

# Nuclear Verdicts

**A Presentation for ATA  
National Accounting & Finance  
Council**

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## Background: Charles Carr

- 40 years defending transportation industry
- 5 years revamping litigation resolution strategy for a major transportation insurer
- National Trial Counsel for multiple truckload carriers and firm is counsel for 7 of top 10 motor carriers in Transport Topics Top 100
- Largest database of nuclear verdicts and most detailed study on them in the Country

## Background: Liam Murphy

- Senior VP Aon Transportation Practice, Little Rock, Arkansas
- Formerly 9 years with Regions Transportation Brokerage Group
- 18 years Reinsurance Broker and Sales Executive in London

# Verdicts in the Transportation Industry are Escalating

- Verdicts in the last 5 years are hitting even the safest motor carriers with no history of large verdicts
- Landstar: 4 verdicts \$40 million in 2011  
Atlanta; \$15 million Orange County Florida;  
January 2015 \$34.5 million Los Angeles, CA;  
March 2015 \$19.5 million Phoenix, AZ

# Other Carriers Previously Immune to Big Verdicts

- Fed Ex Freight: Santa Fe New Mexico; \$165 million
- Coca-Cola: Corpus Christi; \$21 million in soft tissue back injury
- Schneider National: Riverside County, California; \$36 million in disputed liability as to who crossed into who's lane
- JB Hunt \$20 M 2012 California; \$32 million 2015 Indiana (ice case)
- Great West Casualty \$30 million in 0 liability case this year in Corpus Christi, Texas

## 2016 Verdicts

- Freightliner: \$52 million New Orleans
- AAA Cooper: \$36 Million single death Dallas;  
AAA Cooper truck crosses center line in icy conditions
- O'Reilly Auto Parts: 18 wheeler private fleet \$37 million (ice O'Reilly truck was hit by out of control passenger vehicle) single death

# Just How Bad has it Become

- Target hit for \$4.5 million in South Carolina
- Take a look at this news account

1.4k  
shares

## 52 Comments

Target Corp. has been hit with a \$4.6 million judgment over an incident in which a South Carolina woman was stuck by a needle left in the retailer's parking lot.

Carla Denise Garrison was injured in May 2014 after her 8-year-old daughter picked up a needed in a Target parking lot in Anderson, South Carolina, [the Independent Mail reported](#). Garrison swatted the needle out of her child's hand, and in the process was stuck in her right palm. Garrison reported the injury to store employees and later sought treatment at a health clinic.

Garrison was tested for HIV and hepatitis after the needle stick. Results of both tests were negative but drugs prescribed to treat a possible HIV infection made her sick and bedridden.

Prior to the trial, Garrison's attorney offered to settle with the retailer for \$12,000 but the offer was rejected. Target countered with a \$750.

Target said is disagrees with the verdict and is weighing its appeal options.





# “Letterman” Listing of the Worst Verdicts

- #12 \$30 million Gamez/Garcia vs. Dillon Trucking (Unsafe route planning; Alleged TBI Two on a motorcycle) Corpus Christi, Tx 2015
- Defense Lawyer: “I am in shock!”

# “Letterman” Listing of the Worst Verdicts

- #11 \$32 million Zack vs. JB Hunt (JB Hunt Driver hits black ice but so does Claimant vehicle sliding into JB Hunt rear; paralysis)  
Indiana, 2015

# “Letterman” Listing of the Worst Verdicts

- #10 \$32 million Hackett vs. Silva Trucking (Truck crosses center line; Paralysis/TBI; \$3 M more to husband for loss of consortium)  
Sacramento 2013

# “Letterman” Listing of the Worst Verdicts

- #9 \$34 million Casilas vs. Landstar (Truck turns at LA city intersection and rear wheels of trailer come onto sidewalk; amputation below knee) LA, 2015

# “Letterman” Listing of the Worst Verdicts

- #8 \$36 million Sheth vs. Schneider (“Alleged” paralysis of citizen of India; 0 liability?)  
Riverside County, California 2012

# “Letterman” Listing of the Worst Verdicts

- #7 \$40 Million Foster vs. Landstar (Landstar driver runs stop sign; Single Death to international arms dealer and minor injuries to wife) Cobb County, Georgia 2011

# “Letterman” Listing of the Worst Verdicts

- #6 \$42 million Torres v. Concrete Design (TBI; blindness; Plaintiffs vehicle rear ends stopped truck) Cleveland 2013

# “Letterman” Listing of the Worst Verdicts

- #5 \$58 million Udy vs. Standard E & S (One Death; Truck turned left into Decedent) Santa Fe, NM 2013



# “Letterman” Listing of the Worst Verdicts

- #4 \$90 million Knoten vs. Western Star (Car with flat tire on interstate hit from rear; 3 deaths)  
New Orleans, LA 2013

# “Letterman” Listing of the Worst Verdicts

- #3 \$165 million Morga vs. Fed Ex (Slowing stopped mother on interstate killed along with w/ 4 year old daughter) Santa Fe, NM 2015

# “Letterman” Listing of the Worst Verdicts

- #2 \$178 million Asam vs. Bhandal brothers children witness death of mother and father though father pulling u-haul plows into rear of tractor trailer stopped in emergency lane; “lying truck driver” Los Angeles, October 2013

# “Letterman” Listing of the Worst Verdicts

- #1 \$281 million Aigular vs. Heckman Water (Drive shaft falls out and kills oncoming driver) Dimmit County, Tx 2013

# Why These Verdicts Happening ACTA Survey 2014

- #1 Juries' Inflated Perceptions of a Reasonable Award (Athlete's Salaries/CEO Compensation: "A Billion Dollars isn't What it Used to be.")

# The Impact of these Verdicts on the Primary and Excess Insurance Market?

- Mr. Murphy?

# You Must be Zealously Committed to Early Recognition Early Reserve Early Resolution

- Everything we say from this point forward is a waste if you don't have a commitment to this strategy
- Blink Analysis
- If the “blink analysis” is bad on the front end its not getting better in the end

# You Must Take Unorthodox Steps to Resolve Early

- Why you have a 60 Day Window to Resolve
- You have to make contact with the Claimant Family or the “Family Lawyer” Immediately
- The Family or Family Lawyer must be Convinced that you will be Fair
- You must be willing to meet Immediately



# Your Insurer..Your TPA..The Entire Team must work together

- Absent a large SIR, the entire Team Must Agree on Early Reserve/Early Resolution
- This often includes the Excess Carriers as well
- Any Delays by Any Entity on the Risk Team puts the entire Strategy of Early Resolution in Jeopardy

# Your Attorney Network Must be Committed to Early Resolution

- Why Defense Firms Don't see the Benefit of Early Resolution
- How to tell if your Attorneys are Committed to Early Resolution
- The Benefit of National Counsel

# What Stands in the Way of Early Reserve/Resolution

- A Belief that Juries will “Do the Right Thing”
- A Lack of Understanding of “Catastrophic Injuries Trump Facts”
- A belief that “Macho” Defense Lawyers can Trump “Macho” Plaintiff’s Lawyers
- Unwillingness to “Blink Analyze” Value of Case

# What Stands in the Way of Early Reserve/Resolution (cont)

- You/Your Carrier/Your Excess Carrier/Your Attorney Wants Every Stone Unturned before a Final Evaluation
- You/Your Carrier/Your Excess Carrier/Your Attorney thinks settlement overtures are a sign of weakness

# Step by Step for You To Do

Tort Reform: The only Answer Get involved

Joint & Several Liability

Exclude Evidence of Negligent Hiring

Caps on Non-Economic Damages

Control/Caps on Punitive Damages

Empathic Claims Handling