

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CAROLYN WHITE, Individually,
and as Executrix of the ESTATE OF
JERE F. WHITE, Deceased,

Plaintiff,

v.

TENOLD TRANSPORTATION
(2005) LTD. d/b/a TENOLD
TRANSPORTATION LIMITED
PARTNERSHIP (a/k/a TENOLD
TRANSPORTATION LP) and
MARIOUS M'BIKATA,

Defendants.

Civil Action File No.
1:11-CV-2997-JOF

**PLAINTIFF CAROLYN WHITE'S FIRST INTERROGATORIES TO
DEFENDANT TENOLD TRANSPORTATION (2005) LTD. d/b/a TENOLD
TRANSPORTATION LIMITED PARTNERSHIP (a/k/a TENOLD
TRANSPORTATION LP)**

COMES NOW Plaintiff CAROLYN WHITE, Individually, in the above-
styled action, and submits her First Interrogatories to Defendant TENOLD
TRANSPORTATION (2005) LTD. d/b/a TENOLD TRANSPORTATION
LIMITED PARTNERSHIP (a/k/a TENOLD TRANSPORTATION LP)

(collectively referred to as “TENOLD TRANSPORTATION”), pursuant to Federal Rules of Civil Procedure 26 and 33 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 which occurred on May 11, 2011, in Paulding County, Georgia.

5. "**You,**" "**Your,**" or "**TENOLD TRANSPORTATION**" means, collectively, Defendant TENOLD TRANSPORTATION (2005) LTD. d/b/a TENOLD TRANSPORTATION LIMITED PARTNERSHIP (a/k/a TENOLD TRANSPORTATION LP).

6. "**Defendant M'BIKATA**" means Defendant MARIOUS M'BIKATA.

7. "**PLAINTIFF**" for purposes of these Interrogatories, means Plaintiff CAROLYN WHITE.

8. "**DECEDENT**" for purposes of these Interrogatories, means Decedent, JERE F. WHITE.

9. "**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.

10. 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.

11. 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.”

12. 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

TRUCKING COMPANY INFORMATION

1.

Identify the following TENOLD TRANSPORTATION employees as of date of the Subject Incident and presently: Safety Director/Chief Safety Officer; person responsible for training Defendant M'BIKATA; person responsible for compliance of Defendant M'BIKATA and TENOLD TRANSPORTATION to applicable state and federal laws and regulations; and Supervisor of Defendant M'BIKATA.

2.

If TENOLD TRANSPORTATION performs hours of service log audits, explain what is entailed in the auditing process, identify who performs the audits (in-house or outsourced), and identify when, if ever, Defendant M'BIKATA's logs were audited.

VEHICLE INFORMATION

3.

With respect to the tractor operated by Defendant M'BIKATA at the time of the Subject Incident, identify the registered owner, mileage, and gross weight at the time of the Subject Incident; state the manufacturer, identification number, model number, and year of the ENGINE in the tractor; and identify all maintenance and

repairs performed for the time period from 12 months before the Subject Incident to present.

4.

With respect to the trailer operated by Defendant M'BIKATA at the time of the Subject Incident, identify the registered owner, mileage, and gross weight at the time of the Subject Incident; state the manufacturer, make, model number, and year of manufacture of the trailer; and identify all maintenance and repairs performed for the time period from 12 months before the Subject Incident to present.

5.

With respect to the trip that Defendant M'BIKATA was on at the time of the Subject Incident, identify where and when (date and time) Defendant M'BIKATA picked up the load he had at the time of the Subject Incident; identify where (name and address of location) and when (date and time) the load was to be delivered; identify the location, time, duration and reason for each stop Defendant M'BIKATA made from the time he picked up the load until the time of the Subject Incident; and identify the route Defendant M'BIKATA intended to follow from the point of origin to the point of destination.

6.

If the **tractor** AND/OR **trailer** involved in the Subject Incident contained or utilized any system or device that monitors, records and/or transmits any vehicle operation/usage data or that allows for the capture of any such data: (a) identify each system and device; (b) state whether the data for the time period surrounding the Subject Incident has been preserved and how it has been preserved; and (c) identify the person who has custody of the data and of the system from which the data was acquired. **NOTE:** The systems and devices to which this Interrogatory is addressed, include, but are not limited to: any Qualcomm, TransCore, SkyBitz, Fluensee, Fleetilla, Teletrac, Lat-Lon, Telogis, GeoLogic, Cheetah, Xata, PeopleNet or any Electronic On Board Recorder (EOBR); any collision or lane departure warning system (e.g., Eaton Vorad); any driver safety monitoring or hours of service monitoring system; any transponders or tachographs; any onboard cameras or video devices; any bar code or toll pass systems; and any other tracking system, logging unit, trip monitor, trip recorder, GPS system, satellite systems, or cellular systems.

7.

If the **tractor** involved in the Subject Incident contained or utilized any system or device that allowed for communication between the driver and any other

person or entity please identify each system and device, state whether the data for the time period surrounding the Subject Incident has been preserved, and identify the person who has custody of the data and of the system from which the data was acquired.

8.

If the **tractor** AND/OR **trailer** involved in the Subject Incident contained or utilized any “black box” type device such as an Engine Control Module (ECM), Event Data Recorder (EDR), Airbag Control Module, and/or any other such device, please identify each device, state whether the data for the time period surrounding the Subject Incident has been preserved and/or downloaded, and if so, identify who performed the download and when the download was performed.

DRIVER INFORMATION

9.

Describe in detail the relationship between TENOLD TRANSPORTATION and Defendant M’BIKATA at the time of the Subject Incident (e.g., lease operator, company driver, owner-operator, temporary driver, etc.); how Defendant M’BIKATA was paid at the time of the Subject Incident (by hour, by load, by mile, salary, or other); and when TENOLD TRANSPORTATION’S relationship with Defendant M’BIKATA began and ended.

10.

Identify and describe all formal and informal disciplinary and/or counseling actions undertaken by TENOLD TRANSPORTATION regarding Defendant M'BIKATA at any time.

11.

Describe in detail all training and education (including on the job training) provided by or on behalf of TENOLD TRANSPORTATION to Defendant M'BIKATA at any time and in any way related to the operation of a commercial motor vehicle.

12.

State whether you have knowledge of any traffic violations or hours of service violations committed by Defendant M'BIKATA, or if he has ever been disqualified from driving a commercial motor vehicle, either while in your employ or in previous employment. If so, state what information you have in that regard.

13.

Identify and explain all communications of any kind between Defendant M'BIKATA and anyone acting for or on behalf of TENOLD TRANSPORTATION during the twenty-four (24) hours before and after the Subject Incident. For each communication, identify the method of communication

(cell phone, QualComm, hand-held device, other), time of communication, persons involved, and the general subject.

REGULATIONS AND POLICIES

14.

If you maintain that the Federal Motor Carrier Safety Regulations did not apply to Defendant M'BIKATA at the time of the Subject Incident, explain the basis for your contention and identify all facts, witnesses, and documents that support your contention.

15.

Identify all TENOLD TRANSPORTATION policies, procedures, rules, guidelines, directives, manuals, handbooks, and instructions that governed the conduct of Defendant M'BIKATA at the time of the Subject Incident.

INVESTIGATION OF SUBJECT INCIDENT

16.

Describe in detail when and how you first became aware that Defendant M'BIKATA was involved in the Subject Incident. Please include the identification of all persons involved and what information was conveyed.

17.

Explain your understanding of how and why the Subject Incident occurred and 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 and what actions they took.

18.

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.

19.

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 DECEDENT and/or his 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.

20.

Please state whether any drug and/or alcohol tests (blood, urine or otherwise) performed on Defendant M'BIKATA 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).

21.

Identify all photographs, motion pictures, maps, plats, drawings, diagrams, videotapes, or other tangible or documentary evidence depicting the scene of the Subject Incident and/or any person or vehicle involved in the Subject Incident.

22.

If you maintain that any non-party has any responsibility of any kind for causing the Subject Incident, and/or for causing any of the damages alleged in the Complaint for Damages, 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.

23.

If you maintain DECEDENT JERE F. WHITE has any responsibility of any kind for causing the Subject Incident, and/or for causing any of the damages alleged in the Plaintiff's Complaint, describe in detail the basis for their responsibility and identify all person(s) who have any knowledge regarding this issue.

24.

If TENOLD TRANSPORTATION has performed any review (e.g., accident review board) of the Subject Incident to determine preventability and/or fault, identify all persons involved in the review, the dates of the review and the conclusions that were reached.

INSURANCE

25.

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.

Dated on November 11, 2011.

FRIED ROGERS GOLDBERG LLC

/s/ Jennifer Leonhardt Ojeda

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