

## **FALL 2021 NEWSLETTER**

### **TRUCKING LIABILITY UPDATE**

**By George L Lankford**

*McCaleb v. Rely Transp.*, 2020 US Dist Lexis 248706 (USDC – Fort Worth Div, Dec. 24, 2020)  
Cause No. 4:19-cv-00640-O (Judge O'Connor)

This is a personal injury, MVA case between a 18 wheel tractor trailer and a motorcycle stopped at an intersection on I35. Fariss was operating the tractor-trailer and was stopped at the intersection. McCaleb was the motorcyclist behind the tractor trailer. As the light turned green, the tractor trailer made a wide to turn left. The motor cycle tried to pass the truck on the left side during the turn. The motor cycle side swiped the tractor trailer, and the cyclist was injured. The motorcyclist sued the tractor driver and his company for negligence.

The defendants moved to strike the plaintiff's accident reconstruction expert on the basis that his opinion was based on eyewitness testimony estimating the speed of the motorcycle at 10 MPH, rather than using a scientifically reliable basis and foundation.

The court denied the motion to strike on the basis that eyewitness testimony can be used for an expert to reconstruct and accident and to offer causation opinion testimony so long as that basis is disclosed to the jury. It is then up to the jury to weigh the evidence.