

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

CHRISTOPHER W. PITTS and
TERESA PITTS, husband and wife,

Plaintiffs,

v.

BULK LOGISTICS, INC.; SCHWERMAN
TRUCKING CO.; TANKSTAR USA, INC.;
WILLIE J. CHANDLER, JR.; and
CONTINENTAL CASUALTY COMPANY,

Defendants.

CIVIL ACTION FILE

NO. 10EV009965-J

**PLAINTIFF CHRISTOPHER W. PITTS'S FIRST INTERROGATORIES TO
DEFENDANT SCHWERMAN TRUCKING CO.**

COMES NOW Plaintiff CHRISTOPHER W. PITTS ("Plaintiff" or "MR. PITTS") in the above-styled action, and submits the following written Interrogatories to Defendant SCHWERMAN TRUCKING CO., pursuant to the Georgia Civil Practice Act, for answer as provided by law.

DEFINITIONS

As used herein, the terms listed below are defined as follows:

1. The term "**Document**" as used herein shall be given a very broad definition to include every type of paper, writing, data, record, graphic, drawing, photograph, audio recording and video recording. The term includes material in all forms, including printed, written, recorded, or other. The term includes all files, records and data contained in any computer system, computer component and/or computer storage (e.g., hard drive, disc, magnetic tape, backup system, etc.). This term includes, but is not limited to, correspondence, reports, meeting minutes, memoranda, stenographic or handwritten notes,

diaries, notebooks, account books, orders, invoices, statements, bills, checks, vouchers, purchase orders, studies, surveys, charts, maps, analyses, publications, books, pamphlets, periodicals, catalogues, brochures, schedules, circulars, bulletins, notices, instructions, manuals, journals, e-mails, e-mail attachments, data sheets, work sheets, statistical compilations, data processing cards, microfilms, computer records (including printouts, disks or other magnetic storage media), tapes, photographs (positive or negative prints), drawings, films, videotapes, hard drive recordings, pictures, and voice recordings. Plaintiff expressly intends for the term "Document" to include every copy of such writing, etc. when such copy contains any commentary or notation whatsoever that does not appear on the original and any attachments or exhibits to the requested document or any other documents referred to in the requested document or incorporated by reference.

2. "**Person**" means any natural person, corporation, partnership, proprietorship, association, organization, group of persons, or any governmental body or subdivision thereof.

3. (a) "**Identify**" with respect to any "**person**" or any reference to stating the "**identity**" of any "**person**" means to provide the name, home address, telephone number, business name, business address, and business telephone number of such person, and a description of each such person's connection with the events in question.

(b) "**Identify**" with respect to any "**document**" or any reference to stating the "**identification**" of any "**document**" means to provide the title and date of each such document, the name and address of the party or parties responsible for the preparation of each such document, the name and address of the party who requested or required the preparation of the document or on whose behalf it was prepared, the name and address of

the recipient or recipients of each such document, and the names and addresses of any and all persons who have custody or control of each such document, or copies thereof.

4. "**Subject Incident**" means events made the basis of the Complaint, including, but not limited to, the incident at issue on May 29, 2008, in Douglas County, Georgia.

5. "**CHANDLER**" means Defendant WILLIE J. CHANDLER, JR.

6. "**BULK LOGISTICS**" means Defendant BULK LOGISTICS, INC.

7. "**You,**" "**Your,**" or "**SCHWERMEN**" means Defendant SCHWERMEN TRUCKING CO.

8. "**TANKSTAR**" means Defendant TANKSTAR USA, INC.

9. "**CONTINENTAL CASUALTY**" means Defendant CONTINENTAL CASUALTY COMPANY.

10. "**Similar**" shall have the meaning given in the American Heritage Dictionary, which is "showing some resemblance; related in appearance or nature; alike but not identical." As used here, the word "similar" shall not be limited as if modified by the word "substantially" and shall not mean "the same". If you limit the information provided because you use another interpretation of the word "similar," please state the interpretation you are using and reveal the nature of the information withheld.

11. The terms "**and**" as well "**or**" shall be each construed conjunctively and disjunctively as necessary to bring within the scope of each interrogatory and request for documents all information and documents that might otherwise be construed to be outside its scope. The term "**and/or**" shall be construed likewise.

12. Whenever necessary to bring within the scope of an interrogatory or request for production of documents any information or document that might otherwise be construed to be outside its scope: (i) the use of a verb in any tense shall be construed as the use of the

verb in all other tenses; (ii) the use of the singular shall be construed as the use of the plural and vice versa; and (iii) “**any**” includes “all,” and “**all**” includes “any.”

13. With regard to any term used herein that is deemed by the responding party as being ambiguous or vague, a term shall be construed in its broadest sense to encompass all reasonable definitions of that term.

INTERROGATORIES

I. COMPANY INFORMATION

1.

Have you been correctly designated as a party Defendant in the above-styled case insofar as the legal description of you is concerned? If no, please state the proper party name, the legal basis for said parties’ inclusion in this lawsuit, and the service address of said party.

2.

Please identify and describe the relationship between and among BULK LOGISTICS, SCHWERMANN, and TANKSTAR (i.e., doing business as, umbrella, corporate affiliation, subsidiaries, partnerships, etc.). Your response should include a description of the nature of the relationship, any formal or informal association between any of the entities, when the relationship(s) began and (if applicable) ended, a description of which entity is responsible for carrying insurance on commercial vehicles, a description of the employment relationships between and among the companies, a description of the relationship between the entities at the time of the Subject Incident, and, the way in which such relationships have changed subsequent to the Subject Incident.

3.

Identify the person(s) who has (have) primary responsibility now and at the time CHANDLER first began to work with SCHWERMANN for:

- (a) Operational safety;
- (b) Compliance with federal and state regulations (including hours of operation);
- (c) Driver training; and
- (d) Records custodian for driver personnel/discipline/qualification and other files and records regarding drivers.

4.

Please identify the SCHWERMANN employees occupying the following positions now and at the time of the incident at issue:

- (a) Safety Director;
- (b) CHANDLER'S terminal manager; and
- (c) Any Insurance Loss Control expert from your insurance company who has inspected your operations.

5.

If SCHWERMANN performs log book audits on its drivers, then: explain the process and how it works; explain which driver logs are audited and how often; identify who performs the audits (in house or outsourced); and identify all audits of logs regarding CHANDLER.

6.

For each claim (formal or informal) and lawsuit wherein it is/was suggested or alleged that any person was injured or killed as a result of SCHWERMANN's driver's actions in the past three years, provide the style of the case (or name of parties, jurisdiction and case number), and describe briefly the circumstances of each suit/claim and the disposition.

II. VEHICLE INFORMATION

7.

With respect to both the tractor and the trailer operated by CHANDLER at the time of the Subject Incident, provide the following information:

- (a) Identify the registered owner (on May 29, 2008, and presently, if different), mileage, and gross weight at the time of the Subject Incident;
- (b) Identify when each vehicle was purchased or leased (specify permanent lease or trip lease), mileage at purchase or lease initiation, and from whom purchased or leased;
- (c) Identify all repairs and modifications made to the vehicle since its purchase; and
- (d) State the manufacturer, make, model number, and year of manufacture of the tractor and trailer.

8.

With respect to the trip that CHANDLER was on at the time of the Subject Incident, provide the following information:

- (a) Identify where and at what time CHANDLER picked up the load he had at the time of the Subject Incident;

- (b) Identify the location, time, duration and reason for each stop CHANDLER made after picking up the above referenced load; and
- (c) Identify the destination of CHANDLER's route at the time of the Subject Incident and what time he was expected to arrive there.

9.

State whether the tractor or trailer underwent any repairs during the trip on the date of the Subject Incident. If so, state the nature of the repairs and the names, addresses and telephone numbers of the repair facilities.

10.

Please state whether the tractor and/or trailer involved in the Subject Incident contained or utilized any on-board recording device, on-board computer, data logging unit, satellite tracking system, satellite or cellular based communication system, collision warning system (e.g., Eaton Vorad), tachograph, trip monitor, trip recorder, trip master, "black box" or device known by any other name which records the information concerning the operation of the vehicle. If so, please state the name and address of the person having custody of the device(s) and any data, printouts, or other evidence produced by said device(s).

III. DRIVER INFORMATION

11.

Describe in detail:

- (a) The relationship between SCHWERMANN and CHANDLER during the calendar years 2006-2010 (e.g., lease operator, company driver, owner-operator, temporary driver, etc.);

- (b) How CHANDLER was paid at the time of the Subject Incident (by hour, by load, by mile, salary or other); and
- (c) When SCHWERMANN'S relationship with CHANDLER began and ended.

12.

If SCHWERMANN or a company union has ever disciplined/counseled CHANDLER regarding the Subject Incident and/or any safety violation, accident or other problem, describe in detail the nature and substance of the discipline/counseling.

13.

Describe in detail all training and education (including on the job training) provided by or on behalf of SCHWERMANN to CHANDLER on any and all subjects prior to and subsequent to the Subject Incident.

14.

State whether you have knowledge of any traffic violations or hours of service violations committed by CHANDLER either while in your employ or in previous employment. If so, state what information you have in that regard.

15.

For each motor vehicle collision/accident of any kind in which CHANDLER has been involved, provide the collision/accident date, location, jurisdiction, names of other parties involved and a brief description of what happened.

16.

Has CHANDLER ever been disqualified from driving a truck when in your employ? If so, when and under what circumstances?

17.

Identify each communication of any kind (in person or by phone, text message, computer message, or otherwise) between CHANDLER and any other person associated with SCHWERMANN (drivers, dispatchers, supervisors, managers, terminal personnel, etc.) during the twenty-four (24) hours leading up to the Subject Incident. For each communication, identify the time, method, person(s) involved, purpose, nature and content.

IV. SAFETY INFORMATION

18.

At the time of the wreck, did you have any policy or procedure manuals pertaining to the state operation of a tractor-trailer such as driver's manuals, company rules, or other tangible operational or safety materials by whatever name? If so, provide the full name of each such manual and the year it went into effect for SCHWERMANN.

19.

Describe in detail the initial and continuing training requirements for your drivers as of the date of the Subject Incident and how the drivers are paid while attending such training.

V. COLLISION INFORMATION

20.

Describe in detail when and how you first became aware that CHANDLER was involved in the Subject Incident, and exactly what information was conveyed, by whom and to whom during that communication.

21.

Identify all persons who to your knowledge were present at the scene of the Subject Incident within 48 hours of the time of the Subject Incident and explain their role at the scene of the Subject Incident and what actions they took.

22.

Identify each person who has been involved in the investigation of the Subject Incident. For each person identified, describe their role and involvement in the investigation.

23.

Identify and explain all interaction and communication between anyone working for or on behalf of SCHWERTMAN and anyone with the Douglas County Police in connection with the Subject Incident.

24.

Identify and explain all interaction and communication between anyone working for or on behalf of SCHWERTMAN and anyone employed with or acting on behalf of any other Defendant named in this action in connection with the Subject Incident.

25.

Please state whether any drug and/or alcohol tests (blood, urine or otherwise) performed on CHANDLER after the Subject Incident occurred. If so, please state the time at which the test was administered, the name, address and phone number of the persons, firms, or entities who administered said test(s) and all such persons, firms, or entities in possession of a copy of the results of said test(s).

26.

As to any tests, inspections, measurements and/or investigations performed by or on behalf of SCHWERMANN, or of which you are at all aware regarding in any way the Subject Incident and/or any other matter raised in this case, identify all person(s) who ordered and/or who participated in performing each and describe in detail the subject(s), purpose(s), methodologies and conclusions of each.

27.

Do you, your attorneys, your insurance carriers, or anyone acting on your or their behalf, have or know of any photographs, motion pictures, maps, plats, drawings, diagrams, videotapes, or other tangible or documentary evidence concerning any of the events, happenings, scene of the wreck, or the condition of any vehicle (or any part thereof) involved in the wreck either before or after the Subject Incident? If so, please identify what documentation exists, provide the date it was made or taken, identify who made or took it, and provide the name and address of each person having custody of such items.

28.

If you maintain that anyone other than a named defendant has any responsibility of any kind for the Subject Incident, and/or for any of the damages alleged in the Plaintiffs' Complaint, identify each such person and or entity, describe in detail the basis for their responsibility and identify all person(s) who have any knowledge regarding this issue.

29.

If any accident review board or similar entity designed to review motor vehicle collisions has reviewed the Subject Incident, identify the members of the board(s), the dates of review and what conclusions were reached. Also identify all documents reviewed by that board and all documents generated and/or approved by that board.

VI. PLAINTIFF INFORMATION

30.

To the extent that you have not already done so in response to some other interrogatory, please state each and every act of misfeasance, omission or breach of duty on the part of the Plaintiffs, or on the part of any other person whomsoever, which you contend supports any theory of defense which you allege, contend or rely upon, whether or not it constitutes an affirmative defense, designating which act, omission or breach you contend was an act of negligence on the part of the Plaintiffs or any other person, stating as to each the facts upon which you rely to support your contention; the identity and location of persons having knowledge of those facts; and identify each document which supports your contention.

VII. LITIGATION / EXPERT INFORMATION

31.

Identify each person SCHWERTMAN expects to call as an expert witness at trial and for each expert identified, state the substance of the facts and opinions to which the expert is expected to testify and a summary of grounds for each opinion to which the expert is expected to testify.

32.

Identify all persons who to your knowledge have given a statement **in any form** (written, oral, recorded or otherwise) in connection with the investigation of the Subject Incident, the Plaintiff and/or her medical care, and/or any facts or circumstances relevant to this litigation. For each person identified, provide the date and time of the statement, identify to whom the statement was made and who was present when the statement was

made, identify whether the statement was written, oral, recorded, and/or transcribed, and identify all persons presently having custody of the statement.

33.

Identify all person(s) who you to your knowledge have or may have any relevant information regarding: the Subject Incident; the facts leading up to the Subject Incident; the investigation of the Subject Incident; any party to this action; any vehicles involved in the Subject Incident; and/or any claims or defenses raised in this action. The purpose of this Interrogatory is to identify all witnesses whom SCHWERMANN believes may have relevant testimony of any kind in connection with this case.

34.

For each of Plaintiffs' First Request for Admissions to SCHWERMANN that you did not admit without qualification, explain in detail the reason for your refusal to admit and identify all persons and documents that support your response.

VIII. INSURANCE

35.

For each insurance policy of any kind that does or may provide any coverage on behalf of any Defendant (whether it is your policy or anyone else's policy) for damages/injuries alleged in this case, provide: name of insurer; policy number; limits of coverage; the name(s) of all insureds; and state whether any insurer has offered a defense under a reservation of rights or otherwise contested coverage for the subject case.

This 18th day of October, 2010.

FRIED ROGERS GOLDBERG LLC



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