



LANDMARK \$462 MILLION VERDICT AGAINST WABASH TRAILERS RAISES CONCERNS FOR THE TRUCKING INDUSTRY

A recent \$462 million verdict against Wabash National Corporation in a St. Louis courtroom has sent shockwaves through the trailer manufacturing and trucking industries. The jury found Wabash liable in a 2019 underride crash that resulted in two fatalities, awarding \$12 million in compensatory damages and \$450 million in punitive damages. This decision is a significant development for companies in the industry, particularly concerning safety standards and potential liability in future cases.

The case stems from a crash on Interstate 55 involving a nearly stopped truck and a car traveling in the range of about 40-55 mph. The car, driven by Taron Taylor, collided with the rear of a Wabash trailer, resulting in an underride accident that caused the deaths of Taylor and his passenger, Nicholas Perkins. The plaintiffs argued that Wabash's rear impact guard, which is designed to prevent such underride accidents, failed to protect the vehicle's occupants. Although the guard met federal standards at the time of manufacture, the jury evidently believed that Wabash should have implemented stronger safety measures.

The case was previously tried in 2022, but that trial ended in a hung jury, leading to this recent retrial. During the second trial, the plaintiffs also alleged an industry-wide conspiracy dating back to the 1960s. They contended that trailer manufacturers, including Wabash, had consistently lobbied against stricter safety regulations, and opted not to adopt safer, more robust rear-guard designs, prioritizing cost savings over public safety. This narrative of a long-standing effort to avoid higher safety standards seemed to resonate with the jury.

Wabash, however, argued that its trailers were compliant with all relevant federal safety standards and maintained that no rear-guard technology, current or past, could have prevented the deaths under the crash conditions, such as the high speed and other specific factors. A significant point of contention in the case was the exclusion of evidence showing that Taylor, the driver, had a blood alcohol level slightly over the legal limit and that neither he nor Perkins was wearing a seatbelt at the time of the crash. Wabash contended that this evidence was crucial in demonstrating that these factors, rather than the rear guard's

performance, were the primary causes of the fatalities.

The exclusion of this evidence became a focal point for the defense. Wabash argued that the driver's intoxication and lack of seatbelt use were vital for establishing causation and determining the extent of damages. Without this evidence, they contended, the jury lacked a full understanding of the circumstances leading to the fatal outcome, which may have skewed their perception of Wabash's liability and influenced the verdict's severity.

Notably, this case was filed before Missouri's tort reform on punitive damages, enacted through Senate Bill 591, went into effect on August 28, 2020. Under the new law, punitive damages in Missouri in wrongful death actions are arguably statutorily capped at either \$500,000 or five times the net amount of the judgment awarded to the plaintiff, whichever is greater. However, because this case was initiated before the new law's effective date, there were arguably no statutory caps on the amount of punitive damages that could be awarded, allowing for the extraordinarily high \$450 million punitive damages in this case.

Of course, Wabash might seek a remittitur of the punitive damage award in post-trial motions or possibly on appeal.

This verdict has several important implications for the trucking and trailer manufacturing sectors. First, there is a growing trend where simply complying with existing federal safety regulations may not be considered sufficient. Juries are increasingly willing to hold companies to higher standards, particularly if there's evidence that more effective safety measures were known and could have been implemented.

Second, the size of this verdict, driven largely by punitive damages, underscores the financial risks for companies that are perceived as prioritizing costs over safety. This case could lead to renewed discussions on regulatory reforms, potentially resulting in more stringent safety standards for rear underride guards and other key safety features.

For companies in the industry, the takeaways are clear. Now more than ever, it is essential to take proactive steps to ensure that safety technologies not only meet but exceed current standards. Reevaluating safety protocols and keeping a close eye on regulatory developments will be crucial in mitigating future risks. Also, be aware that litigation risks are evolving, with plaintiffs' lawyers increasingly focusing on allegations of industry conspiracies and regulatory lobbying efforts.

An appeal of this verdict is likely, as Wabash has indicated that it believes the decision is not supported by the facts or the law. While the appeal process or post-trial motions could alter the immediate financial consequences for Wabash, the broader implications of the case remain significant. This verdict serves as a reminder that the legal environment is evolving, and the trucking industry must be prepared to adapt to these new challenges.

If you have questions about how this decision could impact your business or want to discuss steps your company can take to protect itself, please contact us.

PATRICK E. FOPPE

Attorney at Law

EMAIL: pfoppe@lashlybaer.com

PHONE: (314) 436-8312

Patrick E. Foppe is a member of Lashly & Baer, P.C. in St. Louis and serves as lead trial and litigation counsel throughout Missouri and Illinois. Patrick frequently handles claims involving catastrophic trucking accidents, insurance coverage, premises liability, and wrongful death. Patrick currently is the Secretary for the USLAW NETWORK's Transportation and Logistics Practice Group. In addition, Patrick serves as First Vice President of the Transportation Lawyers Association (TLA) and is currently the Editor of TLA's legal journal, *The Transportation Lawyer*. He is also an active member of the Defense Research Institute, Inc.'s (DRI) Trucking Law's Steering Committee. Patrick has an "AV Preeminent" Peer Rating™ with Martindale-Hubbell®. Each year since 2010, Patrick has been selected through peer recognition and professional achievements for inclusion in the *Missouri & Kansas Super Lawyers* magazine. He has received numerous awards for his pro bono work, community service, and professional accomplishments. Patrick is also a regular author and is an invited speaker by many industry groups.

