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*Passion. Preparation. Persistence.*

*Volume 2, Issue 11*

## THE BASSETT BULLETIN <sup>TM</sup>

### WHAT IS THE IMPACT OF MY DRIVER BEING TICKETED FOR AN ACCIDENT?

The short answer to this question is “None.” The longer answer is, there is only one scenario when a traffic citation issued to a driver is admissible in a civil lawsuit. This is when the ticketed individual or his attorney physically walks into a courtroom and announces “Guilty” in front of a Judge.

The typical responses from folks receiving traffic tickets are to (1) send in their plea of no contest with a request for deferred adjudication or their payment of the fine; (2) send in their plea of guilty with the fine amount; or (3) send in their plea of not guilty and request a jury trial.

In each of the above scenarios, the plea of the ticketed individual cannot be introduced during a civil trial. That’s right! Even a plea of guilty on paper is not admissible unless the guilty plea is stated in open Court before a Judge.

### SO WHY WOULD A COMPANY HIRE A LAWYER TO DEFEND THE TICKET FOR THE DRIVER?

This issue recently came up in our representation of a trucking client. We informed the client that evidence of a ticket the company driver received was inadmissible in the civil case, even though the driver entered a plea of guilty on paper. We initially advised the client that it was not necessary to retain our services to defend the driver for the ticket. In response, the company representative indicated that he wanted to provide a defense for the driver regarding the ticket to demonstrate the company’s support of the driver’s actions in the accident.

In our experience in defending tractor trailer accidents, we have learned that the strength of our defense often rests on the shoulders of our driver, whether or not he/she is still employed with the company.

The above response by one of our client’s representatives is an illustration of how a company and the defense attorney can get the driver committed to the “trial team” early on. When a driver knows that a company stands ready to defend and support him, he is much more inclined to return the favor through the course of the litigation, even after leaving the company’s employment.

Even if the driver is found guilty by a judge or jury following a trial, evidence of the ticket is inadmissible in the civil trial, because the driver never entered a plea of guilty in open court.

However, by providing a legal defense, you have likely placed favor with the truck driver, because you and your company are standing by him/her along the way. If a civil suit is filed because of the accident, it is invaluable to have the truck driver’s cooperation. Considering to help your driver on the front end generally helps out when a lawsuit arises.

## WHAT TO REMEMBER

1. Train your drivers to notify the company when he or she receives a ticket following an accident.
2. Train your drivers to respond to the issuance of this ticket by returning a no contest or not guilty plea in **writing** as opposed to in person. If he or she is going to appear for court, advise him or her to plead “no contest” rather than “guilty;”
3. Consider hiring a lawyer to defend your driver for a traffic citation should it appear litigation may arise, or should it appear that your driver may be leaving your employment; and
4. Remember, even a finding of guilty after a jury trial is not admissible in the civil action.

*The case law authority for the above is found in Albert E. Bowie, et al v. H.I. Harris, 351 S.W. 2d 668 (Tex. App. – Waco), 1961. Citing Mooneyhan v. Benedict, 284 S.W. 2d 741 (Tex. App. Austin), 1955.*

### The Bassett Firm

*Two Turtle Creek Village  
3838 Oak Lawn Avenue  
Suite 1600  
Dallas, Texas 75219  
(214) 219-9900 Telephone  
(214) 219-9456 Facsimile  
Toll Free: 1-800-310-9769*

[www.thebassettfirm.com](http://www.thebassettfirm.com)

### ATTORNEYS

- MIKE H. BASSETT
- STACI Q. CASSIDY
- JENNIFER R. ELDRIDGE
- MICHAEL J. NOORDSY
- MATHEW SAMUEL



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Information regarding *The Bassett Bulletin* <sup>TM</sup> is available from *Diane Dalling* ([ddalling@thebassettfirm.com](mailto:ddalling@thebassettfirm.com)) at (214) 219-9900. ©2004 The Bassett Firm. All rights reserved.

*The Bassett Bulletin* <sup>TM</sup> is published twenty-six times a year, and is a complimentary publication of The Bassett Firm.

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