

WILSON SMITH COCHRAN DICKERSON

A Professional Service Corporation

ATTORNEYS AT LAW

DAVID L. HENNINGS

David Hennings is a director at Wilson Smith Cochran & Dickerson and has been a trial attorney for over 25 years. He has a wide range of litigation experience defending cases in the areas of personal and commercial lines, product liability, toxic tort, and environmental coverage.

Hennings has specialized in defending trucking companies and their drivers in over 800 cases arising out of truck accidents involving all types of liability, serious injury and wrongful death claims. He has been a speaker at three Trucking Industry Defense Association annual conferences, addressing the issues of electronic control modules, fraud in the trucking industry and abuse of diagnostic testing. Other speaking engagements include the Washington Trucking Association, the Defense Research Institute Trucking Seminar, the Northwest Environmental Claims Association, and the Washington Manufactured Housing and Recreational Vehicle Dealers' Association. He is thoroughly familiar with medical, biomechanical, accident reconstruction, and defense issues.

Hennings has also acted as an advisor to the American Trucking and Transportation Insurance Company (ATTIC), a trucking company member-owned captive entity. His advice has included assisting in drafting defense counsel guidelines and formulating a panel of approved attorneys throughout the United States.

A Seattle native, Hennings is married with two teenage boys. His outside interests include traveling to exotic places, hiking, camping, playing guitar and skiing faster than his sons.

REPRESENTATIVE INSURERS AND SELF-INSURED COMPANY CLIENTS

ATC Leasing
Baldwin and Lyons (Protective)
Boise Cascade Corporation
CNA
C.R. England
Cambridge Integrated Services Group
Canal Insurance Company
Champion Enterprises, Inc.
Cherokee Insurance Company
Clarendon
FedEx Ground
Fleetwood Enterprises, Inc.
Geico
General Fire and Casualty
Great West Casualty
Indiana Western Express
Interstate National
Knight Transportation
Lancer Insurance
Lincoln General Insurance, Co.
Lynden Inc.
Market Transport
Marten Transport Ltd.
Motor Cargo
Mayflower
MV Transportation
National Claims Management (Clarendon Insurance)
National Interstate
National Transportation Adjusters
Network Adjusters
Northland Insurance
Oak Harbor Freight Lines
Overnite Transportation Company (Now under UPS Freight)
Quality Distribution, Inc.
Pacer International
Peninsula Truck Lines

Protective Insurance Company (Baldwin and Lyons)
Puget Sound Freight Lines
Prime, Inc.
RLI Corporation
Sedgwick CMS
Sentry
Sherman Bros. Heavy Hauling
State Farm
**Transportation Claims, Inc. (a self-insured entity for Crete Carrier Corporation,
Shaffer Trucking, Sunflower Carriers and HTL Truck Lines, Inc.)**
SISCO
U.S.A. Truck, Inc.
USF Glen Moore and USF Reddaway (now owned by Yellow)
United Van Lines (UniGroup)
Vanliner Insurance
Waco Fire and Casualty
Walmart
Watkins Motor Freight
Watkins and Shephard Trucking
Yellow Roadway Corporation
Zurich N. A.

APPROVED COUNSEL LIST CLIENTS

Frozen Food Express Industries, Inc.
John Deere Transportation Services (now Sentry)
Prime, Inc. (Zurich NA)
Sedgwick CMS
St. Paul Fire & Marine
Yellow Freight Systems

REPRESENTATIVE CASES

- In a case involving a minor trucking accident the plaintiff/worker also filed a worker compensation claim claiming that he suffered brain damage in the accident. The worker convinced a team of experts at a major medical institution that his brain injury was real. They found the worker to be permanently mentally disabled. He received worker's compensation and retirement benefits resulting in a worker's compensation lien of over \$450,000. The worker then sued the trucking company attempting to collect additional damages and repayment of the lien. Through expert testimony and testimony of fellow workers it was established that there was no permanent injury from the accident. The case settled for \$60,000 inclusive of the liens.
- A defense verdict in a trucking accident where it was alleged the driver for the trucking company lost control of his tractor striking a bus. It was established that the truck driver lost control due to the conduct of another driver.
- In a case where liability was clearly established, plaintiff - who was evacuated to the emergency room by helicopter - alleged over \$750,000 in wage loss and over 2 million dollars in general damages. Eight experts, including four doctors, testified for the plaintiff. An offer of judgment was made a month before trial for \$150,000. The jury returned a verdict of just over \$140,000.
- A defense verdict in an admitted liability situation where it was established there was no biomechanical cause for the claimed injuries in a truck-related accident.
- A defense verdict in a case where liability was admitted and over \$7,000 in medical bills incurred. It was established that the alleged damage to plaintiff's vehicle was the result of a prior accident and that plaintiff was lying about other aspects of her injuries.
- A defense verdict in a case where a truck driver making a turn was alleged to have pushed another vehicle off the road, thus causing a light pole to fall and seriously injure another driver.
- A defense verdict in a case where liability was established. After the introduction of surveillance evidence and inconsistent testimony, the jury found that plaintiff was not injured, despite significant property damage and medical bills.

Summary Judgments

- A summary judgment in a wrongful death suit where it was alleged that the truck driver should have taken evasive action to avoid the driver (decedent) who crossed the center line. Through expert testimony it was established that the truck driver had insufficient time to find any reasonable avenue of escape.
- A summary judgment in a case involving alleged serious personal injuries where it was established that a manufacturing defect rather than the trucking company's maintenance practices caused the accident.
- A summary judgment in a case involving serious personal injuries to a child riding a bicycle into the roadway in front of a moving vehicle. It was alleged the client's tractor-trailer blocked the view and was improperly parked in a residential neighborhood. It was established that the tractor-trailer was properly parked and there was no knowledge it presented a hazard.
- Dismissal in a wrongful death and serious injury claim where it was alleged the truck driver – who was following an accident - did not properly warn other drivers approaching the accident scene.
- A summary judgment in a paraplegic case where a motorcyclist was ejected under the wheels of a tractor/trailer. It was alleged that the driver did not stop in time. It was established there was nothing the driver could have done to avoid the accident.

Settlements

- In a triple fatality case where it was found that the majority of the brakes on the tractor and trailers were out of adjustment. It was alleged that the driver failed to adjust the brakes correctly. A cross-claim was made against the brake repair facility where the driver had stopped shortly before the accident. Depositions of the mechanics, investigating officers, and expert testimony established that the driver's error should have been noted by the repair shop. A seven figure contribution to the settlement was obtained from the repair facility.
- A favorable settlement where the initial demand was \$15.3 million for lifetime care. The individual's mother was killed in a severe truck accident, and the individual underwent extensive brain surgery. It was established through medical and life care experts that the individual's pre- and post-accident mental

and physical conditions were not altered as significantly as alleged. The case settled for less than seven figures.

- A favorable settlement where the initial demand was \$850,000. It was established through video surveillance that injuries were not nearly as severe as alleged and that the individual had actually sustained the claimed injury in an earlier accident. The case settled for \$20,000 based on an aggravation of a preexisting injury.

PRODUCT LIABILITY CASES

- In a product liability case involving a hand amputation caused by a missing safety guard, he represented a plywood manufacturer. By focusing discovery on the plaintiff's negligence, a settlement obtained for it was less than the amount of special damages.
- In another product liability case involving an aerial ladder, he proved - through effective use of his client's experts - that the plaintiff had misused the ladder. Summary judgment dismissing the action was granted.
- In a case involving a partial hand amputation, he successfully defended a manufacturer of a meat blender by establishing that plaintiff and his supervisor violated their own in-house safety regulations and bypassed the machine's safety devices in order to save time. The case was settled for less than special damages.
- In a manufactured home rescission case, it was established on cross-examination that the defects alleged by the plaintiff did not meet the legal standard for rescission. The court directed the verdict in favor of the defendants.

TOXIC TORT CASES

- Lead attorney for two discovery teams in a major environmental coverage case in which a chemical distributor was ordered to clean up massive groundwater contamination under its facilities in several western states. Responsibilities involved directing and conducting discovery of company officials and experts and deposing government officials.
- Representation of two wood product manufacturers in a formaldehyde case in which the plaintiff alleged brain damage and chemical sensitization. It was

established that the clients complied with applicable HUD regulations relating to formaldehyde emissions from particle board and plywood. The case was dismissed on a summary judgment motion under the doctrine of pre-emption.

- Representation of a major timber company in a case where the plaintiff claimed exposure to chlorine gas escaping from a rail car at the company's pulp and paper mill. A favorable settlement was reached, in part, by establishing the gas release could have been attributable to the negligent conduct of public authorities and the injuries also could have been attributed to the plaintiff's preexisting allergies.

ROAD DESIGN NEGLIGENCE CASES

- A defense verdict was obtained on behalf of the state of Washington and a contractor in a case where a plaintiff claimed his injuries were caused by negligent signage and road design of the Interstate 90 floating bridge. It was proved the signage met existing regulations – consequently, the plaintiff's conduct was the sole proximate cause of the accident.
- In a case involving a motorcyclist who was seriously injured in an accident on Interstate 5 during renovation, a summary judgment dismissal was granted by again proving his client's signage and construction practices met the applicable standards.

MEMBERSHIPS

Trucking Industry Defense Association (TIDA)

American Trucking Association (ATA)

American Bar Association (ABA) – Vice Chair – Commercial Transportation

Litigation Committee – Tort Trial & Insurance Practice Section – 2004-2005

Washington Trucking Association (WTA)

Transportation Law Trucking Committee – Defense Research Institute (DRI)

Washington Defense Trial Lawyers Association (WDTL)

Washington State Trial Lawyers Association (WSTLA)

Washington State Bar Association (WSBA)

ARTICLES

"Subrogation and the Anti-Subrogation Rule." *TIDA Newsletter*. Spring, 2001.

"Cooking the Books." *TIDA Newsletter*. Spring, 2002.

"Using Workers Comp As A Shield – The Borrowed Servant Doctrine." *For the Defense*. November, 2002.

"Broker Liability." *For the Defense* (DRI) Scheduled for February 2006.

EDUCATION

BA Washington State University (cum laude) – 1977

JD Willamette University - 1981