

SPOTLIGHT SUCCESS STORY

HOW TO AVOID A NUCLEAR VERDICT

GALLAGHER
BASSETT | TRANSPORTATION

BACKGROUND

If you are in the transportation business you are all too familiar with the many legal and regulatory challenges associated with your company's operations. These challenges include a lack of predictability in our judicial system; chronically inflated medical costs; a plaintiff's ability to commence litigation quickly; an industry driver shortage; an aging workforce; enhanced regulations; and aberrational jury awards, all of which cut into profits and growth.

In this quarter's *Spotlight Success Story*, we feature a case involving a motor carrier client that had all the hallmarks of one that would ultimately become a nuclear verdict and the steps that GB Transportation's Major Case Unit ("MCU") took to resolve it on very favorable terms.

The Facts: The insured truck driver was operating an eighteen-wheeler down a four lane highway near Baton Rouge, LA at dusk. The plaintiff, a twenty-seven year-old male, was driving a two door sedan in the opposite direction.

The truck driver attempted to make a left turn into the parking lot of a truck stop, in front of the approaching plaintiff. The truck driver failed to yield and the plaintiff, operating at the speed limit, slammed on his brakes and attempted to avoid an impact by swerving. Unfortunately, the plaintiff still struck the right rear bumper of the eighteen-wheeler, rendering his vehicle a total loss. The plaintiff alleged two herniated discs resulting in two Radio Frequency Ablations and his orthopedic surgeon ultimately recommended a cervical discectomy.

A police officer issued a citation to the truck operator, and the witnesses' versions of the accident, the physical evidence and the extracted ECM data was adverse to the insured's position. In addition, the insured truck driver had inaccurate logs and was also using a cellphone at the time of the incident. Due to these factors, liability was ultimately conceded.

The Demand: The accident took place in a jurisdiction that has long been unfavorable to trucking companies and, due to the plaintiff's young age, he had a significant future wage loss claim. The total demand was \$4 million, consisting of approximately \$1.7 million for alleged lost wages; \$250,000 for past and future medical bills; and \$2 million for pain, suffering and loss of enjoyment of life.

SUCCESSFUL OUTCOME

After two jury continuances, and just weeks before the trial, GB's MCU was able to resolve the case amicably. The key to this successful outcome, and to preventing the potential for a nuclear verdict, was made possible because GB's MCU Resolution Manager used her vast transportation expertise to quickly realize the adverse liability presented by this case and she directed outside counsel to vigorously attack the alleged damages.

HOW DID GB TRANSPORTATION DRIVE THIS SUCCESSFUL OUTCOME?

01

Expertise: The MCU Resolution Manager realized from the initial notice of loss that this case had high verdict potential. She understood our client's driver was at fault and that the case needed to be postured for settlement, but she also knew, from her years of expertise, that the \$4 million demand was grossly excessive. She immediately identified and retained a seasoned transportation defense attorney from GB Transportation's vetted network to defend our insureds.

02

Communication: The MCU Resolution Manager directed and managed retained counsel from the outset of the claim and communicated that the case was one that would likely need to be settled and created a collaborative plan for how discovery would be conducted with a goal of attacking the alleged damages from a causation and cost perspective.

03

Collaboration: GB Transportation understands that open and meaningful dialogue is key to a successful outcome. The MCU Resolution Manager and defense attorney worked closely to identify and aggressively mitigate the plaintiff's claims for future wage loss, the inflated medical costs and questionable causation.

04

Strategy: The MCU Resolution Manager, defense attorney and client agreed upon an approach and were able to align all stakeholders in agreement with the strategy – all the while recognizing the ideal outcome would be a fair settlement.

05

Persistence: The MCU Resolution Manager and defense attorney worked the agreed plan continuously until the case was ultimately resolved. Our client was pleased to settle the claim for an amount that was significantly below the original demand and well within the reserve established on the file many months before resolution.

MAJOR CASE UNIT ("MCU")

GB Transportation's MCU is a claims handling center of excellence that is dedicated solely to its clients' most significant claims. Each MCU Resolution Manager carries a workload commensurate with the complexity of the cases they are handling.

BEST PRACTICES

- Partner with an experienced transportation claims administrator and industry focused defense counsel
- Identify and leverage the strengths of your case, yet objectively consider the detrimental aspects, no rose-colored glasses
- Partner with your defense counsel on litigation strategy as early as possible
- Be the first to lay a foundation for reasonable settlement negotiations, don't get anchored by opposing counsel
- Know the reputation and tendencies of opposing counsel

CASE HIGHLIGHTS

Type of Accident: Our client's driver failed to yield, turned in front of a motorist resulting in impact.

Jurisdiction: West Baton Rouge Parish, Louisiana

Attorney demand: \$4,000,000

Defense counsel case evaluation: \$600,000 - \$800,000

Resolved For: \$525,000

Want to learn more about GB Transportation? Contact us.