

# Selection, Preparation, and Presentation of an Expert Witness



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# First things first...

- A few thoughts on not being in an accident
- Charts – Federal Motor Carrier Safety Administration (FMCSA)
- You are all doing a good job!

- Accidents involving a fatality are down from over 4000 per year in 1975 to 3600 per year in 2014, despite an increase of miles driven from 1.3 million miles to over 3 million miles.

**Trends Table 1. Large Truck and Bus Fatal Crash Statistics, 1975-2014**

Year	Fatal Crashes Involving Large Trucks or Buses	Large Trucks Involved in Fatal Crashes	Large Truck and Bus Occupant Fatalities	Total Fatalities in Large Truck and Bus Crashes	Million Vehicle Miles Traveled by All Motor Vehicles	Rates per 100 Million Vehicle Miles Traveled by All Motor Vehicles			Large Trucks and Buses Registered
						Fatal Crashes Involving Large Trucks or Buses	Large Trucks and Buses Involved in Fatal Crashes	Fatalities in Large Truck and Bus Crashes	
1975	4,032	4,304	1,014	4,816	1,327,664	0.304	0.324	0.363	5,824,525
1976	4,489	4,754	1,205	5,379	1,402,380	0.320	0.339	0.384	6,053,524
1977	5,149	5,485	1,329	6,054	1,467,027	0.351	0.374	0.413	6,180,664
1978	5,758	6,131	1,436	6,740	1,544,704	0.373	0.397	0.436	6,365,161
1979	6,007	6,431	1,471	7,054	1,529,133	0.393	0.421	0.461	6,418,336
1980	5,353	5,709	1,308	6,333	1,527,295	0.350	0.374	0.415	6,319,442
1981	5,253	5,572	1,189	6,178	1,555,308	0.338	0.358	0.397	6,260,262
1982	4,668	4,935	979	5,525	1,595,010	0.293	0.309	0.346	6,149,615
1983	4,903	5,184	1,035	5,815	1,652,788	0.297	0.314	0.352	6,091,276
1984	5,136	5,444	1,120	5,983	1,720,269	0.299	0.316	0.348	5,984,746
1985	5,153	5,490	1,034	6,089	1,774,826	0.290	0.309	0.343	6,589,822
1986	5,055	5,383	965	5,895	1,834,872	0.275	0.293	0.321	6,314,733
1987	5,146	5,461	903	5,978	1,921,204	0.268	0.284	0.311	6,320,321
1988	5,156	5,528	965	6,004	2,025,962	0.254	0.273	0.296	6,752,553
1989	4,971	5,295	908	5,819	2,096,487	0.237	0.253	0.278	6,851,522
1990	4,790	5,065	737	5,590	2,144,362	0.223	0.236	0.261	6,822,863
1991	4,355	4,621	692	5,107	2,172,050	0.201	0.213	0.235	6,803,425
1992	4,098	4,320	613	4,767	2,247,151	0.182	0.192	0.212	6,689,937
1993	4,351	4,591	623	5,124	2,296,378	0.189	0.200	0.223	6,742,587
1994	4,617	4,902	688	5,412	2,357,588	0.196	0.208	0.230	7,258,308
1995	4,456	4,743	681	5,214	2,422,696	0.184	0.196	0.215	7,404,924
1996	4,723	5,081	642	5,489	2,485,848	0.190	0.204	0.221	7,707,396



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						Fatal Crashes Involving Large Trucks or Buses	Large Trucks and Buses Involved in Fatal Crashes	Fatalities in Large Truck and Bus Crashes	
1997	4,888	5,214	741	5,709	2,561,695	0.191	0.204	0.223	7,780,874
1998	4,857	5,244	780	5,712	2,631,522	0.185	0.199	0.217	8,447,810
1999	4,854	5,239	818	5,727	2,691,056	0.180	0.195	0.213	8,520,203
2000	4,881	5,320	776	5,620	2,746,925	0.178	0.194	0.205	8,768,774
2001	4,723	5,115	742	5,417	2,795,610	0.169	0.183	0.194	8,607,223
2002	4,486	4,861	734	5,241	2,855,508	0.157	0.170	0.184	8,687,997
2003	4,609	5,012	767	5,343	2,890,221	0.159	0.173	0.185	8,533,438
2004	4,734	5,181	808	5,519	2,964,788	0.160	0.175	0.186	8,966,638
2005	4,805	5,231	862	5,539	2,989,430	0.161	0.175	0.185	9,289,052
2006	4,643	5,071	832	5,347	3,014,371	0.154	0.168	0.177	9,640,966
2007	4,472	4,914	841	5,116	3,031,124	0.148	0.162	0.169	11,586,455
2008	3,994	4,340	749	4,545	2,976,528	0.134	0.146	0.153	11,716,583
2009	3,193	3,432	525	3,619	2,956,764	0.108	0.116	0.122	11,815,207
2010	3,512	3,745	574	3,957	2,967,266	0.118	0.126	0.133	11,616,105
2011	3,593	3,878	695	4,043	2,950,402	0.122	0.131	0.137	10,936,757
2012	3,726	4,078	736	4,208	2,969,433	0.125	0.137	0.142	11,423,889
2013	3,821	4,203	749	4,278	2,988,280	0.128	0.141	0.143	11,461,905
2014	3,649	3,978	701	4,161	3,025,656	0.121	0.131	0.138	11,777,983

- We're doing even better in West Virginia.
- 2004 – 61 fatal crashes in WV
- 2014 – 26 fatal crashes in WV

**Trends Table 31. Large Trucks Involved in Fatal Crashes by State, 2004-2014**

State	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Alabama	135	118	126	127	124	81	105	96	111	107	76
Alaska	13	4	4	5	5	3	5	0	4	4	5
Arizona	102	107	129	95	100	67	54	65	73	69	61
Arkansas	93	129	97	110	76	80	79	101	88	86	75
California	381	377	384	394	304	263	240	265	251	265	281
Colorado	64	65	73	77	58	40	46	46	51	51	60
Connecticut	27	19	28	25	28	15	23	14	16	20	18
Delaware	19	7	18	6	7	7	9	10	10	10	11
District of Columbia	5	3	2	2	1	1	3	2	1	3	4
Florida	359	383	336	287	270	179	179	201	193	187	179
Georgia	233	240	227	212	180	135	145	169	149	157	135
Hawaii	4	4	7	3	6	4	4	3	6	7	4
Idaho	29	31	24	26	32	18	15	18	17	31	21
Illinois	151	196	158	148	138	90	113	120	115	136	115
Indiana	166	137	137	143	129	108	111	130	115	116	139
Iowa	60	65	73	70	69	63	90	49	65	59	47
Kansas	85	72	64	74	57	51	71	58	59	66	47
Kentucky	123	117	104	103	98	109	90	88	88	71	67
Louisiana	103	121	97	115	104	74	93	81	102	74	84
Maine	18	18	18	20	21	21	13	17	10	16	10
Maryland	76	57	60	63	49	52	39	38	57	60	49
Massachusetts	42	24	33	27	22	19	19	33	17	30	24
Michigan	121	106	113	115	90	64	83	61	70	88	90
Minnesota	67	61	60	74	62	50	77	53	54	74	63
Mississippi	84	80	81	70	70	54	55	62	44	57	72
Missouri	145	152	130	138	117	83	76	95	89	77	95
Montana	15	22	26	29	28	21	13	24	11	19	7

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Nebraska	41	46	28	44	41	42	49	29	42	27	45
Nevada	28	48	43	25	21	19	16	28	21	24	15
New Hampshire	13	11	7	10	12	7	6	8	6	11	12
New Jersey	94	106	75	70	48	65	59	59	62	64	81
New Mexico	58	57	67	60	43	33	43	44	39	55	66
New York	128	137	163	145	113	101	116	112	97	114	104
North Carolina	184	193	148	151	143	116	104	118	132	125	111
North Dakota	14	10	17	13	21	28	17	32	44	64	45
Ohio	179	174	152	124	133	108	123	113	145	151	130
Oklahoma	97	111	134	96	108	78	88	100	124	116	123
Oregon	47	60	50	52	39	29	49	48	28	34	31
Pennsylvania	209	188	183	214	195	131	159	163	175	170	164
Rhode Island	5	1	9	6	2	4	2	1	3	5	2
South Carolina	102	119	90	81	81	78	61	79	81	66	61
South Dakota	17	15	17	14	13	12	19	10	16	18	19
Tennessee	141	150	144	147	92	86	89	101	108	121	107
Texas	436	457	450	465	432	299	376	414	548	492	532
Utah	26	28	32	36	32	25	28	24	17	21	20
Vermont	12	10	10	4	6	6	11	6	6	7	9
Virginia	97	106	105	103	74	75	87	74	88	100	90
Washington	52	58	68	71	54	30	27	35	43	38	35
West Virginia	61	49	45	45	46	29	40	32	47	48	25
Wisconsin	94	78	72	78	67	46	53	77	60	85	52
Wyoming	47	24	48	21	28	12	22	27	27	25	26
<b>Total</b>	<b>4,902</b>	<b>4,951</b>	<b>4,766</b>	<b>4,633</b>	<b>4,089</b>	<b>3,211</b>	<b>3,494</b>	<b>3,633</b>	<b>3,825</b>	<b>3,921</b>	<b>3,744</b>

Note: A large truck is defined as a truck with a gross vehicle weight rating (GVWR) greater than 10,000 pounds.

Source: National Highway Traffic Safety Administration, Fatality Analysis Reporting System (FARS).



# Top reasons for accidents:

- Driver error
- Load shift
- Poor maintenance

# Less obvious:

## 1. Know and study your route.

- Identify problem areas
- Rt. 35
- Turnpike
- Known traffic levels
- Road work
- Modern GPS / WAZE app

## Less obvious (continued):

2. Vulnerable times – dawn and dusk
3. Drive defensively – all other drivers are out to kill you. Those that seemingly follow traffic rules are just lulling you into a false sense of security. Anticipate bad moves.
4. When all else fails, do what you can for your own safety and that of others.
  - 911
  - First Aid
  - Road workers

# Experts

- Suit – need an expert
- Allowed to render opinion testimony about how well your company follows the rules, and how your driver was not at fault.

# Choosing an expert

- Your advocate
- Experienced
- Qualified
- Able to stand up to cross-examination
- Interview them, get references from others



# Retaining an expert

- Make sure it's early in the case
- Get them all the materials
- View truck / car / accident scene
- Avoid cross-examination problems by overpreparing
- Depositions
- Records
- Medical records – condition of plaintiff (don't want to seem disinterested or callous)