

PRESENTED AT

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**The Ultimate Book on Advanced Trucking
Litigation – From Initial Case Intake through
Successful Appeal**

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John Gsanger has won high-profile jury verdicts and precedent-setting appeals. His nationwide law practice focuses on dangerous products and traffic catastrophes, and John's cases have resulted in recalls of defective tires and dangerous vehicles as well as national news stories to increase awareness of unsafe seatbelts and other hazardous products

John has taught at over 75 legal seminars from coast to coast, and a sample of his presentations and publications from the last few months include *Advanced Voir Dire Course* (2016); *The Discovery and Admissibility of Game-Changing Evidence* (2016); *Screening for Seatbelt and Tire Defect Cases Lurking within Car Crash Cases* (2016); *Reverse Engineering a Product Liability Victory* (2016); *Corporate Venue Shopping under Daimler AG and Goodyear-Dunlop* (2016); *Finding, Documenting, and Preserving Evidence in a Tire Defect Case* (2015); *The Seventh Amendment's Balance between Community-Based Justice and the Appellate Courts* (2015); *How to Screen for Product Liability Defect Cases within Car Crash Cases* (2015); *Responsible Third Party Practice* (2015); *New Personal Jurisdiction Arguments from Foreign and Domestic Manufacturers* (2015); *Road Construction Defect Litigation in Isolation and in Context* (2015).

John currently serves as an oversight member and contributing author of the Texas Pattern Jury Charge Committee, and he is double board certified in both personal injury trial law and civil appellate law, is a member of the College of the State Bar of Texas, has the highest rating for ethics and legal abilities from Martindale-Hubbell, and has been selected as a *Texas Monthly* magazine Super Lawyer and Top Attorney in Texas.

John received his law degree from University of Texas School of Law, where he was editor-in-chief of the *Review of Litigation*, editor of the American Law Institute's *Symposium on Complex Litigation*, and president of the University Civil Liberties Union. He went on to study comparative law at the Queen Mary and Westfield College, University of London, and to serve as an attorney with Youngstein & Gould in London, England. John also worked as a briefing intern with Justice (now Senator) John Cornyn at the Texas Supreme Court.

John Gsanger has been honored as Boss of the Year by the Corpus Christi Association of Legal Professionals, with the John Howie Mentorship Award from the Texas Trial Lawyers Association, and with the Judge Paul W. Nye Professionalism Award from the Corpus Christi Bar Association. He is married to appellate guru Cecile Gsanger, and they have three children: Reilly, Jack, and Finn.

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I. Critical Preliminary Matters

Whether you represent the potential claimant or the likely defendant, whenever you review a truck crash, begin your evaluation with a clear focus on the evidence which you may ultimately need to pursue or defend any potential claims and to retain any successful judgment through appeal.

A. Preserve the Truck and Target Vehicle

Loss of the truck, the trailer, the target vehicle, the electronic data, or the ephemeral scene evidence complicates the case so take immediate steps to have the vehicles secured and stored, preferably in a covered warehouse.

As with other evidence, a chain of custody will likely have to be established at trial so obtain the necessary affidavits of the custodians for the vehicle at each stage in the vehicle's transfer from the wreck to the warehouse. In cases where parts of the vehicle (including glass fragments) or vehicle's tires (including detached tread pieces) have separated from the vehicle at the crash scene, these detached parts should be gathered after their location at the scene had been recorded if possible.

It is also very useful to record the state of the vehicles after the crash.

Whenever possible, record all the points of contact between vehicles (such as dents or rubber and paint transfer marks) and between either vehicle and the roadway or off road terrain (such as crushing deformation and scratch patterns in different directions, noting which scratch patterns overlay different scratches from earlier vehicle to road contacts).



For all the vehicles involved in the crash, note the direction of travel prior to the crash, the location of occupants, the license plate numbers, VIN numbers, model and make, model year, title history if available, any information about the dealership which sold the vehicle, the size and condition of the vehicles' tires, the gross vehicle weight posted on the Safety Compliance Certification Label, and the cargo that was being transported.

Record the evidence regarding the occupants' use of the restraint systems as well as any other evidence of the occupants' interactions with the vehicle which leave marks (such as occupant contact with the glass, mirrors, headliner, roof rails, pillars, doors, floorboards, dash, steering wheel, seats, armrests, air bags, and cargo).

B. Preserve the Truck Crash Scene and Public Investigations

Evidence of tire marks, debris, road scrapes, vehicular fluid spills, biological matter, and tracks in the dirt or vegetation indicating the vehicle's path of motion can be transitory in nature and will not always survive the weather and road work. Such evidence at the crash scene can be preserved by photographs, videotape, measurements, paint, and stakes (or PK nails) in the ground.



Photographs and videotapes are most useful when they incorporate a road sign or other stationary fixture or feature of the roadway or terrain for reference, and for pictures with a tighter focus, a ruler or tape measure placed near the item depicted is useful to establish scale.

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