



NUCLEAR VERDICT CASE STUDY

Provided by The Turner Agency, Inc

What Is a Nuclear Verdict?

Nuclear verdicts refer to exceptionally high jury awards—generally, those exceeding \$10 million. Such verdicts have become increasingly common in the past decade. In fact, the National Law Journal reported the average jury award among the top 100 U.S. verdicts **more than tripled** between 2015 and 2019, skyrocketing from **\$64 million to \$214 million**. Furthermore, **30% more verdicts** surpassed the \$100 million threshold in 2019 compared to 2015.

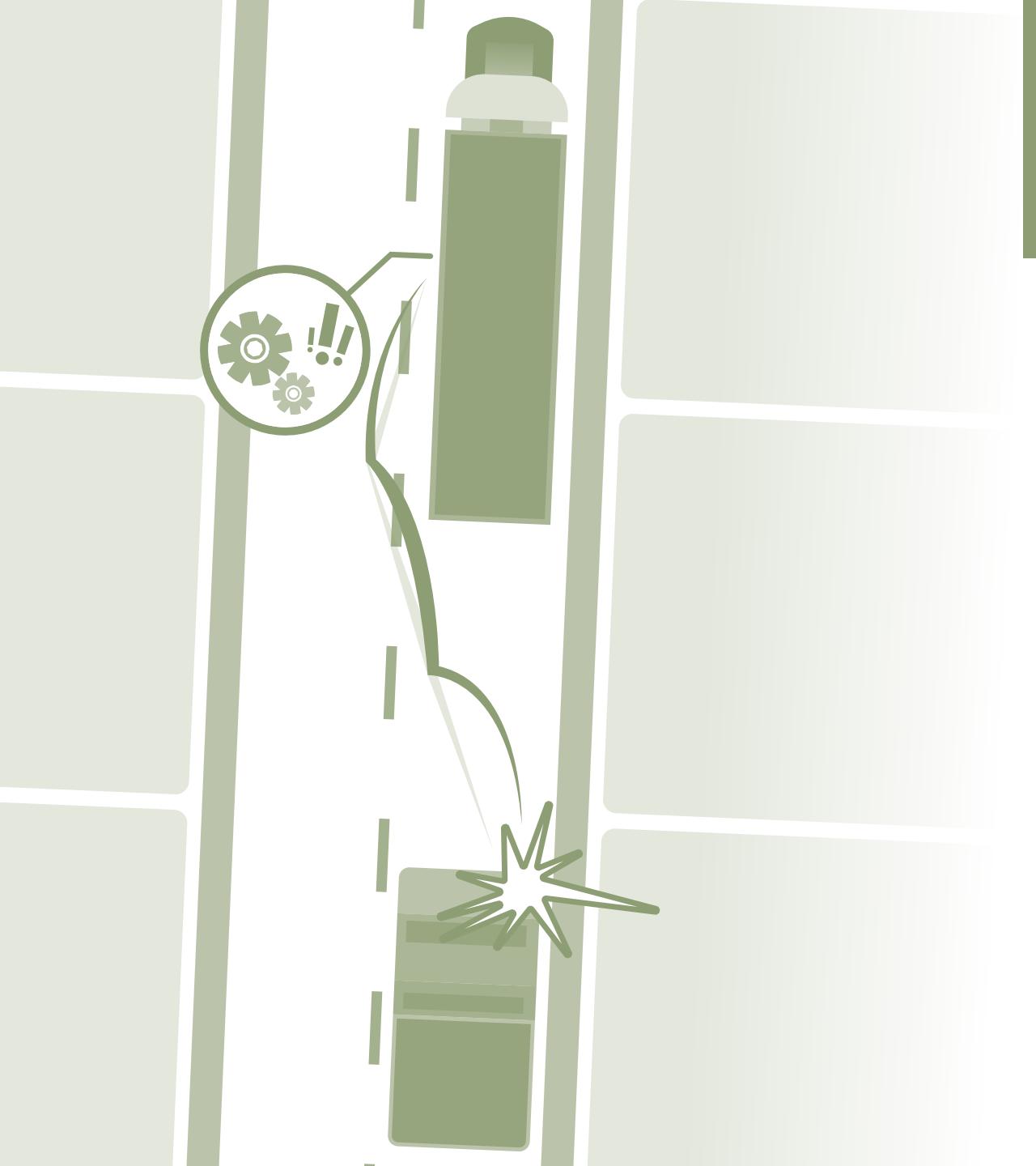
Various factors have contributed to this trend, including rising litigation funding, eroding tort reform and, above all, deteriorating public sentiment toward businesses. Amid growing corporate distrust, businesses have not only been expected to meet higher standards within their operations but have also been held more

accountable for their wrongdoings. Upon being sued and taken to court, businesses have frequently encountered juries that are sympathetic to plaintiffs. Compounding this issue, there's a rising perception that businesses (especially large ones) can always afford the cost of damages. This means juries are likely to have fewer reservations when awarding substantial damages to plaintiffs, resulting in nuclear verdicts.

Nuclear verdicts can carry significant consequences for businesses of all sizes and sectors, causing lasting reputational harm, posing underinsurance concerns and wreaking large-scale financial havoc. That's why it's vital for businesses to better understand these verdicts and how to prevent them. This case study summarizes a recent nuclear verdict, outlines factors that led to the verdict, highlights associated compliance considerations and provides related risk mitigation measures.

\$281 Million Auto Liability Loss

In December 2013, a Dimmit County jury found the company negligent in the incident but not the driver. As a result, the jury awarded the victim's family **\$281 million**, including **\$181 million** in compensatory damages and **\$100 million** in punitive damages against Heckman Water Resources Inc. The verdict became one of the largest jury awards in Texas history and greatly exceeded the company's insurance limits of \$16 million.



CASE DETAILS

In May 2012, a man was fatally struck by a stray tractor-trailer part while riding in a close-by vehicle on a farm-to-market (FM) road in Dimmit County, Texas. The victim—a husband, U.S. veteran and father of seven children—was sitting in the passenger seat of a pickup truck traveling behind a tractor-trailer owned by Heckman Water Resources Inc. on FM 133 when a drive shaft broke off from underneath the latter vehicle. The tractor-trailer was moving at a speed of 67 mph when the drive shaft detached, ultimately causing the 20-pound stray part to crash directly through the windshield of the nearby pickup truck and strike the victim, killing him instantly.

Following the fatal incident, the victim's family filed a negligence and wrongful death lawsuit against Heckman Water Resources Inc. and the driver who had been operating the company's tractor-trailer when the incident took place. The lawsuit alleged both the company and its driver had failed to adequately maintain the

tractor-trailer truck, thus contributing to the detachment of the stray part and playing a primary role in the resulting fatality.

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FACTORS THAT LED TO THE VERDICT

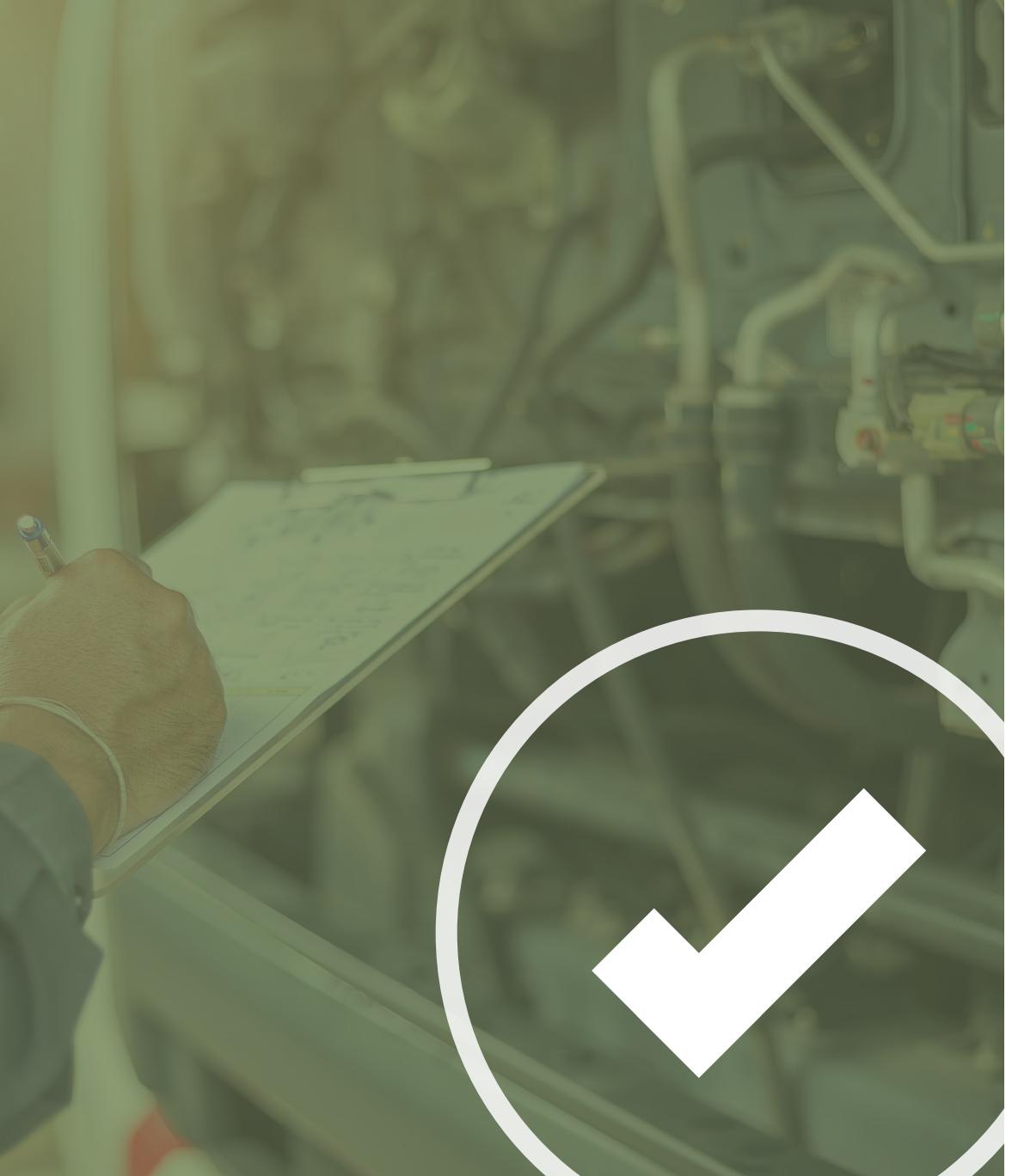
In taking a closer look at this case, the main factor that contributed to the nuclear verdict was **poor vehicle maintenance**.



Poor vehicle maintenance

Commercial motor vehicles (CMVs) must be sufficiently cared for in order to operate safely and efficiently. After all, CMVs are often tasked with carrying thousands of pounds of cargo and traveling hundreds of miles at a time, making vehicle wear and tear inevitable.

If a CMV's systems, parts and overall physical state are disregarded, the risk of such a vehicle getting into an accident or experiencing a breakdown increases substantially, threatening the safety of both the driver and others on the road. According to recent data from the National Highway Transportation Safety Administration (NHTSA), nearly 20% of traffic accidents are caused by inadequate vehicle maintenance. The NHTSA also found that 45,000 accidents occur due to vehicle malfunctions each year, many of which stem from poor maintenance practices.



COMPLIANCE CONSIDERATIONS

This nuclear verdict also poses some compliance considerations, particularly as it pertains to upholding the Federal Motor Carrier Safety Administration's (FMCSA) vehicle maintenance regulations. Businesses also must ensure CMV parts and accessories are in safe and proper condition at all times. In addition, businesses need to keep detailed records of all CMVs. These records should include the following important information for each vehicle:

- The vehicle's company number (if applicable), serial number, make, year and tire size
- The name of the party providing or leasing the vehicle (if applicable)
- The history and types of prior vehicle inspections, repairs and maintenance procedures
- The due dates and descriptions of upcoming vehicle inspections and maintenance operations
- The results of quarterly tests conducted on the vehicle's emergency parts and systems (e.g., emergency doors, marking lights and pushout windows)

CMV drivers are also responsible for ensuring vehicles are in good condition. Specifically, the FMCSA requires CMV drivers to complete written driver vehicle inspection reports (DVIRs) at the conclusion of their driving shifts. A DVIR should identify the vehicle being assessed and outline any defects or deficiencies the driver finds that could pose potential safety or mechanical concerns behind the wheel. Businesses must maintain the original copies of their drivers' DVIRs for at least three months after completion.

If drivers identify any vehicle issues within their DVIRs, businesses must remedy these problems before the affected vehicles can be taken on the road again. CMVs deemed unsafe and in disrepair must be removed from service altogether. Prior to operating CMVs, drivers should conduct visual pre-trip inspections to ensure their respective vehicles are in safe operating condition and confirm any issues identified in previous DVIRs have been corrected.

RISK MITIGATION MEASURES

To avoid nuclear verdicts similar to the one resulting from this case, businesses should follow these risk mitigation tactics:



Conduct proper vehicle maintenance.

Keep all vehicles on regular inspection and maintenance schedules and conduct repairs as necessary. Take note that inspection and maintenance schedules should be customized to meet vehicles' specific needs and coordinated in a way that doesn't disrupt drivers' shifts. Additionally, consider the following best practices:

- Leverage fleet management software (e.g., automated service reminder applications, vehicle diagnostic technology and telematics) to assist with inspection, repair and maintenance operations.
- Make sure vehicle inspection, repair and maintenance procedures are properly documented. Store vehicle documentation in an organized and secure location.
- Train drivers on how to perform pre- and post-trip inspections for their vehicles. This training should include common vehicle defects and deficiencies to look out for and guidance on completing DVIRs.
- Encourage drivers to always put safety first and never operate vehicles with potential issues.
- Outline all vehicle inspection, repair and maintenance requirements within workplace driving policies.

Ensure compliance.

Regularly assess driving policies and procedures to maintain compliance with FMCSA regulations and any applicable federal, state and local driving laws (particularly concerning vehicle maintenance). Consult legal counsel for additional compliance assistance.

Secure sufficient coverage.

In this increasingly litigious environment, it's crucial to purchase adequate insurance. Reach out to a trusted insurance professional to discuss specific coverage needs.

For additional risk management guidance and insurance solutions, [contact us today](#).