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# Nuclear Verdicts: How to Protect Your Organization from Catastrophic Jury Awards

TUESDAY

FEBRUARY 10

11AM-12PM CST



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# Before We Begin

- All attendees are in “LISTEN ONLY” mode.
- You can type in questions by using the question mark icon located on the top right portion of your screen.
- Q&A at the end of the webinar.
- Additional questions can be emailed to: [ARathje@cbcclaims.com](mailto:ARathje@cbcclaims.com) or [JGoodall@cbcclaims.com](mailto:JGoodall@cbcclaims.com)
- A recorded copy of the webinar and slides will be made available to all attendees.



# Today's Agenda

1

**State of the Issue:** The Rise of Nuclear Verdicts

2

**Taking Back Control:** 3 Areas of Focus

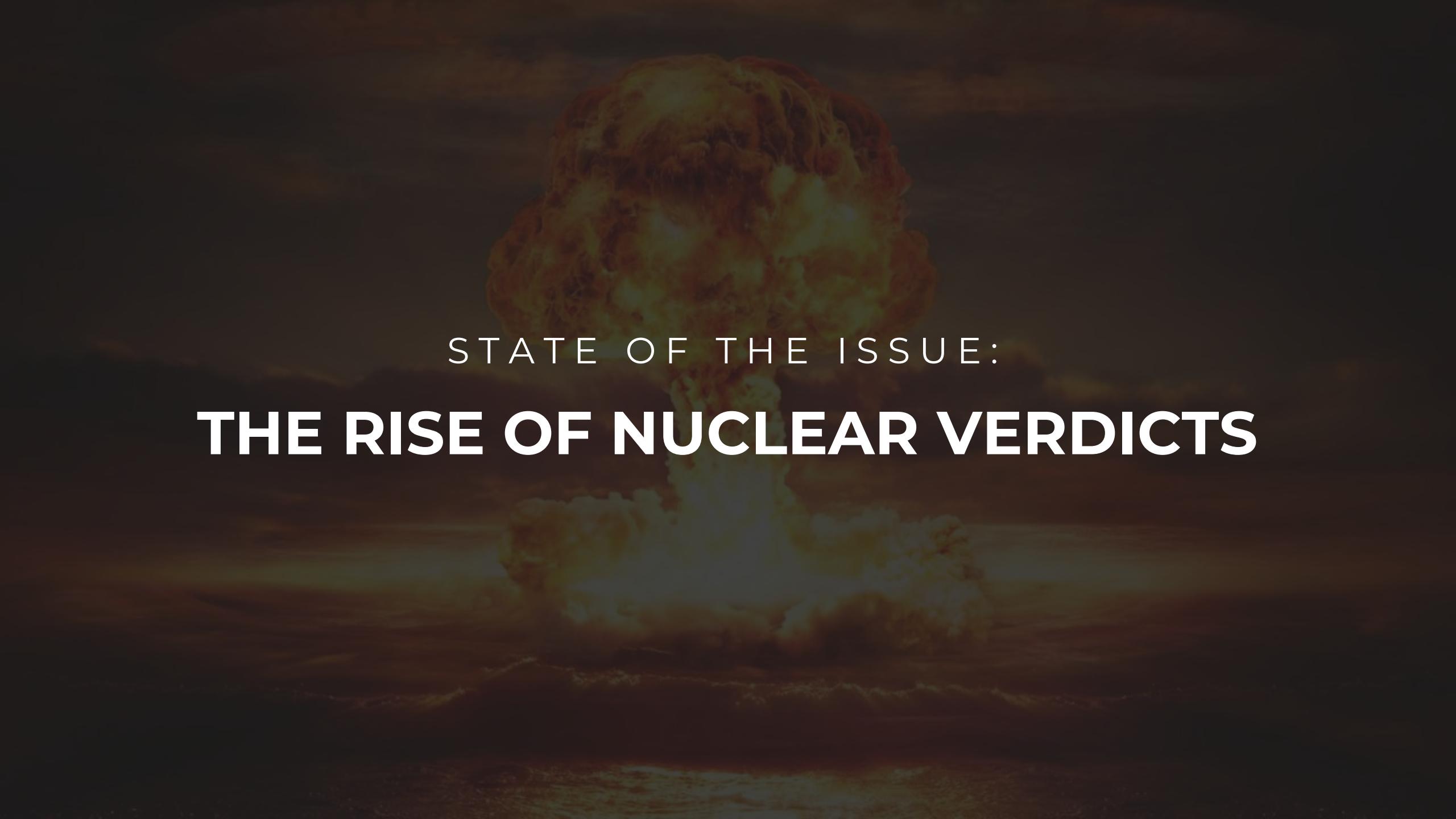
3

**Key Claims Strategies:** 4 Strategies to Deploy & Case Studies

4

**Bringing it Together:** Our Clients & Our Team





STATE OF THE ISSUE:  
**THE RISE OF NUCLEAR VERDICTS**

# Why Does It Matter?

**“**The **Commercial Auto industry** in the United States is the **lifeblood of the nation’s economy**. Over three-quarters of American communities depend exclusively on trucks to meet their freight transportation demands, which is not surprising since **trucks move roughly 72 percent of U.S. domestic tonnage shipped.** **”**

- U.S. Census Bureau, Commodity Flow Survey, 2017

## THE BOTTOM LINE:

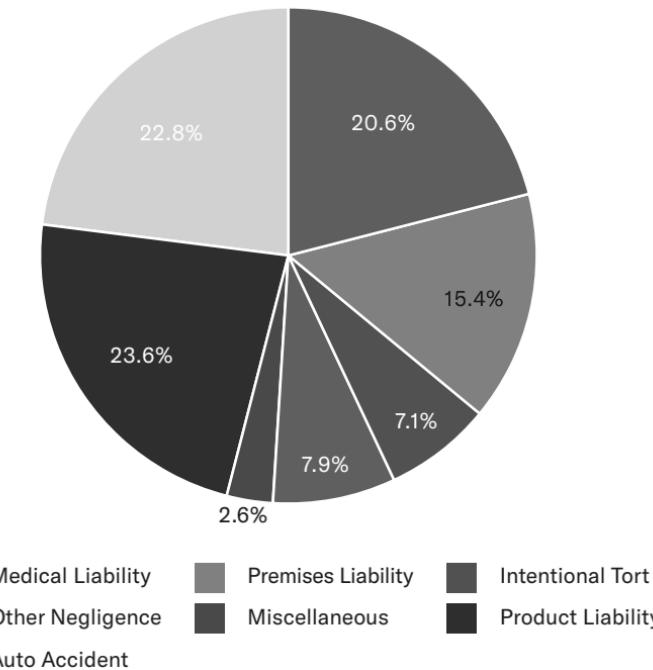
- The movement of goods and services through Commercial Auto vehicles fuels our economy.
- The rise in **nuclear verdicts** and associated costs **puts your businesses at risk** and ultimately impacts each and every one of us.



# The Broader View of Nuclear Verdicts

- Study defining Nuclear Verdicts over \$10M over a 10-year period shows Auto accidents have been the second largest category.
- 1 in 4 cases over \$10M involves a Commercial Auto vehicle.
- There is no question that Commercial Auto vehicles have been the target of litigation and increasing nuclear verdicts & settlements.

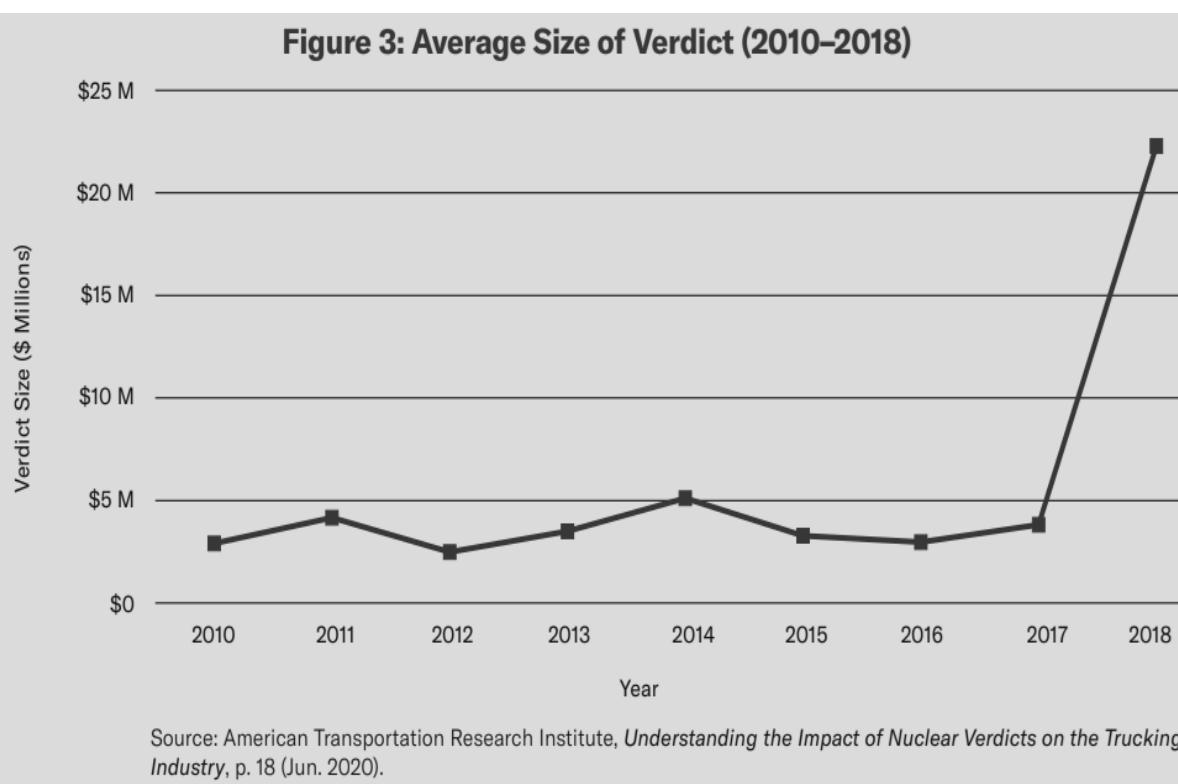
Figure 1: Nuclear Verdicts by Case Type (2010–2019)



Source: U.S. Chamber of Commerce Institute for Legal Reform, *Nuclear Verdicts: Trends, Causes and Solutions*, pg. 6 (Sep. 2022).

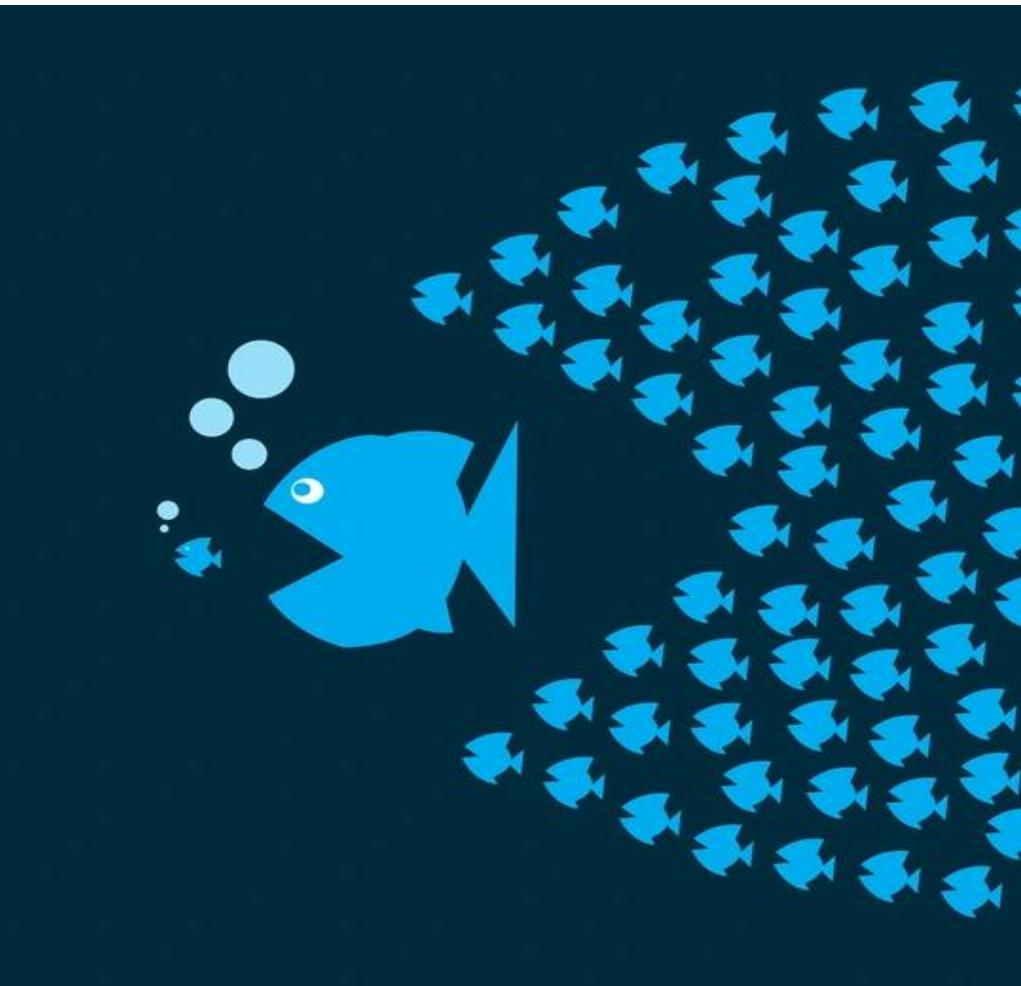
# \$1M+ Commercial Auto Verdicts Over Time

Figure 3: Average Size of Verdict (2010–2018)



- **Frequency** = 235 Percent increase in \$1M+ Nuclear Verdicts
- **Severity** = 867 Percent increase in average size of Nuclear Verdict between 2010 - 2018

# The Smaller Verdicts Add Up Too...



- While nuclear verdicts in excess of \$1M+ may threaten a company's existence, **smaller verdicts and settlements are also inflated and impacting a company's finances and operations.**
- **The \$100K, \$200K, and \$500K+ claims add up too.** The challenge goes beyond just the “nuclear verdict”.
- **Every claim matters.**

# What is Driving the Frequency & Severity?



## SOCIAL INFLATION

Rising costs of insurance claims driven by litigation, commonly inflated damages, plaintiff friendly legal decisions, and changes in jury demographics.



## LITIGATION FINANCING

3<sup>rd</sup> party investment in a lawsuit to finance costs of managing a lawsuit in exchange for a share of the profit.



## STAGED ACCIDENTS & FRAUD

"Claimant" and Attorney network staging accidents against trucking companies to work legal system into large payouts.



## PERSONAL INJURY ATTORNEYS

Openly advertising and soliciting vehicle accident victims to build a pipeline of clients. See all those billboards driving down the interstate?



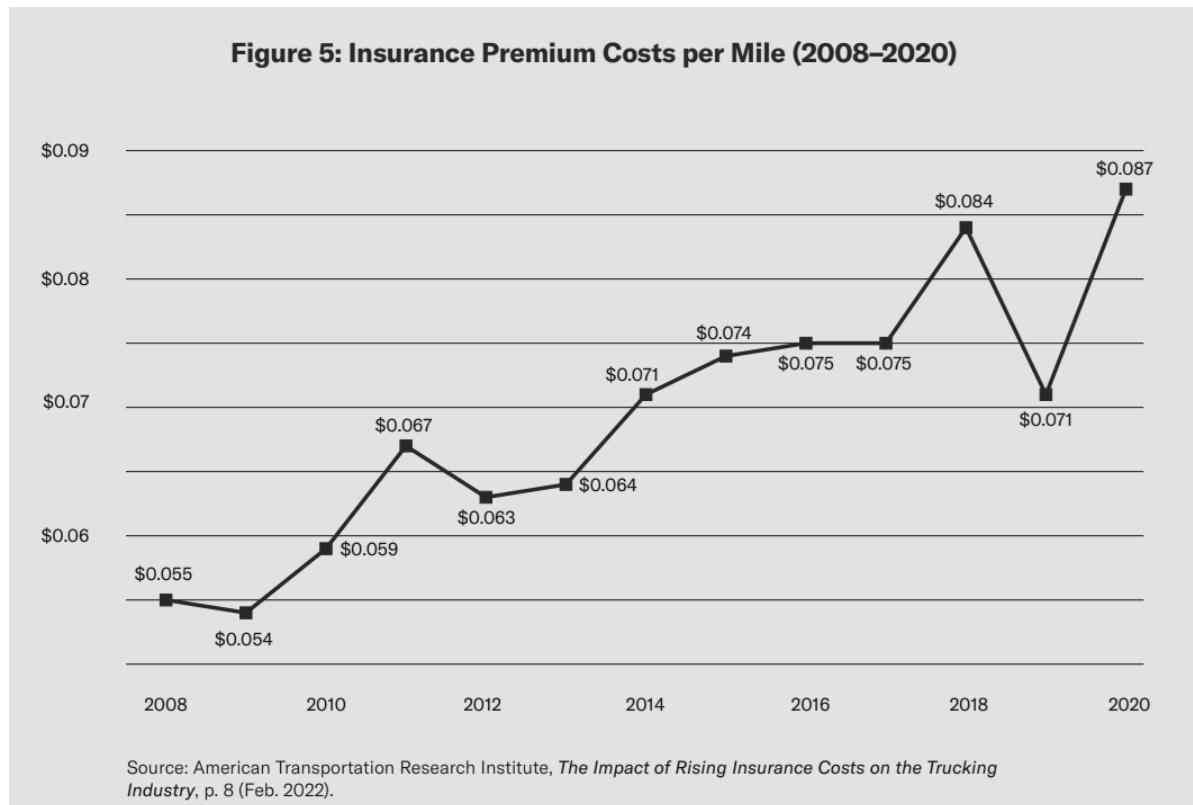
## HEALTHCARE PROVIDER REFERRALS

Personal Injury Attorney referrals to a web of healthcare providers pushing inflated medical care and ongoing attorney engagement.



# The Impact: Rising Premiums

- Premiums increasing though industry has made meaningful safety improvements.
- Fatal Crashes per 100M miles traveled decreased from 2.23 to 1.47 from 2000-2020.
- But insurance premium costs per mile has increased by 47% over past decade.
- In summary, companies are becoming safer but battling rising verdicts and insurance premiums.



SO  
NOW  
WHAT?



A group of men in blue shirts and shorts are playing tug-of-war on a grassy field. The men are pulling on a thick rope, with one man in the foreground looking intensely at the camera. The background shows a crowd of spectators and trees.

TAKING BACK CONTROL:  
**3 FOCUS AREAS**

# 3 Focus Areas



## Tort Reform/Legislative Changes

Defense Bar needs to catch up.



## Loss Prevention

- Hiring/Equipment/Cameras/Training
- Transparency! (The good AND bad)
- Education for Drivers
- Timely Reporting



## Claims Strategy

Aggressive claims handling, negotiation, and settlement strategies to close claims before they become nuclear.





KEY CLAIMS STRATEGIES:  
**4 STRATEGIES TO DEPLOY**

# 4 Strategies to Deploy

## Understanding Leading Factors



Partnering with our client to identify red flags and contributing factors that could lead to a high severity claim.

## First Call Settlement



Program designed to resolve injury claims within hours of the accident.

## Investigating & Investing Upfront



Aggressive implementation of investigative resources.

## Major Claims Unit



Putting our most experienced adjusters in action on potential nuclear claims through the use of predictive analytics.

A group of diverse business professionals are gathered around a table in a modern office setting, engaged in a discussion. The team includes a man with a beard, a woman with blonde hair, a man with glasses, and a woman with curly hair. They are all dressed in professional attire, including suits and shirts. The background is a bright, open-plan office with other people visible in the distance. The overall atmosphere is one of collaboration and focus.

# UNDERSTANDING LEADING FACTORS

# Red Flags to Look Out For

Issue Brought Against the Defendant in Court	Percent of Plaintiff Verdicts <sup>29</sup>	Number of Cases
HOS / Log Book	100.0%	26
Driver History	100.0%	14
Controlled Substance	100.0%	13
Left Scene of the Crash / Failed to Call 911	100.0%	8
Health Related Issue	100.0%	5
Sleep/Fatigue	91.7%	36
Driver on their Phone	91.7%	12





CB

# The result?

- Family of four (two minors) all transported from the scene with unknown injuries.
  - Youngest child was kept overnight for observation.
- Early intervention strategy developed.
- Company reps (SD and VP of operations) and our attorney would drive 3 hours to meet with the family the next morning at the hospital.
- Yelling, screaming, name calling.
- When the room calmed, they had a conversation about financial compensation.
- Settled \$150,000.



A group of diverse business professionals are gathered around a table in a meeting room. A man in a blue shirt and glasses is gesturing with his hands while speaking. A woman in a tan blazer is listening attentively. The background is blurred, showing other people and office equipment.

# FIRST CALL SETTLEMENT & EARLY RESOLUTION



# First Call Settlement Authority: OVERVIEW

Program designed to resolve injury claims  
within hours of the accident



Settlement authority provided can be  
used by the adjuster to resolve injury  
claims during the first phone call with the  
claimant

Significant savings by avoiding increased  
medical treatment and/or attorney  
involvement



**A closed claim is a good claim.**



# First Call Settlement Authority: CASE STUDY



**Facts of Case:** Insured driver made improper lane change and struck claimant vehicle. Claimant had to be cut out of vehicle and was taken to hospital via ambulance. Claimant reported soft tissue soreness to neck and back.

**Reported Date:** 10/18/2022

**Venue:** Indiana

**Liability:** Unfavorable

**Progressive Action:** On 10/19/2022, the adjuster reached out to claimant to take a statement and offered a first call BI settlement of \$4,000. The claimant accepted the offer, signed the release, and check was issued.



# First Call Settlement: Case Study #1



October 28, 2025

09:33:35 AM EDT



**Facts of Case:** Insured turned left in front of oncoming vehicle. Claimant vehicle unable to stop and struck insured.

**Reported Date:** 10/28/25

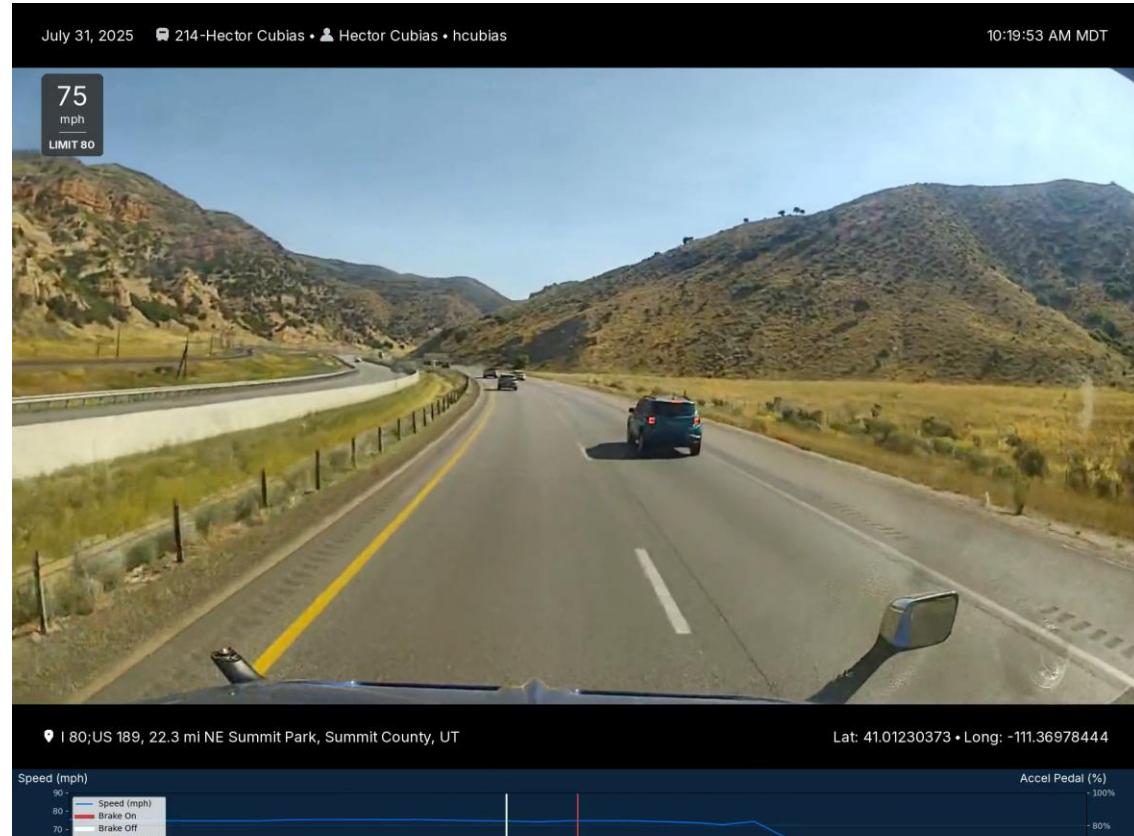
**Venue:** North Carolina

**Liability:** Disputed / Likely Denial

**Outcome:** Claimant was treated and released at the scene with a hand injury. \$500 settlement same day as accident.



# First Call Settlement: Case Study #2



**Facts of Case:** Traffic slowed suddenly, and insured rear-ended claimant.

**Reported Date:** 7/31/25

**Venue:** Utah

**Liability:** Unfavorable

**Progressive Action:** Contact made with claimant same day as accident. Claimant reported soreness. Offered \$2500. Claimant initially rejected, saying he wanted to see a doctor. Followed up a week later and settled for \$3,000.





# First Call Settlement: Case Study #3



**Facts of Case:** Failure to yield at intersection.

**Reported Date:** 2/14/25

**Venue:** Minnesota

**Liability:** Unfavorable

**Progressive Action:** Claimant reported contusions and hip pain. Adjuster immediately offered \$2k, which was accepted 10 days after initial contact.



A black and white photograph of a group of rugby players in a huddle. They are wearing blue jerseys with the numbers 10, 9, and 8 visible. The background is a dark, blurred stadium with a grid pattern, suggesting a large sports arena.

**INVESTIGATING & INVESTING UPFRONT**

# Client Responsibilities

- Technology Investments.
  - Outward, inward, and rear facing cameras.
- Driver training.
  - Post accident investigation.
- Immediate reporting of all losses to CBCS and to defense counsel.
- Preservation and documentation of equipment following all accidents.
- Preserve relevant documentation for anticipated litigation.
  - Driver logs, DQ file, personnel records, maintenance records, etc.



# Driver Responsibilities

- Scene documentation.
  - Capture a photo essay at the scene.
- Immediate reporting to dispatch/safety.
- Obtain all police information (report number, officer names, etc)
- Capture information about people and vehicles.
  - Year/make/model/plate
  - Number of people, names, descriptions.



# CBCS/Defense Responsibilities

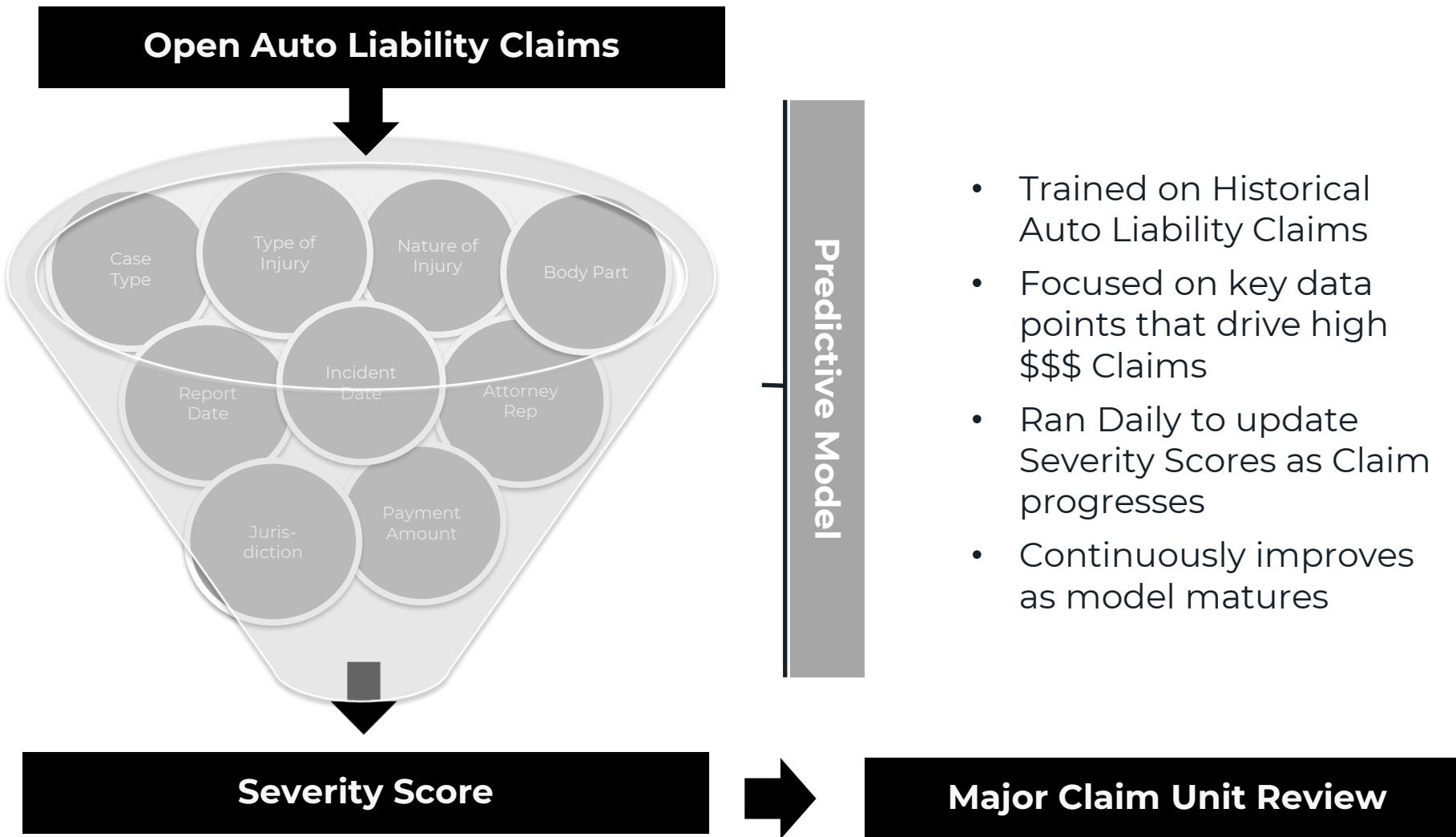
Within 48 hours:

- Scene inspection by accident reconstructionist.
- ECM download and inspection of tractor/trailer.
- Request preservation of claimant vehicle and arrange inspection/download.
- Hire private investigator to canvas area for surveillance footage.
- Pull vehicle history on claimant vehicle.
- Internet mining and ISO investigation.
- Assign surveillance to locate and watch claimants.
- Court records search.
- Preservation demand to claimant or claimant attorney.



A professional meeting is taking place in an office setting. Five individuals are visible: a man with a beard on the left, a woman with blonde hair, a man with glasses in the center, a woman with curly hair on the right, and a man's face partially visible on the far right. They are all dressed in business attire. The woman on the right is gesturing with her hands while speaking. The man in the center is smiling. The man on the far left is looking towards the woman on the right. The woman on the left is looking towards the center. The man on the far right is looking towards the center. The background is a plain, light-colored wall.

# MAJOR CASE UNIT & AUTO LIABILITY PREDICTIVE ANALYTICS



# Our Large Claims Experience

## OUR GOAL

Leverage historical claims data to predict what claims in the future may be of high severity so we can drive better claim outcomes for our clients.

## CBCS Predict

A predictive modeling solution tailored to auto liability using historical claims to develop and train the model.

Claims with a severity score of 90+ (out of 100) are reviewed by the CBCS Major Claims Unit.

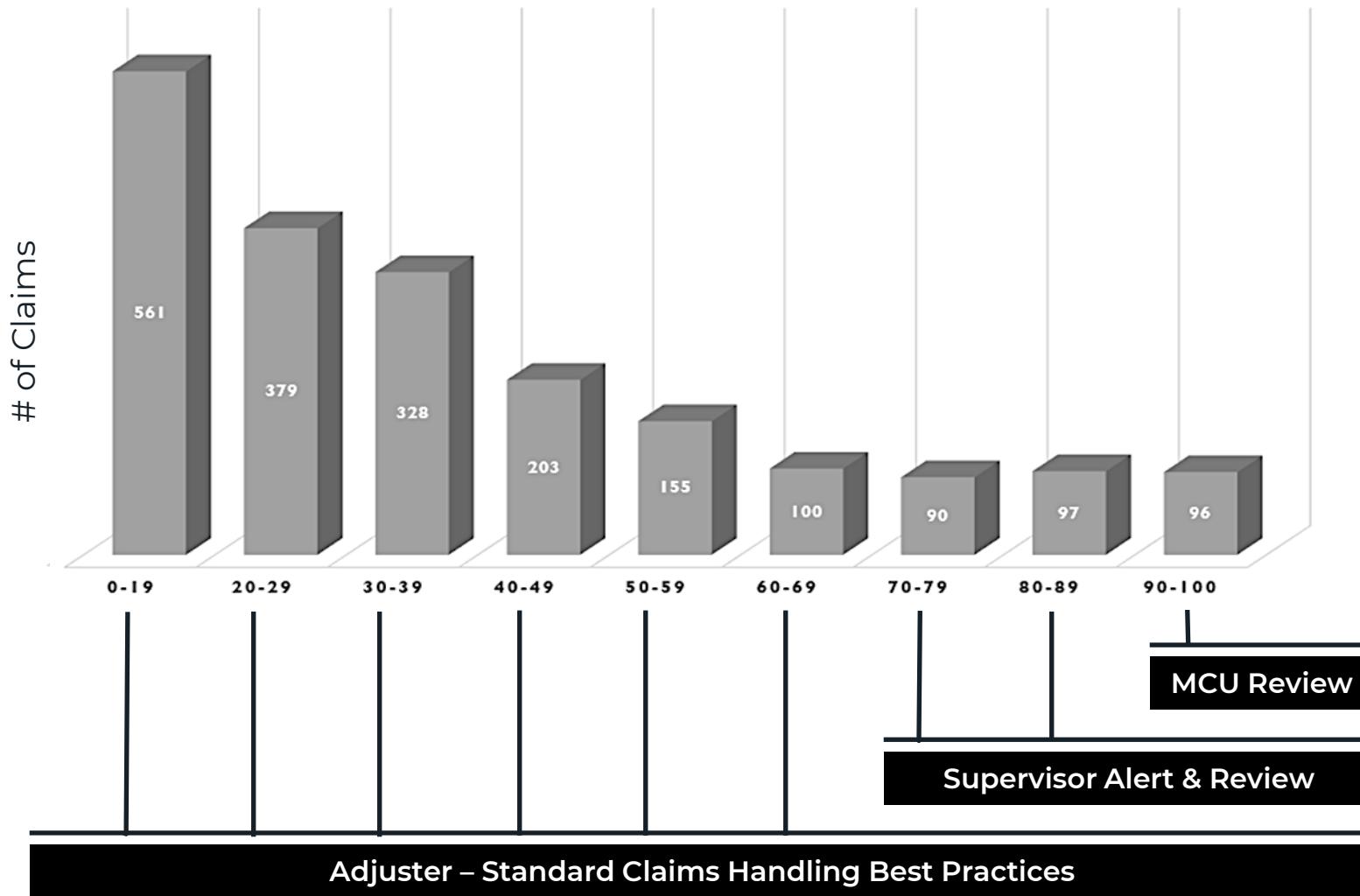
## MAJOR CLAIMS UNIT

Advisory Board made up of our most senior auto liability claims professionals for high severity claims to:

- (1) Ensure early intervention strategies are in place
- (2) Confirm reserves are set appropriately



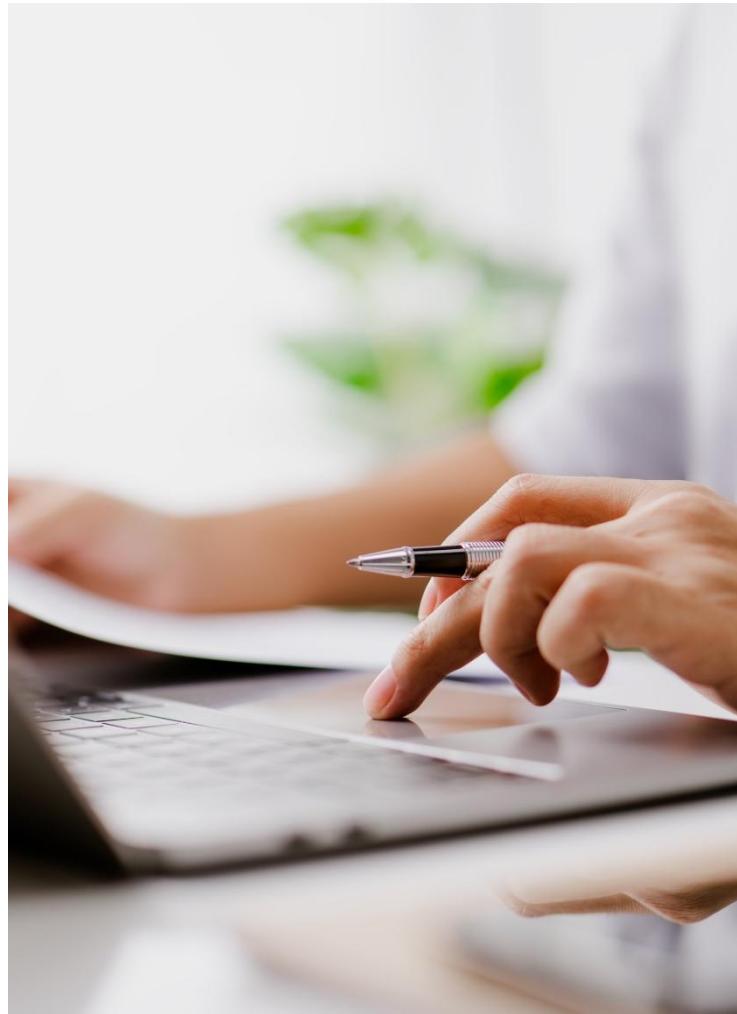
**PROACTIVE OVERSIGHT**



A black and white photograph of a group of men in blue jerseys, likely a rugby team, huddled together in a stadium. The jerseys have numbers 10, 9, and 8 visible. The background shows stadium seating.

BRINGING IT TOGETHER:  
**OUR CLIENTS AND OUR TEAM**

# Takeaways



## **Are You Prepared?**

- Proactive Training
- Policies & Procedures buttoned up?
- Hiring Practices
- Safety Culture

## **Are the Right Claim Strategies Implemented?**

- Rapid Response / Quick Strike
- First Call Settlement Strategy
- Accident Reconstruction
- Preservation / FOIA Requests
- Internet Mining

## **Are Your Drivers Prepared?**

- Do they know what to do/say at the scene?
- What evidence to document.
- How/when to speak with law enforcement.
- Accident Kits
- Early Reporting



# Takeaways

## Post Accident Preservation Checklist



### Post Accident Preservation List for Motor Carriers

1. A complete employment file of the driver;
2. A complete driver qualification file;
3. A copy of all driver logbooks for the past six months;
4. All vehicle inspection logs;
5. All repair history/maintenance logs for the vehicle;
6. All insurance policies, both primary and excess, for the driver, tractor owner and trailer owner.
7. Dispatch records from the trip;
8. All contracts between the trucking company, freight brokers, freight shippers, owners of vehicles and/or leased drivers;
9. All safety audits from any external source including the Department of Safety and/or the Department of Transportation;
10. The identity of all onboard computer systems including all files generated by that computer system.
11. A copy of the accident report.
12. Accident register as required by FMCSR § 390.15(b)
13. All bills of lading related to the day of the accident;
14. A copy of the annual review of the drivers driving record as required by § 391.25;
15. The driver's application for employment;
16. Any documentation showing whether the trucking company has deemed this action a "preventable" or not "non-preventable";
17. A copy of all photographs of the accident scene, the truck and/or trailer involved in the accident;
18. A copy of all blood and urine tests conducted on the driver involved in the accident.
19. A copy of all safety training material including but not limited to safety driving manual, safety videos etc.

## Vehicle Accident Kit



### VEHICLE ACCIDENT REPORT KIT



#### POST-ACCIDENT CHECK-LIST

- 1) PREVENT ADDITIONAL INJURY.
  - Move vehicle out of harm's way.
  - Place appropriate warning signals and/or flares.
  - Keep a close eye on approaching traffic.
- 2) ASSIST THE INJURED.
  - Check for injuries.
  - Call 911 if anyone has been injured.
- 3) ALWAYS CALL THE POLICE. (no exceptions)
  - Remain at the scene until the police arrive.
  - Answer all police questions honestly.
- 4) EXCHANGE INFORMATION WITH OTHER PARTIES.
  - Complete the attached Exchange Information Data Card for every person at accident scene.
  - Keep your contact information for the other drivers and passengers to a minimum.
  - Do not apologize or admit guilt.
  - Do not give statements to adjuster's at the accident scene.
  - Do not sign any document unless instructed to do so by the police or your own safety department.
- 5) GATHER INFORMATION.
  - Complete both sides of the enclosed Motor Vehicle Accident Report.
  - Write down all of the details about the accident, including the location, the circumstances and weather conditions.
  - Describe the damage to each vehicle involved.
  - If a camera is available, take photographs of the scene. (Do not photograph injured parties)
  - Request that all witnesses fill out a Witness Information Card.
- 6) NOTIFY YOUR SAFETY DEPARTMENT ABOUT THIS ACCIDENT IMMEDIATELY. If they are not available, contact CBCS, Inc. at 1-877-241-6121.



## Client & Driver Claim Reporting Training Video





Cottingham & Butler

Questions?