your daily hygiene, cooking, cleaning, or other tasks), and any other expenses associated with the accident. Keep track of everything, even if your medical or auto insurance has paid for it.

The amount you recover will depend on the severity of your injuries, how much time you were out of work, and other factors like pain and suffering. Your lawyer works with medical experts, accountants, and other professionals to calculate your future expenses and will make a demand based on the amount lost and future anticipated expenses.

Q: I live near the site of a truck accident where hazardous substances were released into the air. I now have respiratory problems. What are my legal remedies?

The shipper might be liable for injuries if a truck accident releases a harmful substance. If you were harmed by exposure to gases or other chemicals but not directly involved in the accident, this would likely be a toxic tort.

A toxic tort is a lawsuit to recover from injury or illness that's the result of exposure to a pollutant in the air, ground, or water.

Q: Are there lawyers who have specific expertise in truck accident lawsuits?

Absolutely. A personal injury lawyer is trained to understand the steps in a lawsuit and how to use the evidence to the client's advantage.

However, the FMCSA has specific regulations for commercial vehicles, licenses, cargo, components, drivers, and every other aspect to commercial transportation.

A truck accident lawyer knows these regulations, understands how trucking companies sometimes try to get around them, and is familiar with how the trucking company is going to try to communicate with you.





Enjuris Tip:

Read more about the process for finding a lawyer:

What to look for in an attorney

How to find a personal injury lawyer

When to hire a personal injury lawyer

Q: What do I do after a truck accident?

First, focus on your physical recovery. Get the treatment you need to get back on your feet after an injury. Next, start looking for a truck accident lawyer. You might already be working with an adjuster for your insurance company, but the adjuster isn't allowed to give you legal advice.

The trucking company is going to aim to pay you the least amount of money possible, and it's going to want quick settlement so that it can avoid liability or a lengthy legal process.

Don't agree to anything, sign documents, or accept money from the trucking company or its insurer. Doing so might affect your ability to receive compensation later. Instead, let them know you're in the process of hiring a lawyer and they can deal with the law firm directly. Or just wait to communicate at all.



Printable forms

Download these printable guides to help you get organized for your truck accident case:



Your First Meeting with an Attorney

A worksheet to prepare for your first meeting with a personal injury attorney – what to bring, what they'll ask.



Documents & Evidence Checklist

Checklist of 30 items to help you prepare for making a personal injury or accident claim.



Personal Injury Attorney Interview Sheet

Questions to ask a personal injury attorney to help determine if they will be a good fit for your case.



Medication Log Sheet

Printable daily medication log template helps you track your medicines and side effects.



Post-Accident Journal Form

Sample accident journal/diary to help you document the effect on your daily life.



Damages/Expenses Worksheet

Damages worksheet to track expenses for your injury claim (medical treatment, property damage, lost wages, prescriptions).



Accident Report Form

Sample post-accident report form to keep in your glove box - fill out at the scene or as soon as you can after a car accident.



State-by-state truck accident statutes of limitations

Time limit for bringing a claim or lawsuit after a truck accident

State	Time limit for personal injury claim	Time limit for property damage claim	State Law
Alabama	2 years	2 years	Alabama Code 6-2-1, et. seq
Alaska	2 years	2 years	Alaska State. §09.10.070
Arizona	2 years	2 years	Ariz. Rev. Stat. Ann. § 12-542
Arkansas	3 years	3 years	Ark. Code Ann. § 16-56-101 et seq.
California	2 years	3 years	Cal. Civ. Proc. Code § 312 et seq.
Colorado	3 years	3 years	C.R.S. 13-80-101(1)(n) (2009)
Connecticut	2 years	2 years	Conn. Gen. Stat. Ann. § 52-575 et seq.
Delaware	2 years	2 years	Del. Code Ann. tit. 10, § 8101 et seq.
DC	3 years	3 years	D.C. Code § 12-301 et seq.
Florida	4 years	4 years	Fla. Stat. Ann. § 95.011 et seq.
Georgia	2 years	4 years	Ga. Code Ann. § 9-3-32 et seq.
Hawaii	2 years	2 years	Haw. Rev. Stat. § 657-7 et seq.
Idaho	2 years	3 years	Idaho Code § 5-218 et seq.
Illinois	2 years	5 years	735 Ill. Comp. Stat. 5/13-201 et seq.
Indiana	2 years	2 years	(PDF) Ind. Code Ann. § 34-11-2-1 et seq.
lowa	2 years	5 years	Iowa Code Ann. § 614.1 et seq.
Kansas	2 years	2 years	Kan. Stat. Ann. § 60-501 et seq.
Kentucky	1 year	2 years	Ky. Rev. Stat. Ann. § 413.080 et seq.
Louisiana	1 year	1 year	La. civil code § 3492 et seq.
Maine	6 years	6 years	Me. Rev. Stat. Ann. tit. 14, § 752
Maryland	3 years	3 years	Md. Courts & Jud. Proc. Code Ann. § 5-101
Massachusetts	3 years	3 years	Mass. Ann. Laws ch. 260, § 1 et seq.
Michigan	3 years	3 years	Mich. Comp. Laws § 600.5801 et seq.
Minnesota	2 years	6 years	Minn. Stat. Ann. § 541.01 et seq.



State	Time limit for personal injury claim	Time limit for property damage claim	State Law
Mississippi	3 years	3 years	Miss. Code. Ann. § 15-1-1 et seq.
Missouri	5 years	5 years	Mo. Rev. Stat. § 516.097 et seq.
Montana	3 years	2 years	Mont. Code Ann. § 27-2-201 et seq.
Nebraska	4 years	4 years	Neb. Rev. Stat. § 25-201 et seq.
Nevada	2 years	3 years	Nev. Rev. Stat. Ann. § 11.010 et seq.
New Hampshire	3 years	3 years	N.H. Rev. Stat. Ann. § 508:1 et seq.
New Jersey	6 years	6 years	N.J. Stat. Ann. § 2a:14-1 et seq.
New Mexico	3 years	4 years	N.M. Stat. Ann. § 37-1-1 et seq.
New York	3 years	3 years	N.Y. Civ. Prac. Laws & Rules § 201 et seq.
North Carolina	3 years	3 years	N.C. Gen. Stat. § 1-46 et seq.
North Dakota	6 years	6 years	(PDF) N.D. Cent. Code § 28-01-01 et seq.
Ohio	4 years	4 years	Ohio Rev. Code Ann. § 2305.03 et seq.
Oklahoma	2 years	2 years	Okla. Stat. Ann. tit. 12, § 91 et seq.
Oregon	2 years	6 years	Or. Rev. Stat. § 12.010 et seq.
Pennsylvania	2 years	2 years	42 Pa. Cons. Stat. Ann. § 5501 et seq.
Rhode Island	3 years	10 years	R. I. Gen. Laws § 9-1-12 et seq.
South Carolina	3 years	3 years	S.C. Code Ann. § 15-3-510 et seq.
South Dakota	3 years	6 years	S.D. Codified Laws Ann. § 15-2-1 et seq.
Tennessee	1 year	3 years	Tenn. Code Ann. § 28-3-101 et seq.
Texas	2 years	2 years	Tex. Civ. Prac. & Rem. Code § 16.001 et seq.
Utah	4 years	3 years	Utah Code Ann. § 78-12-22 et seq.
Vermont	3 years	3 years	Vt. Stat. Ann. tit. 12, § 461 et seq.
Virginia	2 years	5 years	(PDF) Va. Code Ann. § 8.01-228 et seq.
Washington	3 years	3 years	Wash. Rev. Code Ann. § 4.16.005 et seq.
West Virginia	2 years	2 years	W. Va. Code § 55-2-1 et seq.
Wisconsin	3 years	6 years	Wis. Stat. Ann. § 893.01 et seq.
Wyoming	4 years	4 years	Wyo. Stat. § 1-3-102 et seq.

