

MISSOURI LAWYERS WEEKLY

Vol. 15, No. 52

December 24, 2001

Jeffrey BURNS

LAWYERS OF THE YEAR

Attacking The Tired Trucker Problem

The number of people killed each year in accidents involving tired truckers is equivalent to having a major airline crash each week, says Kansas City attorney Jeffrey Burns.

Unfortunately these accidents do not garner the same amount of publicity as plane crashes, according to Burns.

A partner at Shook, Hardy & Bacon in Kansas City, Burns devotes a substantial amount of his practice — and his free time — to handling tired trucker cases and to sitting on the boards of Citizens for Reliable and Safe Highways and Parents Against Tired Truckers.

The problem of trucker fatigue arises from the nature of the trucking business, said Burns. "Just go and talk to drivers. They all will tell you the same thing — you have to cheat on the trucking logs in order to make money.

"I've heard them say time and again, 'If the wheels aren't turning, nobody's making any money.' It's almost like a mantra," he said. "Shippers and receivers mandate incredible schedules that can't be met legally by the truckers" in terms of abiding by speed limits or taking federally-required rest periods.

Burns became interested in the tired trucker issue in the early 1990s. He represented a man whose wife and two young daughters were killed when a J.I. Case truck crashed into their car that had pulled over on the side of the road.

"I started doing research and discovered there were a lot of statistics out there, and wondered why no one had really heard about the problem," Burns said.

"The more I found out the more I learned that the federal Office of Motor Carriers wasn't doing anything," he said. "So I started speaking out and waving a flag."

And he scored his first success — in addition to settling his case against J.I. Case for \$5.1 million, the company made changes to its driver manual to include fatigue training.

More successes have followed. "We are certain that we are saving lives," said Burns. "Most of our victories involve keeping bad proposals by the trucking industry from coming into effect." He cited a current proposal to allow 18-year-olds and convicted felons to obtain commercial driver's licenses.

"In general the industry keeps pushing for longer hours instead of smarter hours," Burns said.

In all, Burns estimates that he has handled about 30 significant truck crash cases across the country and has consulted on hundreds of others in which fatigue was an issue. Besides the J.I. Case matter, some of his most notable fatigue cases include:

- Death of a 44-year-old father of two in an intersection accident with a Bowling Transportation truck in Ohio — \$1.3 million settlement.

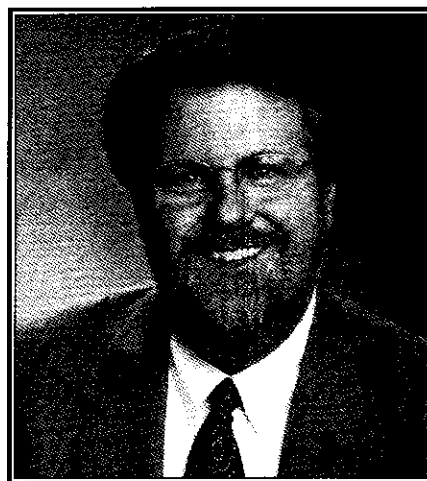
- Death of a 42-year-old mother of an adult child in an accident with a Riley Whittle Transportation truck in Arizona — \$3 million settlement and an agreement to change the company's driver manual and training to include information about fatigue and driver's rights.

- Brain injury to a 9-year-old Missouri boy in an under-ride case against Riverside Transportation — \$1 million policy limits and an agreement to change procedures.

- Death of a 19-year-old college student in an accident with S. Floyd Trucking in Michigan — \$1 million policy limits.

- A wrongful death claim against the State of Arizona after a truck slammed into traffic that was stopped due to a prior wreck. The plaintiffs claimed the state, knowing that truck drivers frequently drove across the desert in an impaired state, failed to divert traffic from the wreck to account for or avoid fatigued truck drivers — \$700,000 settlement.

- Death of a high school student in Oregon involving an under-ride acci-



dent with Kernal Trucking — confidential settlement.

- Personal injury case in Missouri against Norton Company after a delivery truck crossed the center line. Norton's driver died and the issue was whether he had a heart attack or fell asleep before the accident — \$1.4 million settlement.

Burns has also spoken on the topic of truck driver fatigue in 10 states and has met with the past two Secretaries of Transportation about the problem. A scheduled meeting with the current Secretary was cancelled due to the Sept. 11 terrorist attacks.

"We have to pick and choose our battles," Burns said, noting that the trucking industry has been called the "King of Congress — we're up against a lot of money and a lot of clout on this issue."

But in the end, Burns said, the frustrations are worth it because through his work he can "help prevent others from becoming victims.

"I get a lot of satisfaction helping individuals with their individual cases, but lawyers can do a lot more — we can bring people together and be a force for change."

BY KENNETH C. JONES