

Handling Trucking Cases

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I. Handling Trucking Cases

Collisions involving large, commercial trucks are generally more severe than collisions involving only passenger vehicles. For the most part, litigating trucking cases is more complex than a typical motor-vehicle wreck case. Immediately upon being hired to represent an injured party in a trucking case, critical steps should be taken to investigate the wreck and preserve evidence. You will need to determine whether or not there were any violations of the applicable "rules of the road" (i.e. Federal motor carrier safety regulations "FMCSR" or Alabama state code) and identify potential violations of trucking industry standards by the truck driver and/or the trucking company which led to the wreck that injured your client. Further, you will need to be able to determine who the potential defendants are and what insurance may be applicable in the case.

Today, we will discuss crucial investigative steps to take when preserving evidence, along with potentially applicable FMCSRs and industry standard sources to aid in evaluating the liability of both truck drivers and motor carriers/trucking companies in a trucking case. We will also discuss potential additional defendants and applicable insurance coverage.

A. Investigation and Preservation of Evidence.

For a truck wreck case, your early investigation will be like any other wreck case. It will involve inspecting the scene, interviewing clients and witnesses, searching for possible or photographic evidence - in today's world in which cameras are almost everywhere - and, without question, seeking law-enforcement and other first responder reports as you assemble a general idea of how the wreck occurred. There are, however, additional initial investigative steps that will need to be taken in a trucking case.

As soon as possible in a trucking case, you need to obtain as much information as possible concerning the motor carrier/trucking company whose truck and/or driver was involved in the wreck. Normally, information identifying the motor carrier/trucking company, including its registration number with the Department of Transportation ("USDOT"), will be included within the Uniform Traffic Crash Report prepared by the law enforcement agency who conducted the investigation of the wreck. Sometimes, however, there are delays in receiving the completed Uniform Traffic Crash Report. In fact, oftentimes, there are considerable delays in receiving crash reports if there is an ongoing Vehicular Homicide Investigation. When there are delays in receiving the Uniform Traffic Crash Report, you should try to determine whether there were any photos or videos taken from news reports or from cameras in the area which might show the commercial vehicle involved in the wreck. This alternative allows the possibility of obtaining components of information found in the Crash Report as the Federal Motor Carrier Safety Regulations ("FMCSR") mandate that large commercial vehicles must prominently display information for the motor carrier/trucking company who is operating the commercial motor vehicle, including the motor carrier's registration number with the USDOT (49 C.F.R. 390.21T.)

Why is it important for you to get the USDOT number for the motor carrier who was operating the commercial vehicle involved in your wreck? Well, the answer is because the USDOT

number will enable you to find a great deal of information about the trucking company through the Federal Motor Carrier Safety Administration's "Safer" website: <https://safer.fmcsa.dot.gov/>. This website will provide you with several resources, including a link to the "Company Snapshot" which is a portal that will take you to webpages containing a wealth of information about the trucking company. Within such webpages, you will be able to obtain: the trucking company's physical address; how many trucks that it operates; information concerning its safety record in comparison to national averages for commercial motor carriers; insurance policy information; information concerning FMCSR violations; and any safety audits of the motor carrier/trucking company conducted by the USDOT. All of this information is obtainable by simply having the motor carrier's registration number with the DOT.

After obtaining the proper name and contact information for the motor carrier/trucking company in your case, you will need to move quickly to preserve and collect additional evidence. Your next step should be to send a letter of representation which includes a thorough letter of preservation to the motor carrier/trucking company and to its insurance company - as listed in the licensing information with the FMCSA (or as listed in the Uniform Traffic Crash Report, if you have it at that time). This letter should be written as a formal request to preserve all the documents and things which you will later be asking for in discovery, including the truck, it's electronic control module ("black box"), and any Dash Cam video recorded from the truck. You should specifically and clearly state within your letter that failure to preserve the requested materials may be deemed as an act of spoliation.

For an example of a preservation letter to be used in a trucking case, see tab "A" to this paper.

One of the reasons to get your preservation letter sent to the motor carrier/trucking company as soon as possible is due to the fact the FMCSRs include multiple sections covering which documents motor carriers must retain in various categories, and how long such documents must be kept within the normal course of business operations. (49 C.F.R. 382.401, 387.31, 387.7, 390.15, 391.51, 395.8, 395.21, 396.3 396.11). Of course, motor carriers/trucking companies should automatically place a litigation hold on these safety related documents to preserve them – as soon as they are made aware that their driver has been involved in a wreck, which could result in a lawsuit. Unfortunately, in my experience, such documents are rarely preserved under a litigation hold which makes the need for a preservation letter that much more important. By getting the preservation letter out within the time frames designated for record retention under the FMCSRs, you can better ensure that the motor carrier/trucking company will preserve the documents, and/or at least ensure that the company has no excuse if the documents were never kept or lost or destroyed after receiving your letter.

Another important early step in the investigation process of your case is to send a Freedom of Information Act ("FOIA") request to the FMCSA. By sending a detailed and specific FOIA request to the FMCSA, you normally are able to obtain additional valuable information concerning the motor carrier/trucking company such as: DOT driver and vehicle inspection reports; warning letters to the company concerning safety compliance from the DOT; the full company safety profile; and the crash report history for the motor carrier/trucking company. Such information can

be very helpful when evaluating whether the trucking company has a history of safety violations and wrecks to show a pattern and practice of negligent supervision of its drivers and/or negligent maintenance of its trucks and trailers.

It is possible now to submit a FOIA request to the FMCSA in writing via email. You should make these requests in compliance with the FMCSA's requirements and as early as possible since it can take a great deal of time to receive the requested documents due to the large number of requests made each year and the budget constraints of the FMCSA.

Attached at tab "B" is an example FOIA request to the FMCSA.

As you learn more about your case during the investigative process and obtain information about the motor carrier/trucking company from the FMCSA/DOT, your next steps will be to determine the potential defendants, applicable claims, and potential sources of recovery/available insurance.

B. Who are the potential defendants?

1. The Driver

In determining whether to pursue a trucking case, you should first determine whether the truck driver contributed to the cause of the wreck. Due to the extreme differences in size and weight of tractor-trailers compared to average vehicles on the highway (a loaded tractor-trailer will weigh close to twenty times that of the average motor vehicle), wrecks involving tractor-trailers have the potential to cause substantially greater harm. Because of this greater risk of harm, tractor-trailer drivers and the trucking companies which employ them are required to follow safety regulations that are above and beyond the requirements of other drivers. The federal and state regulations as well as trucking industry standards place a higher obligation to safety for drivers and trucking companies than obligations of other drivers.

In order to legally operate a tractor-trailer in interstate commerce, the driver must at a minimum meet the "General Qualifications of Drivers" established by 49 C.F.R. §391.11. Tractor-trailer drivers are also required to meet the minimum physical qualifications which exceed the requirements of other drivers¹. In order to receive a commercial driver's license, a truck driver must pass a knowledge and skill test which far exceeds the requirements necessary to obtain a regular driver's license. Tractor-trailer drivers must have knowledge of the following areas:

- Safe operations regulations;
- Safe vehicle control systems;
- CMV safety control systems;
- Basic control;
- Shifting;
- Backing;
- Visual search;
- Communication;

¹ 49 C.F.R. §391.41(b)

Speed management;
Space management;
Night operation;
Extreme driving conditions;
Hazard perceptions;
Emergency maneuvers;
Skid control and recovery;
Relationship of cargo to vehicle control;
Vehicle inspections;
Hazardous materials;
Mountain driving;
Fatigue and awareness;
Airbrakes; and
Combination vehicles.²

In order to obtain a commercial driver's license, a driver must possess basic pre-trip vehicle inspection skills for the vehicle class that the driver operates or expects to operate (for a list and description of these skills please see 49 C.F.R. §383.113 Required Skills.)

a. Determining whether the truck driver was driving responsibly and meeting the standard of care for truck drivers

As we all know, it is imperative in every trucking case to determine whether the truck driver was driving responsibly at the time of the wreck. Did the truck driver's actions or inactions violate federal or state regulations for motor carrier operation? Did the truck driver's actions or inactions fall below established trucking industry standards? If the truck driver did violate federal or state safety regulations and/or trucking industry standards, did such violations contribute to the cause of the wreck? These questions must be asked in every trucking case and ultimately answered in the affirmative to establish liability against the driver.

Resources for the practitioner to utilize to determine whether a truck driver is driving in compliance with federal and state regulations as well as trucking industry standards include, but are certainly not limited to, the following:

1. *The Federal Motor Carrier Safety Regulations Handbook* published by JJ Keller and Associates, Inc.;
2. Any applicable state statutes covering the safe operation of motor vehicles, including commercial motor vehicles;
3. The Commercial Driver's License Manual for the applicable state;
4. JJ Keller's *Tractor-Trailer Driving Training Manual*;
5. JJ Keller's "*Preventable Accident Manual*";

² 49 C.F.R. §383.111

6. *CSA Handbook: The Complete Guide For CMV Drivers*, also published by JJ Keller and Associates, Inc.; and
7. The Smith System – Five Principles Of Safe Driving.

As established by federal regulations and industry standards, tractor-trailer drivers are responsible for: (1) maintaining documentation of “Driver Vehicle Exam Reports” and the “Driver’s Daily Log” (showing drive time, on duty non-driving hours, off-duty hours, sleeper berth hours, etc.); (2) perform specific vehicle pre-trip inspections as well as safety equipment inspections at the completion of each day’s work; and (3) following safe driving practices and requirements (which includes, but is not limited to, obeying all traffic laws, maintaining a reasonable speed at all times, avoiding distracted driving practices, not overdriving one’s headlights, adjusting driving practices for weather and roadway conditions, compliance with Hours of Service regulations, compliance with drug and alcohol regulations, and insuring that cargo is properly secured). Needless to say, the Federal Motor Carrier Safety Regulations and trucking industry safe driving standards are too comprehensive to cover in this paper.

2. Theories of liability against the motor carrier

a. When the driver is an employee of the motor carrier

When the motor carrier is the actual employer of the truck driver, the state common law theories of agency should be your guide to determining the liability of the motor carrier under the specific set of facts of your case. The doctrine of respondeat superior provides that an employer is vicariously liable for the actions of an employee when the actions take place within the line and scope of the employment or agency. Since there is no set national standard for respondeat superior, you will need to familiarize yourself with the laws governing agency and applicable tests to prove respondeat superior in the state having jurisdiction over your wreck case, if the driver is employed by the trucking company.

b. When the truck driver is an “owner-operator” of a tractor-trailer leased to the trucking company

In an “owner-operator” situation, the tractor is owned by one party (usually the “owner-operator”) but leased to the trucking company. Such leases must comply with the federal statutes and regulations if the truck will be used in interstate operation. Under the federal statutes and regulations: (1) the lease must be in writing; (2) the lease must provide that the carrier-lessee has the exclusive possession, or control and use of the equipment for the duration of the lease³; and (3) the motor carrier-lessee must assume the full direction and control of the leased vehicle(s) as if the motor vehicle(s) was/were owned by the motor carrier.⁴

The lease may also contain other provisions, which can impact the overall liability evaluation in the event of a wreck, such as: (1) contractual indemnity provisions or (2) contractual

³ 49 C.F.R. §376.11-.12 (2000)

⁴ 49 USCA §14102(a)(4)

insurance requirements (these may include that the owner-operator maintain “bobtail” insurance to cover the owner-operator when he/she is not using the tractor for purposes related to the trucking company’s business). Note: Always request a copy of the owner-operator lease agreement in discovery.

As noted above, when a trucking company enters into a leasing arrangement with an owner-operator (or other individual or entity) by statute, the trucking company is deemed to have the exclusive possession, control and use of the equipment for the duration of the lease and must assume the full direction and control of the leased vehicle as if the vehicle were actually owned by the trucking company.⁵ So, under federal law, the trucking company is allowed to freely contract with drivers and “owner-operators” under independent contractor contracts; however, the trucking company’s responsibility to the members of the motoring public for a wreck will be the same as if the driver was its actual employee. Courts across the country have held for years that a statutory employee-employer relationship exists between a trucking company and the drivers it uses to drive on its behalf, including independent contractors.⁶ The Eleventh Circuit has “[e]ndorsed the holding ... that federal law creates a statutory employment relationship between interstate carriers and the drivers of the trucks leased to them.”⁷ Many courts have held that state common law concepts of liability under the respondeat superior doctrine are irrelevant and that the interstate trucking company is vicariously liable as a matter of law for the negligent actions of the “statutory employee” driver.⁸ This doctrine of liability has sometimes been called “Logo” or “Placard” liability in that if the interstate trucking company’s logo or placard was being displayed at the time of the wreck liability of the driver will be imputed to the trucking company.

In 1986, the Interstate Commerce Commission (“ICC”) adopted some changes which eliminated a requirement for lessee motor carriers to remove their placards before the termination of lease and allowed the terms of the lease to dictate which party would remove the identification “logo” or “placard” from the vehicle.⁹ At that time, the ICC issued some clarifying comments disavowing the reasoning of some cases which previously held that the motor carrier was strictly liable in the event its logo was displayed on a vehicle at the time of the wreck and stated that the leasing regulations were not intended to completely override state tort, contract and agency law to create carrier liability where liability otherwise would not have existed.¹⁰ Since 1986, some courts seem to recognize that a change in regulations eliminated the strict liability aspects of the “logo liability” doctrine.¹¹ Thus, in situations where the evidence has shown that the parties to the lease have treated it as having been terminated, the motor carrier was not held to be liable despite the

⁵ 49 USCA §14102(a)(4)

⁶ “Insurance Coverage In A Trucking Case” by David Schubert (2013), citing *White v. Excalibur Insurance Company*, 599F.2nd 50 (5th Cir. 1979)

⁷ *Lancer Ins. Co. v. Newman Specialized Carriers, Inc.*, 903 F.Supp.2d 1272 (2012) citing *Judy v. Tri-State Motor Transit Co.*, 844 F.2d 1496, 1501 (11th Cir. 1988).

⁸ *Id.* Citing *Empire Indem. Co. v. Carolina Cas. Ins. Co.*, 838 F. 2nd 1428 (5th Cir. 1988); *Omega Contracting, Inc. v. Torres*, 191 S.W. 3rd 828 (Tex. App. - Ft. Worth 2006)

⁹ 49 C.F.R. §376.112(c)

¹⁰ “Insurance Coverage In A Trucking Case” by David Schubert (2013), citing *Ex Parte No. MC-43(Sub.-No. 16) Lease and Interchange of Vehicles (identification devices)*, 3 I.C.C. 2nd 92-3 (1986)

¹¹ “Insurance Coverage In A Trucking Case” by David Schubert (2013), citing *Jackson v. O’Shields*, 101 F. 3rd 1083, 1086-7 (5th Cir. 1986).

fact that the truck continued to bear the motor carrier's logo and the lessor/lessee had not fully complied with the regulations and/or termination of the lease.¹²

Currently, the law varies relative to cases involving leased trucks as to whether some kind of respondeat superior analysis should be applied or whether the logo liability rule of strict liability still applies during the duration of the lease. So, if you have a case in which the motor carrier disputes that it is responsible for the actions of the owner-operator driver be sure to familiarize yourself with any court cases addressing "logo" liability in the applicable jurisdiction. The Alabama Supreme Court has held that a motor carrier operating under the authority granted by the government (i.e. U.S. DOT) assumes liability for truck drivers who the motor carrier allows to drive under such authority (whether or not the driver is an "independent contractor").¹³

c. Potential direct liability claims against the trucking company

i. Negligent hiring

Federal regulations establish the minimum qualifications for truck drivers and address a trucking company's responsibility to obtain background information on a driver before hiring him/her.¹⁴ The minimum requirements for investigation and inquiry of a motor carrier prior to hiring a driver are outlined in 49 C.F.R. §391.23. A motor carrier must at a minimum investigate the driver's safety performance history by contacting any DOT-regulated employer who the driver has worked for within the previous three years and obtain a motor vehicle record (MVR) for each state where the driver has held or holds a driver's license during the preceding three years.¹⁵ A trucking company who fails to comply with the minimum standards for hiring drivers established by the federal regulations may be subject to liability if compliance would have shown that the driver was unfit/incompetent.

In addition to the required minimum background check in the federal regulations, the motor carrier may also, with written permission of the applicant, request a pre-employment screening program (PSP) report for the driver applicant. PSP information is obtained from the FMSCA's Motor Carrier Management Information System (MCMIS). A motor carrier can obtain five years of crash data and three years of roadside inspection data on a prospective driver applicant via a PSP report.¹⁶ PSP reports must only be used for pre-employment screening purposes and, thus, may not be used for current employees.¹⁷ The primary differences between PSP records and an MVR for pre-employment screening purposes have been outlined by HireRight, a national company who provides employment background checks, as follows:

- MVR and PSP records are maintained by different sources. MVR driving records are reported by each State's Department of Motor Vehicles ("DMV", or similar State agency), and there is no national

¹² Id.

¹³ See *Ex parte Hicks*, 537 So.2d 486 (Ala. 1988).

¹⁴ 49 C.F.R. §391.1-71

¹⁵ 49 C.F.R. §391.23.

¹⁶ "PSP vs. MVR: What's The Difference?" – The HireRight blog, March 2014.

¹⁷ Id.

database housing driver records. The FMCSA is responsible for the PSP report. An important point to remember is that the two records are not linked, so the information may not match.

- A PSP report may include traffic citations or warnings which prompted a roadside inspection but will not include all of the driving record activity. The list of DOT crashes represents a driver's involvement only, it does not determine responsibility.
- An MVR will provide the driver's driving history as reported by a given State's DMV. PSP reports only contain entries of traffic convictions and warnings related to roadside inspection.
- Citations, warnings, and tickets yet to be settled in the courts will not appear on an MVR.
- Use of the PSP in hiring decisions for drivers is not required by regulations. However, it is becoming a fairly common best practice among motor carriers and bus operators.
- FMCSA regulations require that a three year MVR report be checked within 30 days of hiring and then rechecked annually.¹⁸

Failure on behalf of a motor carrier to investigate a driver's qualifications in compliance with the federal regulations, will subject the motor carrier to liability for negligent hiring in the event such background check would have revealed evidence of prior accidents, traffic violations or disqualifications of the driver which should have been red flags as to his competency.¹⁹

ii. Claims for negligent supervision and retention

Trucking companies operating in interstate commerce have a clear, non-delegable duty to monitor, control, and supervise the conduct of their drivers and employees, including any independent contractors driving on their behalf.²⁰ Per 49 C.F.R. §385.5:

“To meet the safety fitness standard, the motor carrier shall demonstrate that it has adequate safety management controls in place, which function effectively to ensure acceptable compliance with applicable safety requirements to reduce the risk associated with:

- (a) Commercial driver's license standard violations (part 383),
- (b) Inadequate levels of financial responsibility (part 387),
- (c) The use of unqualified drivers (part 391),
- (d) Improper use and driving of motor vehicles (part 392),
- (e) Unsafe vehicles operating on the highways (part 393),

¹⁸ Id.

¹⁹ *Smith v. Tommy Roberts Trucking Company*, 435 S.E. 2nd 54, 57 (1993) (Finding that a claim for punitive damages against a truck driver's employer was supported by evidence that the employer had knowledge that the driver had received two traffic violations while driving company vehicles, the employer failed to follow federal regulations requiring it to check into a driver's driving record, and that such a check would have shown that the driver had several other traffic violations on his record.)

²⁰ See generally, 49 C.F.R. §385.

- (f) Failure to maintain accident registers and copies of accident reports (part 390),
- (g) The use of fatigued drivers (part 395),
- (h) Inadequate inspection, repair, and maintenance of vehicles (part 396),
- (i) Transportation of hazardous materials, driving and parking rule violations (parts 170 through 177), and
- (k) Motor vehicle accidents and hazardous materials incidents.”

Trucking companies must maintain supervision practices to monitor: (1) compliance with federal regulations dealing with drug and alcohol use; (2) driver compliance with maximum hours of service regulations to reduce the risk of fatigued driving; (3) driver and company practices to make sure that vehicles and equipment are being properly maintained in compliance with the regulations; (4) any traffic citations or out of service violations received by its drivers; and (5) any motor vehicle collisions involving its drivers. (This list of areas for which a trucking company is required to monitor and supervise its employees and drivers is certainly not comprehensive.)

In many jurisdictions, Plaintiffs are not allowed to proceed forward with negligent hiring, supervision and retention claims against a trucking company if the trucking company admits to being vicariously liable for the actions of its driver. Fortunately, Alabama is not one of those jurisdictions. If you have a case in one of the jurisdictions which does not allow for negligent hiring, supervision, or retention claims when the trucking company admits to vicarious liability for the driver, it is wise to claim wanton conduct and seek punitive damages so that you will at least be allowed an opportunity to conduct discovery on those theories of liability.

A form Complaint and form discovery for the truck driver/motor carrier trucking company are attached at tab “C”.

B. Potential sources of insurance

1. Minimal level of financial responsibility

When you take in a trucking case, it is always best practice to look up the trucking company on www.safersys.org to investigate the information which the FMCSA has on its website relative to the trucking company in your case. As part of your review of the information provided on the FMCSA’s SAFER website, you should look to see the amount of insurance coverage, including the name of the insurance carrier, which is on file for the trucking company with the FMCSA. **(Note: Trucking companies may have excess policies which are not listed on the FMCSA website.)** The minimal limits of financial responsibility for trucking companies is set pursuant to 49 C.F.R. §387.9. Such minimal limits were established in January of 1985 and have remained the same since that time. Below is a copy of the schedule of limits provided for under §387.9.

SCHEDULE OF LIMITS—PUBLIC LIABILITY

Type of carriage	Commodity transported	January 1, 1985
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(1) For-hire (In interstate or foreign commerce, with a gross vehicle weight rating of 10,001 or more pounds)	Property (nonhazardous)	\$750,000
(2) For-hire and Private (In interstate, foreign, or intrastate commerce, with a gross vehicle weight rating of 10,001 or more pounds)	Hazardous substances, as defined in 49 C.F.R. 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons; or in bulk Division 1.1, 1.2 and 1.3 materials. Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material; in bulk Division 2.1 or 2.2; or highway route controlled quantities of a Class 7 material, as defined in 49 C.F.R. 173.403	5,000,000
(3) For-hire and Private (In interstate or foreign commerce, in any quantity; or in intrastate commerce, in bulk only; with a gross vehicle weight rating of 10,001 or more pounds)	Oil listed in 49 C.F.R. 172.101; hazardous waste, hazardous materials, and hazardous substances defined in 49 C.F.R. 171.8 and listed in 49 C.F.R. 172.101, but not mentioned in (2) above or (4) below	1,000,000
(4) For-hire and Private (In interstate or foreign commerce, with a gross vehicle weight rating of less than 10,001 pounds)	Any quantity of Division 1.1, 1.2, or 1.3 material; any quantity of a Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material; or highway route controlled quantities of a Class 7 material as defined in 49 C.F.R. 173.403	5,000,000

Many times when the trucking company only has minimum coverage of \$750,000.00, such limits will be woefully inadequate to cover your client’s losses. In such cases, you will need to look for potential additional sources of coverage covering either the tractor or trailer or covering other potential defendants who share in liability for the wreck.

2. MCS-90 Endorsements

The Motor Carrier Safety Act of 1980 requires that all interstate motor carriers have a Motor Carrier Safety (MCS-90) endorsement attached to their insurance policies.²¹ The purpose of the MCS-90 endorsement is to protect the public from the negligent operation of a truck being operated in interstate commerce and requiring that the policy provide at least the statutory minimum amounts established under §389.9 for third-party injury or damage claims regardless of any coverage defenses which might otherwise exist under the policy.²² The MCS-90 endorsement may override policy exclusions and conditions as well as make someone who is not an insured under the policy into an insured or make a vehicle that is normally not covered into a “covered auto”.²³ Per the MCS-90 endorsement, a trucking company’s insurer has a right of reimbursement from the trucking company if the insurer is required to pay a claim which would have been excluded but for the MCS-90 endorsement.²⁴

²¹ 49 USC §13906 (2000); 49 C.F.R. §387.7, 387.15 (2002)

²² “Insurance Coverage In A Trucking Case” by David Schubert (2013)

²³ Id.

²⁴ Id.

With an MCS-90 endorsement an insurance company must provide 35 days notice in writing to cancel a policy which contains an MCS-90 endorsement as well as at least 30 days written notice, using a prescribed form, sent to the FMCSA in Washington, D.C. (the 30 days begins to run from the time that the FMCSA actually receives the form).²⁵ An MCS-90 endorsement may extend coverage to persons or vehicles that otherwise would not be covered within the terms of the policy covering the trucking company, absent the endorsement.²⁶ Majority rule is that the MCS-90 endorsement will only apply while the truck is being used to transport property in interstate commerce and, therefore, will not create coverage in a “bobtailing” scenario when the driver is not presently driving within the line and scope of the trucking company’s business.²⁷

3. Coverage for the trailer

In every case, you will want to find out whether the tractor and trailer are owned or leased by the motor carrier. In some cases both may be owned by the motor carrier, or both may be leased by the motor carrier from a single individual or company, or one may be owned and the other leased by the motor carrier. Regardless, in an effort to find all available insurance in your case, you will need to try to determine whether the trailer was insured under a separate policy or covered under a separate MSC-90 endorsement than the tractor, or whether there are separate limits of coverage for the tractor and trailer under the same policy. If the trailer is covered under a separate policy, the driver using the trailer with the permission of its owner should be covered as a “permissive user”.²⁸ Also, the MCS-90 endorsement for the trailer owner should extend coverage to both the driver and owner of the tractor as “permissive users” even if the trailer is not specifically listed under the trailer owner’s policy.²⁹

4. Coverage Under the Lessor’s Policy

The lessor/owner of the tractor-trailer may maintain a policy of insurance which would extend coverage to the driver as a permissive user. You will likely need to subpoena a copy of the policy and thoroughly review it as there may be specific exclusions related to the leased vehicle. Additionally, the lease agreement terms may negate your chances of arguing that the driver was a “permissive user”.

In the event that the truck involved in the wreck was leased from a leasing company (as opposed to an owner-operated lease), the truck will most likely be covered under a garage policy issued to the leasing company. You should issue a subpoena to the leasing company to seek any policies (including umbrella policies) which provide coverage for the truck at issue. The garage policy will most likely have an exclusion for “leased autos”; however, you should look for any “Leasing or Rental Contingent Coverage” endorsements. Under the terms of a “Leasing or Rental Contingent Coverage” endorsement you may find additional coverage for the driver in your case.

²⁵ Id. Citing 49 C.F.R. §387.15 (2002)

²⁶ Id. Citing *John Deere Ins. Co. v. Nueva* 229 F. 3rd 853 (9th Cir. 2000); *Integral Ins. Co. v. Lawrence Fullbright Trucking, Inc.*, 930 F. 2nd 258 (2d. Cir. 1991).

²⁷ *Canal Ins. Co. v. Coleman*, 625 F. 3d 244 (5th Cir. 2010)

²⁸ *Integral Ins. Co. v. Lawrence Fullbright Trucking, Inc.*, 930 F 2d. 258 (2d. Cir. 1991)

²⁹ *Id.*

C. Potential additional defendants

1. The Broker

A broker or third-party logistics provider is an entity within the chain of transportation which does not haul loads but instead contracts with motor carriers to make hauls on behalf of shippers. Basically, shippers hire brokers/third-party logistics providers to select and hire motor carriers to transport their goods. If a broker does not exercise reasonable care in the selection and hiring of competent and careful motor carriers to make hauls it may be held liable under the theory of negligent hiring. Whether a broker can be held liable under the theory of negligent hiring of a motor carrier will be dependent upon common law in the state of jurisdiction. Many states have adopted Restatement (Second) of Torts §411 which addresses negligence in the selection of an independent contractor and provides that

“an employer is subject to liability for physical harm to third persons caused by his failure to exercise reasonable care to employ a competent and careful contractor (a) to do work which will involve a risk of physical harm unless it is skillfully and carefully done, or (b) to perform any duty which the employer owes to third persons.”

In Alabama, our courts have recognized that one may be held liable for the negligent hiring of any independent contractor; but, there has been no official adoption of §411 of the Restatement (Second) of Torts.³⁰ Several other states, such as Virginia, have adopted § 411 and applied it in the context of broker liability for hiring incompetent motor carriers. Recognizing that negligent hiring of an independent contractor was a viable claim in the State of Virginia, the U.S. District Court in the case of *Jones v. C.H. Robinson Worldwide, Inc.* held that a broker/third-party logistics provider could be subject to liability for the negligent failure to exercise reasonable care in the selection of a competent motor carrier to make a haul.³¹ The *Jones* court provided that a plaintiff must also be able to prove that “the contractor was, in fact, incompetent or unskilled to perform the job for which he/she was hired, that the harm that resulted arose out of that incompetence, and that the principal knew or should have known of the incompetence.”³² (Note: The evidence required for proving negligent hiring of a motor carrier as stated by the court in *Jones* is very similar to the requirements noted by the Alabama Supreme Court in *McGinnis*.)

Another potential theory of liability against brokers in trucking cases has involved liability claims under the doctrine of respondeat superior. The court in *Sperl v. C.H. Robinson Inc.*

³⁰ A direct cause of action for negligent hiring of an independent contractor is recognized in *McGinnis v. Jim Walter Homes*, 800 So.2d 140 (Ala. 2001), in terms of whether Jim Walter Homes was directly liable to plaintiffs for wrongful death for failing to hire competent and qualified electrical contractors to complete construction of its homes thereby resulting in a deadly electrical fire. See also *Hathcock v. Mitchell*, 173 So.2d 576, 584 (Ala. 1965). In *McGinnis*, the court held that the Plaintiff’s failure to provide evidence showing Jim Walter “either knew, or should have discovered during the exercise of due diligence,” that the contractor was not competent to install electrical systems in homes, precluded plaintiff’s claims against Jim Walter for the negligent hiring of the electrical contractor. *Id.* at 148.

³¹ *Jones v. C.H. Robinson Worldwide, Inc.*, 558 F.Supp.2d 630 (2008)

³² *Id.*

determined that an agency relationship existed between the broker, C.H. Robinson, and the truck driver based upon extensive evidence presented by the plaintiff of the control that C.H. Robinson maintained over the driver.³³ Therefore, in the *Sperl* case, C.H. Robinson was held to be vicariously liable under the doctrine of respondeat superior for the actions of the at-fault truck driver.

Recently in the case of *Riley v. C.H. Robinson Co., et al.* in the Eastern District of Missouri the Court denied C.H. Robinson's motion for summary judgment on the issue of agency in a broker liability case on the grounds that there was sufficient evidence to create a question of fact as to whether C.H. Robinson had maintained a level of control over the trucking company to create an employer/employee relationship.

The load being hauled by the driver at the time of the wreck in case illustration number one was not a brokered load. Thus, the issue of broker liability was not applicable.

2. Shipper liability

Like broker liability cases, theories of shipper liability for the negligent hiring of trucking companies are contingent upon the common law in your state of jurisdiction. States which have adopted Restatement (Second) of Torts §411 should also recognize claims against shippers as being viable if there is sufficient evidence that the shipper failed to exercise reasonable care in the selection and hiring of a competent motor carrier to haul its goods. In shipper liability cases, courts may make a distinction between "sophisticated" shippers (shippers who regularly ship goods in interstate commerce) and "casual" shippers as part of the evaluation as to whether a given shipper has exercised reasonable care in the selection of a motor carrier.³⁴ The case law covering shipper liability is limited in comparison to the multiple cases across the country which have held that a broker may be liable for the negligent hiring of a motor carrier.

³³ *Sperl v. C.H. Robinson Worldwide, Inc.*, 946 N.E. 2d 463 (Ill. 2011)

³⁴ *Puckrein v. ATI Transport, Inc.*, 897 A. 2d 1034 (NJ 2006).

TAB

A



September 21, 2022

SENT VIA U.S. MAIL and FAX: 123-456-7890

Trucking Company, LLC
123 Maple Street
Anytown, GA 30231

Re: Your Employee/Driver: John Doe
Our Client: Ben Bloggs
Accident Date: 9/15/2022

Dear Sir or Madam:

My firm represents Ben Bloggs for personal injury claims resulting from a collision involving John Doe on September 15, 2022 in Morgan County, Alabama. (See attached Alabama Uniform Traffic Crash report.) This letter is to notify you of our representation and to formally demand the preservation of certain evidence related to this collision. You must preserve the evidence that shows if the company or the driver either contributed to the cause of the wreck or did nothing to contribute to the cause of the wreck.

You should save all documents that show you were a safe company and/or that you fully complied with the Federal Motor Carrier Safety Regulations and properly hired, supervised, trained, and retained the driver and maintained the vehicle.

More specifically the law states that if you fail to properly secure and preserve this important evidence it may give rise to the legal presumption that the evidence would have been harmful to your side of the case. Further, if you fail to preserve and maintain this evidence, we will seek any sanctions available under the law.

The destruction, alteration, or loss of any of the below constitutes destruction of evidence under the Law. We specifically demand that the following evidence, typically used to determine fault in truck wreck cases, be maintained and preserved, and not be destroyed, modified, altered, repaired, or changed in any manner, and further that you immediately put any third-party vendor that has or controls this information, material, or documentation, on notice to maintain and preserve without change:

M. Clay Martin & Tara L. Helms

Phone: (256) 539-1990 | Fax: (256) 539-1949 | Toll free: 877.539.1990
2317 Market Place SW, Suite A, Huntsville, AL 35801 | P.O. Box 2527, Huntsville, AL 35804
martin@martinhelms.com | helms@martinhelms.com | www.MartinHelms.com

1. Bills of lading or receipts for any shipments transported by the driver for the day of the collision and the thirty (30) day period preceding the collision.
2. The driver's complete driver qualification file, including but not limited to:
 - a) Application for employment;
 - b) CDL license;
 - c) Driver's certification of prior traffic violations;
 - d) Driver's certification of prior collisions;
 - e) Driver's employment history;
 - f) Pre-employment MVR;
 - g) Annual MVR;
 - h) Annual review of driver history;
 - i) Certification of road test;
 - j) Medical examiner's certificate, and
 - k) HAZMAT or other training documents.

In addition please also preserve:

- l) All drug and alcohol testing records of the driver, and
 - m) All inquiries and responses regarding the driver's employment history.
3. All documents normally used to determine whether a wreck was preventable or non-preventable, whether or not such determination was actually made in this case, to include but not be limited to:
 - a) The driver's post-collision alcohol and drug testing results;
 - b) Documents used to determine if the driver was on a cell phone or other electronic device at the time of the wreck;
 - c) Documents used to determine whether the driver was texting at the time of the wreck;
 - d) Driver Log Audit and Violation Reports – whether paper or electronic, whether daily, weekly, monthly, quarterly, cumulatively, and for all other time periods;
 - e) Reports electronically available through RAIR, JJ Keller, or other services;
 - f) The GPS location data for six months prior to the wreck for the driver, and
 - g) Any data or recordings from the Electronic Control Module of the tractor involved in the wreck at issue.

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4. The accident register maintained by the motor carrier as required by federal law for the one (1) year period preceding this collision. (FMCSR 390.15)
5. Cargo pickup or delivery orders prepared by motor carriers, brokers, shippers, receivers, driver, or other persons, or organizations for thirty (30) days prior to the date of the collision as well as the day of the collision which relate to hauls made by this driver, Mr. Harris.
6. Accounting records, cargo transportation bills and subsequent payments or other records indicating billings for transportation or subsequent payment for the transportation of cargo, with both the front and back of cancelled checks for cargo transported by the driver and/or truck involved in the collision for thirty (30) days prior to the date of the collision as well as the day of the collision.
7. The entire personnel, discipline, and training files of the driver involved in this collision.
8. All letters, reports, and written material from a government entity involving safety, and safety ratings for the company and driver to include, but not be limited to, Department of Transportation audits by the state or federal government, the Federal Motor Carrier Safety Administration, or material generated on your company or driver pursuant to SAFERSYS or CSA 2010. The request is limited to one (1) year prior to the wreck and any subsequent document, report, letter, or other material (to include electronically transmitted information) that includes the date of the wreck or the driver.
9. The front and back of the driver's daily logs (or timesheets) for the day of the collision, and the six month period preceding the collision.
10. Photographs, video, computer generated media, or other recordings of the interior and exterior of vehicles involved in this collision, the collision scene, the occurrence, or relating to any equipment or things originally located at or near the site of the occurrence.
11. Any lease contracts or agreements covering the driver or the tractor trailer involved in this collision.
12. Any interchange agreements regarding the tractor trailer involved in this collision.

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13. Any computer data from the tractor trailer to include but not be limited to: any data and printout from on-board recording devices, including but not limited to the ECM (electronic control module), any on-board computer, tachograph, trip monitor, trip recorder, trip master, Hours of Service (HOS) or other recording or tracking device for the day of the collision and the six (6) month period preceding the collision for the equipment involved in the collision.
14. Any post-collision maintenance, inspection, or repair records or invoices in regard to the tractor trailer involved in the above collision.
15. Any e-mails, electronic messages, letters, memos, or other documents concerning this collision.
16. All drivers' manuals, guidelines, rules or regulations, safety messages, safety and training materials for the safe operation of a tractor trailer given to drivers such as the one involved in this collision.
17. Any reports, memos, notes, logs or other documents evidencing complaints about the driver in the above collision at any time.
18. Any DOT or PSC reports, memos, notes or correspondence concerning the driver involved in this collision.
19. Any and all communications via CB radio, mobile or satellite communication systems, email, cellular phone, pager or other in cab communication device to include the bills for the devices for the day before, the day of, and the two days after the collision.
20. Any and all computer, electronic, or e-mail messages created in the first 48 hours immediately after the incident, by and between your business and any agents or third parties relating to the facts, circumstances, or actual investigation of the incident as well as any computer messages which relate to this particular incident, whether generated or received.
21. Any other items associated in any way with the wreck, documents, database, or other piece of evidence concerning or reflecting upon the driver, the collision, the truck, or the trailer.
22. All correspondence and documents regarding any safety issue for the driver to include but not be limited to the initiation, investigation and final conclusion of any:

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- (1) warning letters;
- (2) targeted roadside inspections, and
- (3) any document that stated the driver was unfit.

23. Copy of the carrier profile for your company maintained by MCMIS (Motor Carrier Management Information System) for the three years prior to the collision.

In regard to the tractor-trailer involved in this collision, we would like to set up a mutually convenient time for us to inspect and examine the unit. We specifically request that you make no repairs or adjustments to the vehicle until this inspection is completed. Please contact us to discuss the scheduling of an inspection.

IF YOUR COMPANY HAS LIABILITY INSURANCE COVERAGE, WE ASK THAT YOU PROVIDE YOUR INSURANCE CARRIER(S) WITH A COPY OF THIS LETTER AND REQUEST THAT THEY CONTACT OUR FIRM AS SOON AS POSSIBLE.

Sincerely,

MARTIN & HELMS, P.C.

M. Clay Martin

MCM/hnt

cc: Ben Bloggs

M. Clay Martin & Tara L. Helms

Phone: (256) 539-1990 | Fax: (256) 539-1949 | Toll free: 877.539.1990
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TAB

B



October 5, 2022

SENT VIA EMAIL: foia@fmcsa.dot.gov

Federal Motor Carrier Safety Administration
Attn: FOIA Team
1200 New Jersey Avenue SE
Washington, DC 20590

RE: Freedom of Information Act (FOIA) Request

Dear FOIA Team:

The below request for documents is made pursuant to the Freedom of Information Act (FOIA). This FOIA request seeks documents and information concerning the following motor carrier:

Legal Name: Trucking Company, LLC, LLC
U.S. DOT Number: 951852
Physical Address: 123 Maple Street
Anytown, GA 30321

In regard to the above-listed carrier (DOT number 951852), please produce the following requested documents/materials pursuant to the FOIA:

1. A copy of the carrier safety profile maintained by MCMIS (Motor Carrier Management Information System) for the five (5) years prior to September 15, 2022 for Trucking Company, LLC (U.S. DOT Number 951852).
2. A copy of any Compliance, Safety, Accountability (CSA) measurements or reports or ratings for the five (5) years prior to September 15, 2022 for Trucking Company, LLC (U.S. DOT Number 951852).
3. A copy of any Safety Measurement System (SMS) reports/ratings, and/or data relative to Trucking Company, LLC (U.S. DOT Number 951852) for the five (5) years prior to September 15, 2022.

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4. A copy of any Behavior Analysis and Safety Improvement Categories (BASIC) measurement and/or rating for Trucking Company, LLC (U.S. DOT Number 951852) for the five (5) years prior to September 15, 2022.
5. A copy of any computed percentiles which compare the BASIC measurements for Trucking Company, LLC (U.S. DOT Number 951852) relative to other carriers for the five (5) years prior to September 15, 2022.
6. A copy of any documents or materials which reflect “Safety Fitness Determinations” for Trucking Company, LLC (U.S. DOT Number 951852) during the five (5) year period prior to September 15, 2022.
7. A copy of any SafeStat ratings for Trucking Company, LLC (U.S. DOT Number 951852) for the past seven (7) years.
8. A copy of any documents reflecting any FMCSA interventions in safety issues with Trucking Company, LLC (U.S. DOT Number 951852) for the past seven (7) years.
9. A copy of any documents reflecting warning letters to or targeted roadside inspections for Trucking Company, LLC (U.S. DOT Number 951852) for the five (5) year period prior to September 15, 2022.
10. A copy of any documents reflecting reports or evaluations related to any off-site investigations conducted by the FMCSA for Trucking Company, LLC (U.S. DOT Number 951852) during the past seven (7) years.
11. A copy of any documents reflecting reports or correspondence generated by the FMCSA in relation to any on-site focused investigation of Trucking Company, LLC (U.S. DOT Number 951852) during the past seven (7) years.
12. A copy of any documents reflecting reports or correspondence generated by the FMCSA in relation to any on-site comprehensive investigation of Trucking Company, LLC (U.S. DOT Number 951852) during the past seven (7) years.
13. A copy of any documents reflecting a “Cooperative Safety Plan” for Trucking Company, LLC (U.S. DOT Number 951852), whether such was implemented or not. This request is limited to the past seven (7) years.
14. A copy of any Notice Of Violation (NOV) from the FMCSA to Trucking Company, LLC (U.S. DOT Number 951852) at any time during the past seven (7) years.
15. A copy of any Notice Of Claim (NOC) from the FMCSA to Trucking Company, LLC (U.S. DOT Number 951852) at any time during the past seven (7) years.

M. Clay Martin & Tara L. Helms

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16. A copy of any documents or materials reflecting any “Operations Out-Of-Service Order” (OOS) from the FMCSA to Trucking Company, LLC (U.S. DOT Number 951852) during the past seven (7) years.
17. A copy of any documents which show or reference a finding that Trucking Company, LLC (U.S. DOT Number 951852) was deficient in any BASIC category during the five (5) years prior to September 15, 2022.
18. A copy of any correspondence regarding Trucking Company, LLC (U.S. DOT Number 951852), objecting to, or asking for a correction of, any BASIC measurement or FMCSA intervention. This request is limited to the past seven (7) years.
19. A copy of any correspondence, reports or documentation of Department of Transportation audits conducted over the past ten (10) years for Trucking Company, LLC (U.S. DOT Number 951852).
20. A copy of any records or reports of accidents or citations/fines relative to Trucking Company, LLC (U.S. DOT Number 951852) which were obtained by the FMCSA during the past seven (7) years.
21. A copy of any “Out of Service” (OOS) violations received by Bryan O. Harris (Date of Birth: 06/29/1984; Alabama Driver License No.: 7095392), while driving for Trucking Company, LLC (U.S. DOT Number 951852) during the past seven (7) years.
22. A copy of any reports or findings associated with any investigation which resulted in Trucking Company, LLC, LLC (U.S. DOT Number 951852) receiving a “Non-Rateable” ranking in March 2021.

Please contact Clay Martin at the phone number or address listed below, or via email (martin@martinhelms.com) should you have any questions or concerns relative to the above request. Thank you for your assistance with this FOIA request.

Sincerely,

MARTIN & HELMS, P.C.

M. Clay Martin

MCM/hnt

M. Clay Martin & Tara L. Helms

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TAB

C

IN THE CIRCUIT COURT OF MORGAN COUNTY, ALABAMA

BEN BLOGGS,)
)
Plaintiff,)
)
v.)
)
TRUCKING COMPANY, LLC.,)
and JOHN DOE,)
and Fictitious Party Defendants A, B, C)
and D being those individuals,)
partnerships, corporations, or entities of)
any type whom John Doe was)
working for, employed by, driving for,)
making a haul for and/or transporting)
goods on behalf of at the time of the)
collision which severely injured Ben)
Bloggs on September 15, 2022 and E, F,)
G and H, being those individuals,)
partnerships, corporations or entities of)
any type whose negligence combined and)
concurrent with the negligence and/or)
wantonness of John Doe and/or)
Trucking Company, LLC., to cause)
the vehicle collision which severely)
injured Ben Bloggs on September 15,)
2022, whose names and identities are)
unknown to Plaintiff at this time but will)
be substituted by amendment once)
ascertained,)
)
Defendants.)

Civil Action No.:

COMPLAINT

PLEASE NOTE: Plaintiff's First Set of Request for Production to Defendants John Doe and Trucking Company, LLC., and Plaintiff's First Set of Interrogatories to Defendants John Doe and Trucking Company, LLC., have been served with this Complaint. If you do not receive it, please telephone the undersigned attorney's office and a copy will be sent to you immediately.

PARTIES

1. Plaintiff Ben Bloggs is over the age of 19 years and is a resident of Falkville, Morgan County, Alabama
2. Defendant Trucking Company, LLC., is a Kentucky corporation with its principal address in Anytown, Georgia, which is engaged in the interstate trucking/motor carrier business.
3. Defendant John Doe is over the age of 19 years and is a resident of the State of Alabama.
4. Fictitious Party Defendants A, B, C and D are those individuals, partnerships, corporations, or entities of any type whom John Doe was working for, employed by, driving for, making a haul for and/or transporting goods on behalf of at the time of the collision which severely injured Ben Bloggs on September 15, 2022, whose names and identities are unknown at this time but will be substituted by amendment once ascertained.
5. Fictitious Party Defendants E, F, G and H are those individuals, partnerships, corporations or entities of any type whose negligence combined and concurred with the negligence and/or wantonness of John Doe and/or Trucking Company, LLC., to cause the vehicle collision which severely injured Ben Bloggs on September 15, 2022, whose names and identities are unknown to Plaintiff at this time but will be substituted by amendment once ascertained.

FACTS

6. On or about September 15, 2022, at approximately 3:32 p.m., Plaintiff Ben Bloggs was traveling northbound on Douglas Road near the Love's Travel Center in Falkville, Morgan County, Alabama. At the same time and place, Defendant John Doe was driving a tractor-trailer truck on behalf of Defendant Trucking Company, LLC., and/or Fictitious Party Defendants A, B, C, or D, southbound on Douglas Road in Falkville, Morgan County, Alabama.
7. Defendant Doe turned left into the northbound lane and drove head on into the Nissan pickup truck driven by Ben Bloggs, causing a violent impact, which crushed the front driver's side of Ben Bloggs's truck and severely injured Ben Bloggs, leaving him with permanent, life-altering injuries.
8. At the time of this violent motor vehicle collision on September 15, 2022, Defendant Doe was operating the tractor-trailer as an employee of, agent of, and/or under the motor carrier license or DOT number of Defendant Trucking Company, LLC.
9. As a direct result of this violent collision with the tractor-trailer truck being operated by Defendant Doe, Plaintiff Ben Bloggs suffered severe personal injuries, causing him to further suffer and incur substantial physical pain, permanent disfigurement, mental anguish, and medical expenses, which are ongoing.

COUNT ONE
(Wantonness)

10. Paragraphs one through nine are incorporated herein as if set out in full.

11. Defendant Doe owed a duty to the motoring public to operate the tractor-trailer truck that he was driving in a safe and reasonable manner along public streets or highways. Defendant Doe, while working within the line and scope of his employment or agency with and/or while operating under the motor carrier license or DOT number of Defendant Trucking Company, LLC., and/or Fictitious Party Defendants A, B, C or D, wantonly breached such duty and caused the tractor-trailer truck that he was driving to violently strike the vehicle being driven by Ben Bloggs.

12. As a direct result of Defendant Doe's wanton conduct, Plaintiff Ben Bloggs was caused to suffer and incur severe, permanent physical injuries, mental anguish, and medical expenses.

WHEREFORE, the above premises considered, Plaintiff Ben Bloggs demands judgment against Defendants Doe, Trucking Company, LLC., and Fictitious Parties A, B, C or D for compensatory and punitive damages in an amount within the jurisdiction of this Court, plus costs of this action.

COUNT TWO
(Negligence)

13. Paragraphs one through nine are incorporated herein as if set out in full.

14. Defendant Doe owed a duty to the motoring public to operate the tractor-trailer truck that he was driving in a safe and reasonable manner along public streets or highways. Defendant Doe, while working within the line and scope of his employment or agency with and/or while operating under the motor carrier license or DOT number of Defendant Trucking Company, LLC., and/or Fictitious Party Defendants A, B, C or D, negligently breached such duty and caused the tractor-trailer truck that he was driving to violently strike the vehicle being driven by Plaintiff Ben Bloggs.

15. As a direct result of Defendant Doe's negligent conduct, Plaintiff Ben Bloggs was caused to suffer and incur severe, permanent physical injuries, mental anguish, and medical expenses.

WHEREFORE, the above premises considered, Plaintiff Ben Bloggs demands judgment against Defendants Doe, Trucking Company, LLC., and Fictitious Parties A, B, C or D for compensatory damages in an amount within the jurisdiction of this Court, plus costs of this action.

COUNT THREE
(Negligent and/or Wanton Supervision or Training)

16. Paragraphs one through nine are incorporated herein as if set out in full.

17. Defendant Trucking Company, LLC., or Fictitious Party Defendants A, B, C or D, owed a duty to Ben Bloggs, and the motoring public to properly supervise and/or train its truck drivers in regard to the necessary safety rules and regulations relative to the daily operation of tractor-trailer trucks along public streets or highways. To the best belief and knowledge of Plaintiff at this time, Defendant Trucking Company, LLC., or Fictitious Party Defendants A, B, C or D, negligently and/or wantonly breached such duty by failing to properly supervise or train Defendant Doe to ensure that he had knowledge of and/or regularly followed the safety rules and regulations that govern the operation of tractor-trailer trucks along public streets or highways.

18. As a direct result of Defendant Trucking Company, LLC.'s, and/or Fictitious Party Defendants A's, B's, C's or D's, negligent and/or wanton failure to properly supervise or train Defendant Doe, Plaintiff Ben Bloggs was caused to suffer and incur severe, permanent physical injuries, mental anguish, and medical expenses.

WHEREFORE, the above premises considered, Plaintiff Ben Bloggs demands judgment against Defendant Trucking Company, LLC., and Fictitious Parties A, B, C or D for compensatory and/or punitive damages in an amount within the jurisdiction of this Court, plus costs of this action.

COUNT FOUR
(Negligent and/or Wanton Hiring, Retention and/or Entrustment)

19. Paragraphs one through nine, above, are incorporated herein as if set out in full.

20. Defendant Trucking Company, LLC., and/or Fictitious Party Defendants A-H, owed a duty to Ben Bloggs and the motoring public to exercise reasonable care not to hire or retain a driver who lacked proper training, skill and/or competency to operate tractor-trailer trucks to haul loads along public streets or highways. Defendant Trucking Company, LLC., and/or Fictitious Party Defendants A-H also owed a duty to Ben Bloggs and the motoring public to exercise reasonable care to ensure that it/they did not entrust drivers who it/they knew or should have known to be incompetent and/or unfit to operate tractor-trailer trucks to make hauls along public streets or highways. To the best belief and knowledge of Plaintiff at this time, Defendant Trucking Company, LLC., and/or Fictitious Party Defendants A-H, negligently and/or wantonly breached such duties by failing to exercise reasonable care when hiring Defendant Doe to drive a tractor-trailer truck, and entrusting him with said truck, to make hauls along public streets or highways.

21. As a direct result of Defendant Trucking Company, LLC.'s negligent and/or wanton failure to use reasonable care by hiring or retaining Defendant Doe to operate a tractor-trailer truck, and entrusting him with said truck, Plaintiff Ben Bloggs was caused to suffer and incur severe, permanent physical injuries, mental anguish, and medical expenses.

WHEREFORE, the above premises considered, Plaintiff Ben Bloggs demands judgment against Defendants Trucking Company, LLC., Doe and Fictitious Parties A-H for compensatory and/or punitive damages in an amount within the jurisdiction of this court, plus costs of this action.

MARTIN & HELMS, P.C.
Attorneys for Plaintiff
2317 Market Place SW, Suite A
Huntsville, Alabama 35801
(256) 539-1990 phone
(256) 539-1949 fax

/s/ M. Clay Martin
M. Clay Martin
martin@martinhelms.com

/s/ Tara L. Helms
Tara L. Helms
helms@martinhelms.com

JURY DEMAND

PLAINTIFF DEMANDS TRIAL BY STRUCK JURY.

/s/ M. Clay Martin
M. Clay Martin

Defendants to be served via certified mail at:

John Doe
456 Main Circle
Huntsville, AL 35801

Trucking Company, LLC.
123 Maple Street
Anytown, GA 30231

IN THE CIRCUIT COURT OF MORGAN COUNTY, ALABAMA

BEN BLOGGS,)
)
Plaintiff,)
)
v.)
)
TRUCKING COMPANY, LLC.,)
and JOHN DOE,)
and Fictitious Party Defendants A, B, C)
and D being those individuals,)
partnerships, corporations, or entities of)
any type whom John Doe was)
working for, employed by, driving for,)
making a haul for and/or transporting)
goods on behalf of at the time of the)
collision which severely injured Ben)
Bloggs on September 15, 2022 and E, F,)
G and H, being those individuals,)
partnerships, corporations or entities of)
any type whose negligence combined and)
concurrent with the negligence and/or)
wantonness of John Doe and/or)
Trucking Company, LLC., to cause)
the vehicle collision which severely)
injured Ben Bloggs on September 15,)
2022, whose names and identities are)
unknown to Plaintiff at this time but will)
be substituted by amendment once)
ascertained,)
)
Defendants.)

Civil Action No.:

**INTERROGATORIES TO DEFENDANT
JOHN DOE**

Pursuant to Rule 33 of the *Alabama Rules of Civil Procedure*, Plaintiffs request Defendant John Doe, to answer separately and fully the following interrogatories in writing and under oath within the time required by said rule (30 days) after service hereof. In answering these interrogatories, you are reminded to furnish all information available to you, including information in possession of your attorney, or any person acting in your behalf, and not merely such information as known of your personal knowledge. You are reminded of the duty of supplementation imposed by the *Alabama Rules of Civil Procedure*. If, after diligent inquiry, you are unable to answer an interrogatory completely, so state and set out such knowledge as you do have.

DEFINITIONS

In connection with these interrogatories, the following definitions shall apply unless otherwise indicated:

"Address" -- The term "address" refers to the street number, street, post office box, city, state, and ZIP code of the subject person, business, or other entity.

"Document" -- The term "document" herein referred to includes, but is not limited to, all instruments in writing, in printed form, typewritten form, longhand notations or writings, tape recordings, photographs, video tape recordings, manuals, guides, transcripts of recorded conversations, transcripts or oral statements, interoffice, intraoffice, interdepartmental or intradepartmental memoranda, notations to files, personal notes and records, logs, documents, books, chits, schedules, charge tickets, notes, calculations, contracts, work orders, agreements, estimates, reports, statements, receipts, correspondence, material records, labor records, accounting records, invoices, photographs, diagrams, letters, analyses, checks, resolutions, directives, summaries, drawings, graphs, charts, data compilations, surveys, descriptions, rosters, information stored on computer disk, and all other writings and other physical things of every description and kind which are germane and material to the area of inquiry.

"Identify," "Identity," or "Identification" -- When used with reference to a person, the terms "identify," "identity," or "identification" include the full name, title or official capacity, Social Security number or other identifying number, telephone number, and present or last known address of said person. When used with reference to a document, the terms "identify," "identity," or "identification" includes its date, title, author and signer and their addresses, type of document, and other means of identifying it, its present or last known location, and its custodian and his address. If any document was, but is no longer, in your possession, custody, or control, state what disposition was made of it and the reason for its disposition.

“Wreck” -- The term “wreck” will be used herein to refer to the wreck on September 15, 2022, on Douglas Road in Morgan County, Alabama, involving a tractor trailer operated by John Doe.

"You" or "Your" -- The terms "you" or "your" includes Defendant John Doe, and the individual who prepares and makes answer to these interrogatories on behalf of Defendant John Doe.

« « « « » » » »

INTERROGATORIES

1. Please provide your full name, date and place of birth, present address, and social security number.
2. Describe your employment history for the past fifteen (15) years, and state the following:
 - (a) the title of each position you have held;

- (b) the name of your employer and location of employment for each position;
- (c) a brief description of your duties at each position; and
- (d) the inclusive dates you have held each position.

3. Please identify, by full name and current or last known address all persons known to you who have or claim to have personal knowledge of any facts or events related to the collision.

4. Identify the name, address and telephone number of each and every person whom you expect to call as an expert witness at the trial of this case. As to each expert, please state the following:

- (a) the subject matter on which the expert is expected to testify;
- (b) the substance of the facts and opinions to which the expert is expected to testify; and
- (c) a summary of the grounds for each opinion.

5. Identify for whom you were working at the time of the collision and identify both your current supervisor and your direct supervisor on the date of September 15, 2022.

6. Identify the entity or individual whose motor carrier license you were operating under at the time of the collision.

7. Describe any and all motor vehicle collisions in which you were involved during the past fifteen (15) years.

8. Describe any and all driving violations committed by you for which a citation, ticket, or other official charge was made during the past fifteen (15) years.

9. List each person, agency, and entity which you notified of the collision, and provide their (its) name and address and describe their (its) relationship to you.

10. Have you ever been convicted of a crime? If so, state the crime, date of conviction and place of conviction.

11. List the name, style, case number, jurisdiction and date filed, of every lawsuit in which you have been a party-plaintiff, party-defendant, or a witness.

12. Identify by name and address the owner of the tractor involved in the collision on September 15, 2022.

13. Identify the name and address of the owner of the trailer that you were pulling at the time of the collision on September 15, 2022.

14. For each and every insurance policy which provides coverage to you for the occurrences alleged in the Complaint, identify the insurer, the limits of each part of the policy, and state whether the policy was in effect on the date of the occurrence.

15. Do you contend that any injury or damage alleged in the Complaint was the direct result of an intervening cause or of any acts or omissions by third parties? If so, please describe in complete detail all such intervening causes, acts, or omissions of third parties which you claim relieves you of liability?

16. Do you contend that the collision on which this case is based was caused or contributed to by some act or omission of Ben Bloggs? If so, please describe in detail each act or omission of Ben Bloggs which you claim caused or contributed to the cause of the collision.

17. Describe any and all investigations related to the collision in which you have participated, prior to the filing of this lawsuit, and list the persons and entities conducting said investigation.

18. Did you maintain a log book (or duty status book) for the six-month period preceding the September 15, 2022, collision? If so, fully identify the name of any person and/or entity whom you provided a copy of such log book.

19. List the origin (including location and date), destination (including location and date), and the type of freight for any and all hauls/trips made by you during the two week period of September 1, 2022 through September 15, 2022.

20. List the names and addresses of any individuals who have partnered with you (i.e. shared driving duties with you) for any hauls/trips made by you during the period of September 1, 2022 through September 15, 2022.

21. List both the numbers and the cellular providers for any and all cell phones which you had (either on your person or within the tractor trailer) at the time of the collision on which this case is based.

22. List the card number for and identify the company which issued or provided any cash card, fuel card, debit card, and/or credit card to you which was an active account during the period of April 1, 2022 through September 16, 2022.

23. List the origin (including location, date and time), destination (including location, date, and time), and the type of freight for the haul/trip that you were making at the time of the collision and/or for the last load that you had hauled prior to the collision.

24. State whether you have ever been disqualified from driving a tractor-trailer, including a complete description of the circumstances that led to the qualification.

25. State whether you have ever been placed out-of-service by any law enforcement agency, including the name of the agency as well as the date of and reason for the out-of-service order.

26. Identify all states in which you have been issued a commercial driver's license or chauffeur's license, including the license number and stating whether such license is still valid.

27. Identify any truck driving school from which you have received training.

MARTIN & HELMS, P.C.
Attorneys for Plaintiffs
2317 Market Place SW, Suite A
Huntsville, Alabama 35801
(256) 539-1990 (telephone)
(256) 539-1949 (facsimile)
martin@martinhelms.com (email)

/s/ M. Clay Martin
M. Clay Martin (Bar ID: ASB-0160-R64M)

/s/ Tara L. Helms
Tara L. Helms, Esq.

TO BE SERVED ALONG WITH SUMMONS AND COMPLAINT

Defendant's address:

John Doe
456 Main Circle
Huntsville, AL 35801

IN THE CIRCUIT COURT OF MORGAN COUNTY, ALABAMA

BEN BLOGGS,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.:
)	
TRUCKING COMPANY, LLC.,)	
and JOHN DOE,)	
and Fictitious Party Defendants A, B, C)	
and D being those individuals,)	
partnerships, corporations, or entities of)	
any type whom John Doe was)	
working for, employed by, driving for,)	
making a haul for and/or transporting)	
goods on behalf of at the time of the)	
collision which severely injured Ben)	
Bloggs on September 15, 2022 and E, F,)	
G and H, being those individuals,)	
partnerships, corporations or entities of)	
any type whose negligence combined and)	
concurrent with the negligence and/or)	
wantonness of John Doe and/or)	
Trucking Company, LLC., to cause)	
the vehicle collision which severely)	
injured Ben Bloggs on September 15,)	
2022, whose names and identities are)	
unknown to Plaintiff at this time but will)	
be substituted by amendment once)	
ascertained,)	
)	
Defendants.)	

**INTERROGATORIES TO DEFENDANT
TRUCKING COMPANY, LLC**

Pursuant to Rule 33 of the *Alabama Rules of Civil Procedure*, Plaintiffs request Defendant Trucking Company, LLC, to answer separately and fully the following interrogatories in writing and under oath within the time required by said rule (45 days) after service hereof. In answering these interrogatories, you are reminded to furnish all information available to you, including information in possession of your attorney, or any person acting in your behalf, and not merely such information as known of your personal knowledge. You are reminded of the duty of supplementation imposed by the *Alabama Rules of Civil Procedure*. If, after diligent inquiry, you

are unable to answer an interrogatory completely, so state and set out such knowledge as you do have.

DEFINITIONS

In connection with these interrogatories, the following definitions shall apply unless otherwise indicated:

"Address" -- The term "address" refers to the street number, street, post office box, city, state, and ZIP code of the subject person, business, or other entity.

"Document" -- The term "document" herein referred to includes, but is not limited to, all instruments in writing, in printed form, typewritten form, longhand notations or writings, tape recordings, photographs, video tape recordings, manuals, guides, transcripts of recorded conversations, transcripts or oral statements, interoffice, intraoffice, interdepartmental or intradepartmental memoranda, notations to files, personal notes and records, logs, documents, books, chits, schedules, charge tickets, notes, calculations, contracts, work orders, agreements, estimates, reports, statements, receipts, correspondence, material records, labor records, accounting records, invoices, photographs, diagrams, letters, analyses, checks, resolutions, directives, summaries, drawings, graphs, charts, data compilations, surveys, descriptions, rosters, information stored on computer disk, and all other writings and other physical things of every description and kind which are germane and material to the area of inquiry.

"Identify," "Identity," or "Identification" -- When used with reference to a person, the terms "identify," "identity," or "identification" include the full name, title or official capacity, Social Security number or other identifying number, telephone number, and present or last known address of said person. When used with reference to a document, the terms "identify," "identity," or "identification" includes its date, title, author and signer and their addresses, type of document, and other means of identifying it, its present or last known location, and its custodian and his address. If any document was, but is no longer, in your possession, custody, or control, state what disposition was made of it and the reason for its disposition.

"Wreck" -- The term "wreck" will be used herein to refer to the wreck on September 15, 2022, on Douglas Road in Morgan County, Alabama, involving a tractor trailer operated by John Doe.

"You" or "Your" -- The terms "you" or "your" includes Defendant Trucking Company, LLC and the individual who prepares and makes answer to these requests for production on behalf of Defendant Trucking Company, LLC.

« « « « « » » » » »

INTERROGATORIES

1. Is your company owned by a subsidiary of another company? If so, state the full name of the other company.
2. Identify each owner and/or manager of Trucking Company, LLC.

3. Identify any type of authority, license, or permit that you have to engage in interstate commerce.
4. Identify the owner of both the tractor and the trailer involved in the wreck made the basis of Plaintiffs' Complaint.
5. Identify all parties to any lease agreement pertaining to the tractor involved in the wreck made the basis of Plaintiff's Complaint, including whether the lease was a permanent lease or a trip lease.
6. Identify all parties to any lease agreement pertaining to the trailer being pulled by the tractor involved in the wreck made the basis of Plaintiff's Complaint, including whether the lease was a permanent lease or a trip lease.
7. Identify the owner of cargo being hauled by the commercial vehicle involved in the wreck made the basis of Plaintiffs' Complaint.
8. Did the tractor-trailer involved in the wreck have an on-board data recording device? If your answer is affirmative, identify such onboard data recording device and who is in current possession of such?
9. If John Doe was alcohol or drug tested at any time during his employment and/or as a result of the wreck, please state when, where, and why such test(s) was/were given and the custodian of records for each test.
10. State whether John Doe has ever been disqualified from driving a tractor-trailer, including a complete description of the circumstances that led to the qualification.
11. State whether John Doe has ever been placed out-of-service by any law enforcement agency, including the name of the agency as well as the date of and reason for the out-of-service order.
12. Identify all compliance reviews done of your company by any federal or state agency or third-party company, including whether the rating was satisfactory, conditional, or unsatisfactory.
13. If any insurance company has refused to write Trucking Company, LLC coverage or terminated its coverage within the past 10 years, identify the name of the insurance company and the reason given for the refusal or termination.
14. Describe in detail and in chronological order your understanding of everything that happened to all vehicles involved in the incident made the basis of this lawsuit, including the vehicle operated by Ben Bloggs, and the basis for your understanding.
15. Identify the name, address, and telephone number of your qualified brake inspector or other such person responsible for ensuring that inspections, maintenance, repairs, or

service to the brakes for the tractor and trailer involved in the wreck met the applicable safety standards at the time of the incident made the basis of this lawsuit.

16. Identify all states in which John Doe has been issued a commercial driver's license or chauffeur's license, including the license number and stating whether such license is still valid.

17. Identify any truck driving school from which John Doe has received training.

18. Detail each complaint and/or recommendation by any person or entity made about defects and needed repairs and maintenance of the truck and/or trailer involved in the wreck for the six (6) month period prior to the wreck.

19. Describe any and all motor vehicle collisions in which John Doe has been involved in other than the wreck on which this case is based, including the date and location for each wreck.

20. Describe any and all driving violations committed by John Doe for which a citation, ticket, or other official charge was made, including the date and location of the violation.

21. Do you contend that the wreck on which this case is based was caused or contributed to by some act or omission of Ben Bloggs? If so, please describe in detail each act or omission of Ben Bloggs which you claim caused or contributed to the cause of the wreck.

22. Identify the names and occupations of any individuals known by you who have conducted an investigation of the collision of September 15, 2022.

23. List the origin (including location and date), destination (including location and date), and the type of freight for any and all hauls/trips made by John Doe during the two week period prior to the wreck.

24. Identify the direct supervisor of John Doe at the time of the wreck and anybody working for or with Trucking Company, LLC who has participated in any driver training or safety training of John Doe.

25. Describe the origin, destination, and type of freight being hauled for the trip being made by John Doe, at the time of the wreck.

26. Describe any and all repairs, maintenance, and/or inspections related to the trailer involved in the wreck for the one-year period preceding the wreck.

27. List the card number for and identify the company which issued any cash card, fuel card, debit card, and/or credit card that Trucking Company, LLC provided to John Doe, which was an active account during the period of April 1, 2022 through September 30, 2022.

28. Did the tractor-trailer involved in the wreck have a dash cam or any type of video recording device at the time of the wreck?

MARTIN & HELMS, P.C.
Attorneys for Plaintiffs
2317 Market Place SW, Suite A
Huntsville, Alabama 35801
(256) 539-1990 (telephone)
(256) 539-1949 (facsimile)
martin@martinhelms.com (email)

/s/ M. Clay Martin
M. Clay Martin, Esq.

/s/ Tara L. Helms
Tara L. Helms, Esq.

TO BE SERVED ALONG WITH SUMMONS AND COMPLAINT

Defendant's address:

Trucking Company, LLC.
123 Maple Street
Anytown, GA 30231

IN THE CIRCUIT COURT OF MORGAN COUNTY, ALABAMA

BEN BLOGGS,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.:
)	
TRUCKING COMPANY, LLC.,)	
and JOHN DOE,)	
and Fictitious Party Defendants A, B, C)	
and D being those individuals,)	
partnerships, corporations, or entities of)	
any type whom John Doe was)	
working for, employed by, driving for,)	
making a haul for and/or transporting)	
goods on behalf of at the time of the)	
collision which severely injured Ben)	
Bloggs on September 15, 2022 and E, F,)	
G and H, being those individuals,)	
partnerships, corporations or entities of)	
any type whose negligence combined and)	
concurrent with the negligence and/or)	
wantonness of John Doe and/or)	
Trucking Company, LLC., to cause)	
the vehicle collision which severely)	
injured Ben Bloggs on September 15,)	
2022, whose names and identities are)	
unknown to Plaintiff at this time but will)	
be substituted by amendment once)	
ascertained,)	
)	
Defendants.)	

**REQUEST FOR PRODUCTION TO DEFENDANT
JOHN DOE**

Plaintiffs serve these Requests for Production of Documents upon Defendant John Doe, pursuant to Rule 34 of the *Alabama Rules of Civil Procedure*. Defendant Doe shall produce the following documents and tangible things within 45 days of service of these requests, or within a reasonable time thereafter, as agreed by the parties, or as otherwise ordered by the Court.

DEFINITIONS & INSTRUCTIONS

In connection with these requests for production, the following definitions shall apply unless otherwise indicated:

"Address" -- The term "address" refers to the street number, street, post office box, city, state, and ZIP code of the subject person, business, or other entity.

"Document" -- The term "document" herein referred to includes, but is not limited to, all instruments in writing, in printed form, typewritten form, longhand notations or writings, tape recordings, photographs, video tape recordings, manuals, guides, transcripts of recorded conversations, transcripts or oral statements, interoffice, intraoffice, interdepartmental or intradepartmental memoranda, notations to files, personal notes and records, logs, documents, books, chits, schedules, charge tickets, notes, calculations, contracts, work orders, agreements, estimates, reports, statements, receipts, correspondence, material records, labor records, accounting records, invoices, photographs, diagrams, letters, analyses, checks, resolutions, directives, summaries, drawings, graphs, charts, data compilations, surveys, descriptions, rosters, information stored on computer disk, and all other writings and other physical things of every description and kind which are germane and material to the area of inquiry.

"Identify," "Identity," or "Identification" -- When used with reference to a person, the terms "identify," "identity," or "identification" include the full name, title or official capacity, Social Security number or other identifying number, telephone number, and present or last known address of said person. When used with reference to a document, the terms "identify," "identity," or "identification" includes its date, title, author and signer and their addresses, type of document, and other means of identifying it, its present or last known location, and its custodian and his address. If any document was, but is no longer, in your possession, custody, or control, state what disposition was made of it and the reason for its disposition.

“Wreck” -- The term “wreck” will be used herein to refer to the wreck on September 15, 2022, on Douglas Road in Morgan County, Alabama, involving a tractor trailer operated by John Doe.

"You" or "Your" -- The terms "you" or "your" includes Defendant John Doe, and any individual who prepares and makes answer to these requests for production on behalf of John Doe

DOCUMENTS TO BE PRODUCED

1. Produce a copy of all driver’s licenses held by you for the past ten years.
2. Produce the front and back of your log book records (or duty status reports) for the time period of April 1, 2022 through September 16, 2022.
3. A copy of the title to the tractor which you were driving at the time of the September 15, 2022, collision.

4. Any and all photographs that you have of the vehicles involved in the collision of September 15, 2022.
5. A copy of any damage appraisal made of the tractor and/or trailer involved in the collision on September 15, 2022.
6. Any and all insurance agreements or policies under which any person or entity carrying on an insurance business may be liable to satisfy part or all of the judgment which may be rendered in this action or to indemnify or reimburse for payments made to satisfy the judgment, including but not limited to any liability insurance policy covering you or the vehicle driven by you at the time of this collision on September 15, 2022.
7. Any and all invoices, receipts, documents, or tangible things which relate to the repair, service and/or maintenance of the tractor and/or the trailer involved in the collision.
8. Produce a copy of any and all safety literature, safety manuals, or other written documents pertaining to training provided to you by Trucking Company, LLC preceding the wreck.
9. Produce a copy of the Federal Motor Carrier Safety Regulations book which has been signed by you.
10. Produce a copy of your payroll records and settlement checks for the period of April 1, 2022 through September 16, 2022.
11. Produce a copy of any mobile phone bills, charge card (credit and/or debit) receipts, hotel receipts, and restaurant receipts which show or evidence charges incurred by you during the period of April 2022 through September 2022.
12. Produce a copy of any and all:
 - (a) mileage reports;
 - (b) trip reports;
 - (c) delivery receipts;
 - (d) bills of lading or shipping orders;
 - (e) trip manifests;
 - (f) fuel tickets/receipts;
 - (g) traffic citations;
 - (h) log book violations/citations;
 - (i) weight station inspection reports;
 - (j) out of service documentation, and
 - (k) state or federal inspection reports,

received by you or produced by you during the time period of April 1, 2022 through September 16, 2022.

13. Produce a copy of the results of any blood alcohol test or drug test/screen taken by you while under the employ or while operating under the authority of Trucking Company, LLC within the last five (5) years.
14. Produce a copy of the results of any drug test/screen and/or blood alcohol test that you underwent within 48 hours of the collision on September 15, 2022.
15. Any and all bills of lading for any shipments transported by you for the day of the collision and the thirty (30) day period preceding the wreck.
16. Any and all oversized permits or other applicable permits or licenses covering the vehicle or load on the day of the wreck.
17. Any and all annual inspection reports for the tractor and trailer involved in the above wreck, covering the date of the wreck.
18. Any and all photographs, **video**, computer generated media, or other recordings of the interior and exterior of vehicles involved in this wreck, the wreck scene, the occurrence, or relating to any equipment or things originally located at or near the site of the occurrence.
19. Any and all drivers' manuals, guidelines, rules or regulations, safety messages, and/or safety and training materials for the safe operation of a tractor trailer given to you by Trucking Company, LLC, (USDOT #951852).
20. Any and all correspondence and documents regarding any safety issue related to you, to include but not be limited to the initiation, investigation and final conclusion of any:
 - (a) warning letters;
 - (b) targeted roadside inspections; and
 - (c) any document that stated you were unfit.
21. Any and all driver's vehicle inspection reports required by Federal Motor Carrier Safety Regulation §396.11 that were completed for the trip which you were making at the time of the wreck.
22. Any and all agreements, contracts, leases, or written correspondence of any kind of character relating to your business relationship with any trucking company, freight broker, freight shipper, lessee or lessor, and any other person or entity having any interest of any kind in the tractor involved in the wreck, the trailer you were pulling, or any cargo thereon at the time of the wreck.
23. Any and all documents that pertain to out-of-service orders for you.
24. Produce a copy of the medical examiner's certificate of physical qualifications for you for any period of time that you have been operating a tractor-trailer truck.

25. Produce a copy of any and all fuel/purchase receipts for any tractor trailer operated by you for the six-month period preceding September 15, 2022.

26. Produce a copy of the trip manifest related to the trip/haul that you were making at the time of the wreck on September 15, 2022.

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Attorneys for Plaintiffs
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Huntsville, Alabama 35801
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(256) 539-1949 (facsimile)
martin@martinhelms.com (email)

/s/ M. Clay Martin
M. Clay Martin, Esq.

/s/ Tara L. Helms
Tara L. Helms, Esq.

TO BE SERVED ALONG WITH SUMMONS AND COMPLAINT

Defendant's address:

John Doe
456 Main Circle
Huntsville, AL 35801

IN THE CIRCUIT COURT OF MORGAN COUNTY, ALABAMA

BEN BLOGGS,)
)
Plaintiff,)
)
v.)
)
TRUCKING COMPANY, LLC.,)
and JOHN DOE,)
and Fictitious Party Defendants A, B, C)
and D being those individuals,)
partnerships, corporations, or entities of)
any type whom John Doe was)
working for, employed by, driving for,)
making a haul for and/or transporting)
goods on behalf of at the time of the)
collision which severely injured Ben)
Bloggs on September 15, 2022 and E, F,)
G and H, being those individuals,)
partnerships, corporations or entities of)
any type whose negligence combined and)
concurrent with the negligence and/or)
wantonness of John Doe and/or)
Trucking Company, LLC., to cause)
the vehicle collision which severely)
injured Ben Bloggs on September 15,)
2022, whose names and identities are)
unknown to Plaintiff at this time but will)
be substituted by amendment once)
ascertained,)
)
Defendants.)

Civil Action No.:

REQUEST FOR PRODUCTION TO DEFENDANT
TRUCKING COMPANY, LLC

Plaintiffs serves these Requests for Production of Documents upon Defendant Trucking Company, LLC., pursuant to Rule 34 of the *Alabama Rules of Civil Procedure*. Defendant shall produce the following documents and tangible things within 45 days of service of these requests, or within a reasonable time thereafter, as agreed by the parties, or as otherwise ordered by the Court.

DEFINITIONS & INSTRUCTIONS

In connection with these requests for production, the following definitions shall apply unless otherwise indicated:

"Address" -- The term "address" refers to the street number, street, post office box, city, state, and ZIP code of the subject person, business, or other entity.

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"Identify," "Identity," or "Identification" -- When used with reference to a person, the terms "identify," "identity," or "identification" include the full name, title or official capacity, Social Security number or other identifying number, telephone number, and present or last known address of said person. When used with reference to a document, the terms "identify," "identity," or "identification" includes its date, title, author and signer and their addresses, type of document, and other means of identifying it, its present or last known location, and its custodian and his address. If any document was, but is no longer, in your possession, custody, or control, state what disposition was made of it and the reason for its disposition.

“Wreck” -- The term “wreck” will be used herein to refer to the wreck on September 15, 2022, on Douglas Road in Morgan County, Alabama, involving a tractor trailer operated by John Doe.

"You" or "Your" -- The terms "you" or "your" includes Defendant and any individual who prepares and makes answer to these requests for production on behalf of Defendant Trucking Company, LLC.

DOCUMENTS TO BE PRODUCED

1. Any and all bills of lading for any shipments transported by John Doe for the day of the collision and the thirty (30) day period preceding the wreck.
2. Any and all oversized permits or other applicable permits or licenses covering the vehicle or load on the day of the wreck.
3. John Doe’s complete driver qualification file, as required by 49 C.F.R. 391.51, including but not limited to:
 - a) Application for employment;
 - b) CDL license;

- c) Driver's certification of prior traffic violations;
- d) Driver's certification of prior collisions;
- e) Driver's employment history;
- f) Pre-employment MVR;
- g) Annual MVR;
- h) Annual review of driver history;
- I) Certification of road test;
- j) Medical examiner's certificate;
- k) HAZMAT or other training documents; and
- l) All drug and alcohol testing records for John Doe.

4. Any and all letters, reports, and written material from a government entity involving safety, and safety ratings for Defendant Trucking Company, LLC and John Doe to include, but not limited to, Department of Transportation audits by the state and/or federal government, the Federal Motor Carrier Safety Administration, or material generated on your company or driver pursuant to SAFERSYS or CSA 2010. The request is limited to one (1) year prior to the wreck and any subsequent document, report, letter, or other material (to include electronically transmitted information) that includes the date of the wreck or the driver.

5. The front and back of John Doe's, daily logs and his co-driver's logs (if any) and/or any duty status reports recorded on an electronic logging device for the day of the collision, and the six month period preceding the wreck, together with: (a) all material required by 49 C.F.R. 395.8 and 395.15 for John Doe; (b) the results of any computer program used to check logs; and (c) any records showing an audit of the logs by your company or a third party.

6. Any and all existing driver vehicle inspection reports required under 49 C.F.R. 396.11 for the vehicle involved in the above wreck, to include all existing daily inspection reports for the tractor and trailer involved in this wreck.

7. Any and all annual inspection reports for the tractor and trailer involved in this wreck, covering the date of the wreck.

8. Any and all photographs, **video**, computer generated media, or other recordings of the interior and exterior of vehicles involved in this wreck, the wreck scene, the occurrence, or relating to any equipment or things originally located at or near the site of the occurrence.

9. Any and all lease contracts or agreements covering the driver or the tractor or trailer involved in this wreck.

10. Any and all interchange agreements regarding the tractor or trailer involved in this wreck.

11. Any and all post and pre-wreck maintenance, inspection, or repair records or invoices in regard to the tractor and trailer involved in the wreck.

12. Any and all drivers' manuals, guidelines, rules or regulations, safety messages, safety and training materials for the safe operation of a tractor trailer given to drivers operating on behalf of Trucking Company, LLC (USDOT #951852).
13. Any and all DOT or PSC reports, memos, notes or correspondence concerning John Doe or the tractor or trailer involved in this wreck.
14. Any and all documents which show or reference a finding that either John Doe or Trucking Company, LLC was deficient in any BASIC (Behavior Analysis and Safety Improvement Categories) category.
15. The BASIC measurements for Trucking Company, LLC for the three years prior to the wreck.
16. Any and all correspondence regarding Trucking Company, LLC or John Doe objecting to, or asking for a correction of, any BASIC measurement or FMCSA intervention.
17. Copy of the carrier profile maintained by MCMIS (Motor Carrier Management Information System) for the three (3) years prior to the wreck for Trucking Company, LLC (USDOT #951852).
18. Any and all logs of activity (both in paper and electronic formats) on computer systems and networks that have or may have been used to process or store electronic data containing information about or related to safety and safety policies, the wreck, the driver(s), the truck, the trailer, witnesses to the collision, the load, the facts of the wreck, preventability determinations, GPS data, Hours of Service (HOS) data, dispatcher data for John Doe and/or the tractor and trailer involved in the wreck.
19. Any and all Accident Registers that include on them the incident made the basis of Plaintiffs' Complaint, as well as any other Accident Registers that include accidents involving John Doe as required by Federal Motor Carrier Safety Regulation §390.15.
20. Any and all driver's vehicle inspection reports required by Federal Motor Carrier Safety Regulation §396.11 that were completed for the trip which John Doe was making at the time of the wreck.
21. Any and all accident review policies and procedures for determining whether any accident is chargeable or non-chargeable, preventable, or non-preventable.
22. Any and all documents pertaining to the refusal of any insurance company to issue coverage, or for the termination of coverage by any insurance company for Trucking Company, LLC (USDOT #951852).
23. Any and all agreements, contracts, leases, or written correspondence of any kind of character relating to your business relationship with any trucking company, freight broker, freight shipper, lessee or lessor, and any other person or entity having any interest of any kind in the tractor involved in the wreck, the trailer being pulled, or any cargo thereon at the time of the wreck.

24. Any and all dispatch and communication records between dispatch and John Doe for a period of six months prior to this request. This request includes, but is not limited to, dispatch orders, fax transmissions, telephone records, mobile radio records, satellite tracking or position history, computer/email communications, or any other communication records.
25. Any and all documents that pertain to out-of-service orders for John Doe.
26. Any and all documents that pertain to out-of-service orders for the tractor or the trailer involved in the wreck.
27. Any and all documents that pertain to audits or inspections conducted by either a consultant company hired by this Defendant or any governmental agency for a period of five years prior to wreck.
28. Any and all licenses, registrations, and titles to the truck and trailer involved in the wreck at issue.
29. Any and all documents showing the qualifications of the brake inspector or other such person responsible for ensuring that inspections, maintenance, repairs, or service to the brakes (for the tractor and trailer involved in the incident made the basis of this lawsuit) met the applicable safety standards at the time of the incident made the basis of the lawsuit.
30. A copy of any damage appraisal made of the trailer involved in the wreck.
31. Produce a copy of Defendant John Doe's record of traffic violations.
32. Produce a copy of the medical examiner's certificate of physical qualifications for Defendant John Doe for any period of time that he has been operating a tractor-trailer truck.
33. Produce a copy of all notifications by you of accidents for Defendant John Doe to any and all federal and state agencies, including but not limited to, any department of the United States Department of Transportation and any department of any state Department of Transportation.
34. Produce all fuel/purchase receipts, charge card (credit or debit) receipts, hotel receipts, restaurant receipts, and mobile/cellular phone bills of Defendant John Doe paid and/or reimbursed or listed as a business expense by Trucking Company, LLC during the six-month period preceding the date of the wreck.
35. Produce a copy of all trip manifests related to hauls and trips made by Defendant John Doe from six months prior to September 15, 2022.
36. Produce any documents used by Trucking Company, LLC, (USDOT #951852) to calculate fuel taxes owed for any tractor-trailer operated by Defendant John Doe for the six-month period preceding September 15, 2022.

37. Produce a copy of the trip manifest related to the trip/haul that Defendant John Doe was making at the time of the wreck on September 15, 2022.

38. Any and all (a) scale tickets, (b) trip report, (c) bills of lading, (d) delivery receipts, (e) inspection reports, (f) weight station reports, (g) accident reports, (h) traffic citations, and (I) mileage reports which were received by or from Defendant in relation to any tractor or trailer operated by John Doe during the six-month period preceding the wreck of September 15, 2022.

39. Any and all data or recorded information taken from any electronic recording device or “black box” which were part of either the tractor or trailer which were being operated by John Doe on September 15, 2022.

40. Any and all operational documents generated or used for the trip John Doe was on at the time of the wreck at issue which have not already been produced in response to the above requests for production. This request includes, but is not limited to, the following:

- a) driver’s duty status reports (written and electronic);
- b) travel records, documents and reports, including driver’s trip envelopes and/or trip reports, daily loads or work reports, fuel purchase reports, border crossing reports, customs declarations, driver reports, vehicle inspection reports, gate receipts, International Registration Program documents, International Fuel Tax Agreement documents, over/short & damage reports, overweight/oversize reports and citations, out-of-service reports and orders, state entry and departure records, ports of entry receipts, weight/scale reports, or any other reports made by the driver;
- c) trip expense documents, records, reports and receipts for expenses, regardless of type, including cash advance receipts, fuel, credit card and debit card receipts and statements, expense vouchers, fuel billing statements, fuel receipts, equipment purchase receipts, lodging receipts, expense sheets, toll receipts, weight/scale receipts, food purchase receipts, all expense sheets, and any other trip expense receipts;
- d) all pick-up and delivery records used to request the transport of commerce whether prepared by a Defendant, broker, shipper, motor carrier, driver, or other person or organization;
- e) all bills of lading and delivery manifests prepared or issued by any shipper, broker, transporting motor carrier, receiver of cargo, or Defendant. This also includes copies of bills of lading and manifests that show signed receipts for cargo along with dates and times of cargo pickup and delivery;
- f) all written or electronic instructions communicated to the driver in reference to cargo transported, route to travel and pickup or delivery time, whether by any dispatcher, broker, shipper or receiver, or other person or organization;

- g) any driver's call-in records or other written or electronic records indicating communications between company and driver in reference to the movement of cargo, or the day-to-day operation of the equipment and/or driver;
- h) copies of the original Com check, T-Chek, cash control, or similar service records and copies of front and back of all checks received or disbursed in reference to the transportation performed regardless of disbursement reason, inclusive of all checks to John Doe;
- i) any and all documents, records, or reports showing the location and time of fuel purchases and mileage for the 24-hour period preceding the wreck(s) at issue, whether listed by driver name or number or truck number;
- j) any and all documents pertaining to rental or lease agreements for the tractor, the trailer, or any equipment used on the tractor and/or trailer; and
- k) any billing records for any cellular/mobile phone in the possession of John Doe at the time of the wreck(s), covering usage charges for August 16, 2022 – September 16, 2022.

41. All OmniTRAC, Qualcomm, MVPC, QTRCS, OmniExpress, TruckMail, TrailerTRACS, SensorTRACS, JTRACS, and other similar systems data for the six (6) months prior to the wreck and the day of the wreck for John Doe and/or the truck and trailer involved in the wreck.

42. Any and all video recorded from a dash cam; driver's cam; and/or any other type of video recording device, regardless of name, which was recorded on September 15, 2022 from the tractor involved in the wreck, including, the wreck event; the fifteen-minute period leading up to the event and the thirty-minute period following the wreck.

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M. Clay Martin, Esq.

/s/ Tara L. Helms
Tara L. Helms, Esq.

TO BE SERVED ALONG WITH SUMMONS AND COMPLAINT

Defendant's address:

Trucking Company, LLC.
123 Maple Street
Anytown, GA 30231