

Documentation! Documentation!

By Jim Garnett, Interstate Insurance

I had a new lawsuit come in a couple of months ago and like most lawsuits the accident description was vague and the injuries alleged were general. I called the plaintiff's attorney to get more information on the accident. I specifically needed a detailed description of the accident and the extent of the injuries alleged. The attorney alleged that a defect in the design of the trailer had caused his 70-year-old client to break his hand while operating the trailer. The attorney told me that he had found trailer manufacturers to be easy prey because they don't do much in the way of research and development and have little or no documentation on how they build their trailers. I found his opinion of trailer manufacturers alarming and wondered how many plaintiff attorneys think this way.

By far, most trailer manufacturers do not have the resources to batch test the components they use in the design and building of their trailers. They have to rely on the component part manufacturers to do proper research, development and testing. It's assumed in the trailer business that if the competition is using the same components, those components are "tried and true." After all, if everyone else is using the same part and have been using the same part for years, isn't that enough to prove adequacy?

Unfortunately, we don't get to build a defense based on what everyone else is doing. Industry standards are easily disputed when opposing experts go head to head. As a defendant, you are expected to show documented evidence proving that component part specifications are a result of research, development and testing. You are also expected to show that those components that you put on your trailers have gone through some kind of quality control procedure to assure that they do in fact meet those specifications that were developed in research and development.

Up until a few years ago, foreign manufacturers had a pretty hard time getting into the trailer markets. They couldn't compete with the reputations our American manufacturers had for quality. In the last few years, the trailer industries' cost cutting efforts have removed a lot if not most of those barriers. Distributors of trailer components have found it advantageous for themselves and their trailer manufacturing customers to offer imported components at reduced prices as their customers continue to look for ways to cut costs and remain competitive in their market places.

The overseas competition is here to stay so it's time we all started covering our backs. Any good product liability defense attorney will tell you that the three most important things in establishing a defense are documentation, documentation, documentation.

- Look to your parts distributor to provide you with certificates of insurance from the importer of the component as well as the distributor.
- Demand from the distributor copies of the research and testing that went into the development of specifications for the component part.
- Demand from the distributor an outline of the quality control procedures used by the importer that assures the imported components meet the R&D specifications.

It is a defense attorney's worst nightmare to have his or her client look careless in the design or manufacture of a trailer. A jury can't expect you to write the specs nor can they expect you to test every component you put on your trailer, but they will certainly expect you to assure the public that someone has.

Interested in help with your documentation recovery program? Call our office, (770) 965-6101, and ask for Jim or Lanny.

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