

LAW FIRM REPRESENTS TRUCKING'S INTERESTS

by Mary Lou Jay

ROB MOSELEY AND Frederick Marcinak had decades of legal experience in trucking, transportation and logistics when they founded the Moseley Marcinak Law Group in 2019. Today the firm has 10 lawyers and eight staff members who represent both regional and national motor carriers. Although most of the team is based in South Carolina, one partner, Blair Cash, works from an office in Kennesaw, Georgia.

Moseley has enjoyed working in transportation law ever since he helped start a trucking industry practice group at a former law firm. "The people I've met in the trucking business are generally the best people in the world; they wake up in the morning wanting to do the right thing and wanting to treat their people well," he said.

"The people in the industry are very hard working, so you feel a vested interest in wanting to work hard for them," added Cash.

MANAGING GROWTH

Moseley Marcinak Law Group is known nationally for its work; it is one of just a few firms in the U.S. that specialize in trucking. On any given day, the practice is managing active litigation in 20 to 30 states.

The firm's trucking company clients generally have between 50 and 500 trucks. About half of its work is business-related, consisting of freight claims, agreements for brokers, shippers and independent contractors, regulatory issues involving FMCSA and labor and employment issues. The remainder of the work deals with accident cases - working with trucking companies



and/or their insurers - as well as broker liability claims and cargo claims.

Moseley said that high verdicts against trucking companies in accident cases are the most obvious and glaring legal problem for the industry today. "But what leads to those problems? Generally speaking, it's a trucking company growing, and the owners not making the transition from a small mom-and-pop operation to a mid-major or even a large company," he explained. "What they end up doing is putting out fires to get the freight delivered, rather than thinking and planning and doing the things that trucking companies of a certain size need to be doing."

For example, problems sometimes arise when a large retailer approaches a trucking company asking it to ship freight for them. "When you sign a contract, all you're worried about is trying to get the business," said Cash. "But if you don't have processes in place to protect yourself, you might sign documents with that customer that

could open your company to liability and create problems later.”

The Moseley Marcinak Law Group helps its clients prepare for these scenarios by conducting an overview of the company’s structure and operations. When companies see where their blind spots are, they can work with the attorneys to find ways to protect themselves.

“Every company needs to evaluate its risk tolerances, and it needs to figure out what it needs to do today while not losing sight of how that might change if they go from 10 trucks to 30 or 50 trucks,” added Moseley.

One way that trucking companies can manage their growth and limit liability is installing camera systems on trucks. Moseley said these have made a big difference for trucking companies when it comes to accident claims. Once they can review the video, police officers and even lawyers for the other drivers involved can see who is actually at fault. (In 75 to 80 percent of the accidents, it’s not the truck driver.)

Camera systems will also help trucking company owners determine when their driver is not telling the truth about what happened. They can make a decision about how to proceed based on good information, rather than spending 18 months or more in litigation before realizing their driver hasn’t provided the real story, Moseley added.

But many trucking companies aren’t taking full advantage of this technology and the information that it provides about drivers’ behaviors. “You have all this data that can alert you to potential problems before they become a really big problem in the form of an accident, and that’s great. But what do you do with the data? Do you use it to coach your drivers and help them fix little mistakes before they turn into big ones? You’ve got all these wonderful tools, but you need to use them to help your drivers be more efficient and safer,” said Cash. If drivers become better at their jobs, the trucking company has less downtime and

spends less money dealing with accidents and with small incidents at the loading docks.

WORKING IN GEORGIA

Moseley Marcinak Law Group has been a member of GMTA since the firm was founded in 2019. Moseley himself was involved with the association for many years before that through his previous employer.

“Our relationship with GMTA has been very favorable for both sides,” he said. “We have been able to do a lot of education, speaking before various groups at the association’s meetings. We provide timely and accurate information about what’s going on in the legal world. At the same time, the association gives us the platform to be able to promote our practice.”

Having a Georgia office helps ensure the law firm keeps up-to-date on potential problems for the state’s trucking companies.

One example is a Georgia Supreme Court ruling last November that changed a rule about direct negligence claims. Previously, if a company admitted vicarious liability in a lawsuit, its attorney could successfully move to have other, duplicate charges such as negligent training and negligent supervision dismissed. That’s no longer the case.

The impact has not been widely felt so far because of the pandemic-related lack of jury trials, but that will change once they resume. “You’re going to see a real impact on the verdicts against trucking companies,” said Cash. It will be up to the Georgia State Legislature to resolve the issue.

“I think it’s going to require a concerted effort from the industry to really put pressure on their representatives to do something about this,” he added.

Meanwhile, the Moseley Marcinak Law Group is prepared to help trucking companies cope with this new situation and with any other legal issues that their businesses may face.