

CONNECTICUT

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1. What are the venues/areas in Connecticut that are considered dangerous or liberal?

The Judicial District of Waterbury is considered the most toxic to the defense

2. Identify any significant trucking verdicts in your State during 2017-2018, both favorable and unfavorable from the trucking company's perspective.

During 2017-2018, there were no significant trucking verdicts in Connecticut. The following are trucking related cases decided within the last ten years in which the verdict was in excess of one million dollars.

In *Estate of Dinardi v. PTX Services, LLC*, decided October 17, 2014, the plaintiff was awarded \$1,249,970.00 in economic damages and \$6,000,000.00 in noneconomic damages as a result of wrongful death of Daniel DiNardi. DiNardi was a DOT worker who had stopped and exited his vehicle on the right shoulder of the roadway when the defendant's driver struck him. The defendant contested liability.

In *Karotkin v. UPS*, decided September 30, 2014, the plaintiff was awarded \$3,476,025 by the jury, and the judge reduced the award to \$2,780,820.00. The plaintiff sustained significant injuries when the defendant's truck turned left in front of him resulting in a collision. The plaintiff was driving a motorcycle. The plaintiff suffered multiple fractures to his head and a pulmonary contusion.

In *Held v. Northeast Carriers*, decided on April 26, 2013, the six plaintiffs were awarded a total of \$15,795,600.00 by a jury. The defendant's driver, Derry, lost control of his tractor-trailer on 195. The tractor-trailer jumped the barrier and struck another tractor-trailer which in turn struck several other vehicles resulting in multiple fatalities and serious injuries. The jury found the defendant, Derry's, conduct was statutorily reckless and done with deliberate indifference or reckless disregard for the safety of others but declined to award the plaintiff's punitive damages.

In *Tremper v. State of Connecticut*, decided July 30, 2012, the jury awarded the plaintiff \$2,725,000.00. The plaintiff's vehicle was rear-ended by a tractor-trailer truck on an interstate. The plaintiff had changed lanes to avoid colliding with the State's truck that had stopped and was allegedly obstructing the lane. The jury found the State vehicle 30% negligent and the non-party

tractor-trailer driver 70% negligent. The jury awarded \$225,000.00 in economic damages and \$2,500,000.00 in noneconomic damages. The court reduced the economic damage award to \$151,694.14. In a companion case the *Estate of Munoz v. State of Connecticut*, the plaintiff's estate was awarded \$4,011,289.00. The decedent died as a result of his injuries.

In *Crockford v. Spencer*, decided June 21, 2012, the jury awarded the plaintiff \$2,523,500.00, in economic and non-economic damages as a result of injuries sustained from being rear-ended by a tractor-trailer carrying a load of steel. The plaintiff sustained a traumatic brain injury with complications.

3. Are accident animations and/or computer-generated evidence admissible in your State?

Yes, these are admissible with proper foundation established through Biomechanical and Reconstruction experts.

4. Identify any significant decisions or trends in your State in the past two (2) years regarding (a) retention and spoliation of in-cab videos and (b) admissibility of in-cab videos.

None.

5. What is your State's applicable law and/or regulation regarding the retention of telematics data, including but not limited to, any identification of the time frames and/or scope for retention of telematics data and any requirement that third party vendors be placed on notice of spoliation/retention letters?

There is no applicable law and/or regulation in Connecticut specifically concerning telematics data. Courts have broadly addressed the issue of spoliation and these decisions may be reasonably interpreted to apply also to electronic data such as telematics data. It goes without saying that a party can only be sanctioned for destroying evidence if it had a duty to preserve it.

The duty to preserve electronic data attaches upon knowledge of a potential claim, even absence a specific demand. Once on notice, the obligation to preserve evidence runs first to counsel who must advise and explain to the client its obligations to retain pertinent documents that may be relevant to the litigation i.e. that is reasonably calculated to lead to the discovery of admissible evidence. Put differently, the general rule is that a party need not preserve every shred of paper, every e-mail or electronic document, and every backup tape or hard drive. A party is under a duty to preserve what it knows, or reasonably should know, is relevant in the action; is reasonably calculated to lead to the discovery of admissible evidence; is reasonably likely to be requested during discovery; and/or is the subject of a pending discovery request.

The intentional spoliation of electronic evidence permits the trier to draw an adverse inference that the evidence would have been unfavorable. Such an inference arises, however, only where the act was intentional, and indicates fraud and a desire to suppress the truth.

6. Is a positive post-accident toxicology result admissible in a civil action?

Yes—with proper foundation to account for the effects of metabolism.

7. Is post-accident investigation discoverable by adverse counsel?

A solid, “*it depends!*” The best shield to discovery is if conducted at the direction of counsel.

8. Describe any laws in your State which regulate automated driving systems (autonomous vehicles) or platooning.

Connecticut General Statute §13a-260 is a pilot program to test fully autonomous vehicles. Four municipalities will be selected to partner with manufacturers and fleet service providers to test driverless cars on public roadways. Connecticut adopted specific provisions for the program, including that an operator must be on board any driverless vehicle tested in the state. With rolling applications, there is no deadline for municipalities to submit bids to participate in the program.

9. Describe any laws or Court decisions in your State which would preclude a commercial driver from using a hands-free device to have a conversation over a cell phone.

In Connecticut, there are no laws which preclude commercial drivers from using a hands-free device to have a conversation over a cell phone. The relevant law is Connecticut General Statute §14-296aa which regulates the use of a hand-held mobile telephone or other electronic device. Reading or sending text messages from a mobile telephone or mobile electronic device while operating a commercial motor vehicle except for the purpose of communicating with any of the following regarding an emergency situation: An emergency response operator; a hospital; physician's office or health clinic; an ambulance company; a fire department or a police department is prohibited.

10. Identify any Court decisions in your State precluding Golden Rule and/or Reptile style arguments by Plaintiffs' counsel.

Connecticut Trial courts have been restricting this tactic and have become familiar with concept. We address the concept through pretrial motions - Motions in Limine to confine the interrogation. Even when unsuccessful in the pretrial setting, the court is informed and has, in our experience, been more willing to sustain an objection.

11. Compare and contrast the advantage and disadvantages of Federal Court versus State Court in your State.

In general, federal courts in Connecticut tend to be stricter in terms of deadlines and procedural requirements. From the onset of a case, a federal action in Connecticut is assigned to one judge. The judge oversees the action from the preliminary stages, up to and, including trial.

One advantage of the federal court system in Connecticut is consistency and familiarity with proceedings before judges.

State courts in Connecticut tend to be less consistent and predictable. Although there has been a recent trend toward assigning one judge to an action, it is not uncommon for multiple judges to decide motions within a single action. Also, due to Connecticut's wide discrepancy in income, many courthouses pull a wide variety of jurors. The unpredictability of juror pools is a disadvantage of state courts in Connecticut.

12. How does your State handle the admissibility of traffic citations (guilty plea, pleas of no contest, etc.) in subsequent civil litigation?

Guilty Pleas are admissible; no contest pleas are inadmissible

13. Describe the laws in your State which regulate whether medical bills stemming from an accident are recoupable. In other words, can a plaintiff seek to recover the amount charged by the medical provider or the amount paid to the medical provider? Is there a basis for post-verdict reductions or offsets?

Connecticut allows the full amount of medical specials to go to the jury. Presently, if the charges are reimbursable, at any level, there is no collateral offset. If a collateral source offset is available, the plaintiff can use the medical premium cost to recapture the offset.

14. Describe any statutory caps in your State dealing with damage awards.

There are no statutory caps in Connecticut.