

Legal Matters



Consumer Safety
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Truck accident injuries require an expert's guidance



Every year, truck accidents result in 3,000 deaths and 130,000 injuries in the U.S.

Often, the victims of these accidents file lawsuits seeking to be compensated for their loss. You might think that these lawsuits would be similar to lawsuits over car accidents. Sometimes they are ... but in general, truck accidents are *much* more complicated.

For instance, with car accidents, most of the time the other driver owns the car and the only real question is whether the driver was careless in causing the accident.

But in a truck case, it's unusual for the driver to own the truck. It could well be that the driver is employed by Company A, but Company B hired that company to make the delivery. Meanwhile, Company C actually owns the truck, while Company D leases it, Company E is responsible for inspecting it, and Company F is in charge of repairing it.

In theory, any of these companies might have been negligent in a way that caused the accident.

The bad news is that it can be a lot more work to figure out exactly who is responsible. The good news is that there may be many more entities that can be sued, increasing the likelihood that an injured person will be fully compensated.

There are other things to be investigated, too. For instance, if the accident was caused because the cargo was improperly loaded, then the people who loaded it (or their employer) might be liable. If the accident was caused by a mechanical failure, then the manufacturers might be responsible - which is also complicated because there might be separate manufacturers of the tractor, the trailer, and other component parts and equipment.

There are many laws and government regulations that apply to trucking. These are very complicated, but they are important because an accident victim is more likely to be able to be compensated if it turns out that someone violated these rules.

For instance, there are many rules about truck visibility, including lights and mirrors. There are rules about weight and loading of cargo. (This is especially true with any hazardous cargo.) And there are numerous rules about inspections, particularly of safety-sensitive components such as tires, brakes, and steering systems. Various companies could be responsible for an accident if a truck wasn't inspected, or wasn't inspected properly.

In some cases it might seem obvious that a truck driver simply made a mistake. But that's not the end of the story. For instance, if a driver fell asleep at the wheel, it might be because an employer violated federal rules that limit how many hours in a day a driver can be required to work. Or maybe the driver was taking a drug, and

Faulty hip replacements spark hundreds of complaints

Hip replacement surgery is a common procedure, especially among the elderly. But recently, there have been complaints about several of the hip replacement devices that are frequently used in the surgery. A number of people have filed lawsuits claiming that the devices failed soon after they were implanted, causing injuries and making it necessary for them to have a second surgery.

For instance, DePuy Orthopaedics, a division of Johnson & Johnson, sold about 93,000 ASR Hip Resurfacing Systems and ASR XL Acetabular Systems. The company has reported that about 12 percent of patients required "revision" surgery within five years after implantation.

DePuy recalled the products last August after the Food and Drug Administration received hundreds of complaints about them.

The lawsuits claim that the products were defectively designed, and that DePuy failed to alert consumers or orthopedic surgeons even after it first learned about the problem.

British studies released in March 2010 have suggested showed that metal-on-metal implants, such as the ASR device, are dangerous because they can generate large amounts of metallic debris as they wear. This debris can cause severe inflammation in some patients, resulting in pain in the groin, tissue death in the hip joint, and loss of surrounding bone.

Many people say that their devices failed soon after being implanted, or led to pain, inflammation, or damage to tissue or bone.

One of the lawsuits was brought by Maurice Brigham, 50, an equipment operator from San Bruno, California. Brigham underwent hip replacement surgery in 2007 with the ASR device. He claims that after the surgery, he began suffering severe pain, swelling, inflammation, infection and damage to the tissue and bones surrounding the implant.

Last August, he underwent surgery to remove the ASR equipment. But the infection of the surrounding tissue and bone is so severe that no replacement device has been implanted yet. Brigham is currently bedridden and unable to walk.

There have also been complaints and lawsuits involving hip replacement components made by two other manufacturers: Zimmer Inc. of Indiana and Stryker Corp., based in Michigan.

Highway authority responsible for poor response to 911 call

We call 911 when we're desperate for help. That's why 911 dispatchers have a legal duty to respond properly, and can be held responsible if don't do so.

Take the case of Janet Henebema, a 37-year-old dealer at a casino in Atlantic City. She was driving home late at night when her car skidded out of

Dog owners can be sued for injuries



In many cases, a dog owner can be held responsible in court if a dog attacks and injures someone.

The rules for when a dog owner is liable vary, but in general, a court will consider:

- Whether the dog is a dangerous breed;
- Whether the dog owner was aware that the dog could be dangerous - for instance, whether the dog had ever attacked anyone before; and
- Whether the owner took appropriate precautions to protect people from the dog.

In a recent case in Texas, a jury awarded damages for the death of a 10-year-old boy who was mauled by a pit bull and an American bull mix.

The boy had gone to visit a friend, but the friend wasn't home. However, the two dogs owned by the friend's parents escaped from a fenced-in area and attacked the boy.

The award was based on the fact that the dogs were of a dangerous breed and the owners hadn't taken proper precautions. In this case, the fence was only four feet high, and there was a rickety gate that one dog was able to knock down. The owners had also left items next to the fence, with the result that the other dog was able to climb up on the items and jump over the fence.

Pesticides can be harmful to children

Parents and landlords should be aware that certain pesticides can be toxic to children.

An Indiana jury recently found that the owners and property manager of an apartment complex were liable for pesticide poisoning that caused permanent brain damage to two children.

Alex and Christina Ebling began suffering brain seizures a few months after the apartment complex's maintenance crew sprayed their apartment with a toxic pesticide. Both children were later diagnosed with permanent brain damage, developmental delays and respiratory problems.

the employer failed to conduct required drug testing.

It could also be that the driver wasn't given proper safety training. Or it could be that the driver had a history of bad driving, such that the companies involved were negligent in hiring him in the first place.

Of course, any time you or a loved one is injured in an accident, it's wise to speak with an attorney, because only after an attorney has conducted a complete investigation can you be sure whether it's possible to be compensated for a loss. But this is especially true for something as complicated as an accident with a truck.

School may be liable for boy's injuries at recess



A public elementary school may be responsible for injuries suffered by a first-grader as the result of a fall during recess, a Massachusetts court ruled recently.

The 6-year-old boy suffered permanent injuries when he was pushed by another student and struck his face against a low brick

wall.

The boy's parents complained that the school principal was careless when he ordered that first-grade recess take place in a concrete-surfaced courtyard with a brick wall. They say the principal should have been able to foresee that injuries could result from very small children playing in such an area.

The school had argued that the other child was at fault because he pushed the boy. But the court said that a principal could be expected to anticipate that first-graders would push each other at recess, and should have considered this when he chose the play area.

control on the Atlantic City Expressway during a snowstorm.

911 dispatchers have a legal duty to respond properly, and they can be held responsible if they don't do so.

Henebema climbed out of her car after her airbags exploded, and began walking on the shoulder of the highway when another car caromed off a guardrail and pushed her under her car. She was hospitalized for six weeks. Her right leg was amputated above the knee, and her left leg was badly mangled.

Over the next half-hour, more drivers spun out of control and the accident scene grew worse. At least eight drivers made 911 calls reporting the collisions.

However, evidence was presented in court that the 911 dispatchers relayed incorrect information to state troopers, telling them the accident was on the eastbound, not the westbound, side of the highway. In addition, despite repeated calls about the worsening situation, the dispatchers failed to update the troopers or accept a local town's offer of help.

Police finally arrived at the scene 46 minutes after the initial 911 call.

A jury found that the dispatchers were responsible for the delay, and awarded damages against the state transportation authority because Henebema's injuries were worsened by the long wait for help.

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The substance - called Creal-O - is an organophosphate pesticide. Organophosphates were originally developed for chemical warfare, and they are known to be toxic to the nervous system.

Scientific and medical experts testified during the trial that the poison in the pesticide can cause serious health and developmental problems in children.

The Ebling family was not provided with any safety warnings before the children's exposure to Creal-O.

Using Botox as a pain reliever is dangerous

Botox is best known as a wrinkle remover used by celebrities to eliminate signs of aging. However, a growing number of lawsuits claim that the manufacturer of the drug has been improperly promoting it for other uses - and that injuries have resulted.

For instance, Botox has never been approved by the Food and Drug Administration as a treatment for neck pain. But Brian and Lynne Kramer filed a lawsuit claiming that the manufacturer, Allergan, promoted the drug for this use. They say their mother, Sondra Bryant, died as result.

According to the Kramers, Allergan failed to warn patients about the possible spread of toxins - and resulting botulism - from certain Botox injections, despite knowing about the risks.

The Kramers' lawsuit settled for an undisclosed amount.

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