

Wabash RIG Nuclear Verdict
A Product Liability Lawsuit:
What Do
Fleet Managers Need To
Know?

One
Family's
Underride
Story



May 4, 2013



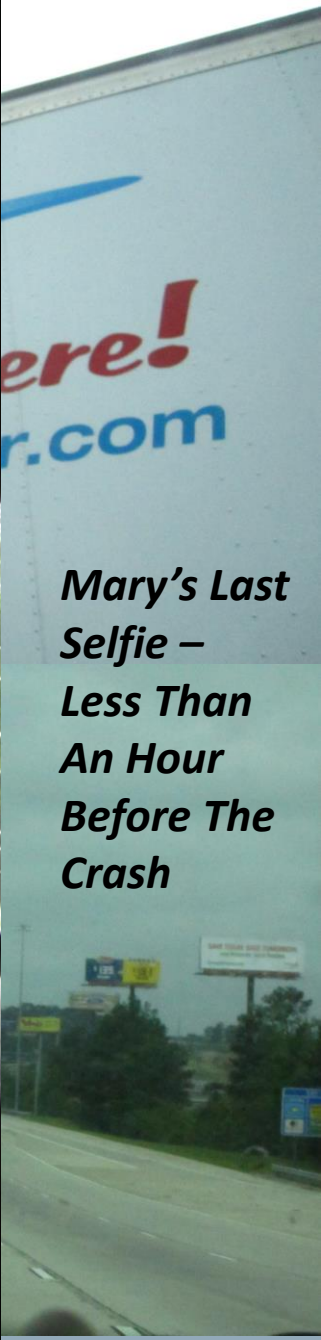
You will not be forgotten



You will not be forgotten.



Family Road Trip 9 months before our crash – caught up in the traffic backup from a fatal crash



Mary's Last Selfie – Less Than An Hour Before The Crash

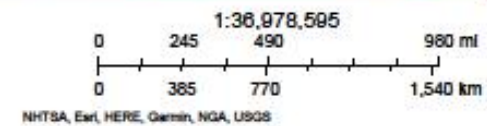


Last
Moments

Rear Underride Crashes In FARS 2007-2020 (n=1,589)



1/17/2024



Estimated number of side underride, rear underride, and front override crashes and associated fatalities in the United States from 2007 to 2020 using cataloged FARS data multiplied by side underride undercount correction factors.

Type of Crash	Number of Crashes in FARS	Number of Fatalities in FARS	Undercount Factor	Estimated Number of Crashes	Estimated Number of Fatalities	Estimated Average Number of Crashes and Fatalities Per Year
Side Underride	1,238	1,847	1.77	2,191 ^A	3,269	157/234
Rear Underride	1,589	2,273	1.77	2,813	4,023	201/287
Front Override	1,135	1,296	1.77	2,009	2,294	144/164
Total	3,962	5,416		7,013	9,586	

^A Example Calculation: number of side underride crashes multiplied by undercount correction factor: $1,238 * 1.77 = 2,191$

Estimated number of side underride, rear underride, and front override crashes and associated fatalities in the United States from 1969 to 2020 using estimated average number of crashes and fatalities from 2007 to 2020.

Type of Crash	Estimated Average Number of Crashes and Fatalities Per Year	Estimated Number of Crashes Over 51 Years	Estimated Number of Fatalities Over 51 Years
Side Underride	157 ^A /234	8,007	11,934
Rear Underride	201/287	10,251	14,637
Front Override	144/164	7,344	8,364
Total		25,602	34,935

^A Example Calculation: estimated number of side underride crashes per year multiplied by 51 years: $157 * 51 = 8,007$

Analysis of FARS Data, A Report by Eric Hein, 2024

Overview of 50 Years of Work on Rear Underride Prevention



[Video link](#)

Wabash RIG Nuclear Verdict

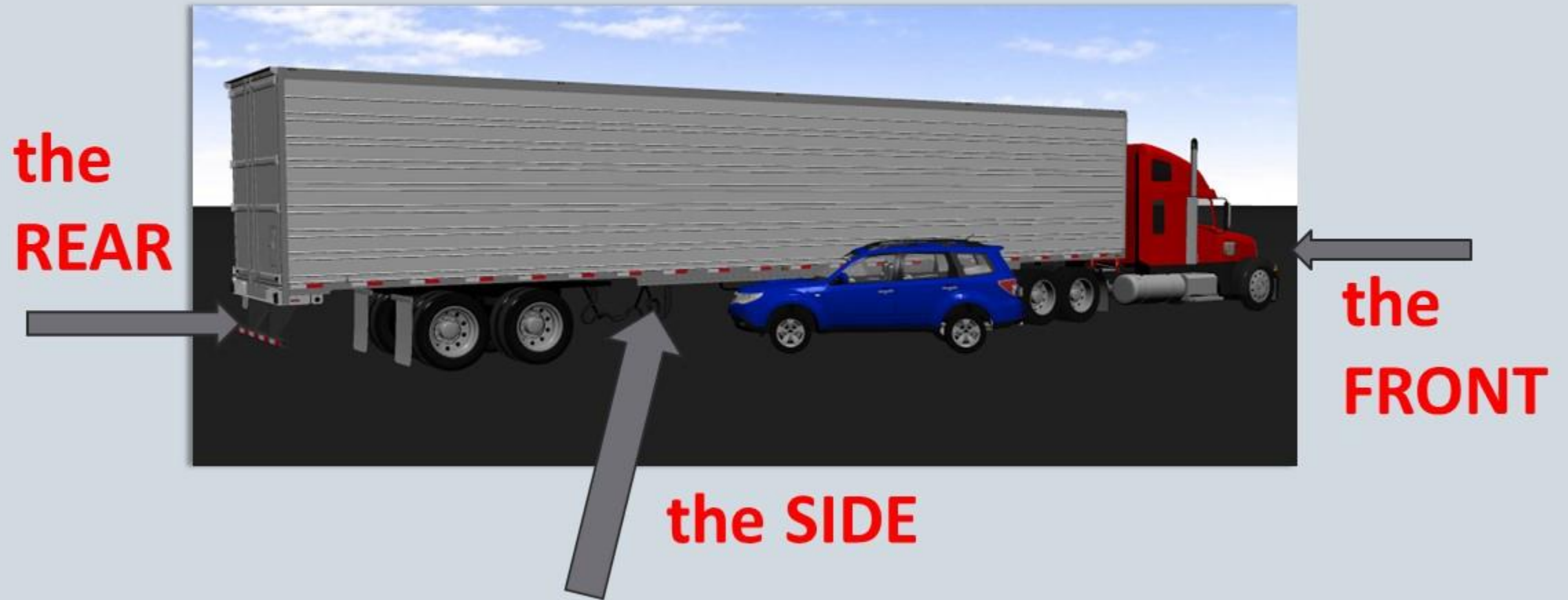
A Product Liability Lawsuit



[Video Link](#)

**What do fleet managers
need to know about
Rear Impact Guards,
Side Impact Guards,
& Carrier Liability?**

Truck Impact Guards Are Needed At





**Geometric Mismatch
Bypasses Car's Crashworthy Features**



Large commercial trucks are a danger to other road users. Fleet owners and manufacturers can reduce their risk of liability for monster verdicts if they equip their trailers with TOUGHGUARD-strength rear guards and with side guards. Both Wabash and Utility were subject to record damage awards because they were negligent and did not protect road users from their inherently dangerous trucks.

OEMs are required to meet safety standards relative to underide and it seems there is a litigation path that suggests those regulations are not high enough, exposing all parties to lawsuits.

**Just because NHTSA ignores
the danger of underride
and requires nothing more
than minimum protection
(in the case of rear underride)
or nothing at all (in the case of side underride)
does not mean that
they've properly exercised their authority to
protect the traveling public.**

**Just because the trucking industry
chooses not to equip the American fleet
with strong underride protection
doesn't mean that it was
an ethical or even wise business decision.**

As for the jury verdict against Wabash, Karth says that “if the trucking industry continues to oppose these safety standards, then it will be left to jurors to bring some form of justice for the families.”

“There was a poster outside the courtroom that said – jurors make justice work for all of us.”



JURORS

make justice work
for all of us.



Thank You Jurors.

©2011 The Missouri Bar

www.mojury.org

**“[The Wabash defense attorney]
disputed the position
the 1998 federal guidelines were inadequate,
and he asked the jury
to reject any award of punitive damages
if given the opportunity, noting that would in effect
mean every single rear guard-equipped trailer
built by every manufacturer
to comply with the government’s safety standards
would have to be considered
unreasonably dangerous.””**

The punitive damages award represents the amount Simon told the jury it would have cost the trailer manufacturer to build safer RIGS — \$15 million annually — multiplied by what the attorney said was 30 years of inaction on the company's part. Compensatory damages consist of \$6 million to each of the two families.

\$15 million/year X 30 years =

\$450 Million Jury Verdict

**\$462M Jury Verdict Over
Rear Impact Guard Design**

**Hein V. Utility Trailer
Manufacturing Company:
Jury Sends a Message to
Trailer Manufacturers
About Side Underride**



Riley's Dad Discusses Benefits of Side Guards To Trucking Industry

Eric Hein, Riley's father
speaks on winning \$42M
from trucking company

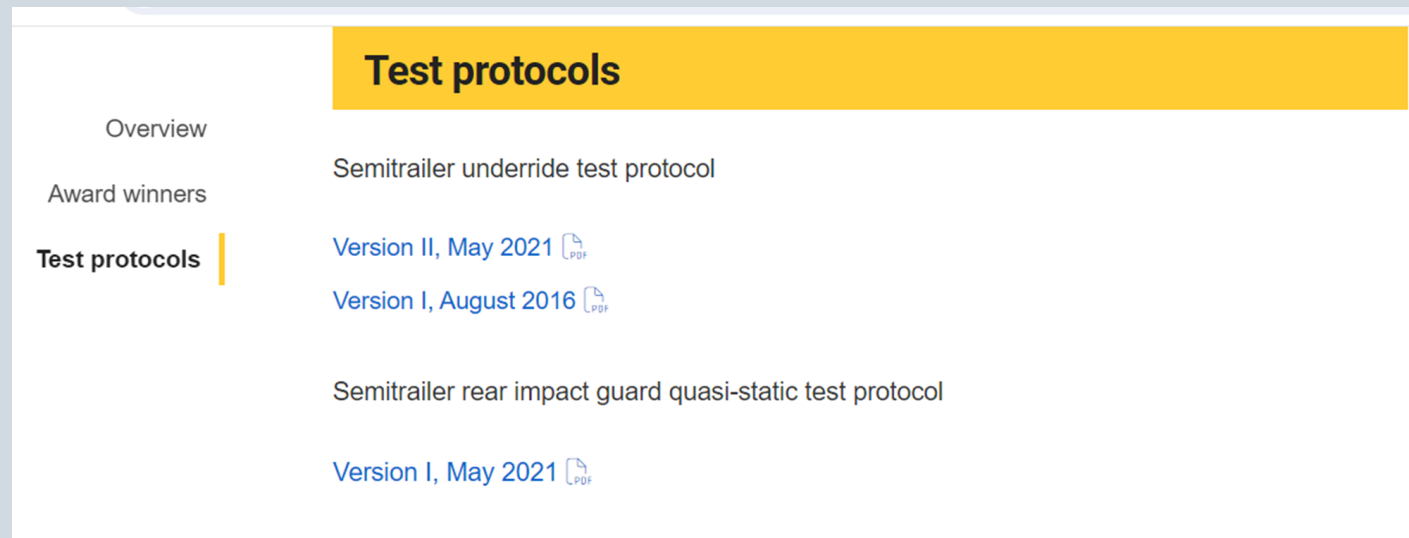
**“A business needs to insure itself
against risk so that it is
sustainable.”**

[Nuclear Verdicts & Their Impact on Trucking](#)

Alternatively, a carrier could install comprehensive override protection which would reduce carrier liability when crashes occurred.

**Options for Stronger RIGs
On Both New & Old
Tractor-Trailers**




Since NHTSA had not raised safety requirements in two decades, IIHS published test protocol for Rear Impact Guards and awarded trailer manufacturers the TOUGHGuard Award when they passed it.



The image shows a screenshot of a website's navigation menu. On the left, there is a vertical list of menu items: 'Overview', 'Award winners', and 'Test protocols'. The 'Test protocols' item is highlighted with a yellow vertical bar. To the right of this menu, a yellow horizontal bar contains the text 'Test protocols'. Below this bar, the following items are listed: 'Semitrailer underride test protocol', 'Version II, May 2021' with a PDF icon, 'Version I, August 2016' with a PDF icon, 'Semitrailer rear impact guard quasi-static test protocol', and 'Version I, May 2021' with a PDF icon.

- Overview
- Award winners
- Test protocols**

Test protocols

- Semitrailer underride test protocol
 - Version II, May 2021 
 - Version I, August 2016 
- Semitrailer rear impact guard quasi-static test protocol
 - Version I, May 2021 

9 major trailer manufacturers

received the TOUGHGuard Award:

- 7 offer their TOUGHGuard RIG as Standard.
- 2 offer it as an Option.

•**Great Dane**

Applies to **all** dry van, refrigerated and platform units **built after December 2018**, in addition to earlier units equipped with the RIG30 option.

•**Hyundai Translead**

Applies to **all** dry van and refrigerated units **built after December 2017** and earlier units equipped with the RIG30 option.

•**Kentucky Trailer**

Applies to **all** dry vans units **with the KT30-RIG option** built **after February 2020**.

•**Manac**

Applies to **all** 90,000 series dry van, refrigerated and open top units **built after June 2011**.

•**Stoughton**

Applies to **all** dry van units **built after October 2016**.

•**Strick**

Applies to **all** long dry van models **built after December 2018** and short, single-axle vans built after March 2019.

•**Utility**

Applies to **all** dry van, refrigerated and flatbed units **built after December 2019**. Also applies to dry van and refrigerated units built before January 2020 and equipped with the additional auxiliary vertical bumper option.

•**Vanguard**

Applies to **all** dry van units **built after December 2015** and all refrigerated units built after September 2016.

•**Wabash**

Applies to dry van units **with the RIG-16 option** built **after February 2016**.

Applies to refrigerated units with the RIG-16 option built after December 2016.

This Wabash RIG-16, which they proudly announced in 2016, is offered as an *Option*.



In 2022, Wabash sold 50,000 new trailers.

90-95% did not have the stronger Option = 45,000 weak RIGs put on the road

**NHTSA's 2022 Final Rule did not
require trailer manufacturers to
meet the TOUGHGuard test
protocol for RIGS.**

[Home](#) / [News](#) / [2022](#) / [New underride rule doesn't go far enough](#)

New federal rule on truck underride protection does not go far enough

July 6, 2022



<https://www.iihs.org/topics>

Related

[More about large trucks](#)

Media contact

✉ [Joe Young](#)

Director of Media Relations

office +1 434 985 9244

mobile +1 504 641 0491

For more information, visit our [press room](#).

Get news directly to your inbox

[Video link](#)

**Thanks to IIHS tests,
trailer manufacturers have
improved their underride guards.**



[Video link](#)





[Video link](#)

**"I SURVIVED BECAUSE OF
STOUGHTON"**

[N.Y. Man Saved by
Stoughton Rear
Underride Guard
Featured in TV
News Story](#)

Terry S. Rivet
Actual accident survivor
Rochester, New York
March 2, 2017

With its new, robust rear underride guard, Stoughton is making the roads safer for everyone. No one knows that better than accident survivor Terry Rivet and his passenger Mark Robinson. "Early morning on March 2, we found our car headed toward the rear corner of a tractor-trailer that had slid and jack knifed on a snowy, slippery I-90. But thankfully, the rear underride guard on the Stoughton® trailer prevented our car from sliding underneath the trailer."

Stoughton's guard increases the ability to resist compartmental intrusion of a car when the location of impact is at the rear corners. And, it's standard on new Stoughton dry van trailers – with no added cost or weight.




STOUGHTON®

It's in the details

<https://www.stoughtontrailers.com/products-and-services/rear-impact-guard>

STOUGHTON®

 U.S.A. Owned & U.S.A. Made

Sapa Aluminum Extrusions RIG Crash Testing at 40 mph



Collision Safety Consulting RIG Retrofit at 39 mph



Additional Research Shows:

- **Sapa Aluminum Extrusions RIG was successfully tested at 40 mph.**
- **Collision Safety Consulting RIG Retrofit was successfully tested at 39mph.**
- **Many trailer manufacturers have retrofit kits.**

Elemance Rear Impact Guard Research Results

- IIJA mandated research to determine the outer limits of survivable rear impact protection.
- NHTSA-contracted computer simulation study has been completed: [*Development and Preliminary Validation of Computational Finite Element Truck Underride Guards*](#)
- Results of testing at higher speeds are to be published by end of 2024.

Fleet Managers, What Will You Do?