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## **Trucking Insurance Update**

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## **I. INTRODUCTION**

Truck accidents involve a host of insurance issues that are unique to trucking insurance. Thus whether you represent the injured Plaintiff, the trucking company, the driver or the insurer, you necessarily need to be familiar with some of the commonly encountered industry terms, the ways in which trucking insurance policies are different than many other standard liability policies, and how the policy/coverage may be impacted by the somewhat complex statutory and regulatory schemes governing trucking.

Among the numerous issues more likely to be encountered are the following:

- Drivers that appear to be independent contractors rather than employees of the trucking company but, by statute and case law, may be treated as employees both for liability as well as coverage purposes;
- Federally mandated statutory minimum coverage schemes and endorsements that may trump otherwise clear coverage exclusions or coverage defenses;
- Written lease agreements between “owner-operators” and the trucking company that affect coverage;
- The interplay between a “non-trucking liability” policy and a “trucking liability” policy and issues as to which applies to a particular factual scenario.

This paper will attempt to provide some basic understanding of these and other issues so that a practitioner who may not regularly practice in this area, can at least identify the possible issues that have to then be further explored.

## **II. TERMINOLOGY**

The trucking industry has its own lingo. Understanding what some of the most commonly encountered terms mean is important. Among the most often encountered terms are the following:

- **“Motor Carrier”**—typically means the actual trucking company that has been hired by someone to haul cargo somewhere. Their company logo will typically be displayed somewhere on the truck along with their Dept. of Transportation carrier number. The motor carrier typically will have a Commercial Auto Trucker’s Liability insurance policy covering it and its drivers (who may be employees or, more frequently “owner-operator” drivers that it has contracted with).
- **“Owner-Operator”**—a person who owns and operates his/her own truck, typically just the cab/power unit. The “owner-operator” may act as driver as well or may hire someone

else to drive his truck for him. Some “owner- operators” are independent, meaning that they contract with various “motor carriers” to haul for the “motor carrier”. Other “owner-operators” may only drive for one particular “motor carrier” for months or years at a time, typically under a long term lease arrangement that typically involves a lease of not only the truck itself but also a driver, who may be the “owner-operator” himself or some driver employed by the “owner-operator”. The “owner operator” will typically be covered on the Motor Carrier’s insurance while engaged in the motor carrier’s trucking business. But many owner-operators also carry their own insurance to cover them when they are not so engaged.

- **“Power Unit”**—the actual truck with cab and engine that hooks up to the chassis or trailer to be hauled. Sometimes also referred to as the “tractor”. Will be treated as a “covered auto” on the motor carrier’s insurance policy while it is being used to haul for the motor carrier.
- **“Chassis”**—a trailer pulled by the Power Unit onto which containers of cargo (typically coming off of a ship or train) are then loaded and affixed onto. The Chassis may be owned by the Motor Carrier, the shipper of the cargo, or some third party that leases it to the shipper or motor carrier. May also be considered as its own “covered auto” on the motor carrier’s insurance policy if it is being used to haul container cargo by the motor carrier.
- **“Trailer”**—a large box containing cargo that the Power Unit pulls. May be owned by the shipper or the Motor Carrier. Will typically be treated as a separate “covered auto” on the motor carrier’s insurance policy while being hauled by the motor carrier.
- **“DOT”**—U.S. Dept. of Transportation. It regulates the interstate trucking industry and passes numerous regulations regarding driving times allowed, required equipment and inspections, driver log books, maintenance requirements etc.
- **“Tandem Driving”**—a team of two drivers that make runs together, sometimes married, so that one can take over when the other has driven all of the hours allowed by DOT regulations. Tandem or “team driving” allows long trips to be made without as many sleeping/rest stops required.
- **“Deadheading”**—driving a truck with an empty trailer or chassis attached. This typically occurs when the driver has to go to another location to pick up the load he is to haul but has no load to take to that location or can happen if a truck and empty trailer is just needed at a different terminal due to logistics issues but there is no load to be taken to that location.
- **“Bobtailing”**—a driver, typically an owner-operator, driving just his/her power unit without anything attached to it. Typically occurs when the driver is headed to or from the terminal to pick up or after dropping off his/her load or otherwise is not under dispatch to any motor carrier at the time. Includes times when the driver is driving the power unit to his home at the end of the day as well as numerous other personal uses of the power unit

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