

Fall 2017

LANGDON & EMISON

ATTORNEYS AT LAW

What You Need to Know

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Identify Tire Failures in Injury, Death Cases

*Tire defects common on U.S. highways; L&E settles more cases
with tire manufacturers*

Even though tires are where “the rubber hits the road,” few Americans know how common the defects are out there on American highways. Already this year, our firm has successfully completed multiple recoveries on behalf of individuals who were injured due to tire defects.

Tires deteriorate over time so it is



25,000 Wrecks

On average, there are almost 25,000 motor vehicle accidents and 500 fatalities in the U.S. each year due to tire failures.

– Data provided by NHTSA

common to find failures in aged tires. Other times, poor design or manufacturing defects cause a tire to fail long before the end of its useful life (i.e. before the tread reaches a level of replacement). When our law firm evaluates an auto accident case, we look at several factors to determine if a defective tire is the culprit.

(Turn to page 10 for more on defective tires and the signs to look for.)

Appellate Court Affirms Jury Verdict on Behalf of Injured Marine



The U.S. Court of Appeals for the 8th Circuit has affirmed a \$4.5 million verdict in favor of U.S. Marine Aaron Eckerberg for the injuries he sustained when a commercial vehicle, owned and operated by Inter-State Publishing Company, collided with his vehicle.

On February 17, 2014, 40-year-old Lt. Col. Eckerberg was driving a truck and trailer northbound on U.S. Highway 65 in Pettis County, Mo., when it was struck by an Inter-State van because its driver ran a stop sign. Lt. Col. Eckerberg's truck rolled over on its top and came to rest in a water-filled ditch.



After a five-day trial, the jury awarded Lt. Col. Eckerberg \$4.5 million in damages for injuries he sustained, which essentially ended his career as a combat helicopter pilot. During trial, Langdon & Emison argued Lt. Col. Eckerberg's injuries had a significant impact on his future earnings because persisting issues with concentration, memory and focus would affect his ability to fly and serve in the Marine Corps.

Inter-State sought to set aside the verdict, arguing that the district court lacked subject-matter jurisdiction because both parties were citizens of Missouri at the time of filing. In an evidentiary hearing on defendant's motion, Langdon &

Emison argued, and the district court ruled that Lt. Col. Eckerberg became a Florida citizen when he attended flight school in 1998, and had remained a Florida citizen since that time. Inter-State appealed to the 8th Circuit.

In the opinion, 8th Circuit Chief Judge Lavenski R. Smith wrote for the panel that evidence was sufficient to support that Eckerberg was a Florida citizen when he filed his complaint based on evidence that he had been registered to vote in Florida since 1998, he held a Florida driver's license, and his testimony that the post-military job market in Florida was much better for veterans than Missouri. Because Lt. Col. Eckerberg and Inter-State were citizens of different states, the district court correctly ruled that it had diversity jurisdiction.

Michael Manners, partner at Langdon & Emison, led the firm's appellate team along with associate attorney Cory Atkins.



Personal Injury Practice Tips



Spotting Fuel System Defects in Auto Cases

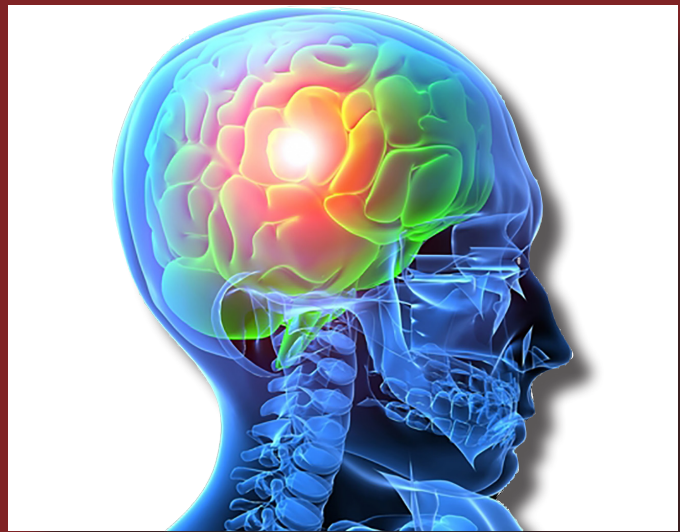
For many years, vehicle manufacturers have had the knowledge and technology to prevent post-collision fuel fed fires in survivable crashes, yet fuel fed fires continue to occur.

Fuel System Defects

According to the U.S. Fire Administration, post-collision fires often occur in accidents that may have caused only minor injuries, but instead resulted in severe burn injuries and death because the vehicle had a fuel system defect such as:

- Lack of anti-siphoning valves
- Misrouting of fuel lines
- Failure to protect fuel lines
- Placement of the fuel tank within the vehicle's crush zone
- Lack of shielding in place of misrouted fuel lines

If there is a burn injury or death in a survivable crash, then there is a potential case against the manufacturer. Contact our firm at 800-397-4910 or www.LangdonEmison.com.



Identifying a Potential Traumatic Brain Injury:

- Altered consciousness (although not required)
- Amnesia – gaps in memory before or after trauma
- Loss of memory or difficulty concentrating
- Headache or sensitivity to noise and light
- Nausea or vomiting
- Emotional changes
- Loss of smell or taste

What to Look For:

- Changes observed by friends and family
- Cuts or bruises on head
- Rapid acceleration or deceleration forces
- Changes in personality



Comprehensive Investigation of the Defendant Driver's Criminal and Driving History Key in Negligent Hiring Claims

Negligent hiring exposed in Illinois truck crash settlement



Mark Emison

Unfortunately, many trucking companies cut corners in the hiring process and place unqualified and dangerous drivers behind the wheels of commercial vehicles. When analyzing any case involving a commercial driver, thorough criminal and driving background checks of defendant drivers are key to additional recovery for negligent hiring, retention, and supervision claims.

In a recent case, Langdon & Emison reached a \$700,000 settlement for a client who had significant pre-existing back problems with a bankrupt trucking company that negligently hired a commercial driver who had a long history of dangerous driving, a criminal record, and a history of drug use. Langdon & Emison also reached confidential settlements with two additional

defendants involved in the crash.

Our client was hit by an Americorp Xpress tractor-trailer in 2014. L&E attorneys, led by Partner Mark Emison, argued throughout that Americorp was negligent in hiring, supervising and retaining its driver in this accident, as he had prior felonies and had admitted using drugs. The driver testified that he intentionally omitted details about his criminal history from his employment application.

In analyzing negligent hiring claims, courts are asked to assess whether the employer exercised reasonable care in choosing or retaining an employee for the particular responsibilities that individual was supposed to perform. Trucking companies, in order to adequately meet demand for a nationwide shortage of truck drivers, often cut corners in background checks and adhering to state regulations.

During the litigation, Americorp Xpress declared Chapter 7 bankruptcy, which placed a stay on the litigation. This created complexities Langdon & Emison had to navigate to lift the stay to continue the litigation.



Keys to the Case

- Thoroughly investigate the defendant driver's criminal and driving history
- Obtain certified copies of the driver's criminal files
- Compare the driver's driving and criminal history to the employment application



Why Auto Seats Fail During Crashes

Even in modern-day vehicles, defective seat backs are common

Rarely do consumers give a second thought to the design or utility of seat backs in a crash. That is because most people do not realize that their seat back acts as their “seat belt + airbags” in a rear-end collision. We have shown that a lawn chair from Walmart will pass the current government standards.

Seat Back Defects

Seat back strength and performance is critical because occupants are thrown backwards and into the seat back when a vehicle is struck from behind. Seat backs should be able to keep the vehicle’s occupants safe by holding them in an upright position. Once a seat back fails and



Studies show that even an ordinary lawn chair can pass federal safety standards for use in an automobile.

Common Injuries in Seat Back Failure Cases

- Brain injury
- Paralysis
- Vision loss
- Death

goes rearward, the occupant is catapulted into the back seat. The occupant can then hit his head on the back seat, causing a broken neck or brain injury. He also can hit a rear seat occupant, which is most often a child, causing serious injury.

Far too often in our practice we have seen occupants of vehicles in rear-end collisions severely injured when they should have walked away without injury if only their seat had remained upright. If an occupant is severely injured in a rear-end collision the first thing an attorney should look at is their seat back.

For help evaluating a case for a defective seat back or other auto defect, contact us at 800-397-4910 or www.langdonemison.com.



Product Defects in Truck Accident Cases

Semi trucks (tractor-trailers or eighteen wheelers) are much larger than ordinary passenger vehicles and can fail in unfamiliar ways. Because of the substantial differences in semi trucks and passenger vehicles, many potential product defect claims are missed by attorneys investigating a trucking accident. Here are some common product defect failures that should be examined in every trucking accident case:



Defective Truck Tires

Commercial truck tires can have many of the same defects as a passenger tire. In addition, when a tire fails on a drive axle or trailer axle, the remaining tires must support more weight, often leading to a detread.



Cargo Retention

The tractor and trailer combination may not be robust enough for its load or may suffer from a design or manufacturing defect that results in lost cargo.



Lack of Driver Assistance Technology

If trucks were better equipped in this capacity, drivers would be assisted with blind spot detection, adaptive cruise, and other features that make highways safer.



Underride Guards

Underride guards must be strong enough to prevent injury. Data shows the federal minimum requirements are not sufficient to protect the public.

TRUCKING ACCIDENTS



Number of large trucks

INVOLVED IN INJURY CRASHES

INCREASED BY 21%

73,000 TO 88,000.



(Year-to-year comparison, 2013 to 2014 from FMCSA data)

37%

OF ALL FATAL TRUCK CRASHES
OCCURRED AT NIGHT

19%

OF ALL INJURY TRUCK CRASHES
OCCURRED AT NIGHT

From 2009 to 2014

INJURY CRASHES INVOLVING LARGE TRUCKS OR BUSES

INCREASED

55%

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TRUCKING: TAKING IT TO TRIAL

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November 9 & 10 Chicago Intercontinental Hotel

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register at <https://2017-trucking-seminar.eventbrite.com>

PLAINTIFF ATTORNEYS ONLY

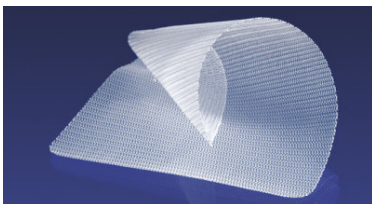
Bair Hugger Blankets Expose Patients to Serious Infections

Langdon & Emison is currently reviewing potential lawsuits on behalf of patients who suffered serious infections following a knee, hip or other joint replacement surgery. The lawsuits allege the 3M Bair Hugger warming blanket – used in hospitals across the country – exposed patients to contaminated air from the operating room, causing MRSA, sepsis and other serious infections.

Arizant Healthcare and 3M Company have been named in a growing number of lawsuits over Bair Hugger warming blankets, with patients charging that they suffered severe and debilitating joint infections after the device was used during surgery. The lawsuits claim the manufacturer has known about the infection risk since at least 2009.



L&E Investigating Hernia Mesh Cases



Hernia mesh is a medical device often used to strengthen a hernia repair. However, there are complications associated with hernia mesh including mesh migration, infection, adhesion, bowel obstruction, and perforation. L&E is currently investigating hernia mesh cases involving these complications. There are a number of models and brands affected; according to the FDA, there are more than one million hernia repairs each year in the U.S.

Other Mass Torts Claims We Are Currently Evaluating:

Metal-on-Metal Hip Implants (Biomet, DePuy, Smith & Nephew, Stryker, Wright and Zimmer)

Premature Device Failure

Metallosis

Inflammation, Prolonged Pain in Groin, Hip or Leg

Talcum Powder

Ovarian Cancer

Taxotere

Permanent Hair Loss

Zofran

Birth Defects

Mirena IUD

Pseudotumor Cerebri

Device Migration

Tricia Campbell Joins L&E



Tricia Campbell

Langdon & Emison is pleased to announce the addition of Tricia Campbell to its mass torts division. Tricia brings nearly 10 years of experience in all aspects of civil litigation, both state and federal, including her years of experience in mass torts litigation on a national scale.

Tricia joins Langdon & Emison to support the firm's management of multiple mass tort dockets and continued expansion into new torts. The firm will draw on her litigation experience in and understanding of multidistrict litigation as well as the various roles she has been involved in to enhance the firm's national mass torts footprint. Tricia is an active member of the Association of Women Lawyers and Women en Mass.

Attorneys Brett Emison and Tricia Campbell will review your potential mass torts case at no cost to you. Chat with us online at LangdonEmison.com, or call toll-free at 800-397-4910.



Common Causes of Tire Failures *(Continued from page 1)*

All tires deteriorate with age, but older tires have a much higher risk of failure than newer tires with similar wear and tread depth. The tire and automotive industries have known for decades about the dangers of aged tires. Yet, many manufacturers still fail to provide an expiration date after which the tire should not be used. Other manufacturers provide an expiration date that is unrealistic. Worse, practical steps have not been taken to make consumers aware of this critical danger.



David Brose

Fatal tire detread leads to settlement in Arkansas

Led by Partner David Brose, a Langdon & Emison legal team successfully represented the family of an Arkansas man who tragically burned to death. His commercial truck overturned, fell off a bridge and caught fire. At first glance, the case looked like a commercial truck accident, but when we investigated the case more closely, we discovered that a tire detread caused the loss of control. When we dug even deeper, we found a tire defect that was the ultimate cause of the accident and tragic loss of life. The case was successfully resolved earlier this summer.



Tires are handmade and many times errors are made in the construction, such as belts being misapplied.

Poor tire design and specification of tire components, such as too thin of an inner liner, can allow air flow to permeate the tire structure. This results in oxidation of the rubber components, making them brittle and susceptible to tearing, leading to tread separations. Further, tires are manufactured by hand through the work of tire builders. Poor plant conditions and improper placement of the various components, such as the belt plies, can also lead to premature failure.

When the rubber of a tire loses its elasticity due to oxidation, it is akin to laying a rubber band out in the sun—what was once a very elastic piece of rubber becomes fragile and susceptible to tearing. Heavy truck manufacturers commonly design tires with an inner liner similar to that found in some passenger tires, despite knowing the tires will be subjected to carrying much greater loads.

News and Notes

Kent Emison Honored with “Lawyer of the Year” and Thomas G. Strong Trial Attorney Awards



Kent Emison

Kent Emison was named “Lawyer of the Year” for Best Lawyers in America, in the category of Personal Injury Litigation for Plaintiffs (Kansas City region). The news will be published in the 2018 edition and shared with the U.S. News & World Report “Guide to U.S. Law Firms.” This marks the fourth year in the last five that a Langdon & Emison attorney was named Personal Injury Lawyer of the Year for that region.

He was also honored during the Missouri Association of Trial Attorneys’ annual banquet with the Thomas G. Strong Trial Attorney Award this summer. In 2010, Bob Langdon received this award, which was conceived to honor the Missouri attorney who best exemplifies the qualities of professionalism, ethics, character and courtroom success.

Bob Langdon, Brett Emison Present on Aftermarket Vehicles at AAJ Annual Convention



Partners Bob Langdon and Brett Emison presented “Aftermarket Vehicles: Identifying Modified Vehicle Cases” at the AAJ Annual Convention in Boston this July. Their presentation was part of the Litigation at Sunrise series of discussions on hot topics in litigation. Bob and Brett went over how defects in RV’s, police cruisers, ambulances, and modified vans can endanger drivers, and how their product claims often go undetected.

Firm Leads CLE Seminars for Plaintiff’s Attorneys

Langdon & Emison partners have presented a number of Continuing Legal Education presentations this year. In October, the firm will be the presenting sponsor of the University of Missouri–Kansas City’s symposium on personal injury and worker’s comp litigation, and has been invited to head up programming at a national seminar in Chicago devoted to traumatic brain injury cases. This year, Partner Mike Manners spoke at the Trial Judges Education Committee, Legal Aid of Western Missouri, the Eastern Jackson County Bar Association, and the Missouri Association of Trial Attorneys. This summer, attorneys Kent Emison and Brennan Delaney also spoke at the MATA annual convention.

Brett Emison Earns Distinguished Service Award from AAJ

Langdon & Emison partner Brett Emison is a recipient of the AAJ’s Distinguished Service Award for 2017. Brett was honored at the AAJ Annual Convention in Boston, July 22-25, 2017. The Distinguished Service



Brett Emison

Award recognizes members of the Board of Governors who, during the past year, have been of special assistance to the president of the association. Brett led regional fundraising efforts for AAJ’s 2017 Leaders Forum campaign by helping the association host an event in Kansas City, Mo.

Brett was also named to two committees at the annual convention. The National Finance Committee is the main group governing national fundraising initiatives for the AAJ. The Publications Committee oversees AAJ titles such as *Trial*, and member e-newsletters, and AAJ print resources. He also serves on the AAJ’s PAC Board of Trustees and PAC Task Force.

WHAT'S INSIDE:



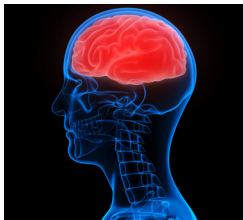
AUTO SEAT DEFECTS

DEFECTIVE MEDICAL DEVICES



DEFECTIVE TIRES

FUEL-FED FIRES



TRAUMATIC BRAIN INJURY CASES

TRUCKING ACCIDENTS



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