

The Significance of Plaintiff Advocacy in the Real World

By Florence Murray
Chair of the Ohio Trucking Safety Section

One of the most influential things that plaintiff lawyers can do is to advocate for positive change for the good of the whole community. As many of you are already aware, one of the main goals for our Section is to model what we are working toward at a national level through the American Association for Justice's (AAJ) Side Underride Committee. That committee is part of the AAJ Interstate Trucking Litigation Group (and if you are not already a member, please talk to any of us who are about the huge benefits of dual membership).

Side underride guards are extremely important in protecting pedestrians and cyclists from commercial motor vehicles (CMV) making right turns. As many have probably seen, when a longer truck turns right, it often hits or drives onto the curb. In addition, many fatalities have occurred when trucks turn right on green as they do not yield to pedestrians and cyclists who have the right of way as they travel across the red light street where the traffic is stopped or are cycling to the left of the truck with the green light.

During a recent 5-year period, 1,746 pedestrians and cyclists in the U.S. were killed from impacts with large trucks, with 32% of these happening *after* an initial impact with the side of the truck. As to cyclists, 37% of these fatalities happened on the right side when the truck impacts the cyclist.



These fatalities, or life-altering injuries when the victim survives, are always due to the negligence of the CMV driver. In obtaining a commercial driver's license (CDL), the drivers learn about the dangers of turns. Left hand turns are to be avoided whenever possible and a route selected where right hand turns are used instead, as they are safer for vehicles travelling toward the CMV. However, this necessarily means that more cyclists and pedestrians are at risk, particularly in suburban and urban areas where more people are moving by self-propel and where bike lanes are becoming more available.

The best solution is for the CMVs to not turn right when anyone is crossing a street or intersection next to the truck. But as we know, negligence is not so easily deterred, and blind spots are present with all trucks. The other necessary change, which is very affordable, is to require that all trucks be fitted, including retrofitted, with side guards. With a cost in the U.S. of approximately \$1,200-2,500 per

vehicle, these side guards are lightweight, and easy to retrofit. The concept is that when the truck turns, any light weight traffic on other side of the truck is pushed out of the way as opposed to being swept under the truck and crushed by the wheels.

Given that in 2015, nearly 40% of all Class 1-5 fleet trucks were purchased by public entities, local governments have a large role that they can play in requiring side underride protection for the benefit of its constituents. Support for these efforts can be gained by simply pointing to what is happening overseas. In countries where these guards are required, cyclist fatalities are down 61%, and pedestrian fatalities are down 20%. Japan has required these since 1979, while the UK was not far behind in adopting the technology in 1983, the rest of the European Union in 1988, and China in 1989.

In the U.S. several very large cities now require this technology on trucks purchased by public entities within the jurisdiction and by contractors completing work on public projects. However, Ohio does not yet have any. In fact, outside of the states bordering the Atlantic and Pacific Oceans, only Chicago has such an ordinance in place. Although we are far behind many other countries, catching up can be done quickly. If you know of an elected official who would be willing to listen to a presentation on this topic, please let OAJ staff or Trucking Section officers, including me, know.

Our next meeting is August 17th at 10:00 a.m. in Columbus at the OAJ Headquarters in Dublin. If you are interested in joining our section for the low cost of \$100 annually, please contact Katie Johnstone at 614-341-6800, or bring your dues with you to the meeting.

Our Full Day Trucking CLE is September 7th in Columbus. We will have a host of speakers covering topics on issues that are unique and have not been covered in our CLEs in any extensive way, so that if you get a call on a case that is not run of the mill, you will hopefully have a great starting point and resources to help.