

An aerial photograph of a multi-lane highway. In the center, a large white semi-truck is involved in an accident, with its trailer overturned. Other vehicles are visible on the road, some stopped and others moving. The scene is surrounded by green grass and trees with yellow autumn foliage. The image has a blue and yellow color overlay.

WHY SO MANY TRUCK ACCIDENTS?

Putting Profits Before People

a WHITE PAPER presented by



**HILLIARD MARTINEZ GONZALES &
TRIAL ATTORNEYS**

the **CONSTANT DANGER**

**More than 4,000 Americans are killed every year in truck accidents.
The lucky few who walk away tend to be the truck drivers.**

As we commute to work, as we drive to the store, as we travel on vacation, we share the road with trucks. Thousands of them.

Large trucks are not merely clogging traffic and belching diesel fumes. They represent a serious threat to the well-being of other drivers on the road. When a 40-ton tractor-trailer collides with a passenger vehicle, the impact is like a bomb. The smaller car is destroyed. All too often, lives are forever changed.

These accidents could be prevented

Why are there so many catastrophic truck crashes year after year? The short answer is that the trucking industry regularly puts profits over people's lives. Despite regulations in place to protect motorists, not all truck drivers or companies obey these laws.

We have represented clients who were injured by the extreme negligence of trucking companies. Due to a shortage of qualified truckers, they employ unlicensed drivers with a history of dangerous driving. The pressure to deliver goods on time leads trucking companies to cut corners that put the public's safety at risk.

Who gets killed in truck crashes?

Truck occupants **17%**

Occupants of other vehicle **72%**

Pedestrians and cyclists **11%**

Source: National Highway Transportation Safety Administration (2016)

The bottom line is that making our roads safer cuts into *their* bottom line.

Hilliard Martinez Gonzales LLP is passionate about pursuing justice for families devastated by truck accidents. Our trial lawyers have the experience, the resources and the drive to hold truckers and trucking companies accountable. We provide relentless advocacy to truck crash victims throughout the United States.

Trucking company responsibilities

When a trucking company puts a truck driver on the road, it has a duty to the public to ensure its drivers are qualified and well-trained, and that its company policies encourage safe driving behaviors. Unfortunately, many trucking companies fall short of – or deliberately ignore – this goal.

They also have a responsibility to conduct diligent background checks of a driver's record, including any past alcohol or drug-related driving convictions or loss of commercial driver's license status. According to the National Highway Transportation Safety Administration, large-truck drivers involved in fatal crashes in 2016 had the highest percentage (20.3%) of previously recorded crashes compared to drivers of other vehicle types.

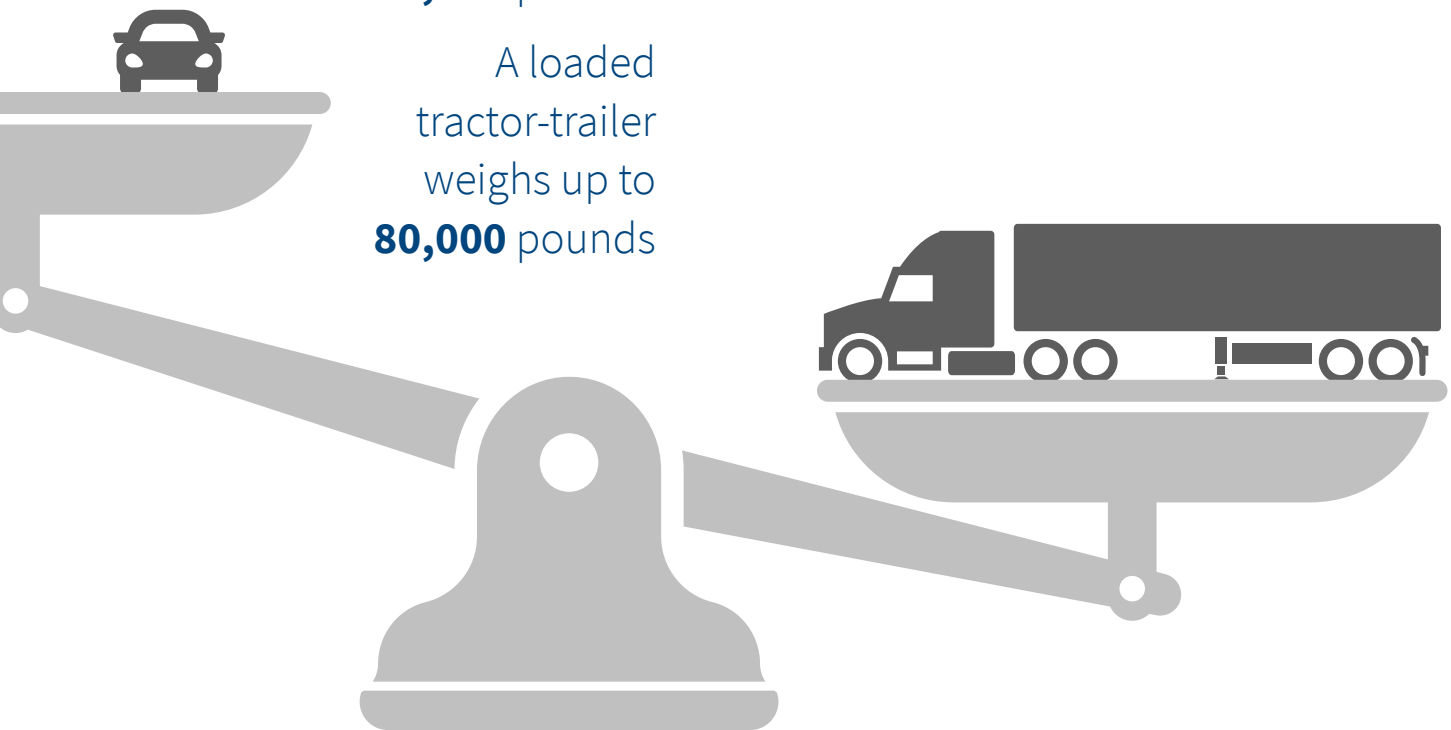
Tractor-trailer drivers are sometimes forced to drive for unreasonably long shifts without rest to boost the company's profits with more deliveries. These drowsy drivers are much more likely to cause a collision on the road. When truck drivers take drugs or supplements – whether legal or illegal – to stay awake, the risk is even greater.

This paper examines some of the common ways the trucking industry bears responsibility for so many life-altering and life-ending crashes.

THIS IS NOT A FAIR FIGHT

An average passenger vehicle weighs **3,000** to **4,000** pounds

A loaded tractor-trailer weighs up to **80,000** pounds



TRUCK ACCIDENTS *by the* NUMBERS

Troubling statistics on crashes involving large trucks

The National Highway Traffic Safety Administration (NHTSA) keeps track of accidents involving large trucks.¹ After three decades of steady decline, truck accidents are trending up again.

4,761 – People killed in truck accidents in the U.S. in 2017²

135,000 – Estimated injuries in truck crashes in 2017

40 percent – Increase in annual truck deaths from 2009 to 2017³

Large trucks are more prone than passenger vehicles to be involved in multiple-vehicle crashes: 80 percent of fatal truck crashes in 2016 involved three or more vehicles.⁴

Why are there so many accidents involving trucks?

The size and weight of big rigs makes it more likely a collision will result in injury or death to the unlucky other driver.

Unfortunately, **public safety is not always top priority** for trucking companies and owners of commercial fleets. Our investigations of truck accidents routinely reveal negligence, illegal practices and even reckless disregard for human life.

Innocent people pay the price – **83 percent of all truck crash fatalities**⁵ are occupants of other vehicles and pedestrians. In collisions between one truck and one car, 98 percent of the deaths are the car occupants.⁶



WHY *do* TRUCK CRASHES HAPPEN?

Contributing factors in serious truck accidents

Congress commissioned the Large Truck Crash Causation Study to identify the main causes and contributing factors in truck accidents.

Sometimes car drivers are to blame. But so often, truck drivers and their employers are ultimately at fault for the root cause of accidents.

How truck drivers are at fault

Drivers of large trucks and other vehicles are ten times more likely to be the cause of crashes than other factors such as weather, road conditions, and vehicle performance according to the landmark study by the Federal Motor Carrier Safety Administration (FMCSA).⁷

The FMCSA determined a *critical reason* for each truck crash. Commercial truck drivers are often overworked, driving rigs in bad shape. In accidents where the truck driver or the truck itself was deemed at fault⁸, this is what went wrong:

- **Decisions** (42 percent) – Speeding or driving too fast for conditions, tailgating or aggressive driving, illegal maneuvers
- **Recognition** (35 percent) – Inattention, lax surveillance, internal or external distractions
- **Performance** (7 percent) – Overcompensation, hesitation
- **Non-Performance** (3 percent) – Sickness, fatigue, falling asleep
- **Vehicle** (8 percent) – Bald tires, worn brakes, broken lights

Researchers also identified *associated factors* such as work pressure, unfamiliarity with the road, overweight cargo, weather conditions, roadway obstacles and interruption of traffic flow.

At HMG, we dig deeper.

We make sure the trucking company conducted mandatory post-accident drug and alcohol tests. One drunk trucker is one too many when you consider the danger it presents to our friends and family on the road.

How employers are to blame

Part of our job is to connect the dots. *Why* was the trucker speeding? To meet a company deadline. *Why* was the driver fatigued? Orders from the boss to “keep on truckin’.” *Why* was the truck in poor working order? Maintenance and repairs are expensive.

SHOULD THAT PERSON *be* DRIVING *a* TRUCK?

Negligent hiring and training of truck drivers

In the golden age of trucking, CB radios and 18-wheeler convoys made it seem like a glamorous job. Now, at a time when more and more goods are delivered by trucks, thousands of older truckers are retiring. And fewer young people are joining the profession – long hours and weeks away from home for mediocre pay is a hard sell.

The transportation industry and big shippers like Amazon and Walmart are finding it harder to hire qualified drivers. As a result, employers often resort to hiring *unqualified* drivers and people of questionable character.

Our investigations of truck crashes sometimes reveal sloppy or shady hiring practices, such as:

- Drivers with a history of accidents
- Numerous traffic violations and trucking citations
- Drivers with criminal convictions or substance addiction
- Failure to conduct background checks
- Expired, suspended or nonexistent commercial driver's licenses (CDLs)

It Will Only Get Worse

The industry reported a nationwide **shortage of 50,000 truck drivers** in 2017, the highest ever, and that figure is projected to *triple* in the next 10 years.

Source: American Trucking Associations (ATA)

SHOULD THAT TRUCK *be on the* ROAD?

Neglected maintenance and unsafe cargo

The federal government regulates freight trucks and cargo. Trucks are subject to periodic inspections. There are rules for distributing and securing freight and special rules for hazardous cargo. Maximum weight restrictions are tested at highway weigh stations.

As lawyers who fight for plaintiffs, we investigate all leads, including the condition of the tractor-trailer and what it was carrying:

- Was the truck in roadworthy condition (tires, brakes, lights)?
- Was the cargo properly secured (doors, tarps, tiedowns)?
- Did the truck tip or jackknife because the freight was loaded poorly?
- Did the driver bypass a mandated weigh station?
- When was the truck last serviced?

AFTER A LONG DECLINE, TRUCK ACCIDENTS ARE RISING

Truck crash fatalities peaked in 1979 at **7,000**

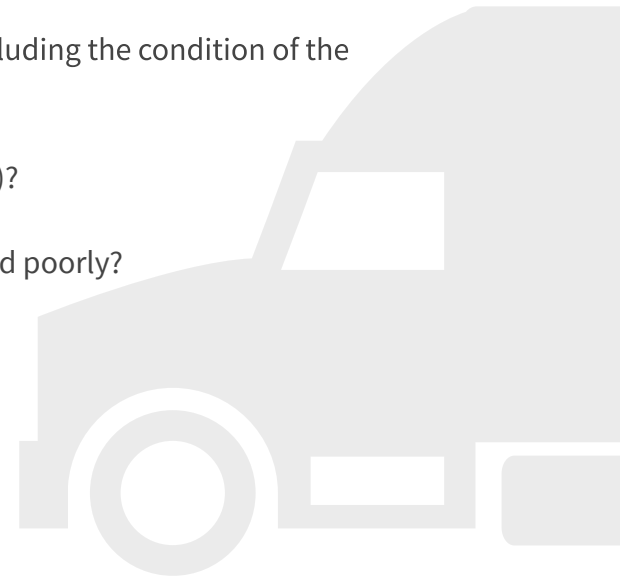
They bottomed out in 2009 at **3,600**

They have risen again to **4,700** in 2017

Source: NHTSA Fatality Analysis Reporting System (FARS) 2017

Over **70 percent of all freight** in the U.S. is transported by trucks.

Source: U.S. Department of Transportation



Identifying the liable parties

In a lawsuit, the shipper or third parties who loaded the freight might be found liable. Likewise, truck mechanics and manufacturers of truck components could be named as parties in the lawsuit if their negligent work or product defects contributed to a crash. In many cases, the tractor (truck cab) and trailer are owned by different entities, and each can be liable.

EMPLOYER PRESSURE *to* BREAK *the* RULES

Drive faster or drive longer

A drowsy truck driver is a disaster waiting to happen. Because of this danger, commercial drivers are strictly governed by federal hours of service regulations.⁹ To prevent dangerous fatigue, truckers:

- May not drive more than 11 total hours in one shift
- Must take a 30-minute break after 8 hours on duty
- Must rest at least 10 hours between shifts
- May not drive more than 60 total hours in a 7-day span

But truckers are notorious for ignoring these regulations. Some keep fake logbooks in case they are pulled over. If they are paid per delivery, paid overtime or earn bonuses for meeting deadlines, cheating the rules pays off.

Often **drivers feel pressured by employers to violate the rules.**

Employers may command their drivers to keep driving beyond the daily limits. Or offer to pay any speeding tickets. Or set unrealistic delivery schedules. Or threaten to withhold pay or assign drivers to undesirable routes.

Driver fatigue is a contributing factor in many truck crashes. A groggy driver has less awareness and slower reaction times, and is more likely to make a grave mistake in a critical situation. That danger is magnified when combined with other risk factors such as speeding or texting while driving, or driving a truck with illegal weight or bad brakes. The stopping distance for an 18-wheeler is 40 percent longer than a passenger car,¹⁰ even under ideal conditions. At 65 mph, it takes a trucker up to 525 feet (including reaction time), to stop the rig, compared to 316 feet for a typical car.

Eye in the sky

As of 2017, federal law requires 18-wheelers and other large trucks to be equipped with electronic logging devices (ELD). This technology makes it harder for truckers and dispatchers to exceed hours of service limits or fudge the logbooks. But is it only a matter of time before hackers find a workaround?



DANGEROUSLY *distracted*

Eyes on the road and hands upon the wheel

It's hard to stay focused when you drive up to 500 miles a day. Like other motorists, truck drivers are tempted by smartphones and other electronic diversions. Truckers have been caught texting, viewing porn and watching full-length movies behind the wheel of a 40-ton rig.

A distracted truck driver is a public menace. Reading or sending a text message diverts a driver's eyes for as much as five seconds – enough time to travel the length of a football field at 55 mph.¹¹

Several states ban truck drivers from using smartphones and other handheld devices behind the wheel. But those laws are routinely ignored by over-the-road truckers.



TIME *is of the* ESSENCE

The urgency of investigating a truck accident

A truck crash is a complex and chaotic scene. Law enforcement and rescue personnel rush to the site, soon followed by tow trucks, news crews and flocks of bystanders.

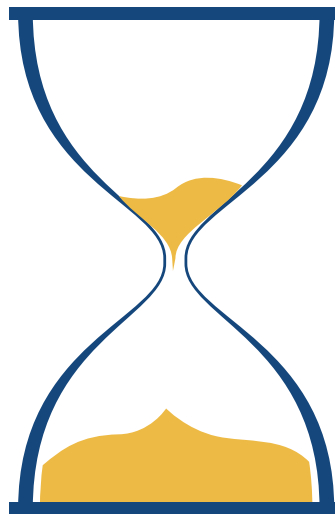
Within hours, the trucking firm and insurance company have their own people on site. Their job is to limit their financial exposure. The bigger the head start they have, the easier it will be to shift the blame and shape the narrative of what happened.



It is critical that we investigate right away. The experienced attorneys of Hilliard Martinez Gonzalez act swiftly in a truck crash case:

- We get an accident reconstructionist on scene as soon as possible to document the skid marks, debris, wreckage and surroundings.
- We diligently locate witnesses while the events are fresh in their mind.
- We seek a court order to prevent the defendant from repairing the truck before it can be inspected.
- We serve notice on the trucking company to preserve evidence – driver’s logs and dispatch records, GPS/ELD data, the truck’s “black box” recorder and any dashcam videos.

Our investigation covers all the bases. The trucker. The truck itself. The transportation firm and any third parties. We know the questions to ask. We know that the defense is working hard to downplay liability. We understand that victims and their families depend on us to seek justice on their behalf.





Renowned Trial Lawyer

ROBERT C. HILLIARD

Robert C. Hilliard has earned a nationwide reputation for his phenomenal success on behalf of personal injury plaintiffs. He has been at the forefront of numerous high-profile cases, taking on major corporations, insurance companies and government entities, including one of the largest product liability suits in U.S. history.

He has practiced law for 35 years and is the founding partner of Hilliard Martinez Gonzales L.L.P. Based in Corpus Christi, Texas, HMG represents clients across the United States in mass torts, personal injury and wrongful death claims, as well as business and commercial litigation. Mr. Hilliard has prevailed on behalf of clients in a wide range of civil cases against Coca-Cola, Major League Baseball, Johnson & Johnson, and the U.S. Border Patrol, to name just a few.

Uniquely Qualified For Trucking Accidents

Robert Hilliard has extensive experience in motor vehicle accident litigation, including headline cases of national importance. He was co-lead counsel in the multidistrict class action against General Motors over faulty ignition switches that were linked to 45 deaths and hundreds of injuries. His powerful advocacy in a case involving sudden unintended acceleration led to the freedom of a Minnesota man who had been wrongfully imprisoned because his out-of-control Toyota caused a fatal crash. Mr. Hilliard then sued Toyota and obtained a \$10 million recovery for all the victims, including the driver.

Texas Super Lawyers magazine dubbed Robert Hilliard the “Bulldog” for his aggressive trial tactics and relentless pursuit of justice. He is board-certified by the Texas Board of Legal Specialization in personal injury and civil trial law. Mr. Hilliard regularly practices before federal courts throughout the country, including successfully arguing a case before the U.S. Supreme Court.





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SOURCES

¹ The NHTSA defines *large truck* as gross vehicle weight (unloaded) over 10,000 pounds. This includes tractor-trailers (18-wheelers) and many commercial vehicles.

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