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A risk-management webinar for
motor carriers and safety teams

Post-Accident Response.



THE FIRST 24 HOURS

What your team does in the hours after a crash decides the case long before a lawyer ever files.

Presented by Brandon Wiseman & Aaron Lilach

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AGENDA

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What we'll cover.

01 **The litigation landscape**
Why post-accident discipline is a financial issue, not just a safety one

02 **The scene & the clock**
Priorities, what not to do, and the compliance obligations on fixed deadlines

03 **DOT post-accident testing**
Which crashes trigger it, and the 2 / 8 / 32-hour requirements

04 **Evidence & the claim**
Preservation, reporting, social media, and setting up the defense

05 **Build the process first**
Turning your response plan into a defense exhibit

The window is short.

57% of commercial auto claims that go to litigation have plaintiff counsel involved within 24 hours of the claim being reported.

Source: Auto Insurance Report (2024)

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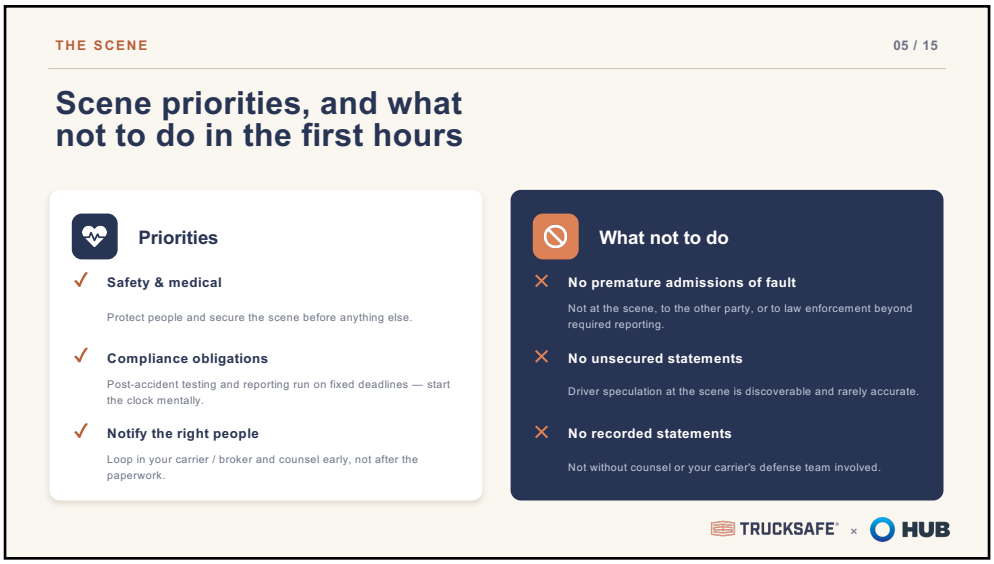
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THE MARKET
03 / 15
Commercial auto has bled for 14 straight years.
The premiums your fleet pays are set by a market that has not turned a profit in over a decade.
$4.9B
2024 underwriting loss
Combined ratio of 108% — despite roughly 10% premium increases
$0.102
per mile in premiums
A record high in 2024, up 36% per mile over eight years
7%
social inflation, 2023
A 20-year high; bodily-injury claim severity up 20%
~3×
defense costs
Defense and cost-containment expense has nearly tripled in a decade
Commercial trucking is among the lines most impacted by social inflation.
Sources: AM Best (2024) · Swiss Re Sigma 4/2024 · ATRI 2025 Operational Costs · Triple-I/CAS · Munich Re
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THE LITIGATION LANDSCAPE
04 / 15
4% of auto claims go to court — they are 54% of every dollar paid.
Share of closed auto claims
3.98% litigated
Share of total dollars paid
53.7% of dollars paid
The cost isn't the verdict. It's the defense expense, the reserves, and the years it takes to close.
135
nuclear verdicts in 2024
Up 52% over 2023 — $31.3B in total awards
57%
have counsel in 24 hours
Of litigated commercial auto claims, plaintiff counsel is retained within a day
3.7%
annual growth in filings
Tractor-trailer tort filings, 2014–2023 (ATRI)
Sources: Sedgwick FY 2024 · Marathon Strategies · ATRI Litigation Analysis (2025) · Auto Insurance Report (2024)
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THE SCENE
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Scene priorities, and what not to do in the first hours
Priorities
Safety & medical
Protect people and secure the scene before anything else.
Compliance obligations
Post-accident testing and reporting run on fixed deadlines — start the clock mentally.
Notify the right people
Loop in your carrier / broker and counsel early, not after the paperwork.
What not to do
No premature admissions of fault
Not at the scene, to the other party, or to law enforcement beyond required reporting.
No unsecured statements
Driver speculation at the scene is discoverable and rarely accurate.
No recorded statements
Not without counsel or your carrier's defense team involved.
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TESTING · 49 CFR 382.303
06 / 15
Which crashes trigger a drug/alcohol test?
A DOT post-accident test is mandatory if the crash, on a public road, involving a CDL-sized CMV, meets ANY one of these three triggers.
Fatality
01
The crash involved the loss of human life.
Test every surviving safety-sensitive driver.
Fault is irrelevant. Test even if your driver did nothing wrong and was not cited.
Injury + citation
02
Someone is injured and immediately treated away from the scene…
…AND your driver is cited for a moving violation.
Both elements must be present.
Tow-away + citation
03
A vehicle has disabling damage and is towed from the scene…
…AND your driver is cited for a moving violation.
Both elements must be present. "Disabling damage" means it can't be driven away.
No trigger, no DOT test. If none of the three applies, no DOT post-accident test is required, though you may still test under your own company authority.
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TESTING · 49 CFR 382.303 07 / 15

The clock: 2 / 8 / 32.

Once a trigger is met, the deadlines start at the time of the accident.

2 HOURS

Alcohol — attempt by

Make a good-faith effort to complete the alcohol test within 2 hours. If you can't, document why in writing.

8 HOURS

Alcohol — hard stop

After 8 hours, cease attempts to test for alcohol and maintain the record of why. Alcohol metabolizes fast.

32 HOURS

Drugs — complete by

Complete the controlled-substance test within 32 hours. After that, cease attempts and document the reason.

Refusal = positive

A driver must stay available for testing. Refusing or drinking before the alcohol test is treated as a positive result.

Document every gap

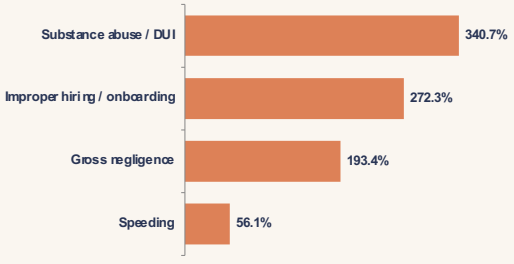
Missed a window because of hospitalization or a remote scene? Written documentation of the reason is your defense in an audit.

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WHY IT MATTERS 08 / 15

Substance abuse is the single costliest allegation in trucking.



Expected % increase in total award when the allegation is present, controlling for other factors. Source: ATRI, Trucking Litigation: A Forensic Analysis (Dec 2025), Table 5.

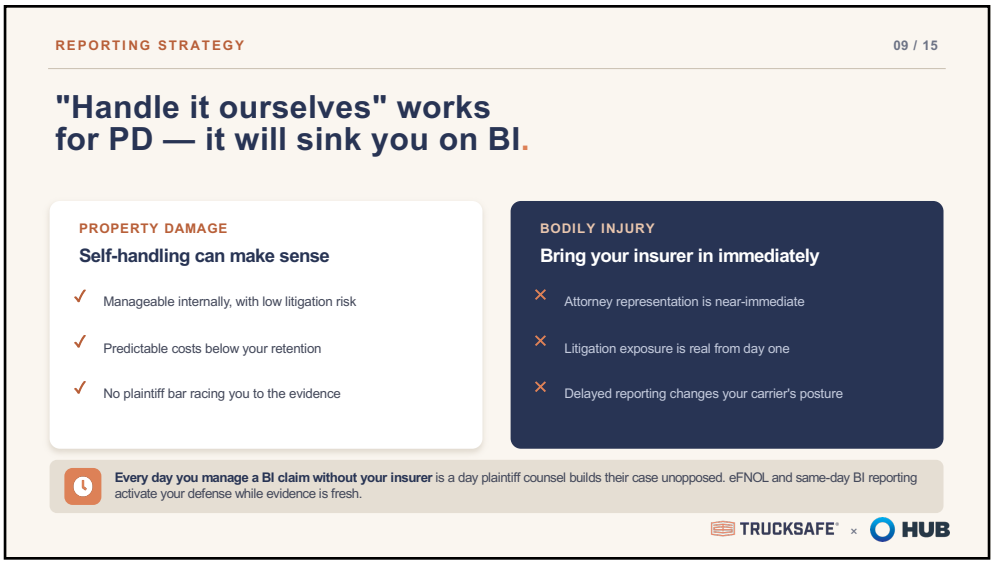
+340.7%

Substance abuse or driving under the influence carries the largest expected award increase of any allegation in the dataset.

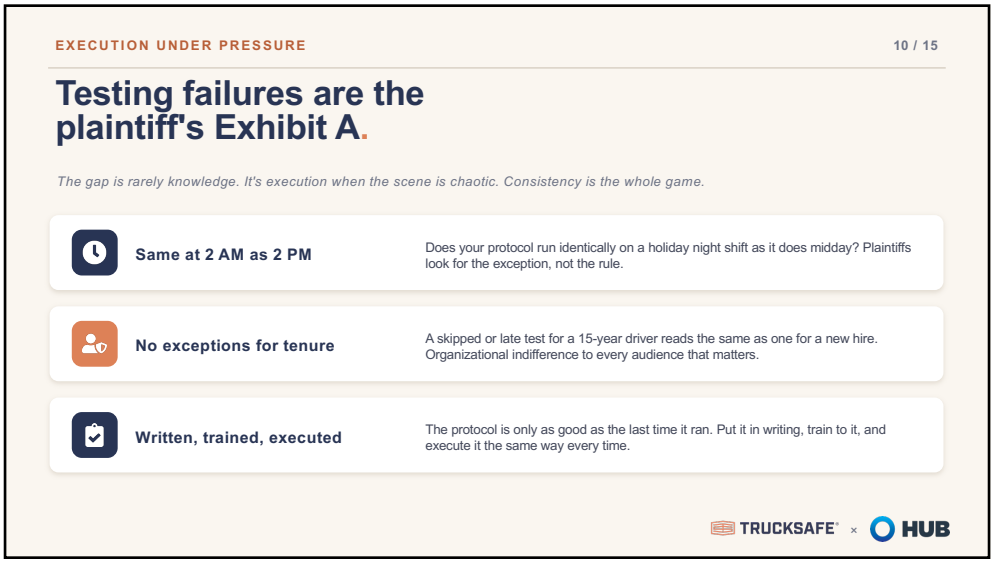
A clean, on-time test closes that door. A missing one leaves it wide open, whether or not drugs or alcohol were ever involved.

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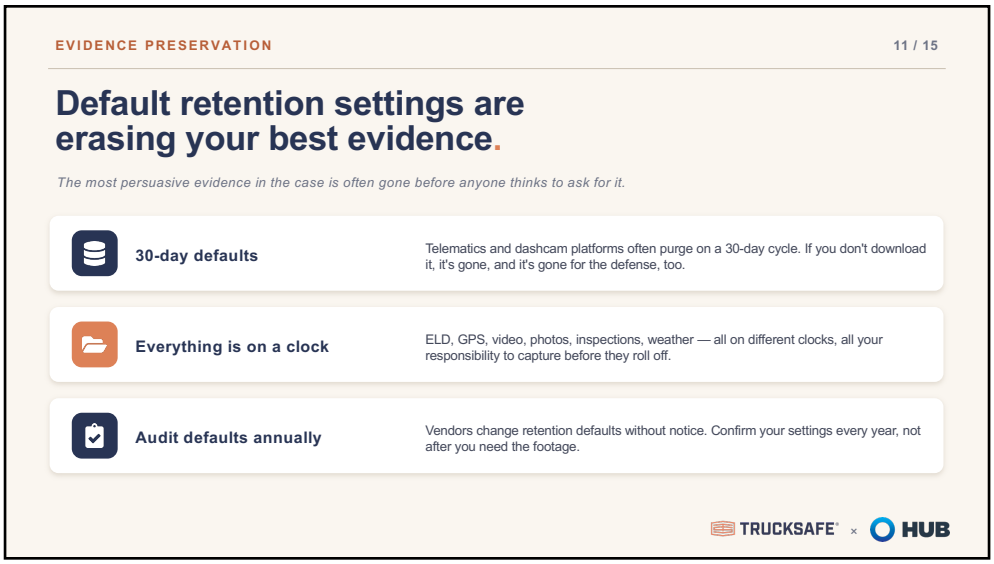
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REPORTING STRATEGY
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"Handle it ourselves" works for PD — it will sink you on BI.
PROPERTY DAMAGE
Self-handling can make sense
Manageable internally, with low litigation risk
Predictable costs below your retention
No plaintiff bar racing you to the evidence
BODILY INJURY
Bring your insurer in immediately
Attorney representation is near-immediate
Litigation exposure is real from day one
Delayed reporting changes your carrier's posture
Every day you manage a BI claim without your insurer is a day plaintiff counsel builds their case unopposed. eFNOL and same-day BI reporting activate your defense while evidence is fresh.
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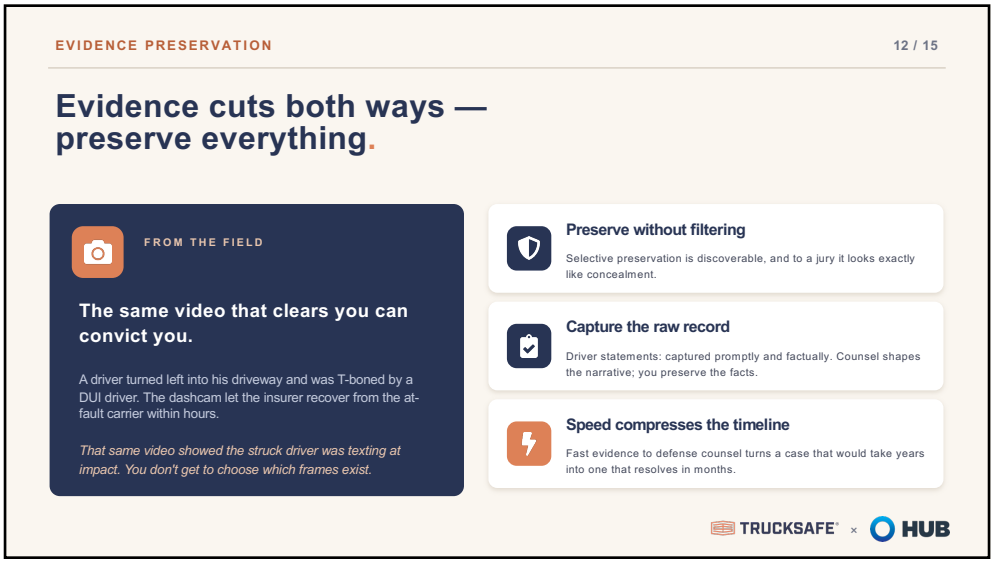
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EXECUTION UNDER PRESSURE
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Testing failures are the plaintiff's Exhibit A.
The gap is rarely knowledge. It's execution when the scene is chaotic. Consistency is the whole game.
Same at 2 AM as 2 PM
Does your protocol run identically on a holiday night shift as it does midday? Plaintiffs look for the exception, not the rule.
No exceptions for tenure
A skipped or late test for a 15-year driver reads the same as one for a new hire. Organizational indifference to every audience that matters.
Written, trained, executed
The protocol is only as good as the last time it ran. Put it in writing, train to it, and execute it the same way every time.
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EVIDENCE PRESERVATION
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Default retention settings are erasing your best evidence.
The most persuasive evidence in the case is often gone before anyone thinks to ask for it.
30-day defaults
Telematics and dashcam platforms often purge on a 30-day cycle. If you don't download it, it's gone, and it's gone for the defense, too.
Everything is on a clock
ELD, GPS, video, photos, inspections, weather — all on different clocks, all your responsibility to capture before they roll off.
Audit defaults annually
Vendors change retention defaults without notice. Confirm your settings every year, not after you need the footage.
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EVIDENCE PRESERVATION
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Evidence cuts both ways — preserve everything.
FROM THE FIELD
The same video that clears you can convict you.
A driver turned left into his driveway and was T-boned by a DUI driver. The dashcam let the insurer recover from the at-fault carrier within hours.
That same video showed the struck driver was texting at impact. You don't get to choose which frames exist.
Preserve without filtering
Selective preservation is discoverable, and to a jury it looks exactly like concealment.
Capture the raw record
Driver statements: captured promptly and factually. Counsel shapes the narrative; you preserve the facts.
Speed compresses the timeline
Fast evidence to defense counsel turns a case that would take years into one that resolves in months.
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EVIDENCE PRESERVATION
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Social media destroys defensible claims.
One uncontrolled post can undo months of careful defense preparation.
Driver posts are discoverable
Posts within hours of a crash are routinely pulled into litigation and used to reframe the narrative.
So are family posts
Spouse and family posts are equally discoverable and equally devastating
Policy before the accident
A social media policy covers employees and educates families before a crash ever happens, not after.
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SETTING UP THE DEFENSE
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Set your insurer's defense team up to win.
eFNOL activates the defense
Electronic first notice of loss activates defense resources immediately. Late reporting triggers reserving decisions and coverage scrutiny instead.
The process is the story
A fatal crash — the other vehicle crossed the center line, not preventable. Next morning: a Teams call with counsel, every data point protected, every narrative controlled. That call happened because the process existed before the crash.
Your track record goes to market
How you respond becomes the narrative you carry into every renewal. A disciplined response history is an underwriting asset.
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THE TAKEAWAY
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Build the process before you need it.
Your protocol is the counter-narrative
Reptile theory targets indifference. A documented, drilled response is the answer to it.
It's a defense exhibit, not a binder
Your post-accident plan isn't an internal document, it's evidence a jury will eventually see.
Records build the pattern
Training records, tabletop drills, and consistent execution build the pattern juries need to see.
You don't get to practice
The first time you run it for real is the one that counts. Make it muscle memory before then.
Questions?
Stay connected with Trucksafe & HUB International Transportation Risk Services.

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