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ATTORNEYS AT LAW



December 16, 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John Jones, Esq.
Trucking Defense Lawyer
100 Peachtree St.
Suite A
Atlanta, GA 30306

Re: Paul Plaintiff v. Dave Driver and Tractor Trailer Company X

Our Client: Paul Plaintiff
Your Client: Tractor Trailer Company X
Date of Loss: December 15, 2008

Dear Mr. Jones:

As you are aware, I represent Paul Plaintiff, regarding personal injuries he received in a motor vehicle wreck that occurred on December 15, 2008, in Fulton County, Georgia. I have enclosed a copy of the Georgia Uniform Vehicle Accident Report concerning this incident. This letter is to request the preservation of certain evidence related to this collision.

Under Georgia Law, a failure to properly secure and preserve these important items of evidence will give rise to a legal presumption that the evidence would have been harmful to client, Georgia Power Company. (See, *Lane v. Montgomery Elevator Co.*, 225 Ga. App. 523, 484 S.E.2d 249 (1997), *J.B. Hunt Transport, Inc. v. Bentley*, 207 Ga. App. 250, 427 S.E.2d 499 (1992), *Bennett v. Associated Food Stores, Inc.*, 118 Ga. App. 711, 165 S.E.2d 581 (1968), O.C.G.A. § 24-4-22).

If you fail to preserve and maintain this evidence, we will seek any sanctions available under Georgia law. (See, *R. A. Siegel Co. v. Bowen*, 246 Ga. App. 177, 539 S.E.2d 873 (2000), *Chapman v. Auto-Owners, Ins. Co.*, 220 Ga. App. 539, 469 S.E. 2d 783 (1986), and *Sharpnack v. Hoffinger Industrial, Inc.*, A 97 A 25555, 98 FCDR 1362 (03.17.98). The destruction, alteration, or loss of any of these items constitutes a spoliation of evidence under Georgia Law. We specifically request that the following evidence be maintained and preserved and not be destroyed, modified, altered, repaired, or changed in any manner:

- 1] The truck or Tractor Trailer Company X vehicle involved in this accident;
- 2] Bills of lading for any shipments transported by Dave Driver, for the day of the accident and the eight (8) day period preceding the accident;
- 3] Any oversized permits or other applicable permits or licenses covering the vehicle or load on the day of the accident;
- 4] Dave Driver's daily logs for the day of the accident and the eight (8) day period preceding the accident;
- 5] Dave Driver's daily inspection reports for the tractor and trailer involved in this accident for the day of the accident and the sixty (60) day period preceding the accident;
- 6] Daily inspection reports for the tractor and trailer involved in this accident for the day of the accident and the sixty (60) day period preceding the accident;
- 7] Maintenance, inspection and repair records or work orders on the tractor and trailer for the day of the accident and for the six (6) month period preceding the accident;
- 8] Annual inspection report for the tractor and trailer covering the date of the accident;
- 9] Dave Driver's complete driver's 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 accidents;
 - e) Driver's employment history;
 - f) Inquiry into driver's employment history;
 - g) Pre-employment MVR;
 - h) Annual MVR;
 - i) Annual review of driver history;
 - j) Certification of road test;
 - k) Medical examiner's certificate;
 - l) Drug and alcohol testing records; and

- m) Safety training or other training documents;
- 10] Photographs of the interior and exterior of vehicles involved in this accident or the accident scene;
- 11] Dave Driver's post-accident alcohol and drug testing results;
- 12] Any lease contracts or agreements covering Dave Driver's or the Tractor Trailer Company X vehicle/truck involved in this accident;
- 13] Any interchange agreements regarding the Tractor Trailer Company X vehicle/truck involved in this accident;
- 14] Any data or 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 or other recording device for the day of the accident and the six (6) month period preceding the accident;
- 15] Any post-accident maintenance, inspection, or repair records or invoices regarding the Tractor Trailer Company X vehicle/truck involved in this accident;
- 16] Any weight tickets, fuel receipts, hotel bills, or other records of expenses regarding Dave Driver or the Tractor Trailer Company X vehicle/truck involved in this collision for the day of the accident and the eight (8) day period preceding the accident;
- 17] Any trip reports or dispatch records regarding Dave Driver or the Tractor Trailer Company X vehicle/truck involved in this collision for the day of the accident and the eight (8) day period preceding this accident;
- 18] Any e-mails, electronic messages, letters, memos, or other documents concerning this accident;
- 19] The accident register maintained by the motor carrier as required by federal law for the one (1) year period preceding this accident;
- 20] Any drivers manuals, guidelines, rules or regulations given to drivers such as Dave Driver;

John Jones, Esq.
Trucking Defense Lawyer
December 16, 2008
Page 4 of 4

- 21] Any reports, memos, notes, logs or other documents evidencing complaints about Dave Driver;
- 22] Any DOT or PSC reports, memos, notes or correspondence concerning Dave Driver, or the Tractor Trailer Company X vehicle/truck involved in this accident.;
- 23] Any downloadable computer data from the Tractor Trailer Company X vehicle/truck's computer system; and
- 24] 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 Tractor Trailer Company X vehicle/truck involved in this accident.

Regarding the vehicle involved in this accident, we would like to set up a mutually convenient time to inspect, examine, and photograph the vehicle. We specifically request that you make no repairs or adjustments to the vehicle until this inspection is completed. Please call me immediately to schedule an inspection. In the meantime, if you have any questions, please do not hesitate to call.

Best regards,

DAVIS, ZIPPERMAN, KIRSCHENBAUM & LOTTITO

E. Marcus Davis

Enclosure
cc: Paul Plaintiff