RAWLE & HENDERSON LLP

Commercial Motor Vehicle

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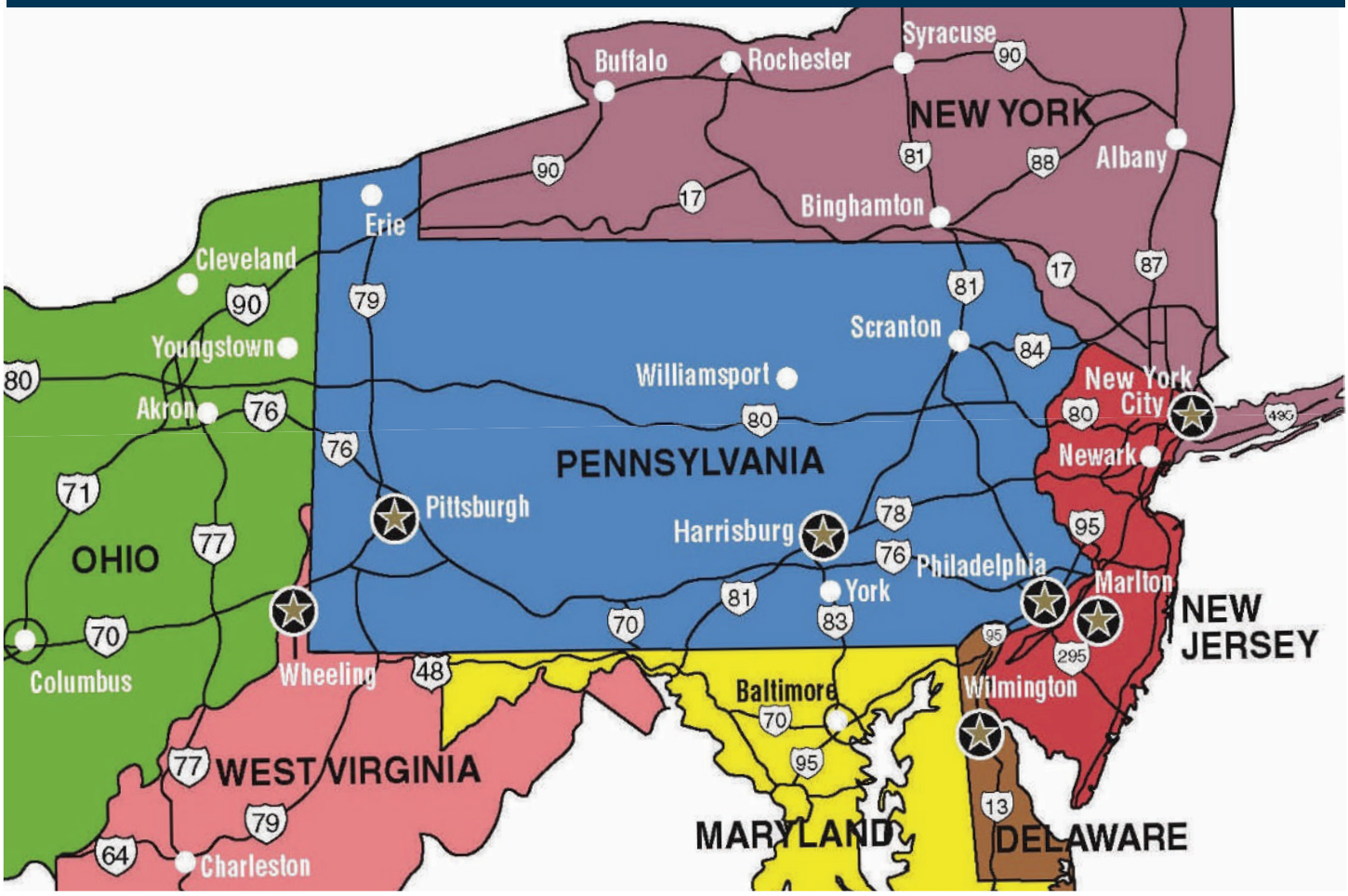

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RAWLE & HENDERSON LLP

AFTER HOURS CONTACT INFORMATION

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Greene, Nigel	215-575-4278	215-782-3992	215-384-8467
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Stewart, Gary	717-234-7002	717-763-4472	717-433-6230
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Fitch, Robert	212-323-7070		914-588-2790
DELAWARE			
Clark, Delia	302-778-1200	856-672-0382	856-952-1609
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Representative Transportation Clients

J. B. Hunt

Federal Express

Swift Transportation

Arkansas Best

FedEx Ground

Liberty Mutual

Celadon

Martz Group

Harco National

Millis Transfer

NTA

National Carriers

FedEx Custom Critical

Super Service

North American Risk

Liberty Bell Agency

Anderson Trucking

Trans Am

USA Truck

C. R. England

Great West

Schneider National

Werner Enterprises

Cowan Systems

U. S. Xpress

Canal Insurance

Vanliner Insurance

Carolina Casualty

Ward Trucking

Dart

Atlas Van Lines

SISCO/Cottingham & Butler

Cherokee Insurance

Transguard Insurance

Cardinal

Triple Crown

Prime/New Prime

Gallagher Bassett

USA Truck

Forward Air

Frozen Food Express (FFE)

Daily Underwriters

Commercial Motor Vehicle Section

Experience and expertise are the keys to success when defending transportation companies and their insurers in motor vehicle accident litigation, freight claims, workers' compensation, employment issues, and insurance coverage disputes. The Commercial Motor Vehicle Section at Rawle & Henderson is composed of more than twenty (20) attorneys who focus their practice on the defense of transportation companies. **The attorneys in the CMV group defend transportation companies and their insurers on a daily basis; not as a part of their practice, but as their primary practice.**

Aggressive defense and frequent reporting are the hallmarks of this practice group. Headed by Tim Abeel, Chair of the Commercial Motor Vehicle Section, this team of trial lawyers defends lawsuits against transportation companies in all the federal and state courts of Pennsylvania, New Jersey, New York and Delaware. Additionally, they have been asked by clients to defend lawsuits in other states, such as Maryland, Ohio, Connecticut, Rhode Island, Vermont, Massachusetts, Virginia, West Virginia and Florida.

The attorneys in the CMV group have experience in federal and state court litigation and know the problems facing the transportation industry today. The attorneys are active members in industry organizations, such as the Trucking Industry Defense Association (TIDA), American Trucking Association (ATA), Transportation Lawyers Association (TLA), Trucking Law Committee of the Defense Research Institute (DRI), and Commercial Transportation Litigation Committee of the American Bar Association (ABA).

The Commercial Motor Vehicle Section publishes a newsletter, ***Transportation Law Update***, as a service to its clients and the transportation industry. The newsletter provides timely articles on new trends in the law and the potential impact of these developments on litigation involving the transportation Industry. This newsletter is available on the Rawle & Henderson website, **www.rawle.com. State Law Summaries** for Pennsylvania, New York, New Jersey and Delaware, which highlight laws that affect commercial motor vehicles operating in those jurisdictions, are also available on the Rawle & Henderson website.

The Commercial Motor Vehicle Section has an **After Hours Emergency Response Number — 717-433-6230** so the attorneys are accessible to respond to any emergency which arises after customary business hours.

Philadelphia—Timothy J. Abeel

PARTNER

BAR ADMISSIONS:

Pennsylvania, 1976
U.S. Supreme Court
U.S. Courts of Appeals for the Second and Third Circuits
U.S. District Court (Pennsylvania) Eastern, Middle and Western Districts
New Jersey and Delaware (*pro hac vice* Admissions since 1982)

EDUCATION:

Temple University School of Law, (J.D. 1976)
Recipient: Associate Justice Powell Award for Excellence in Advocacy by American College of Trial Lawyers
Recipient: Frank Edward Roda Memorial Award for Excellence in Advocacy by Pennsylvania Trial Lawyers' Association
Recipient: Temple University School of Law Moot Court Award by Temple University Law Alumni Association
State University of New York at Albany, (B.A., *magna cum laude*, 1972)

AWARDS:

Recipient, John T. Biezup Memorial Service Award by Trucking Industry Defense Association (TIDA), 2005
Named a "Pennsylvania Super Lawyer" by *Super Lawyers* from 2004 through 2019

PROFESSIONAL ASSOCIATIONS:

Trucking Industry Defense Association (TIDA) President (2000-2001) and Board of Directors (1994-2003), *Founding Member*
Transportation Lawyers Association (TLA)
American Bar Association Transportation Litigation Committee
United Motorcoach Association
American College of Transportation Attorneys (ACTA), *Founding Member*

PRESENTATIONS AND PUBLICATIONS:

Editor, *Trucking Industry Defense Association Newsletter* (TIDA), 1993-2017
Speaker, Trucking Industry Defense Association Seminar, Las Vegas, NV, 2005
Speaker, American Trucking Association (ATA) Litigation Center Forum for Motor Carrier General Counsels, Vail, CO, 2004
Speaker, Vanliner Insurance Company Annual Loss Prevention/Cost Containment Seminar, Langhorne, PA, 2003
Speaker, Great West Risk Management Annual Transportation Conference, Tampa, FL, 2002
Speaker, Vanliner Insurance Company Annual Loss Prevention/Cost Containment Seminar, Elmhurst, NY, 2002
Author, *Insurance Coverage for Punitive Damages,* ***The Transportation Lawyer***, Vol. 5, No. 4, Feb., 2004
Author, *The Future of Trucking Litigation?,* ***The Transportation Lawyer***, Vol. 5, No. 1, July, 2003

Mr. Abeel is Chair of Rawle & Henderson LLP's Commercial Motor Vehicle Section.

New York—Robert A. Fitch

PARTNER

BAR ADMISSIONS:

New York
U.S. District Court for the Northern, Southern and Eastern Districts of New York
United States Court of Appeals for the Second Circuit

EDUCATION:

Syracuse University College of Law, Syracuse, New York (J.D., 1973)
Syracuse University (B.A., 1970)

AWARDS:

Named a **New York Metro Super Lawyer** in 2013–2018

PRACTICE AREAS:

Commercial Motor Vehicle
Product Liability
Casualty & Premises Liability

PRESENTATIONS AND PUBLICATIONS:

Co-Author, *New York: Appellate—Summary Judgment Affirmed for Defendant Architect*, ***Rawle's Reports***, Volume 22, Number 6, June 2018
Co-Author, *New York: Oral Surgery Malpractice—Summary Judgment in Queens County*, ***Rawle's Reports***, Volume 22, Number 4, April 2018
Co-Presenter, *Board Actions: Stories from the Trenches*, Physician Insurers Association of America 2018 Dental Workshop, Santa Monica, California, April 2018
Co-Presenter, *Updates in New York Case Law: Labor Law Section 240(1); Functional Equivalent of Contractual Privity; Delegation of Job Safety; Discovery Trends,* XL Catlin "Lunch & Learn," February 2018
Co-Author, *New York: Premises Liability—Dismissal of Claim Against Engineering Company Client*, ***Rawle's Reports***, Volume 22, Number 1, January 2018
Co-Author, *New York Appellate Division Affirms Summary Judgment in Snow & Ice Cases*, ***Rawle's Reports***, Volume 21, Number 8, August 2017
Co-Author, *New York: Personal Injury—Snow & Ice Cases*, ***Rawle's Reports***, Volume 21, Number 5, May 2017
Co-Author, *New York: Insurance Coverage,* ***Rawle's Reports***, Vol. 18, No. 3, March 2014
Co-Author, *New York: Random Drug Tests: Potential Liability,* ***TIDA Summer 2012 Newsletter***
Co-Author, *New York: Random Drug Tests: Potential Liability,* ***TIDA Summer 2012 Newsletter***
Co-Author, *New York: Random Drug Tests: Potential Liability,* ***Transportation Law Update***, Vol. 13, No. 2, February 2012
Author: *New York: Medical Malpractice*, ***Rawle's Reports***, Volume 15, Number 8, August 2011

PROFESSIONAL ASSOCIATIONS:

Trucking Industry Defense Association (TIDA)
Defense Research Institute (DRI)
Federal Bar Council
New York State Bar Association
International Association of Defense Counsel

Mr. Fitch is the resident Partner in the New York City office and is a member of the Firm's Executive Committee.

New York—Anthony D. Luis

PARTNER

BAR ADMISSIONS:

New York
New Jersey
U.S. District Court for the Eastern District of New York
U.S. District Court for the Southern District of New York
U.S. District Court for the District of New Jersey

EDUCATION:

Western New England University School of Law,
Springfield, Massachusetts (J.D., 1999)
State University of New York at Geneseo (B.A., 1996)

PRACTICE AREAS:

Commercial Motor Vehicle
Architects & Engineers
Casualty & Premises Liability
Medical Professional Liability
Professional Liability
Commercial Litigation
Construction
Workers' Compensation

PRESENTATIONS AND PUBLICATIONS:

Author, *New York: Personal Injury—Summary Judgment Granted on Behalf of Snow Removal Company and Retail Liquor Store*, ***Rawle's Reports***, Volume 22, Number 4, April 2018

Co-Author, *New York—Summary Judgment for Trucking Company and Its Good Samaritan Driver*, ***Transportation Law Update***, Volume 19, Number 2, February 2018

Co-Presenter, *Updates in New York Case Law: Labor Law Section 240(1); Functional Equivalent of Contractual Privity; Delegation of Job Safety; Discovery Trends*, XL Catlin "Lunch & Learn," February 2018

Co-Author, *New York: Commercial Motor Vehicle—Summary Judgment for Trucking Company and Its Good Samaritan Driver,* ***Rawle's Reports***, Volume 21, Number 12, December 2017

Co-Presenter, *Citation Manipulation: An Overview of the Effect of Traffic Tickets and Equipment Violations On Motor Carriers and Their Drivers*, Arkansas Trucking Seminar, September 2017

Harrisburg—Gary N. Stewart

PARTNER

BAR ADMISSIONS:

Pennsylvania; New Jersey; Massachusetts; Connecticut - Federal Only; Vermont - Federal Only; Rhode Island
U.S. District Court for the Eastern, Middle and Western Districts of Pennsylvania
U.S. District Court for the District of New Jersey
U.S. District Court for the Northern District of New York
U.S. District Court for the District of Massachusetts
U.S. District Court for the District of Rhode Island
U.S. District Court for the District of Connecticut
U.S. District Court for the District of Vermont
U.S. Court of Appeals for the First and Third Circuits

EDUCATION:

Widener University School of Law, Harrisburg Campus (J.D., *magna cum laude*, 1992)
Recipient, James C. Crumlish, Jr., Award for Excellence in Scholarship
U. S. Merchant Marine Academy (B.S., 1982)
Qualified: Master, 1600 ton vessel; all oceans
Chief Officer, unlimited tonnage, all oceans

AWARDS:

Named a "Pennsylvania Super Lawyer" by *Super Lawyers* in 2007, 2009–2012, 2016–2019

PERTINENT EXPERIENCE:

Clerk, Honorable Rochelle Friedman, Commonwealth Court of Pennsylvania, Harrisburg, PA

PRESENTATIONS AND PUBLICATIONS:

Presenter, *The Intersection of Criminal Law & Trucking: Send Lawyers, Guns & Money*, Trucking Industry Defense Association (TIDA) Annual Seminar, October 2016
Co-Author, *"He Said/She Said": How to Prove Your Client Case with EDR; Check the Event Data Recorder – You Might Be Surprised by What You Find*, ***TIDA Fall 2016 Newsletter***, October 2016
Co-Author, *"He Said/She Said": How to Prove Your Client's Case with an Event Data Recorder*, ***Transportation Law Update***, Vol. 17, No. 8, October 2016
Co-Author, *Don't Be "Careless" with Your CMV Driver's Careless-Driving Citation*, ***Transportation Law Update***, Vol. 17, No. 4, May 2016
Co-Author, Cell Phone Laws & Trends In Various Jurisdictions, PARTS I & II, ***Transportation Law Update***, Vol. 17, Nos. 2 and 3
Co-Author, *Cell Phone Laws & Trends In Various Jurisdictions*, ***TIDA Fall 2015 Newsletter***
Author, *Pennsylvania: Can I Get My Case Transferred from Philadelphia County?*, ***Transportation Law Update***, Vol. 16, No. 2, Feb. 2015
Author, *Pennsylvania: Punitive Damages – No Direct Negligence Claim Against Employer*, ***Transportation Law Update***, Vol. 15, No. 7, November 2014
Author, *Accident in New York State Requires Filing of MV-104 Form*, ***Transportation Law Update***, Vol. 15, No. 2, April 2014
Author, *Pennsylvania: Defense Verdict - Smoke and Mirrors*, ***Transportation Law Update***, Vol. 15, No. 1, March 2014
Co-Author, Pennsylvania: *Is Your Truck Driver a "Professional Driver"? - Chapter Two,* ***Transportation Law Update***, Vol. 14, No. 8, Oct. 2013
Author, *Pennsylvania: Punitive Damages and the Handheld GPS*, ***TIDA Fall 2013 Newsletter***
Author, *Pennsylvania: Punitive Damages and the Handheld GPS*, ***PENNTRUX***, November 2013
Author, *Pennsylvania: Punitive Damages and the Handheld GPS*, ***Transportation Law Update***, Vol., 14, No. 7, Sept. 2013
Co-Author, *PA/NJ/DE: Dual Liability for Shippers and Motor Carriers*, ***Transportation Law Update***, Vol. 14, No. 4, April 2013
Co-Author, *Pennsylvania: Towing and Towing Storage Facility Standards Act, Part II*, ***Transportation Law Update***, Vol. 14, No. 1, Feb. 2013
Co-Author, *Pennsylvania: Towing and Towing Storage Facility Standards Act*, ***TIDA Winter 2012 Newsletter***, December 2012
Co-Author, *Pennsylvania: Towing and Towing Storage Facility Standards Act,* ***Transportation Law Update***, Vol. 13, No. 9, September 2012
Co-Author, *Pennsylvania: Punitive Damages – "Don't Give Up the Ship",* ***Transportation Law Update***, Vol. 13, No. 8, August 2012
Co-Author, *Pennsylvania/Connecticut: Log Violations Before Restart*, ***Trucking Industry Defense Association Spring 2012 Newsletter***
Co-Author, *Pennsylvania/Connecticut: Log Violations Before Restart*, ***New Jersey Motor Truck Association February 2012 Bulletin***
Co-Author, *Pennsylvania/Connecticut: Log Violations Before Restart*, ***Transportation Law Update***, Vol. 13, No. 1, January 2012
Author, *1% Rule Dead!*, ***Transportation Law Update***, Vol. 12, No. 6
Co-Author, *Hit From Behind,* ***Transportation Law Update***, Vol. 12, No. 5
Co-Author, *Is Your Truck Driver a "Professional Driver"?*, ***New Jersey Trucking News***, June 16, 2011
Co-Author, *Is Your Truck Driver a "Professional Driver"?,* ***Transportation Law Update***, Vol. 12, No. 2
Author, *Vermont Product Liability,* ***Rawle's Reports***, Vol. 13, No. 6
Author, *Connecticut "In The Records",* ***Transportation Law Update,*** Vol. 11 , No. 11

PROFESSIONAL ASSOCIATIONS:

Trucking Industry Defense Association (TIDA)
Pennsylvania Motor Truck Association (PMTA)
Transportation Lawyers Association (TLA)
Harrisburg Claims Association

Mr. Stewart is the resident Partner for the Commercial Motor Vehicle Section in the Harrisburg Office. He is a member of the Firm's Executive Committee.

Delaware/New Jersey—Delia A. Clark

OF COUNSEL

BAR ADMISSIONS:

Pennsylvania, 1988
New Jersey, 1988
Delaware, 1994
District of Columbia, 1990
U.S. District Court for the District of Delaware
U.S. District Court for the District of New Jersey
U.S. District for Eastern and Middle Districts of Pennsylvania
U.S. Court of Appeals for the Third Circuit

EDUCATION:

National Institute for Trial Advocacy (NITA), Las Vegas, NV.
Widener University School of Law (J.D., 1988)
The Ohio State University (B.A., 1984)
Recipient, Student Athlete Award, 1981

PUBLISHED OPINION:

Singer v. Land Rover North America, 955 F. Supp. 359 (D. N. J. 1997)

PRESENTATIONS AND PUBLICATIONS:

Co-Presenter, *"Workers' Compensation and Psychological Injuries: The Law and Strategies for Defense,"*
Lorman Education Services webinar, November 2016
Author, *ICE !*, ***Monthly Motor Fleet, North American Transportation Management Institute***, January 2008
Presenter, *Delaware PIP Law as well as PA, DE & NJ No Fault Statues*, Gallagher Bassett Insurance Co., 2007
Author, *Pennsylvania: ICE!*, ***Transportation Law Update***, Vol. 7, No. 4
Author, *ICE !*, ***The American Bar Association, Commercial Transportation Litigation Committee Newsletter***, Fall 2006

PROFESSIONAL ASSOCIATIONS:

Trucking Industry Defense Association (TIDA)
Delaware Motor Truck Association
New Jersey Motor Truck Association (NJMTA)
Delaware Bar Association
Women In Trucking (WIT)

Ms. Clark is the resident attorney for the Commercial Motor Vehicle Section in the Delaware and New Jersey offices.

Philadelphia—Nigel A. Greene

PARTNER

BAR ADMISSIONS:

Pennsylvania, 1994
U.S. District Court for the Eastern and Middle Districts of Pennsylvania
U.S. Courts of Appeals for the Third Circuit

EDUCATION:

Georgetown University Law Center (J.D., 1994)
Barrister's Council Annual Trial Advocacy Competition
Virginia Polytechnic and State University (B.A., 1989)

PERTINENT EXPERIENCE:

Assistant District Attorney, Philadelphia, Pennsylvania, 1994-1999
Major Crimes Unit-prosecuted complex felony offenses in jury and bench trials
Arbitrator, Philadelphia Arbitration Center

PRESENTATIONS AND PUBLICATIONS:

Author, *Pennsylvania: Premises Liability—Summary Judgment Granted in Slip and Fall Based on "Hills and Ridges" Doctrine*, ***Rawle's Reports***, Vol. 22, No. 9, September 2018
Author, *Pennsylvania: Summary Judgment in I-95 Accident Case,* ***Transportation Law Update***, Vol. 19, No. 4, May 2018
Speaker, *"The Top 10 List of Legal Developments in the Trucking Industry,"* ABA Transportation Megaconference, New Orleans, Louisiana, March 2017
Author, *For Pennsylvania Public Safety Employees Injured in a Motor Vehicle: No Subrogation for Benefits Paid Under the Pennsylvania Heart and Lung Act*, ***Transportation Law Update***, Vol. 17, No. 7, Sept. 2016
Co-Author, *Pennsylvania—Admitted Liability/Reduced Damages*, ***Transportation Law Update***, Vol. 16, No. 1, January 2015
Author, *Pennsylvania: Defense Verdict*, ***Transportation Law Update***, Vol. 13, No. 6
Author, *Judicial Hellhole,* ***Transportation Law Update***, Vol. 12, No. 1
Author, *Challenge Your Own Data*, ***TIDA Newsletter***, Fall 2008
Author, *Admit Liability But Not Defeat,* ***Transportation Law Update***, Vol. 9, No. 2
Author, *Challenge Your Own Data Litigation Strategy*, ***Transportation Law Update***, Vol. 9, No. 5
Author, *Challenge Your Own Data: Litigation Strategy*, ***Transportation Law Update***, Vol. 7, No. 10.
Author, *"Delay" Damages*, ***Transportation Law Update***, Vol. 5, No. 6

PROFESSIONAL ASSOCIATIONS:

Trucking Industry Defense Association (TIDA)
Philadelphia Lawyers Club Association

Philadelphia—Sonia Di Valerio

OF COUNSEL

BAR ADMISSIONS:

Pennsylvania
New Jersey

EDUCATION:

Temple University School of Law (J.D., 1999)
Editor-in-Chief, ***Temple Environmental Law and Technology Journal***
Temple University (B.A., Communications,1992)

PRESENTATIONS AND PUBLICATIONS:

Author, *Pennsylvania: Defense Verdict—Jury Rules For Defendants In Sideswipe Accident*, ***Transportation Law Update***, Vol. 19, No. 1, January 2018
Speaker, *Ethical Issues Confronting Lawyers Handling Trucking Litigation—he Good, The Bad, and The Ugly,* ABA Transportation Megaconference VIII, March 2007
Co-Editor, ***Commercial Transportation Litigation Committee Newsletter,*** Fall 2006
Author, *Negligent Entrustment: How to Fight It!*, ***Commercial Transportation Litigation Committee Newsletter,*** Winter 2006
Author, *Negligent Entrustment: How to Fight It!,* ***PENNTRUX***, Winter 2006, Vol. LXXII, No. 1
Author, *Ohio—Punitive Damages*, TIDA Newsletter, Spring 2005
Author, I*mprove Your Chances of Winning!*, ***TIDA Newsletter***, Spring 2002
Author, *The Slippery Slope!*, ***Transportation Law Update***, Vol. 6, No. 16
Author, *Negligent Entrustment: How to Fight It!*, ***Transportation Law Update***, Vol. 6, No. 7
Author, *New Jersey: The Devil is in the Details*, ***Transportation Law Update***, Vol. 6, No. 2
Author, *More on: N.J. Loading and Unloading Doctrine*, ***Transportation Law Update***, Vol. 3, No. 13
Author, *A New Jersey Devil: Loading and Unloading Doctrine*, ***Transportation Law Update,*** Vol. 3, No. 6
Co-Author, *Admit Liability But Not Defeat*, ***Transportation Law Update***, Vol. 9, No. 2

PROFESSIONAL ASSOCIATIONS:

Delaware County Bar Association

Harrisburg—Diane B. Carvell

OF COUNSEL

BAR ADMISSIONS:

Pennsylvania, 1996
New York, 2003
New Jersey, 2017
U.S. District Court for the Eastern District of Pennsylvania
U.S. District Court for the Middle District of Pennsylvania
U.S. District Court for the Western District of Pennsylvania
U.S. District Court for the Northern, Eastern, Southern and Western Districts of New York
U.S. Court of Appeals for the Third Circuit

EDUCATION:

Dickinson School of Law (J.D., 1996)
Member, ***Dickinson Journal of International Law***
Recipient, Golub Foundation Graduate Scholarship
Recipient, Sandor Yelon Award
Elmira College (B.A., *magna cum laude*, 1993)
Phi Beta Kappa
Recipient, Iris Leadership Award

CLERKSHIP:

Intern, The Honorable John P. Callanan, Sr., Schuyler County Court, Watkins Glen, NY
Intern, Chemung County Public Defender's Office, Elmira, NY

PRESENTATIONS AND PUBLICATIONS:

Author, *Pennsylvania: Good and Bad*, ***Transportation Law Update***, Vol. 13, No. 3
Co-Author, Pennsylvania: Hit from Behind, ***Transportation Law Update***, Vol. 12, No. 5
Author, New York Excessive Verdicts, ***Transportation Law Update***, Vol. 11, No. 7
Presenter, *Delaware PIP Law as well as PA, DE & NJ No Fault Statues*, Gallagher Bassett Insurance Co., 2007
Speaker, *Negligent Hiring and Retention*, Risk Control Workshop sponsored by Cottingham & Butler/SISCO, Dubuque, IA, October, 2005
Co-Author, *Duty To Secure Load*, ***Transportation Law Update***, Vol. 11, No. 1
Co-Author, *Boozers are Losers*, ***Transportation Law Update***, Vol. 9, No. 9
Author, *New York: The Graves Amendment an Update*, ***Transportation Law Update***, Vol. 9, No. 8
Author, *New York: MV– 104*, reprinted in: ***Commercial Transportation Litigation Committee Newsletter***, American Bar Association, Tort Trial, and Insurance Section, Winter 2007.
Author, *Can't Win!*, ***Transportation Law Update***, Vol. 8, No. 5
Author, *Accident in New York?, Report it, but Carefully*, ***Bus & Motorcoach News***, ***Transportation Law Update***, Vol. 7, No. 12, September, 2006.
Author, *New York: Settlements Must Be Written!*, ***Transportation Law Update***, Vol. 7, No. 5
Author, *New York: Excessive Verdict: A Potential Remedy*, ***Transportation Law Update***, Vol. 5, No. 8
Author, *A Phantom Passenger*, ***Transportation Law Update***, Vol. 4, No. 10.

PROFESSIONAL ASSOCIATIONS:

M.D.Pa. Chapter of the Federal Bar Association
Dauphin County Bar Association
Lipsitt American Inn of Court, Dauphin County

Long Island—Derek E. Barrett

OF COUNSEL

BAR ADMISSIONS:

New York
New Jersey
U.S. District Court for the Northern and Southern Districts of New York
U.S. District Court for the District of New Jersey

PRACTICE AREAS:

Commercial Motor Vehicle
Construction
Medical Professional Liability
Professional Liability
Casualty & Premises Liability
Employment Relations

EDUCATION:

New York Law School (J.D., 1991)
Honors: Recipient, Awards for Evidence and Constitutional Law

Queens College of the City University of New York (B.S.)

PRESENTATIONS AND PUBLICATIONS:

Co-Author, *New York: Insurance Coverage,* ***Rawle's Reports***, Vol. 18, No. 3, March 2014

Philadelphia Associates

Edward I. Wicks

BAR ADMISSIONS:

Pennsylvania
New Jersey

COURT ADMISSIONS:

U.S. District Court for the Middle District of Pennsylvania (2017)
U.S. District Court for the District of New Jersey (2010)
Third Circuit Court of Appeals (2016)

EDUCATION:

Temple University Beasley School of Law, J.D., 2008
Messiah College, Grantham, Pennsylvania, B.S., International Business, *summa cum laude*, 2001

PRACTICE AREAS:

Commercial Motor Vehicle
Insurance Coverage
Employment Relations

Kevin G. Gallagher

BAR ADMISSIONS:

Pennsylvania

EDUCATION:

Temple University James E. Beasley School of Law, J.D., 2018
University of Pittsburgh, B.A., *cum laude*, 2015

PRACTICE AREAS:

Commercial Motor Vehicle
Insurance Coverage
Employment Relations
Maritime

Harrisburg Associates

Inder Deep Paul

BAR ADMISSIONS:
Pennsylvania

EDUCATION:
Widener University Commonwealth Law School, Harrisburg, Pennsylvania, J.D. 2016
University Institute of Legal Studies, Panjab University, Chandigarh, India, B.A. with honors, International Law, 2012

PRACTICE AREAS:
Commercial Motor Vehicle

Patrick F. Coleman

BAR ADMISSIONS:
Pennsylvania

EDUCATION:
Campbell University School of Law, Raleigh, North Carolina, J.D., 2017
Florida Institute of Technology, B.S., Accounting, 2014

PRACTICE AREAS:
Commercial Motor Vehicle
Product Liability
Environmental Torts

RAWLE & HENDERSON LLP

COMMITTED TO DIVERSITY

Rawle & Henderson LLP is committed to equal opportunity. It is the continuing policy of the Firm to afford equal opportunity to qualified individuals regardless of race, color, religion, gender, sexual preference, national origin, age, veteran status, or disability. This policy of equal opportunity embraces all aspects of employment, including hiring, promotion and transfer, selection of other opportunities, wage and salary administration, and the application of service, retirement and employee benefit policies. Underlying this policy is the recognition by Rawle & Henderson that the Firm's continued growth and success depends on the development and utilization of the full range of the nation's human resources.

Rawle & Henderson LLP has been named one of the best law firms for female attorneys in the U.S., according to a recent ***Law360*** survey. The firm was ranked 10th in Pennsylvania by percentage of female attorneys (39.24%) and 21st in Pennsylvania by percentage of minority attorneys (7.59%) in the ***2018 PaLaw Annual Report on the Legal Profession*** (published in November 2018), a supplement to ***The Legal Intelligencer***. As the nation's oldest law firm, Rawle & Henderson remains committed to increasing its diversity.

~Established 1783~

PENNSYLVANIA SUPER LAWYERS 2019

TIMOTHY J. ABEEL

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TRANSPORTATION/MARITIME

Timothy J. Abeel has defended transportation companies in the state and federal courts of Pennsylvania, New York, New Jersey, and Delaware. He established the Commercial Motor Vehicle Section at Rawle & Henderson. Mr. Abeel was one of the founders of the Trucking Industry Defense Association (TIDA), and he served as the President of TIDA in 2000-2001. Mr. Abeel was a member of the TIDA Board of Directors for ten years. He was also a founding member of the American College of Transportation Attorneys (ACTA). He has been listed in Pennsylvania Super Lawyers for 16 consecutive years. Mr. Abeel has been rated AV Preeminent by Martindale-Hubbell.

Considered among the best in their profession, Super Lawyers represent the top 5% of the practicing attorneys in Pennsylvania. The Super Lawyers are selected by their peers in an extensive nomination and polling process conducted by Thomson Reuters and published in *Pennsylvania Super Lawyers Magazine*.

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TRANSPORTATION LAW UPDATE

PENNSYLVANIA – WE HAVE YOU COVERED

Rawle & Henderson LLP's **Commercial Motor Vehicle Section** covers the entire Commonwealth of Pennsylvania, with attorneys in our **Philadelphia**, **Harrisburg** and **Pittsburgh** offices. In addition, two CMV attorneys in our Philadelphia and Harrisburg offices have been selected as **2019 Pennsylvania Super Lawyers**. **TIMOTHY J. ABEEL** and **GARY N. STEWART** have been selected as Super Lawyers. ***Super Lawyers*** is a Thomson Reuters rating service of outstanding lawyers who have attained a high degree of peer recognition and professional achievement.

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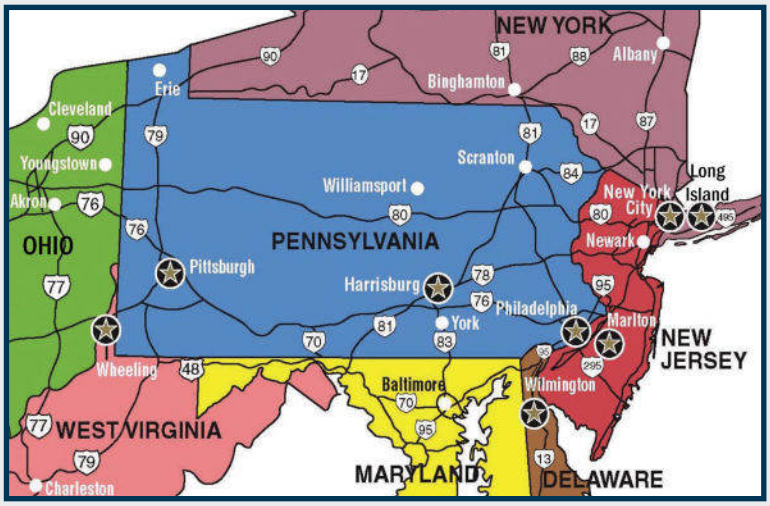

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The Commercial Motor Vehicle Section has an **After Hours Emergency Response Number — 717-433-6230** — so the attorneys are accessible to respond to any emergency which arises after customary business hours.

TIMOTHY J. ABEEL is Chair of the Commercial Motor Vehicle Section and has defended transportation companies in the state and federal courts of Pennsylvania, New Jersey and Delaware for more than 30 years. He is a partner in the Firm's **Philadelphia** office. Tim graduated, *magna cum laude,* from the State University of New York at Albany and received his J.D. from the Temple University School of Law. Tim was one of the founders of the Trucking Industry Defense Association (TIDA) and he served as President of TIDA in 2000-2001. From 1994 to 2003, he was a member of the TIDA Board of Directors. He was the Editor of the ***TIDA Newsletter*** for over 23 years, from TIDA's founding in 1993 through 2017. His clients include some of the largest transportation companies and insurers of commercial motor vehicles in the United States. He served as a member of the Executive Committee of Rawle & Henderson LLP from 2006 to 2018. Tim has been rated AV Preeminent and has been selected as a **Pennsylvania Super Lawyer** for 16 consecutive years.

GARY N. STEWART, a partner in the Commercial Motor Vehicle Section in our **Harrisburg** office, defends cases throughout Pennsylvania as well as other Mid-Atlantic states. He focuses his practice on the defense of the trucking industry, specifically commercial motor vehicles and the companies that insure them, and represents most of the motor carriers and their drivers seen on our highways. He is admitted to practice in the State and Federal Courts of Pennsylvania, New Jersey, Massachusetts, Vermont and Rhode Island, and has been admitted *pro hac vice* in other jurisdictions throughout the Mid-Atlantic region. He graduated *magna cum laude* from the Harrisburg campus of Widener University School of Law. Gary was the recipient of the James C. Crumlish Jr. Award for Excellence in Scholarship and Administrative Law. He received his undergraduate degree from the U.S. Merchant Marine Academy at Kings Point, New York, and holds U.S. Coast Guard professional licenses as Master of Oceans, Steam or Motor Vessels up to 1600 gross tons as well as Chief Officer, unlimited tonnage, all oceans. Gary was previously selected by his peers as a Transportation/Maritime **Pennsylvania Super Lawyer** in 2007, 2009, 2010-2012, and 2016-2018. He is a member of the Firm's Executive Committee.

FEDEX FREIGHT SUMMIT

SONIA DI VALERIO, Of Counsel to the Firm in our **Philadelphia** and **New Jersey** offices, attended the **FedEx Express Liability Claims Attorney Summit** on April 10-11, 2019. The summit was held at Embassy Suites in Memphis, Tennessee. A team of presenters discussed a variety of litigation issues related to the defense of commercial motor vehicle companies.

Sonia concentrates her practice on the defense of trucking and bus companies and their insurers. She regularly addresses claims of negligent entrustment and spoilation in cases involving catastrophic injuries. As part of that practice, Sonia represents clients in connection with employment litigation matters in both the State and Federal Courts of Pennsylvania and New Jersey. In addition to representing trucking and bus companies, Sonia has also represented municipalities and municipal authorities as well as privately owned companies. She has defended these clients against age discrimination claims, wage claims, whistle blower claims and claims arising under the FMLA and FLSA. In addition to litigated matters, Sonia has counseled clients in connection with termination issues, hiring issues and non-compete clauses. She has extensive experience in binding and non-binding arbitrations as well as court conducted and private mediations. She has tried cases to verdict in the State Courts of New Jersey and Pennsylvania as well as the Federal Courts. Sonia earned her J.D. from Temple University School of Law in 1999 with distinguished class performance in Criminal Law and Evidence. While attending law school, she served as Editor-in-Chief of the ***Temple Environmental Law and Technology Journal***. She served as a judicial law clerk to the Honorable Lee B. Laskin, J.S.C., in the Superior Court of New Jersey from August 1999 to August 2000. She earned her B.A. in Communications from Temple University in 1992. Sonia is a member of the Delaware County Bar Association.

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Can I Get My Case Transferred from Philadelphia County?

Gary N. Stewart

Philadelphia, Pennsylvania—the City of Brotherly Love—is known for a lot of things. Cheesesteaks, the Phillies baseball team, our "Iggles" football team, Rocky Balboa. And in the litigation world, Philadelphia is known as one of the worst defense venues in the state, if not the entire country.

In 2010, the American Tort Reform Association (ATRA) ranked Philadelphia first on its list of Judicial Hellholes. However, the 2014/2015 list "only" had Philadelphia on the "watch list." Maybe things are improving.

ATRA general counsel described Judicial Hellholes as "[t]raditionally . . . considered places where civil judges systematically apply laws and court procedures in an unfair and unbalanced manner, generally against defendants in civil lawsuits." He also notes that "[t]he jurisdictions we name as Judicial Hellholes each year are not the only unfair courts in the nation, but they are among the most unfair, based on our survey of litigants and considerable independent research."

In Pennsylvania, it is common for a plaintiff's attorney to file the client's case in the Court of Common Pleas for Philadelphia County, even if the accident did not occur there or their client is not a resident there. Sometimes, the only tie is that the plaintiff's attorney has an office there, but that is not always the case.

Historically, it has been quite difficult to have a case transferred to another of the state's sixty-seven counties because generally, the plaintiff has the "right" to choose the venue

as long as he or she can obtain jurisdiction over the defendants. Plaintiffs would allege that the motor carrier defendant "routinely" did business in Philadelphia County and in most cases, at a least a truck or two would. Most times, a motion to transfer or change the venue would fail.

However, this situation may be changing. On October 22, 2014, the Pennsylvania Superior Court, which is the intermediate appellate court, upheld the transfer of a case from Philadelphia to another county and presented a possible "roadmap" to assist attorneys to accomplish this in the future.

In *Lee v. Bower Lewis Thrower*, No. 2421 EDA 2013, plaintiff was injured on the main campus of Penn State University when she was struck by a pick-up truck driven by a PSU employee who was on his way home from work. The location where this occurred was adjacent to an area under improvement/construction and thus, numerous other corporate entities were named as defendants.

Plaintiff filed the Complaint in Philadelphia County. The defendants filed a motion to transfer the case to Centre County, which is approximately 200 miles from Philadelphia, and the trial court agreed. On appeal, the Superior Court upheld the transfer, noting that it reviewed the trial court's ruling for an "abuse of discretion." This means that the "trial court's ruling must be reasonable in light of the peculiar facts. If there exists any proper basis for the trial court's decision to transfer, the decision must stand." In essence, it is very important to present thorough and complete supporting documentation and evidence to the trial court in an attempt to "win" there because, on appeal, it is more likely than not, that the underlying court's decision will stand.

The *Lee* Court relied on the Pennsylvania Supreme Court case of *Cheeseman v. Lethal Exterminator, Inc.*, 549 Pa. 200, 701 A.2d 156 (1997), which clarified the factors for transfer and stated that a petition should be granted if the defendant "demonstrates, with detailed information on the record, that the plaintiff's chosen forum is oppressive or vexatious to the defendant."

The so called 'public interest" factors that many think will assist in obtaining a transfer, such as the court's own convenience or other concerns, are not controlling because the rules only speak to the convenience of the parties and not the courts. Thus, it is very important that the moving parties show that the chosen forum is more than merely inconvenient for it.

What should the moving parties submit? The Court notes that detailed, fact-specific affidavits from the various witnesses (not "cookie-cutter" forms), noting problems with travel, child care, work responsibilities, location of evidence and/or records should be put on the record. The *Lee* Court relied on seven such personalized affidavits. It specifically referenced one where the supervisor of the Office of the Physical Plant at Penn State noted that he supervises 1,300 employees and would be required to miss multiple days of work to attend a trial in a court house hours away, whereas if the trial was in Centre County, it would only be 10 minutes away.

The Court also explained that counsel's arguments complaining about the accuracy or credibility of the facts

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in the affidavits would not be considered, but only the evidence.

The Court continued and explained that the decision to transfer is fact-specific and travel issues would be less of a concern when the requested transfer of the case was to one of the counties adjacent to Philadelphia.

In a recent trucking case, we witnessed the same labor-intensive process of obtaining individualized affidavits from parties and witnesses. This resulted in a court in the Scranton/Wilkes Barre area (Luzerne and Lackawanna Counties) agreeing to transfer the case to Washington County (south of Pittsburgh and arguably more conservative), which is where the accident occurred. As a practical matter, the result changed the strategy and handling of the case, especially when the plaintiff's attorney might be "a local" in one county and no longer has that possible advantage. Thus, the playing field is made more reasonable for the defendants.

As a result, simply do not "give up" when your case is filed in a "bad" venue, especially if that venue is not where the accident/incident occurred. Seriously consider taking the time and making the effort to file a motion to transfer, but be certain to prepare detailed, itemized, fact-specific affidavits executed by the people who might be adversely affected.

This may be a lot of work and some expense initially, but wouldn't you rather be trying your case in a county other than Philadelphia, Luzerne or Lackawanna counties?

Gary N. Stewart is a partner in the Commercial Motor Vehicle Section in our Harrisburg office. Gary is admitted to practice in Pennsylvania, New Jersey, Massachusetts, Connecticut, Vermont and Rhode Island as well as before the U.S. District Courts for the Eastern, Middle and Western Districts of Pennsylvania, the District of New Jersey, the District of Massachusetts, the District of Rhode Island, the District of Connecticut and the U.S. Court of Appeals for the First and Third Circuits.

He graduated *magna cum laude* from Widener University School of Law (Harrisburg campus) in 1992. Gary was the recipient of the James C. Crumlish Jr. Award for Excellence in Scholarship and Administrative Law. He received his undergraduate degree from the U. S. Merchant Marine Academy at Kings Point, NY, and holds U. S. Coast Guard professional licenses as Master of Oceans, Steam or Motor Vessels up to 1600 gross tons as well as Chief Officer, unlimited tonnage, all oceans. Gary served as the law clerk for the Honorable Rochelle Friedman, Commonwealth Court of Pennsylvania in Harrisburg.

He has been selected by his peers, as a Transportation/Maritime Pennsylvania Super Lawyer in 2012, 2011, 2010, 2009 and 2007. It is an honor reserved for the top 5% of all Pennsylvania lawyers.

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