MARSH

TRANSPORTATION MARKET TRENDS AND FORECAST | Q3 2018 UPDATE

The Road Ahead

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TRANSPORTATION MARKET TRENDS AND FORECAST | Q3 2018 UPDATE

The Road Ahead

CONTENTS

Insurance Market Conditions

Coverage	Segment	Rate Change Q3 2017	Rate Change Q3 2018
Property	Cargo Liability	Flat to 10% decrease	Flat to 5% decrease
	Shippers Interest	Flat to 10% decrease	Flat to 5% decrease
	All Risk Property	Flat to 10% decrease	5% increase to 1% decrease
	Moderate & High CAT	2% to 12% decrease	Average 4% to 5% increase
Primary Casualty	Loss Sensitive	GL – Flat to 5% decrease	GL – Flat to 3% decrease
		AL – Flat to 5% increase	AL – 5% to 12% increase
	Guaranteed Cost	GL – Flat to 2% decrease	GL – Flat
		AL – 5% to 15% increase	AL – 10% to 15% increase
Excess Casualty	Large Organizations (Fleet Size >750 power units)	>$50 million layer – 10% decrease to 5% increase	>$50 million layer – Flat to 5% increase
		$25 million to $50 million layer – 5% to 10% increase	$25 million to $50 million layer – 10% to 15% increase
		Lead Umbrella – 5% to 15% increase	Lead Umbrella – 5% to 15% increase
		Auto Buffer – 5% to 15% increase	Auto Buffer – 5% to10% increase
	Midsize Organizations (Fleet Size <750 power units)	5% to 15% increase x/s $10 million	>$10 million – 10% to 15% increase
		Auto Buffer 5% to 15% increase	Auto Buffer – 5% to 15% increase
Workers' Compensation	Guaranteed Cost	5% to 10% increase	Flat to 6% decrease
	Loss Sensitive	Flat to 5% increase	Flat to 4% decrease

Market Commentary

Average commercial insurance pricing increases for the third consecutive quarter.

Although overall average insurance pricing may have modestly increased, the transportation industry and companies with a large fleet exposure are again experiencing more extreme pricing increases due to the poor results in the commercial auto insurance sector, where combined ratios exceeded 110% in 2017. Despite a three-year trend in premium rate increases, recent loss development continues to outpace historic trends as insurers continue to pay out greater amounts of claims than premiums earned. An increased severity trend is also affecting buffer and excess markets, as the frequency of severity climbs along with the medical inflation. So-called "nuclear" verdicts (i.e. amounts >$10M with little rationale as to how the amount was derived) are back in the headlines after a short reprieve in 2016. Motor vehicle claims accounted for the second-highest total awarded values for the National Law Journal's Top 100 Verdict Report in 2017 — 19 verdicts totaling $886 million (third-highest was medical malpractice, totaling $336 million).

Property

Following Hurricanes Harvey ($17 billion), Irma ($28 billion), and Maria ($28 billion), as well as the California wildfires ($13 billion), the US property market suffered one of the worst years on record. Current US insured CAT loss estimates for 2017 totaled approximately $88 billion (excluding the NFIP) and approximately $114 billion globally. Damages from Michael and Florence are yet to be totaled, but CAT events are affecting CAT-exposed clients at renewal. Property market rate reductions had been the norm over the past three to four years; but with the 2017 CAT losses, 2018 has seen rates begin to flatten and firm with 53% of companies experiencing rate increases between 1% to 10% and 16% of companies remaining flat.

Casualty

As noted above, the commercial auto market continues to struggle for both non-trucking and trucking risks, with insurers reporting an average 110% combined ratios for this segment. Average rate increases on primary auto liability renewals in Q3 ranged from 4.4% to 6.1% across large accounts and the middle market. Conversely, both general liability and workers' compensation lines experienced decreasing rates for the same period.

FIGURE 1

US Deductible Clients with Rate Changes — Ranges

SOURCE: MARSH

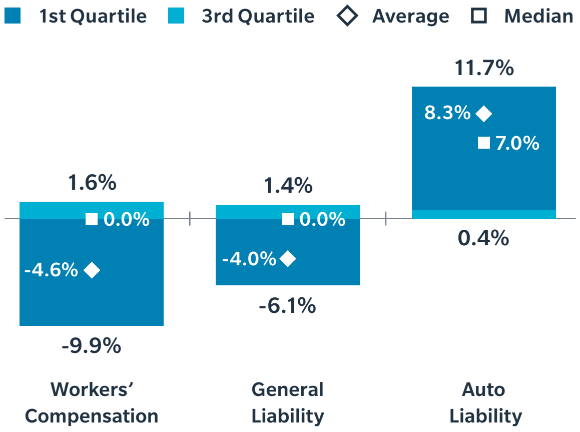


FIGURE 2

Percent of US Deductible Clients with Rate Changes

SOURCE: MARSH

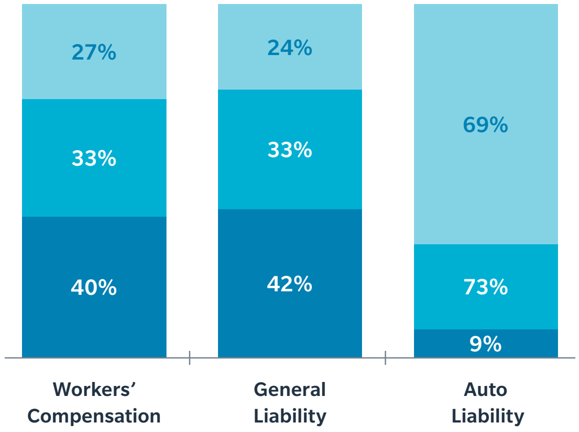
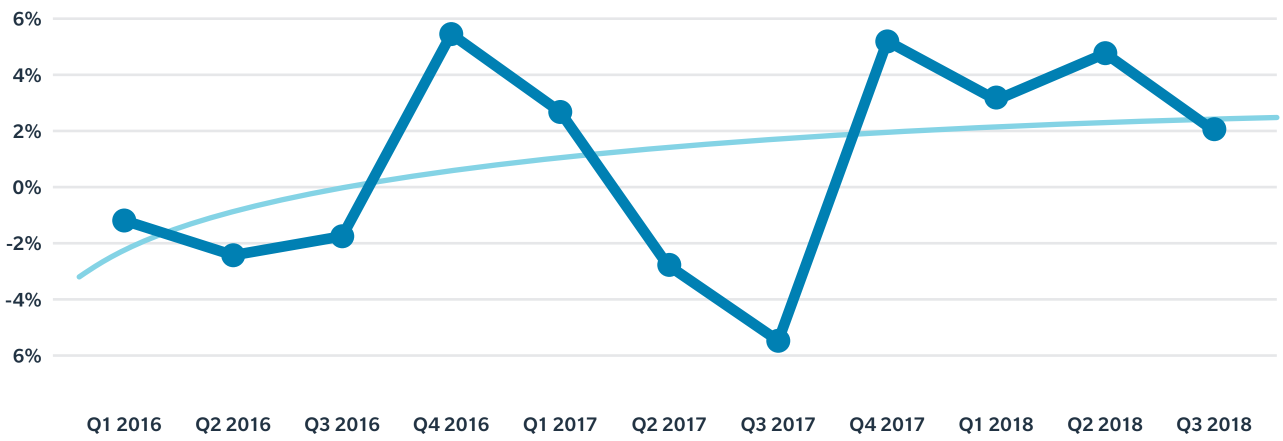


FIGURE 3

Quarterly Contract Rate Changes for Umbrella/Excess Liability

SOURCE: MARSH PLACEMENT DATA CAPTURE SYSTEMS



According to A.M. Best, rate increases continue to lag behind prior-year actuarial development. A.M. Best's outlook for commercial insurance is negative overall. Many insurance CEOs are anticipating continued market hardening in the commercial auto segment throughout the fourth quarter of 2018 and into 2019 in order to achieve adequate rate for anticipated losses and prior year development.

Within the buffer and lead umbrella layers, new capacity is slowly entering the Bermuda and Dublin-London markets looking for opportunities to take advantage of higher rates than those for non-trucking risks, which have been in a prolonged soft cycle. Bermuda markets will attach as low as $5 million and offer capacity from $5 million to $10 million, with more capacity available excess $25 million. Bowring Dublin-London has pressed traditional excess markets to offer competitive capacity below $25 million as well as to identify new capacity to enter the buffer and lead umbrella space.

Structured risk programs can provide an alternative solution for lead/buffer layers where the traditional market pricing is not in line with pricing expectations or where claim volatility makes such programs untenable. These programs typically incorporate an element of loss funding and aggregated risk transfer over a multiyear term.

Integrated risk programs can provide an alternative to traditional umbrella/mid-excess programs. These programs can combine multiple lines of coverage with a shared limit over a multiyear term, the key benefits of which are creating efficiencies by avoiding minimum capital charges inherent in monoline programs as well as a noncancellable policy with fixed rates.

The American Transportation Research Institute (ATRI) conducts an annual survey on the operational costs of trucking. The ATRI data reflects responses from for-hire motor carriers representing 178,926 truck-tractors, 4,773 straight trucks, and 360,434 total trailers, which together accumulated more than 9.4 billion miles in 2017 across a variety of industry segments and fleet sizes. Units split between truckload (43%), less-than-truckload (36%), and specialized (flatbed, tanker, expedited/parcel) (21%) segments. The survey captures both vehicle-based and driver-based costs and includes within the vehicle-based costs insurance costs associated with truck liability insurance, which comprise both direct risk-transfer costs and self-insured program costs.

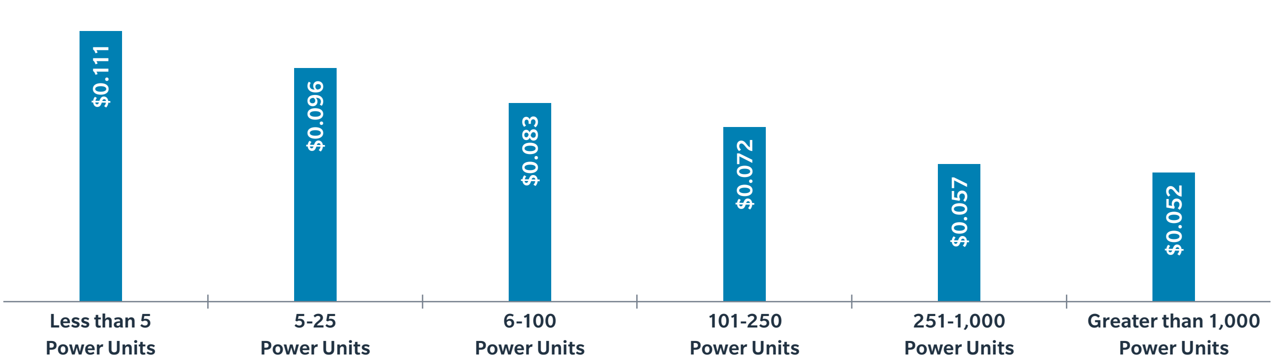
The ATRI survey noted that overall costs incurred by motor carriers were up for nearly every major cost center in 2017, resulting in the average cost per mile increasing more than 6% to $1.691, with driver wage and benefits accounting for $.729 per mile or $28.75 hourly, more than a 17% increase and accounting for 44% of the overall operational cost. The 2018 survey identified no year-over-year increase in truck insurance cost, following a 1% increase in 2017, a 29% increase in 2016 and an 11% increase in the 2015 survey, which was relatively consistent with Marsh's internal rate data for 2017. The median rate change for deductible programs over the four quarters was 0%. The year 2018 is telling a different story, with median rates increasing nearly 8% thus far for primary auto, and excess placements increasing by nearly 12% in Q4 2017. Although the year-over-year cost remained flat, the survey does note that motor carriers are offsetting increased rates by taking increased deductibles/retentions.

Further, the ATRI survey noted that commercial truck insurance premiums held steady at 7.5 cents per mile, on average, in 2017. These costs were substantially higher for carriers in the "Other"

FIGURE 4

Respondent Truck Insurance Premium Costs per Mile by Fleet Size

SOURCE: ATRI (AMERICAN TRANSPORTATION RESEARCH INSTITUTE)



category, which reported an average of 8.8 cents per mile in 2017. Costs in the diverse “Other” category reflect the higher insurance rates associated with Specialized – Oversize/Overweight (OS/OW) and Tanker carriers. Meanwhile, Truckload and Less-Than-Truckload (LTL) carriers reported average insurance premium costs per mile of 7 cents and 7.3 cents, respectively. Insurance costs per mile also varied based on size of fleet, with larger fleets capitalizing on their balance sheets and appetite for risk retention to pay the least, compared to small fleets reliant on traditional risk transfer products, as noted in the following exhibit within the ATRI report.

On a regional basis, the Southeast reported the lowest insurance CPM at $.061 followed by the other regions: Southwest ($.064); Northeast ($.071); Midwest ($.077); and West ($.078).

The underwriting environment within the transportation space has evolved quickly, with considerably more rigor around data and due diligence with respect to the company’s operations. Underwriters are focused on multiple facets of operations, including investments in advanced collision mitigation technology, telematics/camera systems, critical events reporting, hiring/training protocols, safety management, and claims administration. Other key underwriting data focuses on nature of operations, driver demographics, training, safety, recruitment, and measuring-monitoring of driver performance using event data collected through on-board technologies. Underwriters in the lower portions of the program are deferring to actuaries to develop pricing that will generally factor in a minimum of 10% to 12% year-over-year growth in claim cost development. A key differentiator for transportation clients will be to provide detailed loss data, including claim triangles to demonstrate that their individual claim growth is better than that of the industry.

When developing a submission, it is critical for transportation clients to provide detailed information on safety programs and claims management. Although underwriters understand the benefits of advanced technology in vehicles, it is important to detail how these technologies are used to coach and train drivers as well as develop advanced analytical tools to identify at-risk behaviors.

Truck Brokerage

The truck brokerage space experienced significant increases in negligent hiring claims following the mandate in 2010 for the Federal Motor Carrier Safety Administration (FMCSA) to publish the Compliance, Safety, and Accountability (CSA) Behavior Analysis Safety Improvement Categories (BASIC) scores. Plaintiff attorneys would attempt to join a truck broker as a defendant in a lawsuit against a motor carrier to deepen the pool of potentially available insurance, as most motor carriers carry only $1 million in coverage. The plaintiff’s attorney would argue that a truck broker/freight forwarder should have conducted further due diligence where a contracted motor carrier’s BASIC score exceeded the threshold, despite the FMCSA’s disclaimer that it not be used in that manner. Many truck brokers and freight forwarders lobbied Congress to establish a national hiring standard that would shield them from liability so long as they contracted with an authorized motor carrier that carried valid insurance. Although the hiring standard did not make it into the final transportation funding bill (FAST Act), Congress did require the FMCSA to remove all CSA BASIC scores from public view as a compromise.

Due to the increase in litigation arising from truck brokerage operations, many primary insurers continue to exclude truck broker liability from automobile coverage and to restrict coverage under the contractual liability coverage grant in the general liability policy. When evaluating the appropriate coverage for this risk, it is important to distinguish between brokerage liability and contingent auto coverage. There can be material differences in these forms of coverage that, if not properly understood, could lead to considerable coverage gaps. Contingent auto coverage tends to be a more restrictive form of coverage that applies only in the event that the motor carrier’s policy does not apply, but only within specific parameters, and is not excess over the motor carrier’s policy. A brokerage liability policy typically covers the broker whether or not the motor carrier’s policy responds or whether the motor carrier is named in the suit and typically would be excess over a motor carrier’s policy.

Insurance options for stand-alone brokerage/contingent coverage remain limited; however, freight brokerage liability (FBL) programs have grown in recent years. The FBL program offers a comprehensive solution generally providing coverage for third-party liability, contingent cargo, primary cargo, E&O, and warehousing risks. These programs are designed to cover asset light and non-asset logistics, freight brokerage, and freight forwarding operations; they do not support asset operations requiring MCS-90 filings.

Risk Trends

ATRI identified the top research priorities of 2018 as:

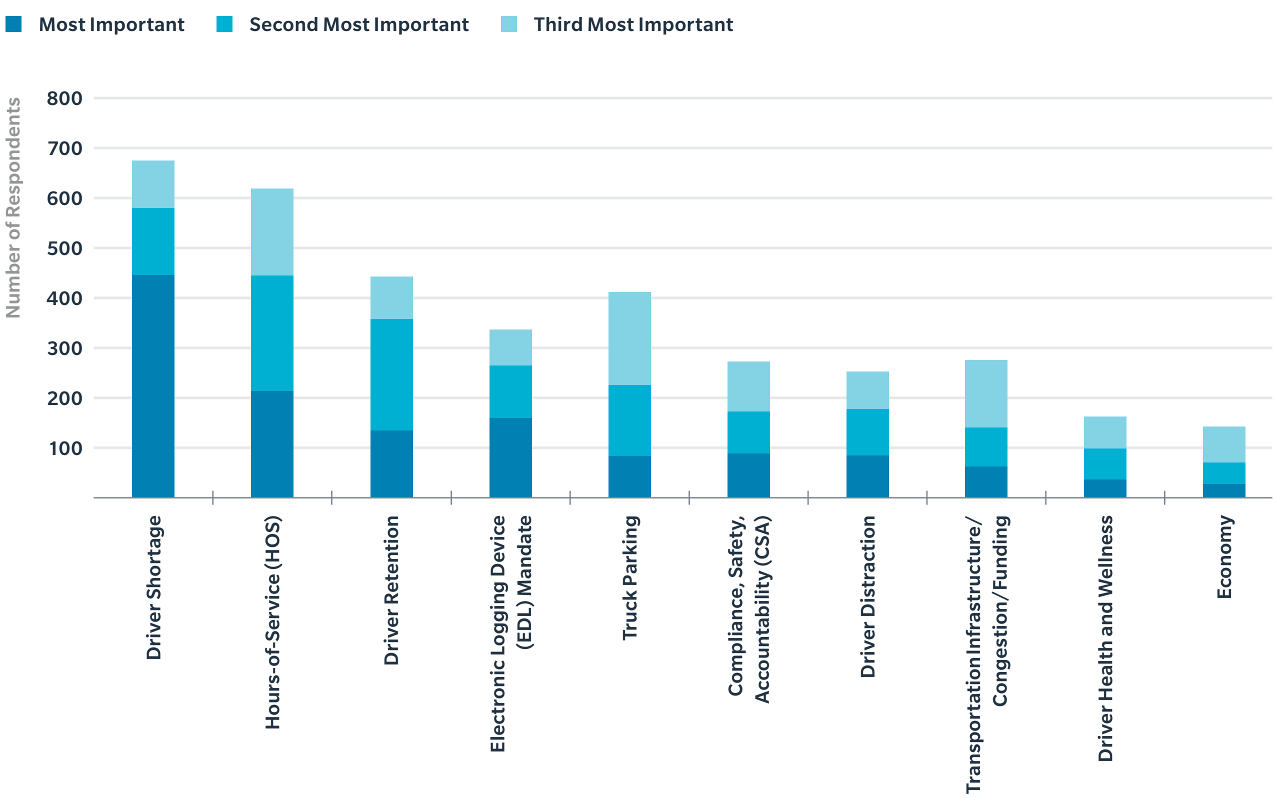
1. Urban planning and smart city design for trucks.
2. Assessment of the consistency and accuracy of commercial motor vehicle (CMV) crash data.
3. Role and impact of government regulations on autonomous vehicles.
4. Inconsistencies in commercial driver's license (CDL) testing from across the states — identification of best practices for testing requirements.
5. Autonomous impacts on the truck driver.
6. Best practices for cannabis intoxication testing.

ATRI surveys motor carriers annually to determine the most critical issues facing the industry. This year's survey generated 1,539 responses. Respondents represented industry stakeholders across North America, including the US, Canada, and Mexico. A majority of respondents were motor carriers (47.5%), with commercial drivers making up 41.3% of the respondent pool, and other industry stakeholders accounting for 11.2%. ATRI recently released the "Top 10 Critical Issues of 2018," which resulted in the following:

FIGURE 5

Distribution of Industry Issue Prioritization Scores

SOURCE: ATRI (AMERICAN TRANSPORTATION RESEARCH INSTITUTE)



The report breaks down the specific issues as well as providing potential solutions.

ATRI also looked at emerging issues based on the survey feedback; and highway safety and crash reduction, tort reform, and autonomous vehicles ranked high.

Commercial drivers were also surveyed, and ATRI provided a comparison of the top 10 trending industry issues between drivers and motor carriers.

FIGURE 6

Commercial Drivers and Motor Carrier Issues

SOURCE: ATRI (AMERICAN TRANSPORTATION RESEARCH INSTITUTE)

Rank	Commercial Drivers	Motor Carriers
1	Hours-of-Service (HOS)	Driver Shortage
2	Truck Parking	Driver Retention
3	Electron Logging Device (ELD) Mandate	Hours-of-Service (HOS)
4	Driver Distraction	Transportation Infrastructure Congestion/Funding
5	Driver Retention	Electron Logging Device (ELD) Mandate
6	Compliance, Safety, Accountability (CSA)	Compliance, Safety, Accountability (CSA)
7	Driver Health and Wellness	Driver Distraction
8	Transportation Infrastructure Congestion/Funding	Tort Reform
9	Driver Shortage	Truck Parking
10	Automated Truck Technology	Federal Preemption of State Regulation of Interstate Trucking (F4A)

Traffic Deaths Down in 2017

Statistics from the National Highway Traffic Safety Administration show a 1.8% decrease in traffic deaths from 2016 to 2017 overall; however, crashes involving large trucks were up 9%, with the largest increase coming from straight trucks at nearly 19% versus tractor-trailer at nearly 6%. Large truck occupant fatalities were also up 16% versus 2016.

FIGURE 7

People Killed in Crashes Involving Large Trucks*, 2016–2017

SOURCE: FATALITIES—FARS 2016 FINAL FILE, 2017 ARF

Person Type		**2016**	**2017**	**Change**	**% Change**
Occupants of Large Trucks	Single Vehicle	458	498	+40	+8.7%
	Multiple Vehicle	267	343	+76	+28.5%
	Total	725	841	+116	+16.0%
Other People	Other Vehicle Occupant	3,170	3,450	+280	+8.8%
	Nonoccupant	474	470	-4	-0.8%
	Total	3,644	3,920	+276	+7.6%
Total		**4,369**	**4,761**	**+392**	**+9.0%**

* *A large truck is defined as any medium or heavy truck, excluding buses and motor homes, with a gross vehicle weight rated greater than 10,000 pounds. (Includes commercial and non-commercial vehicles.)*

Regulation and Industry Trends

US Department of Transportation — Automated Vehicle Activities

The US Department of Transportation has prepared its latest draft framework on autonomous vehicles, which is currently available for public comment. This is the third such framework that the DOT has prepared.

FMCSA Finalizes Insulin-Treated Diabetes Rule

On September 19, 2018, the FMCSA published a final rule that will allow individuals with properly managed insulin-treated diabetes mellitus (ITDM) to operate commercial motor vehicles. Currently, individuals with ITDM are prohibited from driving CMVs in interstate commerce unless they obtained an exemption from FMCSA. This rule enables a certified medical examiner (ME) to grant an ITDM individual a Medical Examiner's Certificate for up to a maximum of 12 months. The health care professional who manages and prescribes insulin for the treatment of the individual's diabetes provides the ITDM Assessment Form to the certified ME indicating that the individual maintains a stable insulin regimen and proper control of his or her diabetes. The certified ME then determines that the individual meets the FMCSA's physical qualification standards and can operate CMVs in interstate commerce.

FMCSA — Entry-Level Driver Training (ELDT) Rule

In December 2016, the FMCSA published the final rule for the minimum training requirements for entry-level commercial motor vehicle operators. This final rule established new training standards for individuals applying for a Class A or B commercial driver's license (CDL) for the first time and also has an impact on those drivers who are upgrading their CDL from a Class B to a Class A or who are seeking to add the hazardous materials (H), passenger (P), or school bus (S) endorsement for the first time. The rule does not apply to individuals for whom states have waived the CDL skills test under 49 CFR §383. The ELDT rule will be implemented on February 7, 2020. Individuals who obtain a commercial learner's permit (CLP) on or after this date will have to satisfy the applicable requirements.

Four Common Electronic Logging Device (ELD) Mistakes

Four errors commonly occur with drivers and their ELD operation. Taking a few moments to address these issues with the drivers will likely assist in reducing the number of violations that a company receives:

- Make sure the driver knows if his or her device is an ELD or an automatic on-board recording device (AOBRD).
- Verify that the driver has access logs from seven previous days as well as the current day.
- Confirm that the driver can transfer the information to the inspecting officer.
- Ensure that the driver knows how to operate his or her device. Address unassigned miles or personnel conveyance on a daily basis.

JBS Carriers Sued by EEOC for Alleged Disability Discrimination

The EEOC has charged a trucking company for allegedly improperly screening out applicants on the basis of disabilities. Medical examinations and/or functionality tests are not illegal, but they do need to meet certain criteria.

Driver Shortage — Churn on Pace to Reach Highest Annual Rate in Five Years

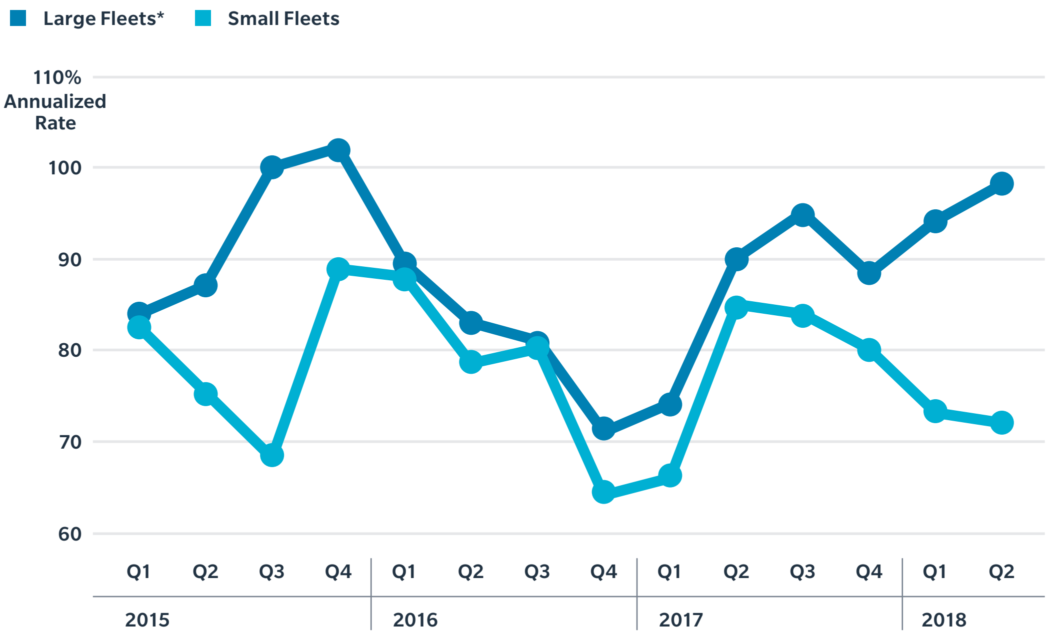
Driver shortage continues to be the transportation industry's most pressing challenge. The average cost to recruit and train drivers runs between $5,000 and $10,000. Given that expense, it is critical for companies to find ways to retain drivers.

Marsh Risk Consulting can offer a proprietary product to help transportation industry companies recruit and retain their drivers.

FIGURE 9

Truckload Fleet Driver Turnover

SOURCE: AMERICAN TRUCKING ASSOCIATIONS



* *$30 million or more in annual revenue.*

Distracted Driving — An Overlooked Safety Threat

Distracted driving continues to be "the most significant danger on the road," according to a recent AAA study, which found that 88% of drivers believe distracted driving is on the rise. This tops concerns about aggressive driving by 20%, drugged driving by 33%, and drunk driving by 45%. In addition:

- 49% of drivers report that they are using their cell phones while driving.
- Nearly 35% have sent a text or email.
- 58% of drivers say talking on a cellphone behind the wheel is a very serious threat to their personal safety.
- 78% believe that texting is a significant danger.
- Drivers talking on a cellphone are up to four times as likely to crash while those who text are up to eight times as likely to be involved in a crash.

Marsh Risk Consulting's PACE behavior driving can assist clients with combating distracted driving in their organizations.

Independent Contractors

The California courts are again narrowly defining independent contractor status in the state. As reported in a Scopelitis law alert, on April 30, 2018, the California Supreme Court issued its long-awaited decision in *Dynamex Operations West Inc. v. Superior Court* addressing the standard for determining whether workers are employees or independent contractors under California's wage and hour laws. As has been widely reported, the Court held that workers are employees under California's Industrial Welfare Commission (IWC) wage orders (Wage Order No. 9 covers transportation employees) if an employer "suffers or permits" them to work, and that this open-ended standard should be analyzed under the similarly broad ABC test employed in some jurisdictions. While the "suffer or permit" language is found in an IWC order, the Court's adoption and interpretation of the ABC test is premised expressly and exclusively on the Court's belief that California public policy favors the classification of most workers as employees.

Litigation

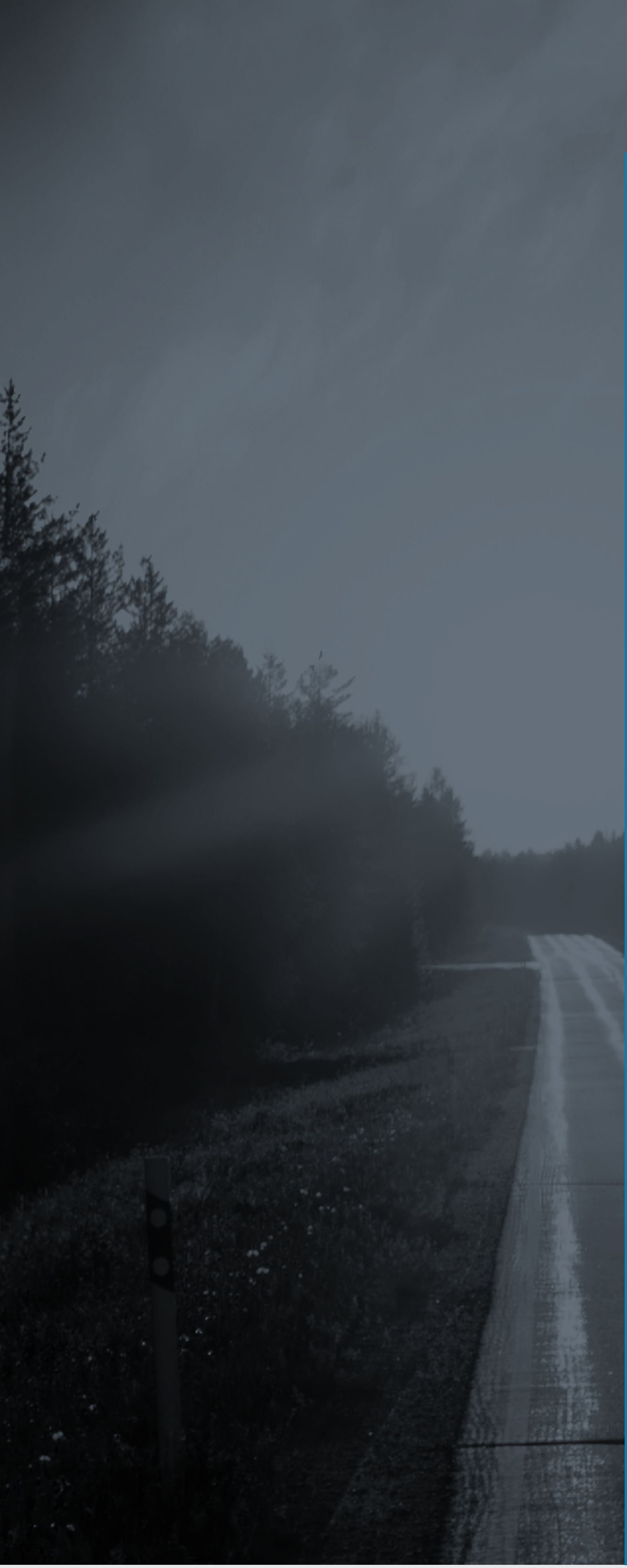
- Motor vehicle claims accounted for the second-highest total awarded values for the National Law Journal's Top 100 Verdict Report in 2017 — 19 verdicts totaling $886 million (the third highest was medical malpractice totaling $336 million) - reversing the 2016 decline in verdict generators.
- Negligent hiring and the use of "reptile theory" continue to be leading allegations and strategies used by plaintiff attorneys where so-called "nuclear" verdicts are awarded.
- California, Florida, New York, and Texas lead the nation in the area of nuclear verdicts, with Florida taking the top spot in 2017.
- Data produced by Westlaw's Case Evaluator provides median plaintiff verdicts by type (published in a white paper by Bryant Walker Smith, Automated Driving & Product Liability: Michigan State Law Review):
  - Death: $2 million
  - Paraplegia: $9 million
  - Quadriplegia: $15 million
- Common elements:
  - Serious trauma
  - Small town venue with local attorney respected in community
  - Bias against trucking industry
  - Judicial hellholes
  - Liberal trial judges (anything admissible)/sympathetic jury (entitlement mentality)
  - Plaintiff "Hollywood production" vs. carrier panel counsel
  - Systemic shortcuts/driver misconduct (company knew what was going on) – jury will want to punish
  - Safety reporting into operations — where are the priorities
- Plaintiff's counsel will look closely at safety policy, training, and use of technology in an effort to establish a motor carrier's' (MC) disregard of public safety and will focus on how MC followed safety policy. *Important note: Written policies should be followed and enforced. MCs should reassess all written policies and procedures to ensure compliance is reasonable; otherwise, they should consider changing them.*

Large Trucking Verdicts

Year	State	Verdict	Summary
2018	Texas	$101 million	Truck rear-ended car; negligent hiring
2018	Texas	$90 million	Pick-up lost control, crossing median into path of truck
2017	Florida	$45 million	Truck delivering construction barriers was blocking freeway when vehicle struck truck
2017	Texas	$40 million	Bicyclist ran into back of trailer parked on road
2017	Illinois	$54.2 million	Truck rear-ended car in chain reaction multivehicle accident
2015	New Jersey	$100 million+ (sealed settlement)	Truck rear-ended van
2011	New Mexico	$165 million	Truck collided with vehicle on shoulder
2011		$157 million	Multi-fatalities
2015	California	$36 million	Loss of lower leg when truck jumped curb making a turn
2015	Arizona	$19.3 million	Wrongful death when vehicle collided with a truck parked off highway in desert
2013	California	$178 million	Wrongful death when vehicle collided with truck parked off freeway
2013	New Mexico	$58.5 million	Wrongful death when tank truck turned into oncoming traffic
2013	Louisiana	$90 million	Wrongful death when truck rear ended disabled vehicle in travel lane
2013	Texas	$281 million	Includes $100M punitive damages for wrongful death verdict when truck's drive shaft broke off, striking driver in following vehicle
2013	California	$34.9 million	MC went over center line into oncoming vehicle, causing fatality
2012	Illinois	$27 million	MC hit vehicle causing paralysis to driver; shipper also liable and broker settled for $1M
2012	California	$36 million	MC changed lanes causing accident; claimant alleged paralysis but video showed none
2012	California	$20 million+	MC ran intersection when blacked out, traumatic brain injury
2012		$35 million	Truck hit and injured cyclist
2011	Virginia	$23 million	Vehicle collided with MC, amputation
2012	Louisiana	$117 million	Wrongful death ambulance rear-ended Truck pregnant woman traumatic brain injury
2012	Georgia	$40 million	Truck ran stop sign, two fatalities
2011	New York	$41 million	Struck pedestrian traumatic brain injury
2011	Ohio	$41 million	Multi-vehicle collision triggered by truck, with one fatality and one traumatic brain injury
2009	Illinois	$24 million	Illinois Supreme Court Verdict Truck brokerage claim
2009	California	$150 million	Jury award to survivor of vehicle rear-ended by a truck resulting in three fatalities

Large Passenger Transit Accidents

Year	Company		
2017	Best Transit Corp.	21 injuries	$33.5 million
2017	Ely Public School District	2 injuries	$29 million
2017	American Taxi	1 injury	$154.4 million
1989	Valley Coca-Cola Bottling Co.	49 injuries / 29 fatalities	$153 million
2005	Autobuses Los Paisanos	5 injuries / 2 fatalities	$132 million
2002	Rockmore Discovery Coaches & Tours	17 injuries / 4 fatalities	$87.1 million
2005	Coach Canada	19 injuries / 4 fatalities	$39 million
1998	Laidlaw Transit	3 injuries / 1 fatality	$35.1 million
2013	Greyhound Lines	16 injuries / 1 fatality	$32.1 million
2007	Bluffton University	29 injuries / 5 fatalities	$25 million
2005	Cusa FL, LLC	1 injury	$19 million
2005	New York City Transit Authority	1 fatality	$18.5 million
2013	Horizon Coach Lines	1 fatality	$18 million



ABOUT MARSH

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