



VIA FAX TO:  
SENT VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

**RE: My Client:**  
**Your Insured:**  
**Claim #:**  
**Policy #:**  
**Date of Incident:**

Dear :

**NOTICE OF REPRESENTATION, NOTICE OF ATTORNEYS' LIEN, AND DEMAND  
TO PRESERVE EVIDENCE**

This law firm represents in a claim against arising from the above-referenced incident the particulars of which are listed above.

We are asserting an attorneys' lien pursuant to applicable state law, the exact amount of which is currently unknown because our total fee fluctuates based upon many factors, and because additional costs will be expended by our firm as the case develops. Please take all necessary steps to protect our attorneys' lien.

In addition, please take all steps necessary to preserve anything that might be evidence in connection with this incident. The items we are specifically asking you to preserve are outlined in **Exhibit 1**, attached. Failure to preserve or intentional destruction of these items could lead to additional causes of action against you and/or adverse evidentiary inferences at trial.

Your duty to preserve evidence extends to evidence that may not be on your physical premises, but is within or under your control. For example, if you use a satellite tracking device or other high-tech communication or tracking device, but you contract with another company to download or store your data, you are required to take, and I hereby request you take all steps necessary and within your power to make sure that such information is not destroyed due to the passage of time or otherwise. Your corporate representative can expect to provide sworn deposition testimony concerning this letter and your company's responsiveness to it.

In addition to the above mentioned sanctions and spoliation charges that may be a consequence of a failure to preserve evidence, there may be other civil and/or criminal penalties relating to destruction of evidence.

This letter is not intended to provide you with legal advice; it is intended to put you on notice of the existence of very serious claims against you and your company and to alert you so that you do not allow evidence to be destroyed.

Your insurance carrier may be able to help you with regard to understanding your duties regarding evidence and/or you may want to hire independent counsel to assist you.

We would like to arrange an inspection of and obtain a read-out from the electronic control module that was on the subject tractor at the time of the crash and at your earliest convenience. Please contact me to work out a mutually agreeable schedule for this.

If you are represented by counsel with regard to this matter, please advise me of that person's name, address and phone number and I will gladly direct all further communication through him or her.

If we do not receive a response to this letter within 10 days, we will file a lawsuit against .

,

/

Enclosure

CC:

## **EXHIBIT 1**

### **LIST OF ITEMS TO BE PRESERVED:**

1. All settlement sheets for loads hauled by your driver from for the 30 days prior to and inclusive of the date of this incident.
2. All agreements, contracts, written arrangements between your driver and including but not limited to any contracts to perform transportations services on your behalf.
3. All purchase contracts, lease or rental agreements involving the tractor or trailer(s) involved in this incident.
4. All tractor, trailer and/or equipment agreements, including but not limited to leases, rental agreements, lease back agreements, purchase agreements, etc.
5. All daily driver vehicle inspection reports and time records for the tractor and/or trailer(s) involved in this incident for the 30 days prior and inclusive of the date of this incident..
6. All repair orders and repair invoices the tractor and/or trailer(s) involved in this incident.
7. All company manuals, employee manuals, company-issued rules and/or regulations, directives or notices in effect on the date of this incident..
8. Any officers, executives or administrator's directives, bulletins or written instruments in reference to the day to day operating procedures to be followed by owner operators or your drivers inclusive of any documents related to disciplinary policies or procedures for late freight delivery.
9. Any toll bridges or toll crossings receipts or invoices for the 30 days prior to and inclusive of the date of this incident.

10. All trip reports, trip envelopes, and other documents relating to individual trips filed by you.

11. All accident files and records maintained in accordance with FMSCR Part 394. This includes, but is not limited to, any reports, correspondence or documentation sent to or received from the Federal Bureau of Motor Carrier Safety, reports made to other persons or organizations and reports made by you.

12. All documents showing communication checks by you with your driver, including the time, date and location of each such check.

13. All drivers "Daily Logs" and time records for the 30 days prior to and inclusive of the date of this incident.

14. All dispatch logs for your driver 30 days prior to and inclusive of the date of this incident.

15. The complete maintenance files kept pursuant to FMCSR, Part 396 on the tractor and trailer(s) involved in the incident inclusive of any inspections, repairs or maintenance done to the tractor and daily condition reports submitted by drivers.

16. All documents, books, records, and papers pertaining to the physical and mental health of your driver, including but not limited to, any long form of physical examination of driver done for any purpose in accordance with Section 391.41 of the Federal Motor Carrier Safety Regulations.

17. All bills of lading and other shipping documents for loads hauled by your driver for 30 days prior to and inclusive of the date of this incident.

18. Any operator and/or commercial driver licenses or copies thereof for your driver.

19. Procedures for and/or methods of communication with drivers.

20. Any instructions or examples given to drivers for completion of trip reports, daily logs or time records.

21. Documents reflecting procedures for loading.

22. Your drivers' entire employment file.

23. Any written documents, letters, directives, memorandums, notes, notices from your to your driver from his date of hire to present.

24. All dispatch records for your driver 30 days prior to and inclusive of the date of this incident.

25. All records and recordings by tachograph, speedograph or other recording devices reflecting information about the operation of the tractor and/or trailer(s) involved in this incident, but not limited to information about the date, time and rate of speed for 30 days prior to and inclusive of the date of this incident. If your driver operated different tractors during this time frame, provide responsive information for each tractor your driver operated.

26. All "drivers qualification files" and "drivers personnel file" for your driver.

27. All records reflecting reimbursement of your driver for advanced expenses 30 days prior to and inclusive of the date of this incident.

28. All reports of violations for your Driver filed with any motor carrier, at any time, in compliance with Section 391.27 (a) of the Federal Motor Carrier Safety Regulations.

29. All gasoline credit cards and other documents utilized by your or your driver for the purchase of fuel 30 days prior to and inclusive of the date of this incident.

30. All records of inspection, repair and maintenance for the tractor and trailer(s) in compliance with Section 396.3 of the Federal Motor Carrier Safety Regulations.

31. All applications for employment filed by your driver with any person, partnership, or corporation.
32. Documents reflecting correspondence between you and any issuing authority for operator and/or commercial driver licenses for motor vehicles in the last 5 years.
33. All objects, drawings, photographs, pictures, videotapes, reports, statements or other documents or other types of visual representation made concerning the incident.
34. The names, addresses and telephone numbers of all persons, partnerships or corporations who have contended in a lawsuit filed at any time that they have been injured or damaged in a collision with your driver.
35. Any written or recorded statement you or anyone on your behalf obtained from either Plaintiff.
36. Any written or recorded statement you or anyone on your behalf obtained from any witness to this incident.
37. Your drivers' cellular telephone records from 30 days prior to and inclusive of the date of this incident.
38. If you contend and/or allege that a mechanical failure, defect and/or problem with the tractor and/or trailer(s), please produce any documents, reports, records and/or any writings whatsoever which relate in any way to the alleged mechanical failure(s), defect(s) and/or problem(s) and/or which were generated as a result of any person examining the semi-tractor trailer and the alleged mechanical failure(s), defect(s) and/or problem(s).
39. All documents related to United States Department of Transportation (DOT) certifications issued for you in the period of 5 years prior to this incident through the present day, including, but not limited to:

- (a) applications for certification by the DOT,
- (b) certifications issued by the DOT,
- (c) documents submitted with any and all certification applications,
- (d) correspondence related to those applications and certifications and any and all documents related to 2(a) - 2(d), inclusive.

40. All documents related to random, roadside and/or annual inspections conducted by the DOT from two years prior to this crash and including the day of this crash for your driver.

41. The titles and/or certificates of ownership regarding both the tractor and/or trailer(s) involved in this crash.

42. Correspondence, e-mail, communications, memoranda and other documents exchanged by and between you and/or any of your representatives and any expert whom you anticipate will testify at trial, and all expert reports, and any drafts thereof.

43. A list of all crashes your driver was involved in during the three years preceding the date at issue, specifying the place, date and nature of each incident and any fatalities or injuries related thereto.

47. Your driver's Medical Examiner's certificate and last physical examination as required by 49 C.F.R §391.43, including but not limited to the following:

- a. last eye examination which he had prior to this crash;
- b. All drug and alcohol tests and results thereof taken or performed at any time;

- c. Waiver of physical disqualification as required by  
49 C.F.R §391.49.

48. Any policies of insurance and declarations pages which may afford insurance coverage to you for the claims set out in Plaintiff's Petition for Damages.

49. Copies of all United States Department of Transportation (DOT) reports, compliance reviews and notices of claims for you in the 2 years prior to this crash through the present day, including the day of this crash.

50. Copies of all petitions, demands for arbitration, written claims for payment or compensation, judgments and arbitration awards for all lawsuits, arbitrations and/or claims made against you arising out of any motor vehicle incident from 10 years before this crash through the present, inclusive.

51. The Company unit number of tractor involved in this accident.

52. Roadside inspection reports for the trailer for the last 12 months prior to the incident.

53. All police investigation reports arising from this incident, including supplemental investigations.

54. All medical records related to medical care rendered to your driver as a result of this incident.

55. Your Department of Transportation of Federal Motor Carrier Accident Register for the last three years.

56. Your alcohol and drug file maintained pursuant to 49 C.F.R §382.401.

57. Your post-accident drug and alcohol testing information, to include the time of the testing for each substance, the place of collection, name of collector, specimen collected,

name and address of the laboratory of testing, the name of the Medical Review Officer (MRO), results of all testing, and any reports detailing the testing or absence of testing as provided for in 49 C.F.R. 382.

58. Your pre-accident drug and alcohol testing information, including the time of the testing for each substance, the place of collection, name of collector, specimen collected, name and address of the laboratory of testing, the name of the Medical Review Officer (MRO), results of all testing, and any reports detailing the testing or absence of testing as provided for in 49 C.F.R. 382 for the three (3) years prior to this incident.

59. Your safety ratings as provided for in 49 C.F.R. §385.15 and 49 C.F.R. §385.17.

60. All Motor Carrier Identification Reports, investigation and inquiries under pursuant to 49 C.F.R. §391.23.

61. All records that would contain any information as to any cellular telephone calls made by your driver on the date of the accident within one hour of the accident.