

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
INTERROGATORIES TO
DEFENDANT BENTON EXPRESS, INC.**

TO: THE DEFENDANT BENTON EXPRESS, INC.:

The Plaintiffs do hereby serve the following Interrogatories, pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, to be answered by Defendant Benton Express, Inc.

(hereinafter Defendant Benton), in writing, and under oath within forty-five (45) days from the date of service hereof.

DEFINITIONS

As used in these Interrogatories and any Supplemental Interrogatories 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-mails, jpg files, data files, memoranda, tapes, stenographic or handwritten notes, studies, publications,

books, pamphlets, databases, photographs, facsimile copies, CD Roms, laser imaged copies or facsimiles, computer files, computer data in any form, computer printouts, films, recordings, maps, models, plats, graphs, diagrams, reports, surveys, minutes and/or statistical compilations.

(2.) Every 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.

B. "Person" shall mean any individual, firm, partnership, corporation, proprietorship, association, governmental body, or any other organization or entity.

C. "Date" or any other word relating to a date shall mean the exact date, month and year if ascertainable or if not, the best available approximation.

D. "Identify" or "Identity," when used in reference to:

(1.) An individual, shall mean to state: his or her full name, age, sex, present address or last known address, telephone number, job title, physician or professional or business affiliation, social security number and name of employer.

(2.) A firm, partnership, corporation or other entity shall mean to state: its full name and last known address, telephone number and the legal form of such entity or corporation.

(3.) A document or exhibit: shall mean to give a brief description of the document either by its title, or if it has no title, its content, to give the date of preparation as shown on the document and to give the name, address and position of the custodian thereof.

INTERROGATORIES

1. Identify the person or persons who answered, who helped answer, and/or who

provided the information to answer these interrogatories and requests for production.

2. Identify all persons known to Defendant Benton or its counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses, and indicate who has possession of such statements and set forth a summary sufficient to inform the other party of the important facts known to or observed by such witness.

3. List the names and addresses of any expert witnesses whom the party proposes to use as a witness at the trial of the case. For each expert witness whom the party proposes to use as a witness at the trial of the case, state:

- a. the subject matter on which the expert is expected to testify;
- b. the substance of the facts and opinions to which the expert is expected to testify; and
- c. a summary of the grounds for each opinion.

4. Identify all physical evidence, photographs, plats, sketches, videotapes, audiotapes, drawings, artist's renditions, diagrams, notes, measurements, statements or other documents or materials now or previously in the possession, custody or control of the Defendant Benton that relate to any claim or defense in this case.

5. Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claim, including any and all policies of excess and/or umbrella or blanket coverage and set forth the number or numbers of the policies involved and the amount or amounts of coverage provided in each policy. If Defendant Benton has entered into any agreements or contracts with respect to self-insured retention amounts, or insurance program agreements, please identify all such documents which relate to the applicable policy period.

6. Set forth a summary, including caption, date of filing and docket number for each legal action brought against the Defendant Benton in the five (5) years prior to the accident that is the subject of this case alleging Defendant Benton or one of its drivers to be at fault in a motor vehicle accident. Provide the name, address and driver's license number for each driver of the Defendant Benton involved in those accidents.

7. Set forth the combined approximate weight of the subject tractor and trailer which were involved in the subject accident when running without a load and if loaded at the time of the accident, set forth the total rig weight at the time of the accident.

8. Set forth the following weights and dimensions of the commercial vehicle which was involved in the subject accident: Measuring the from the front bumper to the rear -- the distance to the front (steer axles); the distance to the two tandem axles; the distances to the trailer/tanker tandem axles; the distance to the front and to the back of the trailer/tanker body. Set forth the weight on each axle, or group (tandem).

9. List each complaint made by anyone concerning the condition of the tractor involved in this case for the two years preceding the accident.

10. Please state when the last repairs and maintenance were performed on the brakes of the tractor involved in the accident on or before the date of accident, and the name and address of the person doing the repair.

11. Set forth a detailed chronology of the route of Defendant Brown during the three (3) month period prior to the subject accident through the date of the subject accident, including each pickup and delivery with pickup and delivery addresses, dates and times noted.

12. Identify by entities and address, and list by time and date, the origin and planned termination point of the trip on which Defendant Brown embarked on the date of the accident

which is the subject of this action.

13. By what time was Defendant Brown supposed to make reach his first destination on March 26, 2009, after beginning the trip that led to this accident?

14. Please set forth a complete driving record of Defendant Brown, **including** a list of all accidents and violations and citations of state or federal laws or regulations, including log book and/or equipment violations, setting forth date of accident or citation, brief description of accident and/or nature of citation or violation, state of violation or citation, specifically to include a narrative summary of all the information requested for a period of ten (10) years.

15. Identify all corporate entities related to or affiliated with Defendant Benton on March 26, 2009, including all corporations or entities having common ownership, parent corporations, subsidiary corporations, sister corporations and for each set forth the nature of the affiliation or relationship.

16. Please set forth in detail the driver hiring requirements of Defendant Benton during the year of Defendant Brown's hiring and during 2009, including requirements relating to experience, training, prior accidents, prior violations, and include a description of all amendments and revisions to the requirements through the present date.

17. Identify the person in charge of the driver training program at Defendant Benton, on March 26, 2009.

18. Identify the person in charge of the safety program at Defendant Benton on March 26, 2009.

19. Please describe the preventative maintenance program for the tractor that is the subject of this action and the person who was responsible for the program on March 26, 2009.

20. Describe the relationship of Defendant Benton to Defendant Brown on March 26,

2009.

21. Describe the relationship of Defendant Benton to the trip on which Defendant Brown was engaged in at the time of the accident.

22. Describe the relationship of Defendant Benton on March 26, 2009, to the tractor truck which was involved in the accident that is the subject of this action.

23. Describe the relationship of Defendant Benton on March 26, 2009, to the trailer being pulled by the tractor trailer truck which was involved in the accident that is the subject of this action.

24. List the number of trucks operated by Defendant Benton in 2009.

25. Identify all persons who, on behalf of any of the Defendants, went to the scene of the subject accident on March 26, 2009, including all attorneys, experts, company personnel, and any and all other persons who were present at said scene on said date.

26. Please list Samuel J. Brown's card numbers for Comdata Corporation, Transplatinum Plus, FDIS/Trendar, and Petro Centers on March 26, 2009, and for three months prior to said date.

27. Describe the contents of the trailer attached to the tractor involved in the subject accident at the time of the accident on March 26, 2009, and for each item identify the individual, firm, partnership, corporation or other entity for whom each item was being transported and to whom each item was being transported. Also, set forth the relationship of Benton Express, Inc. to each of said individuals and entities.

28. Was the tractor and/or trailer (please answer separately as to each) involved in the accident that is the subject of this law suit leased to any individual, firm, partnership, corporation, or other entity at the time of the accident, and if so, identify said person or entity. If

so, describe Defendant Brown's and Defendant Benton's relationships to said individual and/or entity on March 26, 2009.

29. Was the tractor and/or trailer (please answer separately as to each) involved in the accident that is the subject of this law suit leased from any individual, firm, partnership, corporation, or other entity at the time of the accident, and if so, identify said person or entity. If so, describe Defendant Brown's and Defendant Benton's relationships to said individual and/or entity on March 26, 2009.

30. Is Defendant Brown still employed with Defendant Benton? If no, indicate the last date of his employment.

31. Please describe the methods by which funds were provided to Defendant Brown by Defendant Benton, so as to enable Defendant Brown to purchase fuel, lodging, food, and truck repairs while operating Defendant Benton's vehicles, and set for the name and account numbers for each charge account or credit card utilized in the three months prior to the accident that is the subject of this suit.

32. At the time of the accident that is the subject of this suit was there a co-driver and/or passenger in the vehicle with Defendant Brown? If so, please state that person's name, address, telephone number, reason for being present, and relationship to Defendant Brown and to Defendant Benton.

33. Identify all individuals, firms, partnerships, corporations and other entities by whom/which and/or for whom/which Defendant Brown was an agent, servant and/or employee on the date of the accident that is the subject of this suit and set forth as to each whether he was an agent, servant and/or employee.

34. Describe in detail the manner in which Defendant Brown was compensated by

Defendant Benton, including, but not limited to, salary, bonus, commission, and/or incentives and the basis for payment of each such type of compensation.

34. Provide a copy of Defendant Benton's annual report for the years ending 2008, 2009 and 2010.

35. State the name, address, employer, position and qualifications of the person or persons who downloaded information from the DDEC (Detroit Diesel) computer on the tractor-truck that was involved in this collision, after the accident that occurred on March 26, 2009.

McWHIRTER, BELLINGER & ASSOCIATES, P.A.
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