



Kerry Andersen
VP, Partnership Services

Kerry brings more than 30 years of experience to helping clients find strategic claim and risk management solutions that reduce their total cost of risk. As the head of ESIS' Transportation Practice Group, he leads a multi-disciplined group which includes experienced transportation colleagues from loss control, claims, medical impact, partnership services, and data analytics. This group is responsible for delivery of services to transportation clients and the development of new products and services specifically for clients with transportation exposures.

The average verdict against trucking companies increased more than **550%** over the course of 8 years.

5 Things to Know About Strategies That Help Avoid or Reduce Nuclear Verdicts

Nuclear verdicts began to be recognized by the transportation industry around 2012, and have increased in frequency and severity with each passing year. Nuclear Verdicts are loosely defined as jury verdicts in excess of \$10 million that are significantly higher than would be expected given the injuries in the case at hand. Between 2012 and 2020, the average verdict against a trucking company in the United States increased from \$2.6M to more than \$17M.¹

Kerry Andersen, ESIS Transportation Practice Leader, shares five risk and claim management strategies to help transportation companies avoid or prevent nuclear verdicts.

1 Create and sustain a culture of safety

This starts at the top and flows through the entire organization. Every employee should understand that safety and loss prevention are a primary focus of your organization – and what their responsibilities are for the safety of employees, vehicles, partners, and the public.

2 Be consistent in the application of policies and procedures across the organization and document the consistency

To avoid or reduce the risk of a nuclear verdict in the event of an accident in which they have liability, trucking companies must do more than develop strong hiring and training programs, safety policies, and safety procedures. They must be able to demonstrate that their programs are consistently utilized and administrated across the organization. Why? Plaintiff's counsel may subpoena a wide range of records looking for inconsistencies in anything from maintenance and safety checks, to training and how safety violations are addressed. Any inconsistencies can be presented to a jury as evidence that an organization is not truly committed to safety.

1. CaseMetrix.com

Tailored Risk Control Solutions for Transportation Exposures

ESIS offers tailored pre-loss safety and risk control consulting services for our clients with transportation or fleet exposures as well as those in the transportation industry.

- Driver selection and retention
- Injury and accident reduction programs
- Customized fleet driver training
- ESIS Driver Aware – classroom and behind-the-wheel driver safety training
- Driver supervision
- DOT and OSHA regulatory compliance and auditing
- Fleet safety programs and manager training
- Comprehensive Safety Analysis (CSA) 2010 management system
- Fleet technology
- Drug and alcohol testing programs
- Compliance with Federal Motor Carrier Safety Regulations (FMCSR)
- Accident analysis

ESIS On Call for Transportation: Mobile Incident Reporting

Using ESIS' proprietary mobile application, users can quickly and easily report an incident or accident to ESIS, initiating rapid mobilization of crucial risk management resources.

In addition, we provide crisis management services to help minimize the negative impact on your organization's image, reputation, and ability to do business.

- Prompt engagement with your dedicated ESIS client service consultant
- Streamlined claim reporting
- Immediate nurse triage for injured persons
- Rapid environmental spill response

3 Use Your Telematic Data

Telematic data can provide a wealth of information that can help prevent accidents. Unsafe driving habits such as speeding, breaking hard before a red light, unsafe lane changes, or failure to use turn signals are just some things telematics can reveal.

Telematics can capture so much data, especially for large fleets, that it can be difficult for a risk manager to assess and use the data effectively. However, if the risk management team does not use telematic data to proactively address safety issues, plaintiff's counsel can use that fact to paint a picture of a company that might have prevented an accident... but didn't.

4 Consider the Venue

The venue where a lawsuit goes to trial can significantly affect the verdict and impact on the way a jury values a claim. The ESIS Transportation claims team has access to information that can suggest whether a venue where the case is pending is considered a conservative, moderate or liberal jurisdiction. Joint and Several liability rules may come into play if more than two parties are involved. Each of these factors must be considered in creating a claim resolution or trial strategy that can reduce the organization's total cost of risk.

5 Have the Right Team Managing the Claim Properly from the Start

Strategic discussions to plan the claim management approach should a severe accident occur is one of the keys to controlling the exposure. Prompt reporting and detailed investigation of the claim is the next critical element. From the first hours, days, and weeks of a claim investigation, a risk picture begins to take shape.

- What do the claim investigators see when they walk the scene of the accident shortly after it occurred?
- What evidence can be captured in photos or witness accounts?
- What injuries were sustained?
- What damage resulted from the accident?
- What does the accident analysis or reconstruction show about liability?

Each piece of information helps to build a profile of the claim that gives the claims team and the company a sense of how the claim may unfold so an effective strategy can be developed quickly.

To learn more about our Transportation Practice Group and how we help improve outcomes and reduce your total cost of risk, connect with us today.

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For more insights on how we can help you reduce your total cost of risk, connect with us on [LinkedIn](#)

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