

October 23, 2011

VIA CMRR 7009 2250 0004 3060 4967
& FACSIMILE

Mr.

Re: Our Client:
MVA: October 20, 2011

Dear Mr. :

Please be advised that I have been retained to represent _____ regarding an automobile collision involving one of your trucks driven by _____. Please forward this letter to your insurance company and have the appropriate person contact me regarding this matter immediately.

You are hereby notified to preserve all evidence, including but not limited to:

1. the truck involved in the collision and the drive shaft that fell from the vehicle,
2. all physical evidence or tangible things recovered at the scene of the collision, from the interior or exterior of any of the vehicles, or from any driver or witness,
3. all documents, evidence, or tangible things contained in the inside of the tractor at the time of the collision (including but not limited to all documents, pills, bottles, cans, alcoholic beverages, magazines, pornographic magazines or materials, maps, notes, log book, receipts, etc.)
4. all photographs and videotapes of the scene of the accident, parties involved, or vehicles involved
5. all bumper stickers, decals, safety slogans, warnings, etc. attached to or placed on the tractor trailer
6. all attachments or add-ons to the exterior or interior of the truck
7. all license plate tags or license plate covers or mounts
8. all inspection and license registration tags
9. the actual audio tape recording (and any transcript of) of any recorded statements, mobile or cell phone records, and/or dispatch records
10. all documents in the file of the driver of the vehicle involved in this collision,
11. all driver's logs and/or driver's daily logs,
12. driving hour summaries,
13. driver's log audits,
14. all downloadable computer data from the tractor's computer system
15. electronic control module data,
16. SDM module information,
17. GPS information,
18. any computerized or "black box" data or information that would reflect the speed, position, etc. of the truck,
19. tachometer records

20. dispatch records
21. fax transmissions
22. telephone records
23. mobile radio records
24. pre-rate records
25. trip receipts,
26. trip reports or trip envelopes,
27. weight tickets,
28. records of expenses submitted or paid
29. expense sheets
30. company credit card receipts
31. gas receipts,
32. bills of lading,
33. delivery manifests
34. credit card receipts for the driver and motor carrier
35. all toll tickets
36. state entry and departure records
37. weight receipts,
38. any oversized permits,
39. the accident register maintained by the motor carrier as required by federal law
40. the accident register for this accident
41. personnel file,
42. driver employment file,
43. driver qualification file,
44. dispatch records,
45. emails,
46. pre-trip inspections,
47. post-trip inspections,
48. daily inspections,
49. annual inspection reports
50. daily paperwork,
51. repair or maintenance records
52. wrecker or tow truck records
53. payroll records for the driver of the vehicle,
54. alcohol and drug testing results
55. any lease contracts
56. all documents that have anything to do with the background, hiring, driving, or performance of the driver involved in this accident
57. safety and driver training manuals, videotapes, or documents
58. all documents referencing the vehicle itself.

You are requested and instructed not to restart the engine of the vehicle to avoid any destruction of saved data. You are further requested and instructed not to remove or take out of the vehicle to download any computerized information as this may damage any preserved information and could result in erased data.

Under the doctrine of spoliation of evidence, I am requesting that the truck involved in the accident with Ms. S_____ be quarantined and stored in its exact condition as it was at the time of the accident on October 20, 2011.

You are instructed not to make any attempts at repairs, replacement of parts, or modification to the vehicle. You are instructed not to wash or clean the vehicle or to remove any contents from the interior of the vehicle. Any alteration of the truck evidence will be treated as spoliation of evidence and we will seek all sanctions available under Texas law. Please move the truck to a location where it is not subject to the elements and where it can be inspected.

If you are taking the position that the vehicle must be repaired in order to have it replaced back into service, please contact my office immediately and I can make myself and any appropriate individuals available for an immediate inspection, videotaping, and photographing of the vehicle and its parts prior to any type of repair. I am requesting that the above-referenced quarantine take place until such time as an inspection of the vehicle and its parts can occur.

Please confirm in writing that you have agreed to preserve all information as listed above.

Also, please confirm that the truck has been preserved in its original condition and that it has not been altered (including all bumper stickers, signs, postings, license plate frames, etc.) and remains in its original condition.

Please notify me in writing that you will agree to the above by October 24, 2011 at 5:00 p.m. or I will file for a Temporary Restraining Order.

Thank you for your prompt attention and cooperation herein.

Very truly yours,


WILLIAM K. BERENSON

WKB/lw