

Wheels of Justice

Four More Individuals Indicted In Staged Crashes Scam in La.

By Eric Miller
Senior Reporter

Four others have been indicted in connection with a sweeping federal investigation into staged accidents with commercial vehicles in the New Orleans area, amounting to 32 charged or pleading guilty in local accident scams since last year.

The new defendants were charged Oct. 16 with a three-count federal indictment — one count of conspiracy to commit mail fraud and two counts of mail fraud. If convicted, they face a maximum penalty of five years for count one and 20 years for counts two and three. After their release from prison, each of the participants face a \$250,000 fine for each count and up to five years supervised release.

The indictment alleges that the four defendants intentionally used a vehicle to stage an accident in October 2015 with a tractor-trailer owned by C.R. England to defraud the carrier and its insurance companies. In total, England and its insurance

company in 2019 paid approximately \$4.7 million for the fraudulent claims associated with the staged accident. C.R. England ranks No. 26 on the TRANSPORT TOPICS Top 100 list of the largest for-hire carriers in North America.

Those charged in the federal indictment — Anthony Robinson, 66; Audrey Harris, 53; Jerry Schaffer, 65; and Keishira Robinson, 25 — are from New Orleans, according to a statement by Peter Strasser, U. S. Attorney for the Eastern District of Louisiana.

The indictment alleges that a co-conspirator intentionally struck the 18-wheeler and then was picked up from the collision site by Damian Labeaud, who pleaded guilty to a previous indictment charging him with being a ringleader of a previous scheme with seven others involved in staging truck and automobile accidents. Robinson, who had been in Labeaud's vehicle, then got behind the wheel of his own



Strasser

vehicle to make it appear that he had been driving at the time of the staged accident, according to the indictment.

The passengers of the staging vehicle were referred to an unnamed attorney who paid Labeaud and the co-conspirator to stage accidents. All of the defendants were treated by doctors and health care providers at the direction of their attorneys, and Robinson, Harris and Schaffer underwent

surgeries as part of the fraudulent scheme.

The current and prior indictments have referred to at least three unnamed attorneys, plus doctors "known to the grand jury." However, none of the attorneys or doctors accused of participating in the scams has been charged.

News of the staged accidents in the New Orleans area was first reported in March 2019 for incidents involving two tractor-trailers in 2017. The initial

round of indictments returned by the grand jury last year was dubbed the "tip of the iceberg" by attorneys representing trucking companies, including victims Covenant Transportation Group of Chattanooga, Tenn., and Southeastern Motor Freight Inc. of Jefferson, La. They marked the first such criminal charges brought by federal, state and local authorities in New Orleans investigating what at the time was believed to be a string of similar instances.

Trucking companies that travel through the New Orleans area have since been alerted to the scams by attorneys with trucking companies and insurance clients who were victims in the scheme. In 2019, the attorneys identified similarities among a string of at least 30 cases, all in the New Orleans area. Those suspicious accidents included multiple people in a claimant vehicle, sideswipe allegations with commercial vehicle trailers, minimal damage to claimant vehicle, little to no damage to the insured trailer and a commercial vehicle driver who is either unaware of or denies impact, according to the trucking attorneys.

Careful Record-Keeping Can Help Fleets Protect Themselves in Accident Litigation

By Eric Miller
Senior Reporter

A recent study that explored the skyrocketing rise in jury awards against trucking companies went beyond the numbers to seek expert input from attorneys, insurance industry experts, motor carrier safety personnel and industry economists on what fleets can do to protect themselves.



The study, from the American Transportation Research Institute, examined data from 600 court cases. It concluded that awards in what are commonly called "nuclear" jury verdicts against motor carriers — those generally totaling \$10 million or more — have been on a steep rise since 2010. From 2010 to 2018, the average size of jury verdicts in trucking trials rose from \$2.3 million to \$22.2 million — an increase of 967%.

The ATRI study and interviews with experienced trucking defense attorneys offer some advice on what motor carriers can do to protect themselves from this rising tide, starting with the basics.

"Make sure all your paperwork is in compliance as to driver-qualification files, hours-of-service records and employment ver-

ifications," said Ted Perryman, a trucking defense attorney with the St. Louis-based law firm of Roberts Perryman. Also, he said make sure the trucks are in tip-top shape and receive a thorough going-over during pre-trip inspection. He noted the importance of maintenance since police often will inspect a truck after a crash.

"If there's an issue, even if it's unrelated to the accident, plaintiff attorneys will focus on that," he said. "I think juries will hit you pretty hard if the truck is not well-maintained."

Perryman said plaintiff attorneys also tend to home in on driver training, so carriers must keep track of their drivers' skills-improvement efforts.

"The expectation is that most drivers do anything from two days to a week of training annually — document that," he said.

Plus, he noted that carriers should monitor drivers when they're on the road.

"We have a lot of telematics now — dash-cams, ELDs and those that monitor speed," Perryman said. He added that carriers should pay attention to driver violations, coach them on behaviors to be avoided and encourage managers to have discussions with drivers if they need to improve their performance.

Perryman warned that while some minor issues can be explained in court, the collective impact of multiple problems — however small — can add up in juries' minds.

"What happens is that it's cumulative," he said. "You'll have a piece of paperwork missing here, a brake out of adjustment there. It's usually never just one thing."

Even so, trucking defense attorneys sometimes must fight an uphill battle with per-

ceived notions about the industry, noted Renea Hooper, a trucking litigator and partner at Indianapolis-based Scopelitis, Garvin, Light, Hanson & Feary.

"I think there's an inherent bias against trucking companies and truck drivers, just from the start," she said. "What plaintiff attorneys are doing is attacking the trucking company itself, rather than focusing on the accident at issue in the case and the driver's actions at issue. So the primary theme is safety."

Hooper said plaintiff attorneys often conduct legal discovery tailored to obtain information regarding the company's safety policies, protocols and records — and then attempt to argue that the carrier may have violated its own policies.

"It really has nothing to do with whatever accident is at issue. It's something that I think trucking companies and defense lawyers need to realize," Hooper said. "Countering it is making sure you prepare your witnesses well to recognize dangerous or global safety questions that may come up in a deposition or discovery."

And these days it's easier for plaintiff attorneys to compile information on a carrier, said Rob Moseley, a longtime trucking defense attorney with the Moseley Marcinak Law Group, based in Greenville, S.C. He noted that a sterling safety record is more critical for carriers than ever due to the increasing availability of public records.

"Information about trucking companies has become much more transparent," Moseley said. "That has to do with the internet and the Federal Motor Carrier Safety Administration's databases. I just received a

complaint today that had printouts of all of the violations of a trucking company, relative to vehicle condition. They [plaintiffs] had printed that information into the complaint."

As a practical matter, carriers fearing nuclear verdicts often are choosing not to take cases to trial, especially if there are serious injuries or fatalities, Perryman said. "Those cases tend to get settled, and they probably get settled for more than they should. But that's where we are today," he said.

Those interviewed by ATRI generally concurred that the more safety activities motor carriers are engaged in to prevent crashes, the lower the likelihood that a nuclear verdict would result.

"Most plaintiff attorneys frame federal regulations as minimum standards," ATRI said. "The ability of defense attorneys to document safety activities that exceed federal regulations carries great weight with juries."

ATRI also said that before litigation begins, carriers should conduct a risk assessment of the case to identify crash causes, negligence and the requisite financial liability.

"The risk evaluation must be based on verifiable facts, driver and carrier histories, depositions and internal point-counterpoint debates," ATRI said. "During this phase, attorneys need to candidly assess their vulnerabilities, and treat each strategy with a 'devil's advocacy' approach."

The study added, "The ultimate question being asked and investigated mostly by the plaintiff, but also by successful defense attorneys is, 'what are the operational, safety or training factors that could have prevented the crash from happening in the first place?'"