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TRUCK ACCIDENT LITIGATION:

Nuclear Verdicts & Post-Accident Investigations

DAVID WILLIS



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NUCLEAR VERDICTS



Nuclear Verdicts – Top 6 in 2010-21:

Amount: \$1 Billion

Attorneys: Curry Pajcic Pajcic & Pajcic, LLP

Case: *Dzion v. AJBusiness Services and Kahkashan Carrier, et al.*

Type: Motor Vehicle Accident, Car stopped, Personal Injury, Truck Accident, Rear End, Negligent Entrustment, Gross Negligence, Negligent Tort, Punitives – Distracted Driving \$900 million punitives

State: Florida

Amount: \$730,000,000

Attorneys: Brent Goudarzi, Goudarzi & Young LLP., Nelson Roach, Roach Langston & Bruno, LLP

Case: *Ramsey v. Landstar*

Type: Car Accident, Motor Vehicle Accident, Personal Injury, Truck Accident, Crossing narrow bridge with a large navy propeller, Negligent Tort, Vicarious Liability, Respondeat Superior

State: Texas

Amount: \$247,000,000

Attorneys: J. Brent Goudarzi, Marty Young of Goudarzi & Young LLP

Case: *Estate of McPherson v. Jefferson Trucking LLC, et al.*

Type: Car Accident, Motor Vehicle Accident, Truck Accident, Wrongful Death, Negligent Entrustment, Negligent Tort, Vicarious Liability, Respondeat Superior

State: Texas

Nuclear Verdicts – Top 6 in 2010-21:

Amount: \$128,813,522

Attorneys: Brian D. “Buck” Rogers of Fried Rogers Goldberg LLC; Darren Summerville, Anna Cross of The Summerville Firm

Case: *Johnson v. Lee*

Type: Car Accident, Motor Vehicle Accident, Personal Injury, Truck Accident, Wrongful Death, Negligent Entrustment, DUI, Negligent Tort, Vicarious Liability, Quadriplegia

State: Georgia

Amount: \$101,361,337

Attorneys: J. Brent Goudarzi, John Hall, Marty Young of Goudarzi & Young LLP

Case: *Patterson v. FTS International Manufacturing LLC*

Type: Car Accident, Motor Vehicle Accident, Negligence in Employment, Personal Injury, Truck Accident, DUI, Negligent Tort, Vicarious Liability, Respondeat Superior

State: Texas

Amount: \$89,600,000

Attorneys: Eric T. Penn of The Penn Law Firm P.C.

Case: *Blake v. Ali, et al.*

Type: Car Accident, Motor Vehicle Accident, Personal Injury, Truck Accident, Wrongful Death, Brain Injury, Negligent Hiring, Negligent Training, Negligent Entrustment, Negligent Tort, Vicarious Liability, Respondeat Superior

State: Texas

Nuclear Verdicts – 5 Takeaways:



1. Defuse Nuclear Verdict Detonators
2. Verdicts Designed to Put Companies Out of Business
3. Percentage Responsible Doesn't Add Up
4. Fodder for Regulation and Collision Avoidance Technology
5. Bad Actors – Bad For Trucking





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POST ACCIDENT INVESTIGATIONS



Post-Accident Investigations:

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- Driver Qualifications
- Driver and Carrier Responsibilities
- Parts, Equipment, and Components
- Record Keeping



Driver Qualifications: Was Driver Trained, Qualified, and Experienced?



§ 391.11 General qualifications of drivers.

- (a) A person shall not drive a commercial motor vehicle unless he/she is qualified to drive a commercial motor vehicle. Except as provided in § 391.63, a motor carrier shall not require or permit a person to drive a commercial motor vehicle unless that person is qualified to drive a commercial motor vehicle.
- (b) Except as provided in subpart G of this part, a person is qualified to drive a motor vehicle if he/she -
 - (1) Is at least 21 years old;
 - (2) Can read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records;
 - (3) Can, by reason of experience, training, or both, safely operate the type of commercial motor vehicle he/she drives;
 - (4) Is physically qualified to drive a commercial motor vehicle in accordance with subpart E - Physical Qualifications and Examinations of this part;
 - (5) Has a currently valid commercial motor vehicle operator's license issued only by one State or jurisdiction;
 - (6) Is not disqualified to drive a commercial motor vehicle under the rules in § 391.15; and
 - (7) Has successfully completed a driver's road test and has been issued a certificate of driver's road test in accordance with § 391.31, or has presented an operator's license or a certificate of road test which the motor carrier that employs him/her has accepted as equivalent to a road test in accordance with § 391.33.

- CDL
- Physically/Medically Qualified
- Alcohol/Drug Screened
- Knowledgeable on Cargo Securement
- Positive History
- Successful Road Tests

Truck Driver Drug Testing Requirements:



- The Federal Motor Carrier Safety Administration (FMCSA) and the Department of Transportation (DOT) require drivers to undergo drug and alcohol testing
 - This applies to all truck drivers on public roads who follow CDL requirements
- FMCSA regulations permit random testing and testing upon reasonable suspicion of impairment caused by drugs or alcohol
- Drug testing also occurs at the pre-employment stage and, depending on the circumstances, after an accident



Is the Driver Knowledgeable About Vehicle Operations and Cargo Placement?



§ 392.9 Inspection of cargo, cargo securement devices and systems.

- (a) *General.* A driver may not operate a commercial motor vehicle and a motor carrier may not require or permit a driver to operate a commercial motor vehicle unless -
 - (1) The commercial motor vehicle's cargo is properly distributed and adequately secured as specified in §§ 393.100 through 393.136 of this subchapter.
 - (2) The commercial motor vehicle's tailgate, tailboard, doors, tarpaulins, spare tire and other equipment used in its operation, and the means of fastening the commercial motor vehicle's cargo, are secured; and
 - (3) The commercial motor vehicle's cargo or any other object does not obscure the driver's view ahead or to the right or left sides (except for drivers of self-steer dollies), interfere with the free movement of his/her arms or legs, prevent his/her free and ready access to accessories required for emergencies, or prevent the free and ready exit of any person from the commercial motor vehicle's cab or driver's compartment.

Negative History:



Road Test:



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DRIVER AND CARRIER RESPONSIBILITIES



Driver and Carrier Responsibilities:

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- Hours of Service (HOS)
- Pre and Post-Trip Inspections
- Reacting to Special Driving Circumstances (Weather/Rail Cross/Etc.)
- Undistracted Driving
- Record Keeping



Trip Inspections



§ 396.7 Unsafe operations forbidden.

- (a) **General.** A motor vehicle shall not be operated in such a condition as to likely cause an accident or a breakdown of the vehicle.
- (b) **Exemption.** Any motor vehicle discovered to be in an unsafe condition while being operated on the highway may be continued in operation only to the nearest place where repairs can safely be effected. Such operation shall be conducted only if it is less hazardous to the public than to permit the vehicle to remain on the highway.

Trip Inspections

§ 396.13 Driver inspection.

Before driving a motor vehicle, the driver shall:

- (a) Be satisfied that the motor vehicle is in safe operating condition;
- (b) Review the last driver vehicle inspection report if required by § 396.11(a)(2)(i); and
- (c) Sign the report to acknowledge that the driver has reviewed it and that there is a certification that the required repairs have been performed. The signature requirement does not apply to listed defects on a towed unit which is no longer part of the vehicle combination.

Reaction to Special Driving Circumstances:



Undistracted Driving:

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- No Texting
- No Cell Phones
(unless hands free)





FWD +0.06

LAT +0.01



TIME -7.90

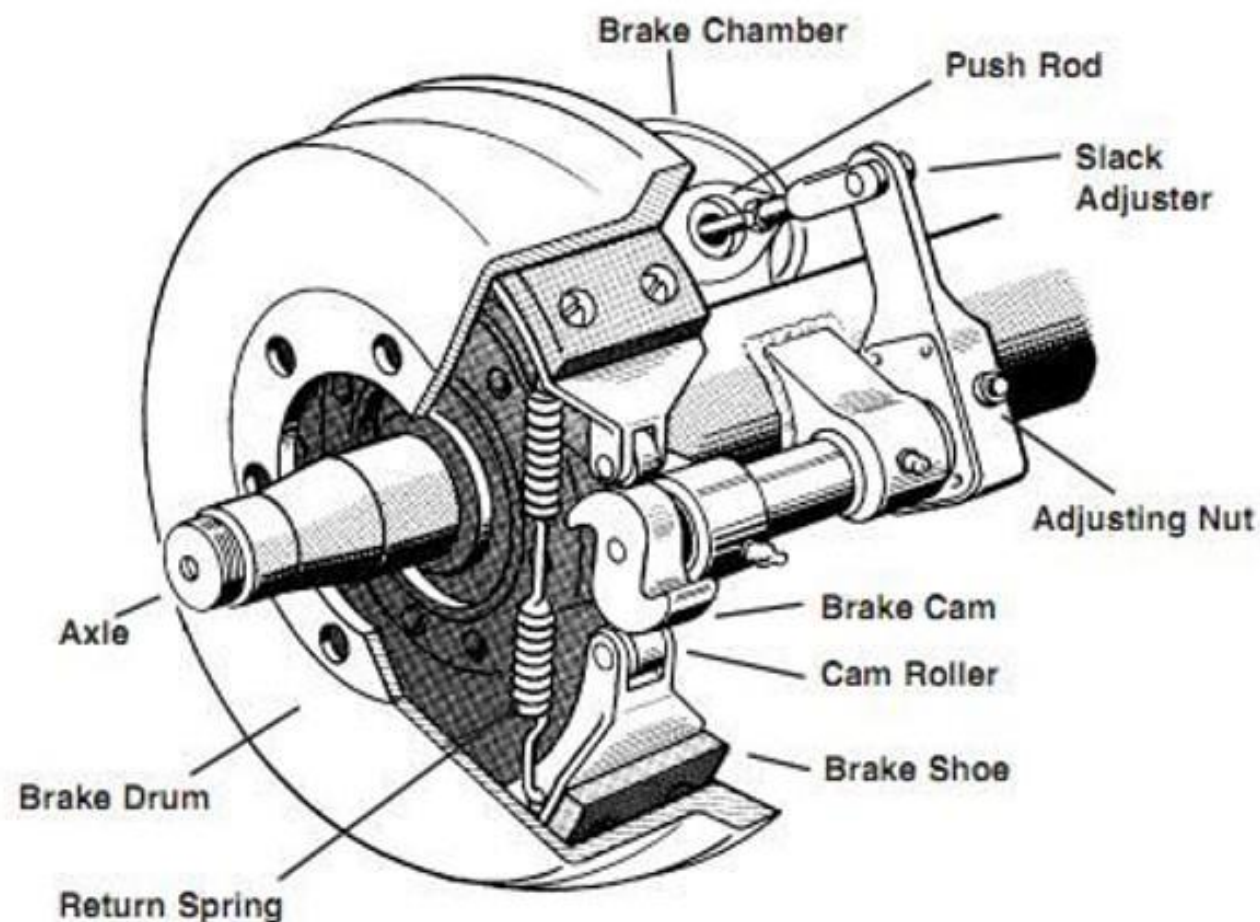
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DEFECTIVE PARTS, EQUIPMENT, COMPONENTS

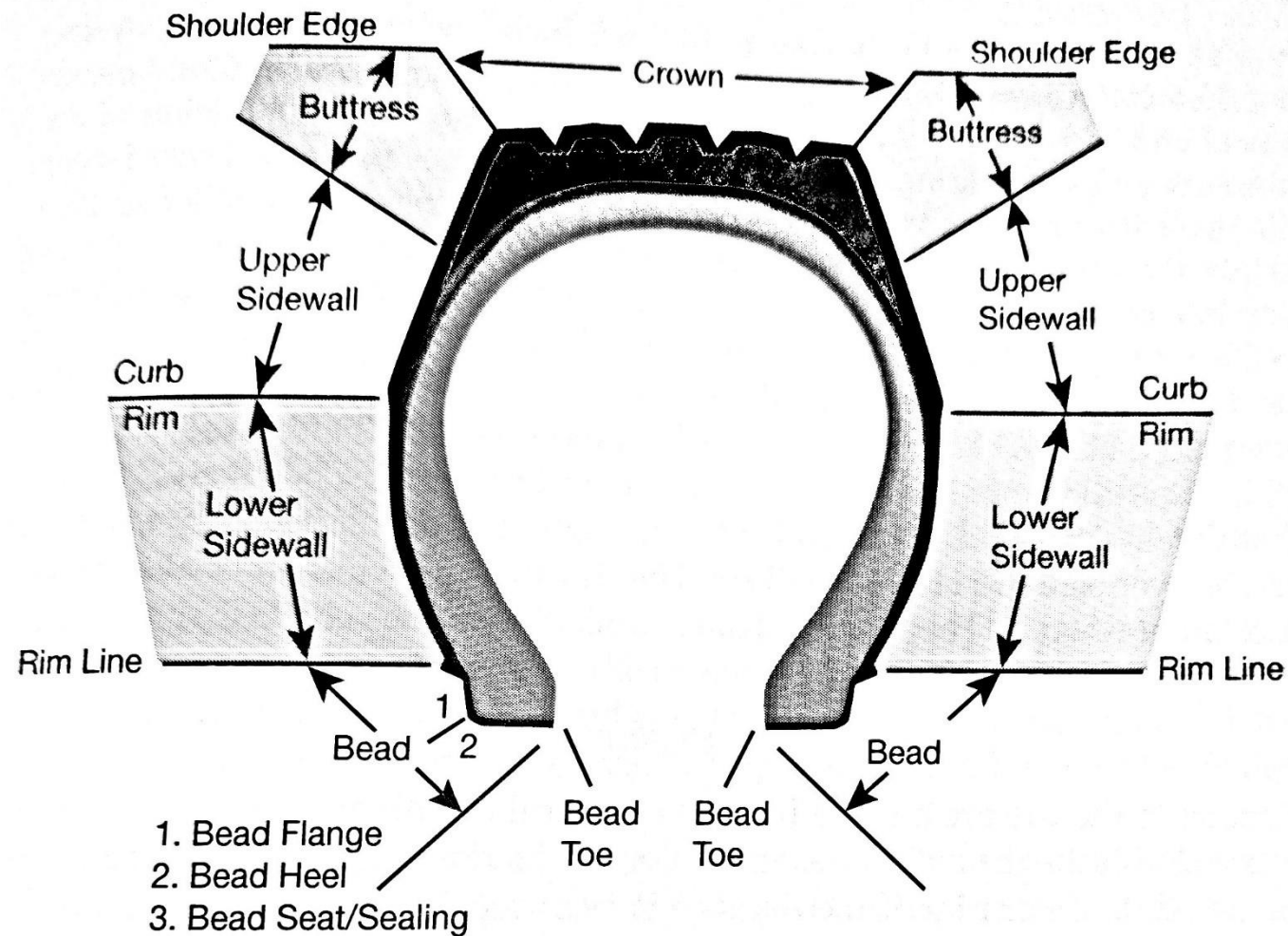
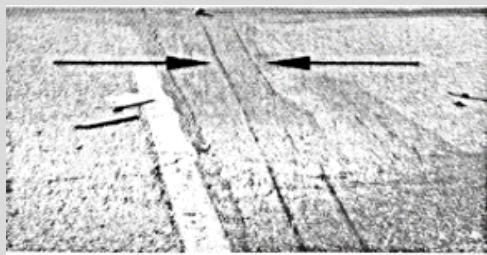
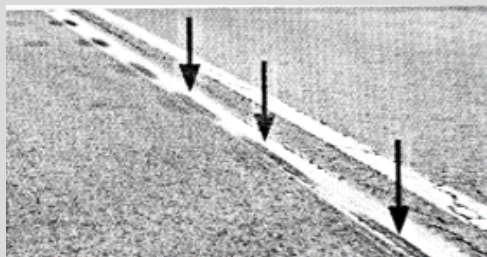
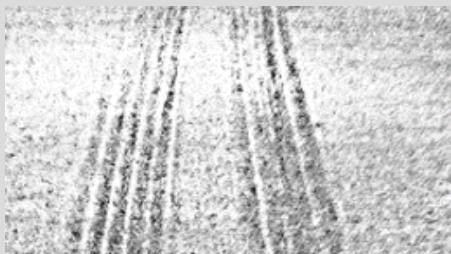


Brakes:

- FMCSR 393.40 "each commercial motor vehicle must have brakes adequate to stop and hold the vehicle..."



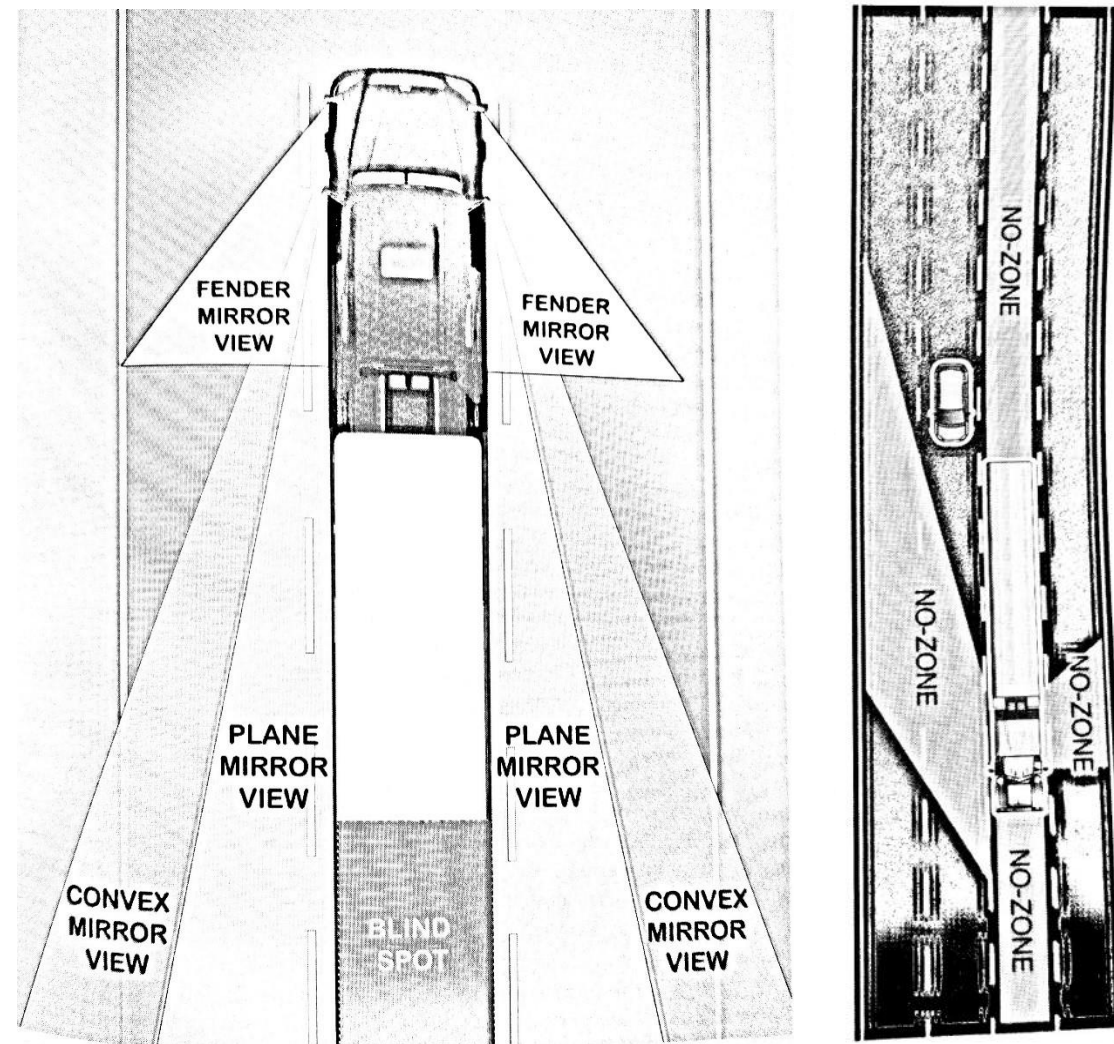
Tires and Wheels:



Mirrors and Visibility:

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- FMCSR has requirements for installation, inspection, and installation of mirrors at 392.7 and 393.80.



Record Keeping and Retention:

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- Spoilation of evidence
- Shredding the evidence

What You Need:

- Private Investigators
- Accident Reconstruction
- Expert Witness



The Lawyers Role: What Can The Defense Do?



- **Get a hold of the facts** – early
- **Accident reconstructionists** – make all the difference
- **Crisis response team** – 24/7/365 – need to be on scene in first 24 hours!
- **Gather photos** – video – drone video, CELL PHONES, 911 calls, log books, download truck black box and the plaintiff's vehicle, stop light or surrounding surveillance videos
- **Witness statements**
- **Police** – handle the officers

Other Key Points of Investigation:

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- Social Media
- Tow Truck Records
- Any Video or Photos
- Lighting
- Character of the Roadway
- Cab Interior
- Plaintiff's vehicle inside and out
- Onboard Electronics





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It has been encoded and compressed.

Bendix

The Bendix logo, featuring the word 'Bendix' in a bold, sans-serif font above a stylized, curved banner.



Crises Response Team:

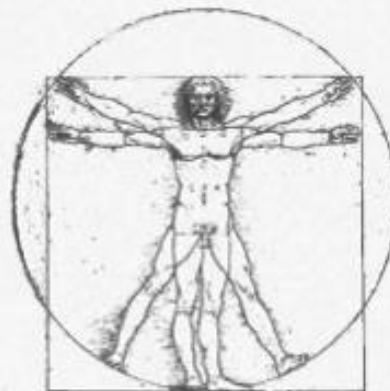


What Can The Defense Do?

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- **Vicarious Liability: Respondeat Superior**
- **Direct Liability: Negligent Entrustment, Negligent Hiring**
- **Negligence per se**

REASONABLE MAN



- Hypothetical legal construct
- Used to assess reasonable care
- Did defendant act as a reasonable man would have?

→ Yes: no breach of duty

→ No: breach of duty



ABOUT QPWB



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ABOUT QPWB

At QPWB we know that it's all about Different™ - because we know that different wins for you. From diversity in staff, our service offerings, our locations, and the vision for our future, QPWB is changing the narrative on what it means to provide full-service legal support to the nation's best. We offer a wide variety of legal services to public and private companies, professionals, entrepreneurs, and individuals. Our firm's strength is in providing unique resources and solutions that come from over 25 years of experience in handling a broad range of complex business and commercial cases as well as transactions.



OUR MISSION

At QPWB we believe the businesses and business leaders of the 21st century need a law firm not afraid to be **different**.

- We are **different** in understanding our success requires a commitment every day to diversity, leadership, reach and vision.
- We are **different** in understanding our success should be based on the value our clients experience from the outcomes we create.
- We are **different** in understanding the quality of the relationships we build with our clients and team members is the most important judgment we receive.
- We are **different** because we understand that the same way of doing things will not work forever.
- We are **different** because we understand different wins for you.



Diversity



Leadership



Reach



Vision



Rhode Island Office
Managing Partner

**David B.
Willis**

David B. Willis is the managing partner of the Providence office QPWB. With over 30 years of experience, Mr. Willis has established himself as a highly skilled attorney specializing in intricate litigation matters, with a particular focus on transportation, including aviation, motor vehicle, and trucking matters. His expertise extends to a wide range of practice areas, including labor and employment, risk management, product liability, personal injury, insurance and insurers, medical malpractice defense, and international affairs.

Mr. Willis embarked on his legal career in 1991 as a Special Assistant to the Attorney General of Rhode Island, where he honed his skills in criminal litigation. In this role, he successfully handled a significant number of cases, acting as First Chair for over 50 jury and 50 bench trials. He played a vital role in integrated prosecution and overseeing cases from investigation through trial to appeal. Additionally, Mr. Willis contributed to the development of legislation as part of the Attorney General's Domestic Task Force, specifically focusing on criminal sentencing matters.

Continuing his legal journey, Mr. Willis served as in-house counsel for a national insurance carrier, where he provided valuable guidance to the Special Investigation Unit. He demonstrated his proficiency in complex investigations, including those related to arson, involving first-party insureds. During this tenure, Mr. Willis successfully represented the carrier as First Chair in over 50 civil jury trials, achieving an exceptional winning percentage of over 95%. His outstanding performance earned him the Bronze Medal Award.

Mr. Willis earned his Juris Doctor in 1989 from Tulane University in New Orleans, Louisiana where he also received a bachelor's degree in 1986. He is licensed to practice law in Rhode Island and Massachusetts and is admitted in the Federal District Court of Rhode Island, Federal District Court of Massachusetts, the U.S. Supreme Court, and the First Circuit Court of Appeals. He is a member of the Rhode Island and Massachusetts Bar Associations.

A group of four business professionals (two men and two women) are seated around a table in a meeting room, engaged in a discussion. The image is overlaid with a dark blue filter. The text "ADDITIONAL VALUE WE OFFER" is centered in white, bold, uppercase letters.

ADDITIONAL VALUE WE OFFER

DIVERSE PRACTICE OFFERINGS



CORPORATE

Our team has a keen focus on the establishment, operation and governance of people and organizations. We assist businesses by managing their risk, advocating their positions and ensuring the accomplishment of their global goals and objectives in the marketplace.



REGULATORY

From statutory assessments, to agency rule making, collective bargaining and ultimate judicial administrative review, our team will navigate your matter with precision and care with a full understanding of its global impact on your organization.

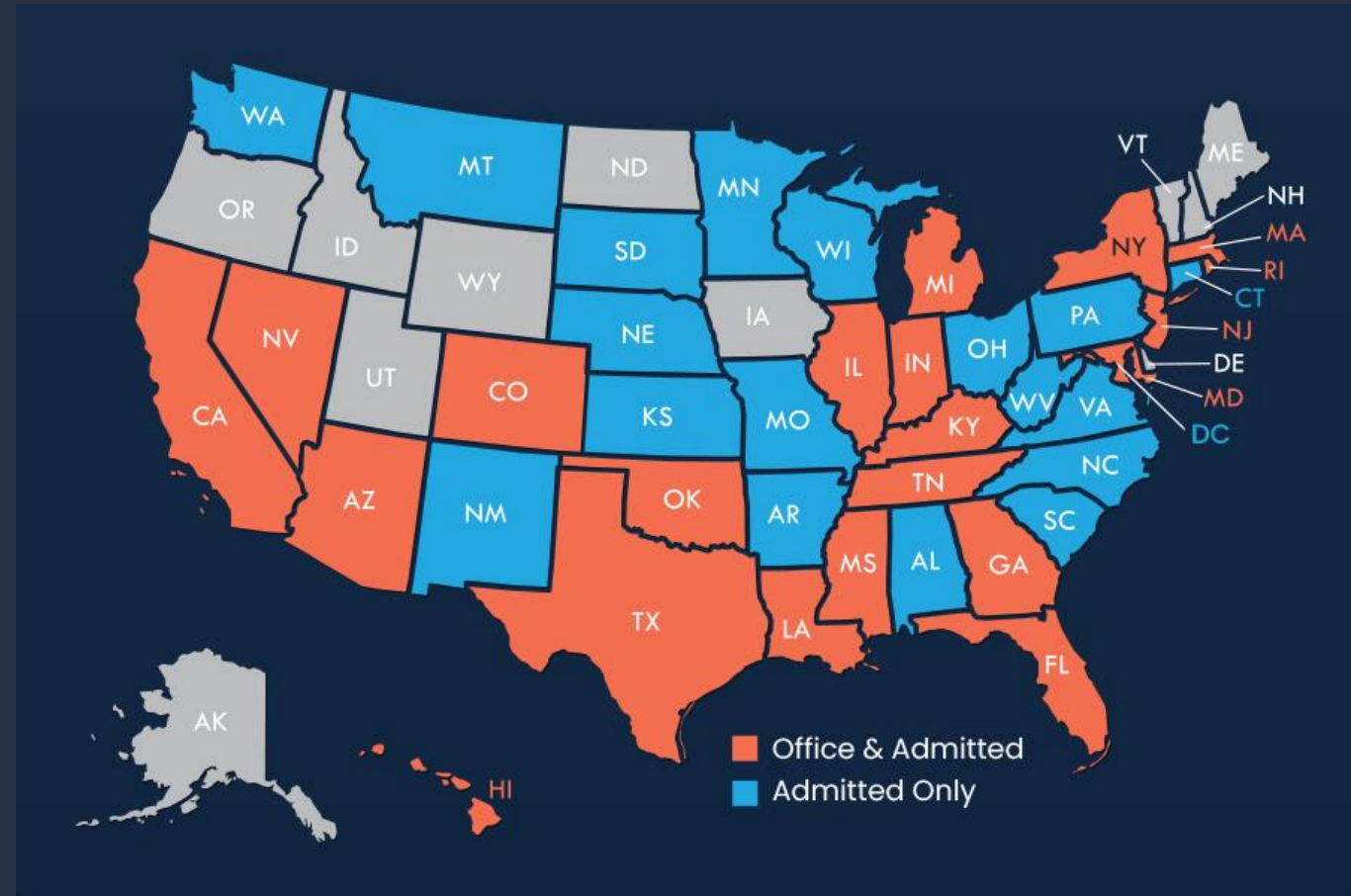


LITIGATION

Our team of litigators handle a wide range of matters including, but not limited to, prevention and counselling, investigation, alternate dispute resolution, motion practice, trial and appellate advocacy in administrative, state and federal proceedings.

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