

white paper

PROTECTING YOUR FLEET IN THE AGE OF LITIGATION



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No matter how experienced or cautious a professional driver is or how much you invest in safety initiatives, accidents can still happen all too frequently. Utilizing robust video monitoring technology can improve fleet safety and protect drivers and your company reputation in the unfortunate event of a crash. Distracted driving caused by the rapidly growing use of smartphones behind the wheel, combined with speeding of any kind, increases a driver's risk of an accident and all the excess costs associated with future litigation and legal fees.

One judgment against your fleet, no matter who was indeed at fault, can destroy your profit margin for an entire year — or more — and lead to long-term reputation damage that can result in significant customer losses and irreparable public perception.

Here's a closer look at the damage of crashes in numbers:

1. Ninety-five percent of litigation costs are absolved by commercial carriers, regardless of who is ultimately at fault.
2. There were 41,639 fatal and non-fatal crash events from January 1, 2020, to March 31, 2020.¹
3. In 2017, there were 4,237 fatal crashes and 102,000 non-fatal injury crashes across the U.S.²

Examining Accountability on the Road

As many in the transportation industry already know, the vast majority of accidents involving large trucks are not caused by professional drivers — and those numbers are far more asymmetrical than many initially realize.

As of 2018, there were nearly 228 million licensed drivers³ and only 1.8 million heavy-duty tractor-trailer drivers⁴ across the U.S., further signifying the substantial gap between professional and automobile drivers. Most recent estimates from the American Trucking Associations have found that automobile drivers are at fault for 70 to 75⁵ percent of fatal crashes.

So, if professional commercial drivers — who are already heavily regulated by the Federal Motor Carrier Safety Administration (FMCSA), law enforcement personnel, and other official entities — are not responsible for the majority of commercial accidents, why are carriers paying the vast majority of the associated costs?

Unfortunately, this is primarily due to the trend of mega verdicts against carriers. Many defense attorneys have perfected legal techniques to manipulate juries. One approach, in particular, has gained widespread traction in the professional law community.

1. <https://ai.fmcsa.dot.gov/CrashStatistics/>

2. Fatal Crashes: National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS). Injury and Property Damage Only Crashes: National Highway Traffic Safety Administration, Crash Report Sampling System (CRSS).

3. <https://www.fhwa.dot.gov/policyinformation/statistics/2018/pdf/dl20.pdf>

4. <https://www.bls.gov/oes/2018/may/oes533032.htm>

5. <https://www.bloomberg.com/opinion/articles/2020-02-27/truck-drivers-blame-dangers-of-profession-on-private-car-drivers#:~:text=The%20best%20estimate%20seems%20to,numerous%20studies%20by%20other%20groups.>

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The Reptile Theory

Many, if not most, plaintiff's attorneys are simply trying to get fair compensation for accident victims. However, some seek to take advantage of and manipulate a jury's emotions to gain monetary benefits from large settlements. These attorneys practice what is referred to as the "Reptile Theory."

The Reptile Theory gets its name from basic parts of the human brain — the brainstem and cerebellum — that mirror the structures of a reptile's brain, controlling vital functions such as breathing and heart rate, along with our most basic and instinctive emotional responses, such as fear and anger.

Rather than trying to gain sympathy for the plaintiff, attorneys using this technique will focus on the defendant's behavior, using various legal tactics to make the jury believe the defendant or carrier is unsafe and irresponsible, regardless of the case's actualities. They will call into question every part of that carrier's safety record, maintenance protocols, driver-training programs, and management decisions to paint the carrier in a negative light.

Unfortunately for carriers, the Reptile Theory has been incredibly effective in courtrooms all over the U.S. Hundreds of millions of dollars have been paid out by carriers and insurance companies every year since its widespread introduction in 2009.

Enter Video Monitoring

A video of an accident involving your fleet can be the best court witness, as it shows the incident exactly as it happened. Unlike witness statements, data on a spreadsheet, or even physical evidence from the scene, the video can't be twisted by an attorney to mislead or incite a jury.

Video evidence allows a jury to make their decision based on what they see, rather than rely on a driver's frazzled account of the event or a lawyer's legal jargon.

With video of an accident, you'll know what happened so you can be prepared ahead of time and make the best decision on how to proceed. If you find a professional driver working for you was at fault, you can attempt to settle quickly with the involved innocent parties and avoid potentially hundreds of thousands of dollars in litigation fees. If you find that the involved professional driver was not at fault for the hazardous incident, you can strategically use your upper-hand advantage to avoid long, expensive legal battles and the negative press and public opinion that often accompanies them.

Given how much today's accident litigation has changed from years past, and how high the stakes are for your fleet, you cannot take the risk of facing a jury without the best possible witness on your side. An accurate video, such as [Omnitracs Critical Event Video](#), depicts what happened during a hazardous incident — allowing you to not only protect your fleet in the age of litigation but also identify risky drivers and reduce dangerous driving behaviors.

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Utilizing a Solution as a Silent, Powerful Witness

Video monitoring puts powerful protection technology in the hands of every fleet. With the right solution, a forward-facing camera can be set to a continuous recording setting, giving you an accurate and permanent picture of every event your vehicle encounters. For added protection, you can often select to install an optional driver-facing camera, which starts recording anytime the parking brake is not set.

The right video monitoring solution can put you in control of video retrieval in many ways with access to:

- Full integration with a data reporting application, giving you a complete picture of what occurred during an event. It should also be consistent with processes and procedures many fleets already have in place, so there's nothing new to master.
- Highly configurable, enabled camera audio, allowing you to select what triggers an automated event and change the frame rate, resolution, and duration of your video clips.
- Predictive risk mitigation that can help you predict and prevent accidents by allowing you to identify and coach drivers exhibiting risky driving behaviors.

Leave Nothing to Chance

While nothing can prevent bad luck from finding one of your trucks on the road, an accurate video monitoring solution that depicts what happened in an accident can be the defining factor in the face of a trial, supporting your drivers and saving your business massive litigation costs. Learn more about [Omnitracs Critical Event Video](#) to gain the safety and legal protection benefits listed in this white paper.

ABOUT OMNITRACS, LLC



Omnitracs, LLC is a global pioneer of trucking solutions for all business models. Omnitrac's more than 1,000 employees deliver software-as-a-service-based solutions to help over 14,000 customers manage nearly 1,100,000 assets in more than 70 countries. The company pioneered the use of commercial vehicle telematics 30 years ago and serves today as a powerhouse of innovative, intuitive technologies. Omnitrac transforms the transportation industry through technology and insight, featuring best-in-class solutions for compliance, safety and security, productivity, telematics and tracking, transportation management (TMS), planning and delivery, data and analytics, and professional services.

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