

## Contribution Claim

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Transportation Law

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Scott M. Carroll

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Scott Carroll successfully represented a delivery truck driver and his employer against a 2 Million Dollar contribution claim asserted by Third-Party Plaintiffs, who had resolved all claims brought by the original plaintiff for 4 Million Dollars. Our client operator was involved in a head-on collision with the plaintiff in the underlying case.

The original underlying claim arose out of a three vehicle accident that occurred at an intersection between a main road and a side road. The plaintiff in the underlying action sustained severe injuries, resulting in an above the knee amputation of his right leg and a total ankle fusion on the left. The plaintiff, who suffers from muscular dystrophy, had overcome significant physical limitations and was working two jobs and raising a family at the time of the accident. During a mediation of the underlying case, the Third-Party Plaintiffs settled the plaintiff's claims for \$4 Million Dollars. After securing a Release from the plaintiff naming the Firm's clients, the Third-Party Plaintiff pursued contribution pursuant to the Massachusetts Joint Tortfeasor Act. Under the Act, a finding that negligence attributable to the Firm's clients was a substantial contributing factor in causing the plaintiff's injuries would have entitled the Third-Party Plaintiff to a 2 Million Dollar judgment.

During trial, the Third-Party Plaintiffs introduced evidence that our client operator was driving a refrigerated box truck that was registered with the Department of Transportation as a vehicle requiring a Commercial Driver's License (CDL). Our client did not possess a CDL license at the time of the accident. We presented evidence that the truck involved in the accident was identical to the truck our client drove on a daily basis. The two trucks had the same dimensions, braking characteristics and handling characteristics. During trial we argued that our client's operation of a CDL truck without a CDL license was immaterial to the issue of negligence as there was no evidence to support the contention that our client could have avoided the accident had he been operating his usual truck. Evidence that our client was not properly licensed was merely evidence of a condition or circumstance, not a cause of the accident.

During trial and at the close of the case, the Third-Party Plaintiffs argued that there was sufficient time and opportunity for our client to react to the accident unfolding in front of him and to avoid the accident. According to the Third-Party Plaintiffs, had our client operated his vehicle in a reasonable manner under the circumstances, the most significant component of the accident (the head-on collision) could have been avoided. We presented our case through the testimony of the witnesses, including three percipient witnesses that observed the

accident occur. We were able to elicit favorable testimony from the Third-Party plaintiff driver with respect to time and distance. We were able to develop strong evidence that the accident occurred within a very short window of time, close in space and in an unpredictable manner. We argued that our client operator was faced with a “sudden emergency” within the meaning of Massachusetts case law. In the end, a jury returned a verdict in favor of the Firm’s clients.