



Construction trucking fleets have exposure to nuclear verdicts:

Take these 4 steps to reduce risk

Bulldozer falls from trailer, causes fatality of CEO.

How would you react if you saw a headline involving your organization that read, “Bulldozer falls from trailer, causes fatality of CEO.”?

What if the truck was a commercial motor vehicle (CMV) subject to the Federal Motor Carrier Safety Regulations (FMCSRs), and at that moment you are not sure if the driver was properly qualified, over the hours-of-service limits, or may have had drugs in their system?

The construction industry has long been subject to jobsite-related excessive verdicts, such as one settlement for \$74 million due to an improperly paved road which caused a crash killing a mother and her twins. There was even one for \$860 million for a tower crane collapse that killed a woman in an adjacent building.

Excessive verdicts are also a risk when it comes to transportation, which is additional exposure for construction companies with CMVs. According to the American Transportation Research Institute (ATRI), their 2020 study “Understanding the Impact of Nuclear Verdicts on the Trucking Industry” found:

- From 2015-2019, there were nearly 300 cases over \$1 million; and
- From 2010-2018, the number of verdicts over \$10 million nearly doubled and the dollar amount of awards grew 51.7% annually.

If you want to reduce the chance of costly litigation, the following four steps are a path to a best-in-class safety program.

1. Obtain leadership support.

Leadership’s attitudes, values, and beliefs drive a company’s culture. Collaboration with the executive team is imperative to create a proactive safety program. Leaders must uphold policies and best practices that keep all employees safe, including construction equipment transport drivers and the public..

From the 2024 J. J. Keller & Associates, Inc. Customer and Market Insights Fleet Manager survey, 51 percent of fleet managers indicated that the most significant determinant of running a safe operation was that their leadership consistently show that safety is important.



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2. Develop and enforce policies and procedures that exceed regulations.

Another significant finding in the 2020 ATRI study was that pre-crash actions by carriers are critical. **Plaintiff and carrier defense attorneys agreed** that “crash avoidance is **EVERYTHING**.” They also agreed that policies and procedures must always be followed and should exceed the FMCSRs.

Policies and procedures are the safety management controls that when consistently enforced, guide your team to stay compliant, maintain company safety standards, and drive improvement.

3. Implement a corrective action training (CAT) program.

A plaintiff’s attorney can claim negligence if there is any failure to follow policies, procedures, or reasonable practices that find, coach, remediate, or terminate high-risk, unqualified, or non-compliant drivers.

Despite holding a role that may not have “driver” in the title, CMV operators who also work at jobsites must be trained, monitored, and subject to progressive discipline when necessary for non-compliance and dangerous on-road actions.

Timely detection and correction of unsafe driving behavior based on incidents and dash cam video helps:

- Prevent future crashes and violations,
- Reduce potential liability, and
- Improve driver retention.

A well-designed CAT program will also align with state labor laws, contracts, and any union agreements.



4. Share safety improvements.

To obtain an insurance policy renewal at the lowest possible premium, a carrier must be able to share with an underwriter:

- The level of risk regarding recent crash and loss experience,
- The root cause of severe crashes and high-frequency minor crashes, and
- The actions to address those root causes and to improve the safety program.

Customers are sensitive to their risk of vicarious liability when using third parties. If a building contractor’s vehicle is in a crash related to their project, that exposure may harm their brand and bottom line. Discuss their concerns and share your safety successes.

Drivers are also stakeholders in your company’s safety efforts, as are your owners and other employees. Share your safety successes with the entire team to build momentum and transform the culture.

In closing, a best-in-class fleet safety program will better protect your business and the motoring public. Let the experts at J. J. Keller and Associates, Inc. keep your company out of the headlines and free from the risk of a nuclear verdict.

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