



January 2015 • A Monthly Publication of the Atlanta Claims Association

ACA Holiday Luncheon was a High Success!



Please visit our website at: www.atlantaclaims.com for further information and to register online.

From the President



Dear Fellow ACA Members,

Happy New Year!

I hope you all have had a blessed and safe holiday season. I know 2015 will be a great year for all of us. The seeds planted in 2014 are now bearing fruit. These are the rewards of our endless hours of labor. The true sign of love and passion for the claims work we do.

Being at the helm of the Atlanta Claims Association is both a privilege and a great responsibility. I am determined to make the very best of the upcoming year. With our strong, motivated team working together we can surely make our goals happen. We have big plans for 2015.

I would like to thank each one of our members, sponsors and guest for your amazing generosity to the "Stand up for Kids" charity. We were able to help many children in need. We really appreciate your donations!

A special thanks goes out to Linda Mihyar for securing some outstanding entertainment for our holiday luncheon. Throughout this letter you will see pictures of the luncheon. The pictures really don't tell the story of the good time had by all. The food was incredible! Thank you to our sponsors for the wonderful door prizes. Your continued support keeps us successful.

Our committees have been hard at work planning an exciting new year. This year is sure to bring lots of fun and continuing education. Our annual Worker's Compensation seminar planned for Thursday, February 5, 2015 will also be held at Villa Christina. Registration and breakfast will begin at 8:00 a.m. The seminar will go on from 8:30 a.m. to 3:30 p.m.. Please refer to page—for additional information. We are also still looking for sponsors for the event.

The Atlanta Claims Convention will be held at the Cobb Galleria Center on April 16-17h. The convention committee is working to ensure yet another successful convention. Please review the convention information contained in this issue and at our website <http://www.atlantaclaims.com/>. Besides the change of venue, there are a lot of new ideas being worked on by the convention committee. If you have never attended this event you are missing out. If you have not been in a while, I look forward to seeing you again. Mark your calendar!

If you know of anyone deserving of the Claims Person of the Year award, please submit a nomination form included in this publication or on-line at the above website. It is an honor to be nominated for the prestigious award.

In Fellowship,
Kowalski M. Brown
ACA President

Atlanta Claims Association Mission Statement:

To strengthen the professional life of those involved in the claims industry by providing members with education and network opportunities while promoting a positive public image of the claims industry.

**There will be no
January Luncheon**

**Thursday,
February 5th, 2014**

Villa Christina
4000 Summit Boulevard
Atlanta, Georgia 30319
678-539-1234

12:00 - 1:00 PM

11:30 AM Registration
Luncheon Cost:
\$25.00 Members
\$30.00 Non-members

Reservations Required
Limited Seating
RSVP Required

Online Registration and payment
is now available for monthly meetings
www.atlantaclaims.com

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Save The Date

Thursday, February 5th, 2015

Atlanta Claims Association's Annual Workers' Compensation Educational Seminar

Location: Villa Christina

When: Thursday, February 5th, 8am to 3:30pm

This year's event will feature panels on closing files, setting claims and best practices to improve return-to-work. The seminar will include breakfast and lunch and offer guests the option of attending the entire event at a cost of \$45 or the luncheon only for \$25.

Please contact Greg Presmanes at 770-391-9100 to reserve your spot as sponsor, suggest speakers or nominate a claims person for the 2015 Stellar Achievement Award.

Wednesday March 11, 2015

Joint CPCU Luncheon

Location: Villa Christina

Thursday April 16, 2015

THE BRAVES ARE MOVING TO COBB AND SO ARE WE!

Please mark your calendar for the newly revised Atlanta Claims Convention on April 16th at Cobb Galleria Centre.

Look for exciting training opportunities, vendor expo and networking with your peers.

When: April 16, 2015

Where: Cobb Galleria Centre
2 Galleria Parkway SE
Atlanta, GA 30339

Invitations and enrollment instructions will follow in the coming weeks. Watch the ClaimsScene newsletter for more information.

Tuesday, May 12, 2015

The 2015 Golf & Tennis Outing will be held Tuesday, May 12, 2015 at Rivermont Golf & Country Club. Registration to be available on line in March.

A Special ACA Thank You

for our October Luncheon Door prizes to:

The Claims Solution

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ACA Welcomes its New Members!

Members

Jeremy Andreorio—LaMarche Associates

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Jennifer Smith—Ken David & Assoc

Jason Lockridge—Lockridge Claims

Associate Members

Cindy Morgan—NuQuest/Bridge Pointe

Jaime Benson—ISO Claims Partners

Joel Sybert—Crawford Educational Svcs



By: Alisa W. Elenburg, Esq.,
Vernis & Bowling of Atlanta, LLC

Crash! What Do We Do Now? Considerations For Immediate Response To Commercial Vehicle Accidents

Whether you are a motor carrier or an insurer, time is of the essence in the aftermath of a tractor trailer accident. Your response in the hours – and preferably even minutes—following the accident can make or break your ability to accurately evaluate and effectively defend the case in the coming years of litigation.

Although you may think you will have plenty of time to investigate and build your case before any such accident eventually results in litigation, what you do in the first few hours after the accident can be more effective than years and years of efforts by the best trucking lawyer in the business. As the years roll on, witnesses disappear. Documents are destroyed. Police reports are often replete with inaccuracies or omissions despite the officer's best efforts at the scene. Memories fail. Vehicles are crushed, melted, sold, repaired and returned to service. Road marks are paved over or fade out, and accident scene photography – if in fact there is any – is most often unreliable and incomplete at best.

So don't wait until after the accident to get your ducks in a row. Plan now. As the old saying goes, "if you fail to plan, you plan to fail." Make sure your accident response plan is ready, and all the key players are educated and prepared for implementation – before the crash. Here are a few reminders:

1. The DQ File: A Foundation for Success – The first phase of your accident response preparedness should begin with the hiring of the driver. The federal regulations require the maintenance of what is known as a Driver Qualification or "DQ" file for every driver of a commercial motor vehicle. The DQ file may be, but is not required to be, combined with the driver's personnel file. The contents of the DQ file should be complete to satisfy the requirements of the federal regulations and updated accurately and faithfully. All documents pertaining to the hiring of the driver should be placed in the DQ file within 30 days of the driver's hire date. Your driver's DQ file

should contain a copy of the driver's valid, current Commercial Driver's License; the driver's application and list of references of past trucking employers; validation that these references were checked and the information received; safety performance history with previous employers; three year driving history for all states in which driver has held a valid driver's license during that time period; medical examiner's certificate of DOT physicals for three previous years (and after May 21, 2014 verification that the driver was certified by a medical examiner listed on the National Registry of Certified Medical Examiners), pre-hire and random drug and alcohol screen results; results of pre-hire road test, documentation of an annual review of the driver's driving record and any motor vehicle violations for the past three years. Maintenance of a DQ file that stands up to the rigors of the federal regulations can go a long way in defending against claims of negligent hiring, supervision, training and retention against the motor carrier and will assist in defending the driver, as well.

2. Driver Logs: Hours of Service Records Can Tell the Story

The hours of service logs for each driver as required by the federal regulations must be preserved for six months. Many motor carriers have standard retention and destruction policies. Such policies must comply with the six month retention requirement. A driver's logs should be examined immediately following an accident to spot any gaps of information or inaccuracies. These driver logs should also be compared to trip receipts, weigh station records, gas receipts, bills of lading, driver cell phone records and other information from the tractor's onboard computer or GPS to determine accuracy of the information and spot any mistakes or violations of the regulations early on. Accurate hours of service logs which comply with the federal regulations can provide evidence important to defending against allegations of fatigue or driver inattention.

3. A Picture is Worth a Thousand Words – Equipping your driver with a disposable camera can at least document basic evidence which could be critical to an accident reconstruction expert years down the road. Photographs of the positions of the vehicles and their positions relative to one another, any markings on the roadway, and any mile markers or points of interest which could later provide keys to locating the exact site of the accident scene can all potentially make the difference in a subsequent investigation and reconstruction. Driver and witness statements years afterward can be fraught with inaccuracies and gaps, but photographs can help tell the real story. Many states have specially trained teams of officers on their highway patrol who are dispatched to accidents involving fatalities and more serious injuries. The officers often have specialized accident investigation and reconstruction training and many times conduct a full-scale investigation and reconstruction of accidents meeting certain criteria. Their files often include, in addition to the standard accident report, photographs, scene measurements, interviews with witnesses, and the officer's field notes. These officers generally have at least some knowledge of how to spot significant markings on the roadway, measure distances (such as site distances or distances from point of impact to point of final rest), and document factors going to conspicuity issues when relevant.

4. The Automobiles – In some cases, the other automobile involved in accidents with tractor trailers are sold for salvage value and then crushed and melted. Obviously it is of no use to your investigation after that stage. It is important to immediately request either preservation of the automobile or, more realistically, demand that your accident reconstruction expert be afforded an opportunity to inspect and photograph the vehicle at the tow lot. Similarly, you will want to consider any issues regarding preservation of your own equipment. Most likely, the equipment will need to be repaired and returned to service; however, care should be taken to at least have photographic documentation of the equipment before such modifications are made in order to defend against future spoliation issues. In any event, do not modify your equipment if you have received a letter demanding preservation of the evidence without offering an opportunity to inspect and/or photograph the equipment. Before allowing destructive inspections, however, it is important to consult with your own attorney and/or expert engineer. Such destructive inspections should be conducted with experts and counsel for both sides present and pursuant to video and audio recording.

5. Call in the Professionals – Although many motor carriers and insurers are reluctant to call in an attorney and/or an accident reconstruction expert immediately, doing so right away could eventually save the day. Retaining a seasoned trucking attorney to direct the immediate post-accident investigation can facilitate in preservation of the necessary evidence from the start. Most likely, a trucking attorney worth his or her salt will be able to immediately involve a knowledgeable, credible accident reconstruction engineer who can competently investigate the scene and reconstruct the accident. Obviously, the sooner the accident reconstruction expert has access to the scene, vehicles and witnesses, the better. Fresher evidence allows your expert to opine with more detail and more conclusively, leaving less room for guesswork. Getting your expert to the scene immediately following the accident and before the vehicles are moved, while realistically not always possible, is nonetheless the gold standard.

While we have offered but a few of the considerations important to an effective accident response plan, we hope that these will assist you in planning ahead for success. Remember, time is of the essence!

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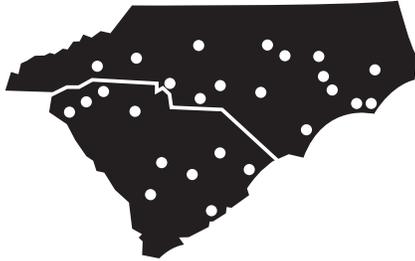
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