

# the Quill

a quarterly publication on safety & risk management

# ROAD TO RECOVERY

IMPLEMENTING A RETURN-TO-WORK PROGRAM

Learn more on page 7 >>

## What's Inside?

- + **ATA Truck Driving  
Champion: Dave Logan**
- + **Quill of Champions**
- + **Claims + Safety Seminar  
Recap**

In the fall, Baldwin & Lyons hosted our Claims + Safety Seminar. This two-day event exemplified what our company is all about: developing and sustaining partnerships with our insureds and other leaders in the industry. When setting the agenda, we considered what's relevant to your fleet operations and anticipated your future needs by forecasting where the industry is heading. We've highlighted some of the presentations in this issue of The Quill. Thanks to everyone who joined us this year and we hope to see you all this August.

In addition to emphasizing partnerships, Baldwin & Lyons strives for excellence every day. We are committed to providing superior claims and loss prevention services. The number of our insureds who placed in the American Trucking Associations' (ATA) National Truck Safety Contests is evidence that you are equally invested in being the best in your field. FedEx driver Don Logan's performance at the ATA's Annual National Truck Driving Championships is a perfect example of this – he earned the 2012 Grand Champion title! You can read more about both contests on pages 5 & 9.

Baldwin & Lyons is dedicated to helping you achieve excellence in everything that you do. Whether it's developing an effective return-to-work program or determining the appropriate coverage for independent contractors, we are here as your partner in risk management.

As always, we welcome your feedback on this issue of The Quill or any general questions. Feel free to contact me at thequill@baldwinandlyons.com or 800-644-5501 ext. 2692.

Yours in safety,



Dennis Shinault, CDS  
Director of Loss Prevention



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## What does The Quill mean?

The founders of Baldwin & Lyons chose the quill as a symbol to represent their property and casualty insurance company. It was a fitting choice. The quill was the dominant writing instrument for more than 1,000 years, longer than any other; perhaps because of its fine stroke and great flexibility. Likewise, for more than 80 years, Baldwin & Lyons has maintained a stable presence in the property and casualty insurance market and is a recognized leader in the transportation industry. With an intense focus on results, the company has grown and diversified.

## About Baldwin & Lyons

Founded in 1930, Baldwin & Lyons specializes in marketing and underwriting insurance for the transportation industry. Today, we operate three domestic property and casualty insurance companies providing both admitted and excess and surplus lines platforms, a Bermuda-based captive solution, a fully licensed Canadian branch and two brokerage firms. Our companies accept risks covering more than a dozen different specialty products and services and provide brokerage services for virtually any property and casualty risk. We have a vision and plan for growth that is supported by our stability, experience and commitment to innovation. With an intense focus on our mission and strict adherence to our values, Baldwin & Lyons has been able to achieve consistent results for the benefit of all stakeholders.

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## By the numbers: Industry trends & projections

Despite economic conditions in other sectors of the U.S., the trucking industry continues to recover and experience growth. Here is a snapshot of the industry as we head into 2013.

- The U.S. freight economy, particularly in trucking, is projected to grow significantly in the years ahead. Total freight tonnage is expected to grow 21% by 2023. (*American Trucking Associations' U.S. Freight Transportation Forecast to 2023*)
- Truck volumes are forecasted to increase modestly in the near future, up 3.7% in 2013 and 4.0% in 2014. (*Truck Gauge*)
- The Energy Information Administration expects diesel prices to decline slightly to \$3.62 per gallon in 2013. (*GE Capital Report*)
- Freight Transportation Research (FTR) Associates anticipates trucking conditions will improve in 2013 because of a modestly better economy and a strong increase in capacity utilization stemming from federal regulations that take effect later this year.
- Drug and alcohol data availability and hours of service will come into the spotlight this year. Definitive timetables now exist for the Federal Motor Carrier Safety Administration's (FMCSA) changes to these safety regulations, with implementation dates mainly in 2013 and 2014, and compliance required one to two years thereafter.
- Studies estimate that the industry is short anywhere from 50,000 to 300,000 drivers. Changes in FMCSA's hours-of-service regulation are expected to further impact the driver shortage issue.

**+ With a driver shortage, it's more important than ever to keep your current drivers healthy and on the road. Return-to-work programs can help get injured drivers back on the road faster. Read more on pages 7 & 8.**



After reading this issue of **The Quill**, we want to hear from you! Do you have a useful resource for educating your drivers that our readers should know about? Are there topics you'd like to see covered in future issues? Send your feedback and ideas to [thequill@baldwinandlyons.com](mailto:thequill@baldwinandlyons.com).



# THE NEED FOR SPEED?

## STATE LAW UPDATE: Speed limits increased in Texas

**+** **Remind drivers that just because it is legal to travel faster, it is not necessarily safe or cost effective.**

The Texas Transportation Commission recently approved an 85 mph speed limit on a 41-mile-long toll road between Austin and San Antonio, making it the highest speed limit in the nation.

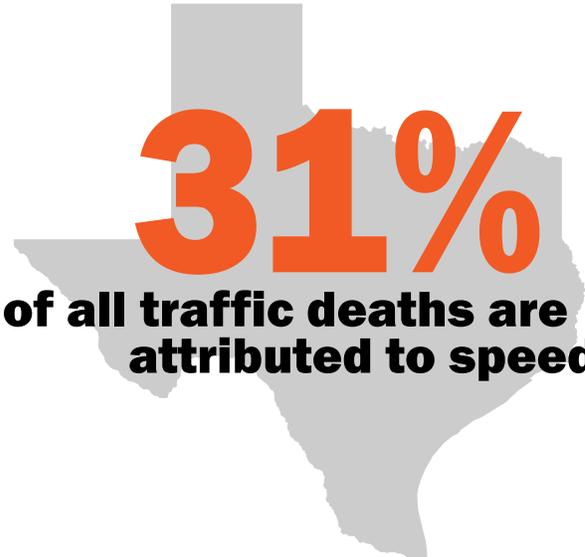
As the speed limit increases, so do safety concerns. Nationwide, 31 percent of all traffic deaths are attributed to speed. According to the Texas Department of Transportation, there were 23,968 crashes involving commercial motor vehicles in 2011 with one fatality occurring every 2 hours and 54 minutes.

A spokesperson for the Texas Department of Transportation said the toll road was “designed and tested for high-speed travel” and that “tests have shown the designated speed is a safe one.” However, opponents, including the Insurance Institute for Highway Safety and the Southwestern Insurance Information Service, believe that increasing the speed limit to 85 mph will result in most motorists actually driving 90 to 95 mph, which will dramatically increase the number of serious accidents.

According to the Department of Transportation’s Analysis of Fatal Large Truck Crashes, Texas leads the nation in the total number of fatal commercial vehicle accidents. If your

drivers travel through Texas, make sure they are educated on the increased speed limit and prepared to adjust their driving accordingly. For example, they should increase their following distance since cars traveling at a faster speed will need more time to slow down. Also, large commercial vehicles become more unstable the faster they travel so drivers will need more distance to maneuver and react to other vehicles and hazards on the road. Drivers should look as far down the road as possible to maximize their reaction time.

Remind drivers that just because it is legal to travel faster, it is not necessarily safe or cost effective. Increased speeds result in increased fuel consumption, wear and tear on brakes and tires, and additional strain on the engine, drive train and suspension. This 41-mile stretch of road will not save a significant amount of time when compared to the higher safety risk and increased operating costs.



**31%**  
**of all traffic deaths are attributed to speed.**



# Claims: Case Study

## The Cost

### The Facts

While loading his vehicle, a 27-year-old male driver stepped down from his truck, slipped on a patch of oil and twisted his right knee, tearing his meniscus. He immediately experienced pain and swelling and couldn't walk. Two attempts to repair the tear failed. The driver worked the light duty job that was available and also completed vocational rehabilitation. After some time, he was determined to have reached maximum medical improvement and the motor carrier settled with him.

### The Solution

Slips and falls may seem like minor incidents but they can escalate into very serious injuries that can keep your drivers off the road and cost your company a significant amount of money. While slips and falls are typically associated with winter conditions such as ice and snow, they can happen at any time of the year in any weather condition. As evidenced in this case study, oil leaking on the ground can lead to a major injury if a worker slips on it. If the injury occurred at a third party location, the potential of subrogation is present.

Help your workers avoid slips and falls by:

- Keeping all walking areas clean and clear of clutter.
- Maintaining good lighting both indoors and on outdoor walking areas.
- Securing electrical and phone cords out of traffic areas.
- Installing handrails on all stairways.
- Using a sturdy stepstool when climbing or reaching for high places.
- Cleaning up spills right away.
- Periodically checking the condition of outdoor walkways and steps, repairing as necessary.
- Removing fallen leaves or snow from outdoor walkways.
- Training workers on proper lifting and carrying techniques, including inspecting walking surfaces before walking on them.
- Emphasizing the requirement to always use three points of contact when entering and exiting a vehicle.

You should also examine your dress code policy and consider requiring your workers to wear proper work shoes with slip resistant soles. During a four-month trial conducted by Baldwin & Lyons' loss prevention department, drivers wearing SR Max slip resistant shoes reduced their slip and fall injuries by 70 percent.

+	\$27,506.69	Temporary total disability
+	\$42,597.42	Temporary partial disability
+	\$224,543.66	Permanent partial disability
+	\$26,925.13	Hospital out-patient
+	\$15,417.15	Hospital in-patient
+	\$1,303.91	Prescriptions
+	\$24,965.72	Physicians
+	\$1,395.01	Medical - other
=	\$364,654.69	Total claim reserve
	2.5 years	Total time lost from injury



FedEx®

“I’m moving  
a little piece  
of America  
every night.”

And the winner is...

**Don Logan**

NATIONAL TRUCK DRIVING CHAMPIONSHIPS



NATIONAL CHAMPION  
Flatbed Class



# FedEx Freight driver Don Logan named 2012 Grand Champion

Baldwin & Lyons, Inc. congratulates Don Logan for being awarded the 2012 Grand Champion at the American Trucking Associations' (ATA) 75th Annual National Truck Driving Championships. Logan out-drove 424 others to earn the top title and placed first in the flatbed driving class at the competition, held this past August in Minneapolis, Minn.

Based in Topeka, Kan., Logan has been driving for FedEx for 21 years and has logged more than 2.1 million collision-free miles. At the championships, commonly referred to as the "Super Bowl of Safety," he also won the Vehicle Condition Award. According to the ATA, this award recognizes the contestant who has proven during the competition that he or she has a thorough understanding of equipment, an extraordinary ability to inspect and evaluate a truck's

condition, and an unequivocal commitment to safety. "I enjoy going down the road and operating a large piece of equipment," Logan told Transport Topics after the competition. "As corny as it might seem, I'm moving a little piece of America every night."

This was Logan's sixth year competing on the national level, where he was joined by 15 fellow FedEx drivers. FedEx has a longstanding relationship with Baldwin & Lyons, partnering with us to meet its insurance and loss prevention needs. We congratulate Logan and the entire FedEx family on making safety a top priority in their daily operations.

The complete list of winners in each category can be viewed on the ATA website, [www.trucking.org](http://www.trucking.org).

## How to Compete and Why?

*Rodney Myers, Managing Director of Safety at FedEx*

**What:** American Trucking Associations' National Truck Driving Championships.

**Who:** Comprised of winners in eight classes of competition from 50 state trucking associations' truck driver championships. The categories are: straight truck, three-axle tractor-semitrailer, four-axle tractor-semitrailer, five-axle tractor-semitrailer (tank), five-axle tractor-semitrailer (van), five-axle tractor-semitrailer (flatbed), five-axle tractor (sleeper cab), semitrailer (van) and twin trailers.

**When:** State competitions take place in the spring and summer, leading up to the national competition in August.

Learn more: [www.trucking.org/Federation/Councils/slpmc/NTDC/Pages/Default.aspx](http://www.trucking.org/Federation/Councils/slpmc/NTDC/Pages/Default.aspx)

## Why does FedEx encourage drivers to participate in the National Truck Driving Championships?

The competition highlights the importance of safety and promotes professionalism among all professional drivers. This is also an excellent professional development opportunity for our drivers.

## Why should drivers participate in the championships?

In order to compete, a driver must be accident-free for a year. Most competitors spend a great deal of time preparing to compete, reinforcing skills and techniques that we use on the highways every day. Competing strengthens the commitment to work and drive safely daily. We all have loved ones sharing the road. The example the professional driver sets can go a long way in influencing others' behavior to drive safely.

## How do competitions like this play into the larger safety culture at FedEx?

It is just another example of the commitment FedEx and our employees have to safety and being our best every day at everything we do.

# ROAD TO RECOVERY

## IMPLEMENTING A RETURN-TO-WORK PROGRAM

Your workers, including drivers, are your most valuable assets. When they sustain injuries, it can have a significant impact on productivity, overall morale and your company's bottom line. The Bureau of Labor Statistics estimates that only 50 percent of employees who are off work for more than six months ever return to employment. It's in everyone's best interest to have injured workers return to work as soon as possible. Return-to-work programs facilitate this transition while benefitting both you and your workers.

Return-to-work programs, sometimes referred to as light duty, provide alternative tasks for injured employees during their recovery until they are approved by a doctor to return to their regular job responsibilities. These programs are typically low cost to implement. According to the Job Accommodation Network, more than half of the accommodations cost employers no money. Of those that do cost, the average typical one-time expenditure is \$600. Additionally, return-to-work programs can reduce claims costs by up to 70 percent.

You benefit from return-to-work programs in several ways. These programs decrease the likelihood of lingering or false workers' compensation claims and can minimize prolonged disability expenses by speeding up worker recovery through the physical and mental stimulation of light duty. Return-to-work programs also retain the use of valued workers, and minimize the cost of hiring and training replacement

employees. You also benefit from the productivity of workers who otherwise would not be doing any work while out due to an injury.

Return-to-work programs help workers because they are useful, contributing members of the team. They stay mentally and physically conditioned to a regular work schedule and maintain social contact with their fellow employees, which can encourage a faster return to full duty. Return-to-work programs also minimize financial losses often incurred due to time lost while recovering.

Establish a written policy before implementing a return-to-work program. The Office of Disability Employment Policy (ODEP) has a toolkit for creating a policy and implementing a return-to-work program, available at [www.dol.gov/odep/return-to-work](http://www.dol.gov/odep/return-to-work). ODEP also has a list of relevant employment laws, which vary by state, available at [www.dol.gov/odep/return-to-work/employer-law.htm#law](http://www.dol.gov/odep/return-to-work/employer-law.htm#law).

As part of your policy, include modified job descriptions that list light duty tasks injured workers will be asked to perform during the return-to-work program. Ask injured workers' doctors to review job descriptions and approve tasks the workers can complete based on the severity of their injuries. Be careful to adhere to doctors' restrictions to avoid re-injury and prolonged recovery.





So what light duty tasks can workers perform while recovering from an injury? To the right are a few ideas to get you started. Be sure to consult with the workers' physicians first to determine the extent and type of work they can safely perform.

Companies without an office or those that have workers who live far away from the office should look into having workers perform light duty at a charitable organization. The company would pay workers for the hours they work at a selected charity. Companies could also make arrangements at a local motel for workers who live too far away. This would permit company management to monitor the injured worker and still give the worker an opportunity to perform light duty work.

Keep in mind that return-to-work policies will be implemented differently based on the state you are in and the types of injuries your workers sustain. Be proactive and put a return-to-work policy in place to facilitate the recovery of injured workers, maintain productivity, boost morale and protect your bottom line.

To request more information on how other companies have implemented return-to-work programs, contact us at [thequill@baldwinandlyons.com](mailto:thequill@baldwinandlyons.com).



## What light duty tasks can a worker perform while recovering from an injury?

- Sweep floors
- Check inventory and order supplies
- Sort mail
- Answer phones
- Inspect trucks
- Check driver logs
- Wash windows
- Dust office furniture
- Clean tools for mechanics
- Paint
- Attend orientation again
- Check paperwork of drivers entering and exiting the lot
- Watch safety videos and create quiz questions
- Create an injury prevention presentation or handout based on the injury they sustained



# the Quill of champions



The American Trucking Associations' (ATA) National Truck Safety Contest recognizes the extraordinary safety accomplishments of motor carriers across the United States by operation type and size. Carriers are judged on their safety records relative to others within their classes of competition. Safety records are determined from the carriers' vehicle collision rates or lost workday case rates.

## **ATA National Driver of the Year**

This award is presented to one professional truck driver for his or her exemplary accomplishments and excellent driving attributes. The winner is selected from the nominations submitted by each state trucking association. **The 2012 National Driver of the Year is Ronald C. Fuller with Central Freight Lines in Waco, Texas. Fuller is the third driver from Central Freight to win this award in the last ten years.**

## **ATA National Truck Safety Contest**

Carriers are judged on their safety records relative to others within their classes of competition. Safety records are determined from the carriers' vehicle accident rates or lost workday case rates.

### **Brown Line LLC, Mt. Vernon, WA**

*Bill Smith*, Safety Director

*1st Place* – General Commodities LTL/Line-Haul,  
Up to 10 Million Miles

*3rd Place* – General Commodities LTL/Local,  
Up to 10 Million Miles



Baldwin & Lyons also congratulates Andrew Boyle, executive vice president at Boyle Transportation, for being appointed to the American Transportation Research Institute's (ATRI) Research Advisory Committee (RAC). Every year, the RAC works to identify the trucking industry's top research needs. Members serve a two-year term and represent a diverse group of industry stakeholders including motor carriers, industry suppliers, academics, government, driver groups and law enforcement.



**Central Freight Lines, Inc., Waco, TX**

*Robert C. Norris*, Director of Safety

*3rd Place* – General Commodities LTL/Local,  
Between 10 – 50 Million Miles

**D.M. Bowman, Inc., Williamsport, MD**

*Scott Bowen*, CDS, Director of Safety & Risk Management  
(retired May 2012)

*Barry Wertz*, ASHM, CSS, Director of Safety & Risk Management

*1st Place* – Flatbed/Line-Haul,  
Up to 10 Million Miles

*1st Place* – Flatbed/Local,  
Unlimited Mileage

*2nd Place* – Tank Truck/Local,  
Unlimited Mileage

**FedEx Custom Critical, Inc., Akron, OH**

*Scott McCahan*, Senior Manager of Safety & Contractor Relations

*2nd Place* – General Commodities Truckload/Line-Haul,  
Over 100 Million Miles

**FedEx Freight, Inc., Harrison, AR**

*James A. Key*, CDS, Managing Director of Safety

*3rd Place* – General Commodities LTL/Local,  
Over 100 Million Miles

**Lester R. Summers, Inc., Ephrata, PA**

*Steven K. Freysz*, CDS, Director of Safety

*2nd Place* – Heavy Haulers/Line-Haul, Unlimited Mileage  
Flatbed/Line-Haul, Up to 10 Million Miles

**Old Dominion Freight Line, Inc., Thomasville, NC**

*Sam Faucette*, CDS, Director of Safety Compliance

*2nd Place* – General Commodities LTL/Line-Haul,  
Over 100 Million Miles

*2nd Place* – General Commodities LTL/Local,  
Between 50 – 100 Million Miles

**Pitt Ohio, Pittsburgh, PA**

*Jeff Mercadante*, CDS, Director of Safety

*1st Place* – General Commodities LTL/Local,  
Between 10 – 50 Million Miles

*3rd Place* – General Commodities LTL/Line-Haul,  
10 – 50 Million Miles

# MEET & GREET



**Name:**

Todd A. Carrier

**Title:**

Director of Risk Management

**Department:**

Loss Prevention

**Time with Baldwin & Lyons:**

Since June 2012

**Loss Prevention Philosophy:**

The goal of the loss prevention department is just that: to help prevent losses. We take the time to fully understand your business and become a trusted advisor. We take pride in knowing that our efforts create a safer workplace and public environment. The cost of implementing a robust safety program is much less than the cost of accidents themselves.

**Favorite Part of the Job:**

I enjoy the close relationships with our customers and helping them with real business needs. The biggest compliment we can receive is when a client comes to us for advice and we provide a solution that solves a problem. That gives us a true sense of satisfaction.

## ATA National Industrial Safety Contest

This contest recognizes the top three carriers in each commodity division that had the lowest overall injury frequency rate. Work injury rates are expressed in terms of the number of lost workdays per 200,000 employee hours of exposure in a category.

### **Brown Line LLC, Mt. Vernon, WA**

*Bill Smith*, Safety Director

*3rd Place* – General Commodities LTL,  
Up to 1,000 Employees

### **D.M. Bowman, Inc., Williamsport, MD**

*Scott Bowen*, CDS, Director of Safety & Risk Management  
(retired May 2012)

*Barry Wertz*, ASHM, CSS, Director of Safety & Risk  
Management

*2nd Place* – General Commodities LTL,  
Up to 1,000 Employees

*3rd Place* – General Commodities/Truckload,  
Between 301 – 1,000 Employees

### **FedEx Ground Package System, Inc., Coraopolis, PA**

*David J. O'Neal*, CDS, Managing Director of Safety

*2nd Place* – Miscellaneous Fleets, Unlimited Employees

### **FedEx SmartPost, New Berlin, WI**

*David J. O'Neal*, CDS, Managing Director of Safety

*3rd Place* – Miscellaneous Fleets, Unlimited Employees

### **Old Dominion Freight Line, Inc., Thomasville, NC**

*Sam Faucette*, CDS, Director of Safety Compliance

*3rd Place* – General Commodities LTL,  
Over 5,000 Employees

### **Pitt Ohio, Pittsburgh, PA**

*Jeff Mercadante*, CDS, Director of Safety

*1st Place* – General Commodities LTL,  
Between 1,001 – 5,000 Employees

## ATA Improvement Awards

These awards are given to each carrier that reduced its collision rate or lost workday rate from the preceding year. Special recognition is given to the carrier in each division that achieved the greatest reduction.

### **Fleet Safety Improvement Certificates:**

#### **Brown Line LLC**

General Commodities/LTL

#### **D.M. Bowman, Inc.**

General Commodities/Truckload

General Commodities/LTL

Tank Truck

#### **FedEx Custom Critical, Inc.**

General Commodities/Truckload

#### **FedEx Ground Package System, Inc.**

Miscellaneous Fleet

#### **Pitt Ohio**

General Commodities/LTL

#### **The Waggoners Trucking**

Auto Transporters

### **Industrial Safety Improvement Certificates:**

#### **Brown Line LLC**

General Commodities/LTL – Division Winner

#### **D.M. Bowman, Inc.**

General Commodities/LTL

Flatbed

#### **FedEx Express AGFS Division**

Miscellaneous Fleet

#### **FedEx Ground Package System, Inc.**

Miscellaneous Fleet

#### **FedEx Smart Post**

Miscellaneous Fleet – Division Winner





# CLAIMS



# SAFETY



## 2012 SEMINAR

*Recap*

In August 2012, industry partners gathered in Indianapolis for the Baldwin & Lyons Claims + Safety Seminar. During the two-day event, attendees heard from experts on a variety of topics geared toward improving their fleet operations. On the following pages, we highlight some of the information presented in the sessions. You can review these sessions online at: [baldwinandlyons.com/claims-and-safety](http://baldwinandlyons.com/claims-and-safety)

### **Web- and mobile-based technology: Claim investigations and defense considerations**

**Michael Langford, Scopelitis, Garvin, Light, Hanson & Feary, P.C.**  
National counsel for a number of motor carriers

We have a wealth of information at our fingertips thanks to the Internet. Cell phones let us talk to anyone, anywhere, at any time. Social media sites like Facebook and Twitter help us keep tabs on people. But how does this web- and mobile-based technology impact your fleet operations? Consider your collision investigations. The information you can obtain about a collision and those involved in it now versus 15 years ago is remarkable. When investigating and reviewing collision claims, use social media sites and online searches to help gather information.

Social media sites such as Facebook, Twitter and LinkedIn can provide useful information about a claimant. Depending on their privacy settings, you may be able to view some of their posts. If you see anything that would be relevant to your investigation, such as a picture of the claimant playing sports after claiming to be injured in a collision with one of your drivers, print out the page or save a screen capture of it for your records. Make sure you stick to information that is public. Never trick someone into becoming your friend on a social media site in order to view private information. This is considered an unethical practice, violates the website's terms of use and may even result in civil or criminal liability.

If you are looking at a claimant's social media accounts, consider that their legal counsel may be looking at your drivers' accounts as well. Tell your drivers not to post about collisions on any social media sites and to use all available privacy settings. For particularly high profile collisions, consider asking your driver to shut down any social media profiles completely until the case is settled. Regardless of whether or not social media comments or pictures are related to the collision, a plaintiff attorney can find creative ways to use any information against your driver and company.

In addition to social media sites, don't overlook the value of a simple Internet search during a collision investigation. When searching for mentions of your company and the collision, pay close attention to news stories. Most online papers have a section where readers can comment on stories. Scan these comments for information that may be useful to your investigation. For example, someone who witnessed the collision or knows the claimant might comment. You can also gauge public opinion of your company and driver, which may translate to how a jury would feel if a case reached that level.

As technology continues to change, make sure you adapt your collision investigations accordingly to incorporate these new tools.

**continued on page 13**

## The changing face of resolving claims and lawsuits

**Ted Perryman, managing partner, Roberts Perryman P.C.**

With a high number of claims being settled instead of going to trial, the art of negotiation and mediation is more important than ever for motor carriers. Depending on the case and the willingness of the claimant to negotiate, mediation can help save time and money for everyone involved. Perryman offered the following tips for a successful mediation:

- Know your mediator. If possible, use the same mediator for future cases so you can become familiar with his or her style.
- Know the settlement value of similar cases in your jurisdiction, which may be different than the value of jury verdicts.
- Have important decision-makers from your company present at the mediation.
- Be prepared to change your settlement strategy. Once negotiations start, things can change and you need to be flexible and able to adapt your strategy on the spot.
- Never underestimate the claimant's need for cash. Most claimants want to settle the claim and are driven by economic decisions. You can use that to your advantage.
- Don't be afraid to say no and stick with your "final" offer. Negotiations have to end at some point so show you are serious.

Alternatives to mediation include non-binding arbitration, non-binding judge-tried cases and limited defense initiatives, in addition to simply contacting the claimant directly and trying to negotiate on your own. Consult your legal counsel to determine the best method of settling based on the circumstances of the case.

## Best practices for emerging issues: Medicare reporting

**Matt Engels, vice president of network solutions, CorVel Corporation**

**Mark Popolizio, senior legal counsel, Crowe Paradis Services Corporation**

Starting in January 2010, the Centers for Medicare Services (CMS) began to mandate that insurance companies

and self-insurers report all claimants who are eligible for Medicare in an effort to ensure that the primary payor responsible for the claim would be paying to cover the entire injury. The idea is that claimants who are injured should not be able to collect from Medicare what is due from the insurance coverage available to them. Baldwin & Lyons partners with CorVel to complete our required reporting. Matt Engels discussed the CorVel system, CareMC, to give an overview of the steps we take in-house each quarter to complete our reporting. He walked through the CareMC product to visually show how the reporting requirements are fulfilled in practice.

Mark Popolizio from Crowe Paradis discussed emerging rules for potential future requirements. He reviewed the "advance notice of proposed rulemaking" in which CMS has proposed to revise the federal regulations to ensure that its "future medicals" interests are satisfied in relation to the liability system. The proposal would expand certain rules that currently affect workers' compensation policies to the liability field, specifically requirements relating to situations where a claimant will have future medical bills beyond a settlement.

## Driver retention: A new approach to an old problem

**Kelly Anderson, president, Impact Transportation Solutions, Inc.**

Finding and retaining qualified drivers in today's marketplace is more difficult than ever. Tools like the Federal Motor Carrier Safety Administration's (FMCSA) Pre-Employment Screening Program have helped weed out potentially high-risk drivers but also highlight the fact that the total pool of hireable drivers is getting smaller. As a result, it is becoming increasingly important for motor carriers to place an emphasis on retaining existing drivers in their fleet.

You have one chance to make a first impression on a driver. It starts with recruiting and carries over into orientation once a driver has been hired. Most turnover occurs in the first 90 days of employment so your actions in the beginning are critical to keeping drivers happy. Anderson

emphasized the following ways to improve retention through orientation:

- Assign the fleet manager the week before orientation. Have the fleet manager call drivers prior to their first day to welcome them.
- Be organized. Don't leave drivers sitting around waiting on day one. Make sure drivers know they are the most important focus of your day.
- Consider the environment of the orientation room and what impression it makes on new drivers. For example, are the chairs comfortable for long training sessions?
- Give a tour of the building on the first afternoon to keep them alert.
- Assign trucks on the first day and give drivers a chance to inspect them. If there are any maintenance issues, aim to have them fixed before drivers have finished orientation and are ready to head out on the road.

Extend the relationship beyond orientation by checking in regularly with new drivers to see how they are doing. Proactive, rather than reactive, retention efforts like this will help drivers know you are invested in their happiness and well-being on the job. Assist drivers with challenges they may have, whether it be paperwork, hours of service or vehicle inspection non-compliance. The safety department should be a place where drivers feel open to ask questions, not a disciplinary arm of the company.

Once drivers say they are going to quit, it can be very difficult to persuade them to stay. However, you should always ask for their reason because in some instances there are viable solutions that would encourage them to stay, such as giving them a pay raise or adjusting their schedule. If a driver is set on leaving, conduct an exit interview to gain insight into the reasons and learn if there is any room for improvement in your operations. The exit interview should be conducted away from the direct supervisor so the driver feels comfortable speaking openly. Post-employment surveys mailed 30 days after a driver leaves can also help you obtain honest, open feedback.

Help counteract the driver shortage problem by shifting your focus and incorporating these techniques to retain the qualified drivers who are already in your fleet.

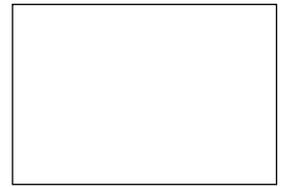
## Drug testing: How effective is hair testing?

**Rob Smaltz, senior account executive, Omega Laboratories**

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Since the 1980s, the Federal Motor Carrier Safety Administration (FMCSA) has required drug testing for anyone with a commercial driver's license (CDL). Drug testing is typically implemented in the hiring process but is also used for random testing, reasonable suspicion and post-collision investigations. Currently, FMCSA only accepts testing with urine samples. However, many motor carriers have started supplementing urine testing with hair testing. Both types of tests have advantages and disadvantages but hair testing can provide fleet managers with a more comprehensive, long-term look at a driver's history of drug use. Companies that don't use hair testing can end up with problematic drivers in their fleet.

	HAIR TESTING	URINE TESTING
<b>Detection Time Frame</b>	Up to 90 days	2-3 days
<b>Sample Collection</b>	Non-invasive, can observe collection	Invasive, requires special facilities
<b>Sample manipulation</b>	Very difficult	Common
<b>Results</b>	Yes/No	Quantifiable
<b>Best use</b>	Identifying long-term drug use	Conducting collision investigations & reasonable suspicion
<b>Average cost</b>	\$70	\$35



# Federal Regulation Update: **Down the Road**

# **CSA**

## **COMPLIANCE, SAFETY, ACCOUNTABILITY PROGRAM**

Nearly two years ago, the Federal Motor Carrier Safety Administration (FMCSA) implemented its Compliance, Safety, Accountability (CSA) program. CSA is a comprehensive performance-based, data-driven safety enforcement program administered by FMCSA to improve commercial motor vehicle safety by reducing crashes, injuries and fatalities related to commercial motor vehicles.

CSA uses all available safety performance crash data to identify unsafe carrier and driver behaviors. The Safety Measurement System (SMS) quantifies on-road safety performance to identify specific carrier safety problems and to monitor whether performance is improving or worsening.

Recently, FMCSA changed CSA in order to allow the agency to more quickly identify and address high-risk truck and bus companies with compliance concerns. Changes include the following:

- The Cargo-Related BASIC is now the Hazardous Materials BASIC, better identifying hazardous materials safety and compliance issues.

- The Vehicle Maintenance BASIC now includes cargo and load securement violations.
- The Fatigued Driving BASIC is now the Hours-of-Service Compliance BASIC, more accurately reflecting violations in this area, while weighing paper and electronic logbook violations equally.
- Intermodal equipment violations found during pre-trip inspections are now included.
- 1 to 5 mph speeding violations have been removed to ensure citations are consistent with current speedometer regulations, which will be retroactive to January 2011.
- The SMS now more accurately displays crash information available to the public.

It is important to educate drivers on how their performance impacts both their driving record and the safety measurement of the carrier. Carriers should also review inspection and violation history over the past two years, log in to SMS, review BASICs and address safety problems as needed.