

THE STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF GREENVILLE) THIRTEENTH JUDICIAL CIRCUIT

Latorre M. Choice as the Personal)
Representative of the Estate of)
Elex R. Paul a/k/a Alex R. Paul)

Plaintiffs,)

vs.)

Samuel J. Brown, by and through his)
Guardian ad Litem, Lisa Richardson Mobley)
and Benton Express, Inc.)

Defendants.)
_____)

**PLAINTIFF'S FIRST SET OF
REQUESTS FOR PRODUCTION TO
DEFENDANT BENTON EXPRESS, INC.**

TO: THE DEFENDANT BENTON EXPRESS, INC.:

The Plaintiffs do hereby request, pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, that Defendant Benton Express, Inc. (hereinafter Defendant Benton), produce for inspection and/or copying, at the offices of the undersigned, within forty-five (45) days from the date of service hereof, the following documents and materials:

DEFINITIONS

As used in this Request for Production and any Supplemental Request in this case, the following shall be the meaning and sense in which each term is used:

A. "Document" shall include without limitation:

(1) Every writing or record of every type and description that is *or has been* in the possession, custody or control of the said Defendant, its agents, representatives or attorneys, or of which the Defendant has knowledge, including, but not limited to, correspondence, e-mail, jpg files, data files, memoranda, tapes, stenographic or handwritten notes, studies, publications, books, pamphlets, photographs, facsimile copies, CD Roms, laser imaged documents, computer files or data,

films, recordings, maps, models, plats, graphs, diagrams reports, surveys, minutes and/or statistical compilations.

(2) A copy of such writing or record where the original is not in the possession, custody or control of the Defendant, including documents stored as electronic documents, imaged upon CD Rom or stored by facsimile in any other manner, and every copy of such writing or record where such copy is not an identical copy of the original, or where such copy contains any commentary or notation whatsoever which does not appear on the original.

REQUEST FOR PRODUCTION

1. Any and all documents, writings or exhibits of any kind in the possession, custody or control of Defendant Benton or its attorney listed in or used in the preparation of Defendant Benton's Answers to Interrogatories.

2. Any and all correspondence, reports, charts, photographs, jpg files, data, charts, surveys, statements, maps, brochures, manuals, animations, drawings, videotapes, brochures, manuals, memoranda, notes or other documents, materials or physical evidence of any kind regarding the wreck that is the subject of this lawsuit and the truck and/or trailer that were involved in the wreck.

3. All repair bills, estimates, reports, or other written or printed documents relating to any damage to the tractor and/or trailer operated by Defendant Brown involved in the accident that is the subject of this suit.

4. Any and all correspondence, e-mail, jpg files, data, reports, charts, photographs, drawings, videotapes, surveys, statements, maps, brochures, manuals, memoranda, time sheets, animations, time records, billing records, expense records or other documents, materials or physical evidence of any kind **received from, provided to or generated by** any expert witness whom Defendant expects to call as a witness at the trial of this case.

5. Any and all correspondence, reports, charts, photographs, jpg files, data, statements, animations, drawings, diagrams, videotapes, surveys, statements, maps, brochures, manuals, treatises, measurements, notes or other documents, materials or physical evidence of any kind relied upon by any expert witness in forming an opinion in this case whom Defendant expects to call as a witness at trial.

6. Any documents, materials or physical evidence which Defendant contends are relevant or which it may introduce at the trial of this action.

7. Written statements or transcripts of recorded statements taken from any witness or potential witness concerning the facts or issues of this action.

8. All reports, memoranda, correspondence, e-mail, jpg files, data, maps, surveys, charts, drawings, manuals, files, reports, videotapes, audiotapes, CDs, photographs, computer files, data, animations, summaries, statements or other documents whatsoever relating in any way to the events set forth in the Complaint herein.

9. Credit card account receipts, including fuel card receipts, materials relating to dial-a-check, COM checks, fast checks, or the like, records and printouts, for all accounts to which Defendant Brown had access during the three (3) month period prior to the subject accident through one week subsequent to the date of the accident, including usage records of said accounts by driver Brown.

10. Copies of all road and bridge tolls receipts, scale weight records, trailer wash-out receipts, motel receipts, vehicle repair invoices, and any other documents pertaining to purchases made by Defendant Brown while driving a truck on March 26, 2009, and one month prior to the accident.

11. Trip envelopes, trip sheets, including trip papers, trip expense reports or the equivalent thereof for each trip driven by Defendant Brown, for a three (3) month period prior to the subject accident, through one week subsequent to the date of the accident.

12. All course materials used by Defendant in any safe driving or defensive driving course.
13. All videotapes, audiotapes, presentations, manuals, hand-outs, memoranda or other materials used by Defendant with regard to driver training and/or given to Defendant Brown by Defendant Benton.
14. A copy of Defendant Benton's program for instructing their drivers and other employees of the provisions of the Federal Motor Carrier Safety regulations.
15. The complete personnel file for Defendant Brown.
16. The originals and/or copies of any and all files, paperwork, documents, and any and all other written materials relating to Defendant Brown in the possession of the Defendant Benton, including but not limited to Defendant Brown's personnel file and/or any other files regarding Defendant Brown including his job application, employment application, and any and all other documents relating to his relationship with Defendant Benton.
17. The originals and/or copies of all releases signed by Defendant Brown to be used by Defendant Benton, to check the prior employment of Defendant Brown.
18. The complete driver qualification file for Defendant Brown.
19. All results of any pre-employment, random or post-accident drug testing of Defendant Brown.
20. The complete safety or violations file, permits file and/or safety department file for Defendant Brown if separately maintained, or the complete files if documentation is not separately maintained by driver.
21. Copies of all state, municipal and company accident reports or other accident records concerning all accidents in which Defendant Brown has been involved in, if any.
22. The complete payroll and/or accounting department file(s) for Defendant Brown.

23. All manifests, receipts, orders, shipping documents, bills of lading or other records of pickups and deliveries for the route of Defendant Brown, for the three (3) month period prior to the subject accident through one week subsequent to the date of the accident.

24. All records and notations of communications, or records which memorialize or relate to any communications or contact or to tracking or which provide a historical record of such communications or contact, between Defendant Benton and Defendant Brown, including telephone records, telephone notes, radio records, radio notes, manual logs, e-mails, notations or memoranda.

25. All records and notations regarding Defendant Brown and all tractors he has driven for Defendant Benton, including computer records, computer logs, manual logs, e-mail, Qualcomm records, SATCOM records, COMDATA records, computer histories, trip records, trip sheets, locator history, position history, and any other computerized or manual records whatsoever, for the three (3) month period prior to the subject accident through one week subsequent to the date of the accident.

26. All documents within the possession and/or control of Defendant Benton, which contain information of any on-board recording monitor, trip recorder, trip master, or device known by any other name which records information concerning the operation of the tractor which was in the accident that is the subject of this action for the 180 days before the accident through one week subsequent to the date of the accident, in particular, the complete downloaded Detroit Diesel DDEC information for the Detroit Diesel tractor truck that was involved in the accident; additionally, any and all such records showing statistics available through the DDEC system or any other computerized system for this particular tractor truck over its lifetime.

27. All dispatch records, computerized dispatch records, dispatch logs, and all records whatsoever that contain any information concerning the dispatch of loads, movement of vehicles, and/or which memorialize or note events concerning the movement of equipment in any fashion with

regard to Defendant Brown, for the three (3) month period prior to the subject accident through one week subsequent to the date of the accident.

28. All computer records whatsoever, sorted by load, driver, location, route and all other available parameters, concerning the movement of equipment operated by Defendant Brown for the three (3) month period prior to the subject accident through one week subsequent to the date of the accident.

29. All accident, incident or investigative reports prepared by Defendant Benton or any of its employees, agents or servants, concerning the subject accident, including all notes, memoranda, photographs or other documents relating thereto.

30. All accident, incident or investigative reports filed by Defendant Benton concerning the subject accident, including all notes, memoranda, photographs or other documents relating thereto.

31. All accident, incident or investigative reports prepared at the request of Defendant Benton, its agents, servants, employees or affiliates concerning the subject accident, including all notes, memoranda, photographs or other documents relating thereto.

32. All other accident, incident or investigative reports which relate in any way to the subject accident.

33. All documents generated by Defendant Benton's incident review board and/or internal organization that reviews incidents of its drivers concerning the responsibility for this incident.

34. Copies of Defendant Brown's accident reports reported to Director, Regional Motor Carrier Safety Office, Officer of the Federal Highway Administration. Form MCS-OT (to include this accident and all previous accidents).

35. All policies and procedures manuals, administrative manuals, personnel manuals, driver manuals, employee manuals, safety manuals, and policy and safety memoranda (including bulletin

board postings) **authored by or used by** Defendant Benton and/or any of its agents, servants or employees during the one (1) year period prior to the subject accident through the present date, together with supplements or revisions thereto.

36. All minutes of safety department meetings, along with the agenda and sign in sheets, for a time period three (3) years prior to the subject accident to the present date.

37. The complete driver's log for the Defendant Brown for the six (6) month period prior to the date of the accident and including the date of the accident, and for one (1) month subsequent to the subject accident.

38. A current carrier profile, with driver identifying information, procured from the Office of Motor Carriers, on Defendant Benton.

39. All records, including accounting department records, of violations and citations received by Defendant Brown while employed by Defendant Benton.

40. All records of accidents in which Defendant Brown was involved during the entire period of his employment with Defendant Benton, including accident logs.

41. All records which relate to determinations and proceedings engaged in by Defendant Benton in order to determine whether an accident is preventable or non-preventable, including all documents with regard to any such determination relating to the subject accident.

42. All records which relate to any investigation or evaluation by Defendant Benton to determine whether the accident which is the subject of this action was preventable or non-preventable from the standpoint of its driver, including any documents which record or memorialize such finding.

43. All records which relate to contracts or agreements entered into between Defendant Benton and Defendant Brown.

44. Full annual reports and audited financial statements of Defendant Benton for the five (5)

years prior to the accident, and all quarterly or interim financial statements or reports covering the period subsequent thereto.

45. All advertising or marketing materials used by Defendant Benton to attract applicants for driving positions, disseminated for the three (3) year period prior to Defendant Brown's employment.

46. All safety audits, reports of safety audits or reviews together with all notes, memoranda and backup documents, relating to Defendant Benton, including those prepared by or for insurance companies, those prepared by outside auditors or safety consultants and including internal audits or reports, for the five (5) year period prior to the subject accident through the present date.

47. All correspondence between Defendant Benton and its insurance carriers concerning safety reports, reviews, audits or safety ratings for the five (5) year period prior to the subject accident through the present date.

48. A copy of the post Accident Report (as required by 49 C.F.R. Section 382.303) and all related documents prepared by or signed by Defendant Brown following the incident.

49. All Compliance Reviews or Safety Reviews (as defined by 49 C.F.R. Section 385.3) of Defendant Benton performed by any state or federal governmental agency between January 1, 2009 through the present date.

50. All Safety Management Controls (as defined by 49 C.F.R. Section 385.3) which Defendant Benton had in effect during the year 2009.

51. All Safety Ratings (as defined by 49 C.F.R. Section 385.3) issued to Defendant Benton by any state or federal governmental agency between January 1, 2007, up through and including the present date.

52. All Notifications of Safety Ratings (as referenced in 49 C.F.R Section 385.11) provided to Defendant Benton by any state or federal governmental agency.

53. A complete copy of Benton Express, Inc. Identification Report, Form MCS-150.
54. All requests submitted by Defendant Benton for review of a safety rating pursuant to 49 C.F.R. Section 385.15.
55. All requests submitted by Defendant Benton for a change in safety rating pursuant to 49 C.F.R. Section 385.17.
56. A copy of the periodic inspection report as required by 49 C.F.R. Section 396.21.
57. Copies of all motor vehicle inspection reports for the tractor and/or trailer that was involved in the accident that is the subject of this suit conducted by agents of the Federal Highway Administration for 2007, 2008, and 2009 (Form MCS-63).
58. All documents containing information as to any investigative inquiries concerning Defendant Brown as required by 49 C.F.R. Section 391.23.
59. The insurance policies, MCS-90 and/or MCS-82 forms, and insurance program agreements and/or related documents, including the declaration pages relating to said policies, that covered Defendant Benton, Defendant Brown, and/or the tractor and/or trailer operated by Defendant Brown, which were in effect on March 26, 2009.
60. All Risk Management Guidelines provided to Defendant Benton by any insurance carrier or other entity during the three (3) years prior to March 26, 2009.
61. All written requests made by Defendant Benton to any insurance carrier for any Risk Management Guidelines or Risk Management Plans during the three (3) years prior to March 26, 2009.
62. All Risk Management Plans prepared by Defendant Benton during the three (3) years prior to March 26, 2009.
63. All records and reports of audits performed by the Bureau of Motor Carrier Safety or by

any other state or federal agencies for Defendant Benton during the three (3) years prior to March 26, 2009.

64. Any and all records required to be kept pursuant to 49 C.F.R. 396.3, for any tractor and/or trailer/tanker operated by Defendant Brown on March 26, 2009.

65. Any Recap test administered to Defendant Brown by March 26, 2009.

66. Any log book quiz administered to Defendant Brown by Defendant Benton

67. All safety department memoranda authored or issued by Defendant Benton's. Safety Department or any affiliated company's Safety Department from 2007 to date.

68. Any and all documents setting forth any policies, procedures, guidelines, recommendations or directives regarding driver conduct, driver safety, driver hiring, discipline or firing **prepared or used** by Defendant Benton or any affiliate during the five (5) year period prior to the subject accident and through the present date, together with all amendments, revisions or supplements thereto.

69. All records concerning inspections on the tractor and trailer which was operated by Defendant Brown on March 26, 2009, for the entire period of their ownership by Defendant Benton.

70. Copies of Defendant Brown's daily written vehicle (tractor and trailer) inspection reports for the accident on March 26, 2009, and one month prior to the accident; this includes Defendant Benton's company certification that any defects or deficiencies have been corrected.

71. All records concerning repairs and maintenance on the tractor and trailer operated by Defendant Brown on March 26, 2009, for the entire period of their ownership by Defendant Benton.

72. All lease agreements for the tractor and trailer involved in the wreck which is the subject of this lawsuit.

73. All invoices for purchases of parts for the tractor and/or trailer involved in this wreck for

two years prior to the wreck which is the subject of this action.

74. All documents or written material of every nature within the possession and/or control of Defendant Benton that contain information as to any maintenance schedule for tractors of the type involved in this litigation.

75. All documents or written material of every nature within the possession and/or control of Defendant Benton which contain information as to Defendant Benton or any of their drivers having been fined, penalized or assessed any amount of money or given any warning because of the condition of the brakes on any vehicle which they owned or operated for a period of two (2) prior to March 26, 2009.

76. All vehicle condition reports and repair orders on the tractor and/or trailer involved in the wreck which is the subject of this action for 2005, 2006, up to March 26, 2009.

77. All documents within the possession and/or control of Defendant Benton which contain information as to any citation(s) of Defendant Benton for use of defective equipment for two years prior to the accident which is the subject of this action.

78. All documents within the possession and/or control of Defendant Benton which contain information as to any wreck involving any of the Defendants, which was allegedly caused by mechanical failure of a tractor or trailer.

79. Any "out of service" stickers ever issued to Defendant Brown.

80. A copy of all records for every vehicle operated by Defendant Brown for Defendant Benton during the three (3) months prior to March 26, 2009, through one week following March 26, 2009.

81. Any and all written materials setting forth Defendant Benton policies and/or procedures regarding destruction, disposal, and/or storage of driver log books.

82. Any and all of Defendant Benton's Logistics credit and debit account billing invoices (versions that include the times, dates, and locations of purchases) from all vendors that record all charges by Defendant Brown for the period of 30 days prior to and one week subsequent to the subject accident. This should include, but not be limited to, Comdata Corporation, Transplatinum Plus, FDIS/Trendar, FDIS/Fleet Driver System and Petro Centers billing invoices

83. All results of any pre-employment, random or post accident drug testing of Defendant Brown.

84. All alcohol and drug testing documents, including chain of custody documents, performed on Defendant Brown during his employment with Defendant Benton including post-accident testing.

85. A complete copy of the Detroit Diesel DDEC downloaded information showing the lifetime high speed attained by the Detroit Diesel tractor truck involved in the accident which is the subject of this action.

86. Any and all documentation showing the dates Defendant Brown was the driver of the Detroit Diesel tractor truck involved in the accident which is the subject of this action.

87. A complete inventory of the contents of the trailer at the time of the accident.

88. Copies of any and all documents showing the time Defendant Brown left the Benton Express terminal on Augusta Road in Greenville County to initiate the trip that resulted in the accident that is the subject of this action.

89. Copies of any and all documents generated by or for the persons and/or entities to whom the trailer contents were to be delivered, including, but not limited to documents showing the contents of the trailer, the address to which the contents were to be delivered, the contact person at each such address, and the required and/or anticipated time of delivery.

90. A complete copy of any and all violations issued by any governmental agency to Defendant Benton for the period of two (2) years prior to March 26, 2009 and through that date.

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