

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
NEWNAN DIVISION**

KENT WHITE,

*Plaintiff,*

v.

PEMBERTON TRUCK LINES INC.;  
CHEROKEE INSURANCE  
COMPANY; WILLIAM EDWARD  
JOHNSON II; AND JOHN DOES 1-3

*Defendants.*

CIVIL ACTION

FILE NO.: 3:17-cv-00080-TCB

---

**CONSOLIDATED PRE-TRIAL ORDER**

---

1.

There are no motions or other matters pending for consideration by the court except as noted:

None. The parties intend to file motions in limine as authorized by the Court's Instructions to Parties and Counsel. In preparing this Pre-Trial Order, the parties discussed the possibility of certain motions and Plaintiff agreed to withdraw Plaintiff's negligent hiring/retention/training and punitive damages claims.

2.

All discovery has been completed, unless otherwise noted, and the court

will not consider any further motions to compel discovery. (Refer to LR 37.1B). Provided there is no resulting delay in readiness for trial, the parties shall, however, be permitted to take the depositions of any persons for the preservation of evidence and for use at trial.

**Plaintiff:** The parties plan to take the deposition for use in evidence of Paul Boston on November 7, 2017, as the parties have discussed. If Dr. Mark Albritton is not available on the date that the Court selects for trial (as discussed in emails with the Court dated 08/11/2017), then Plaintiff may to depose him for use at trial as well.

**Defendant:** Depositions for use at trial of Paul Boston, an out-of-state eyewitness has been scheduled for November 7, 2017. For-use depositions of individuals who are unable to appear live at trial, will be taken prior to trial.

3.

Unless otherwise noted, the names of the parties as shown in the caption to this Order and the capacity in which they appear are correct and complete, and there is no question by any party as to the misjoinder or non-joinder of any parties.

**Plaintiff and Defendant:** The names of the parties are correct.

4.

Unless otherwise noted, there is no question as to the jurisdiction of the court; jurisdiction is based upon the following code sections. (When there are multiple claims, list each claim and its jurisdictional basis separately.)

28 U.S.C. § 1332 (diversity); 28 U.S.C. § 1441 (removal)

5.

The following individually-named attorneys are hereby designated as lead counsel for the parties:

**Plaintiff:**

James E. Butler, III  
Darren M. Tobin  
1932 North Druid Hills Road, NE, Suite 250  
Atlanta, GA 30319  
[jeb@butlertobin.com](mailto:jeb@butlertobin.com)  
[darren@butlertobin.com](mailto:darren@butlertobin.com)

**Defendant:**

J. Robb Cruser  
Kathleen M. Hurley  
Maggie D. Beall  
Meridian II, Suite 2000  
275 Scientific Drive  
Norcross, GA 30092  
Phone: (404) 881-2622  
Fax: (404) 881-2630  
[rcruser@cmlawfirm.com](mailto:rcruser@cmlawfirm.com)  
[khurley@cmlawfirm.com](mailto:khurley@cmlawfirm.com)  
[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)

6.

Normally, the plaintiff is entitled to open and close arguments to the jury. (Refer to LR39.3(B)(2)(b)). State below the reasons, if any, why the plaintiff should not be permitted to open arguments to the jury.

**Plaintiff:** None.

**Defendant:** Defendants have no objection to Plaintiff opening arguments to the jury.

7.

The captioned case shall be tried by a jury.

8.

State whether the parties request that the trial to a jury be bifurcated, i.e. that the same jury consider separately issues such as liability and damages. State briefly the reasons why trial should or should not be bifurcated.

This is a straightforward case that can be heard in a single phase.

9.

Attached hereto as Attachment "A" and made a part of this order by reference are the questions which the parties request that the court propound to the jurors concerning their legal qualifications to serve.

10.

Attached hereto as Attachment "B-1" are the general questions which plaintiff wishes to be propounded to the jurors on voir dire examination.

Attached hereto as Attachment "B-2" are the general questions which defendant wishes to be propounded to the jurors on voir dire examination.

Attached hereto as Attachment "B-3", "B-4", etc. are the general questions which the remaining parties, if any, wish to be propounded to the jurors on voir dire examination.

The court, shall question the prospective jurors as to their address and occupation and as to the occupation of a spouse, if any. Counsel may be permitted to ask follow-up questions on these matters. It shall not, therefore, be necessary for counsel to submit questions regarding these matters. The determination of whether the judge or counsel will propound general voir dire questions is a matter of courtroom policy which shall be established by each judge.

11.

State any objections to plaintiff's voir dire questions:

**Defendant:** None

State any objections to defendant's voir dire questions:

**Plaintiff:** None.

12.

All civil cases to be tried wholly or in part by jury shall be tried before a jury consisting of not less than six (6) members, unless the parties stipulate otherwise. The parties must state in the space provided below the basis for any requests for additional strikes. Unless otherwise directed herein, each side as a group will be allowed the number of peremptory challenges as provided by 28 U.S.C. § 1870. See Fed.R.Civ.P. 47(b).

**Plaintiff and Defendant:** No additional strikes are necessary.

13.

State whether there is any pending related litigation. Describe briefly, including state and civil action number.

**Plaintiff and Defendant:** The parties are not aware of any pending related actions.

14.

Attached hereto as Attachment "C" is plaintiff's outline of the case which includes a succinct factual summary of plaintiff's cause of action and which shall be neither argumentative nor recite evidence. All relevant rules, regulations, statutes, ordinances, and illustrative case law creating a specific legal duty relied upon by plaintiff shall be listed under a separate heading. In negligence cases, each and every act of negligence relied upon shall be separately listed. For each item of damage claimed, plaintiff shall separately provide the following information: (a) a brief description of the item claimed, for example, pain and suffering; (b) the dollar amount claimed; and (c) a citation to the law, rule, regulation, or any decision authorizing a recovery for that particular item of damage. Items of damage not identified in this manner shall not be recoverable.

15.

Attached hereto as Attachment "D" is the defendant's outline of the case which includes a succinct factual summary of all general, special, and affirmative defenses relied upon and which shall be neither argumentative nor recite evidence. All relevant rules, regulations, statutes, ordinances, and illustrative case law relied upon as creating a defense shall be listed under a separate heading. For any counterclaim, the defendant shall separately provide the following information for each item of damage claimed: (a) a brief description of the item claimed; (b) the dollar amount claimed; and (c) a citation to the law, rule, regulation, or any decision authorizing a recovery for that particular item of damage. Items of damage not identified in this manner shall not be recoverable.

16.

Attached hereto as Attachment "E" are the facts stipulated by the parties. No further evidence will be required as to the facts contained in the stipulation and the stipulation may be read into evidence at the beginning of the trial or at such other time as is appropriate in the trial of the case. It is the duty of counsel to cooperate fully with each other to identify all undisputed facts. A refusal to do so may result in the imposition of sanctions upon the non-cooperating counsel.

17.

The legal issues to be tried are as follows:

Liability, causation, and damages.

18.

Attached hereto as Attachment "F-1" for the plaintiff, Attachment "F-2" for the defendant, and Attachment "F-3", etc. for all other parties is a list of all the witnesses and their addresses for each party. The list must designate the witnesses whom the party will have present at trial and those witnesses whom the party may have present at trial. Expert (any witness who might express an opinion under Rule 702), impeachment and rebuttal witnesses whose use as a witness can be reasonably anticipated must be included. Each party shall also attach to the list a reasonable specific summary of the expected testimony of each expert witness.

All of the other parties may rely upon a representation by a designated party that a witness will be present unless notice to the contrary is given ten (10) days prior to trial to allow the other party(s) to subpoena the witness or to obtain the witness' testimony by other means. Witnesses who are not included on the witness list (including expert, impeachment and rebuttal witnesses whose use should have been reasonably anticipated) will not be permitted to testify, unless expressly authorized by court order based upon a showing that the failure to comply was justified.

19.

Attached hereto as Attachment "G-1" for the plaintiff, "G-2" for the defendant, and "G3", etc. for all other parties are the typed lists of all documentary and physical evidence that will be tendered at trial. Learned treatises which are expected to be used at trial shall not be admitted as exhibits. Counsel are required, however, to identify all such treatises under a separate heading on the party's exhibit list.

Each party's exhibits shall be numbered serially, beginning with 1, and without the inclusion of any alphabetical or numerical subparts. Adequate space must be left on the left margin of each party's exhibit list for court stamping purposes. A courtesy copy of each party's list must be submitted for use by the judge.

Prior to trial, counsel shall mark the exhibits as numbered on the attached lists by affixing numbered yellow stickers to plaintiff's exhibits, numbered blue stickers to defendant's exhibits, and numbered white stickers to joint exhibits. When there are multiple plaintiffs or defendants, the surname of the particular plaintiff or defendant shall be shown above the number on the stickers for that party's exhibits.

Specific objections to another party's exhibits must be typed on a separate page and must be attached to the exhibit list of the party against whom the objections are raised. Objections as to authenticity, privilege, competency, and, to the extent possible, relevancy of the exhibits shall be included. Any listed document to which an objection is not raised shall be deemed to have been stipulated as to authenticity by the parties and shall be admitted at trial without further proof of authenticity.

Unless otherwise noted, copies rather than originals of documentary evidence may be used at trial. Documentary or physical exhibits may not be submitted by counsel after filing of the pretrial order, except upon consent of all the parties or permission of the court. Exhibits so admitted must be numbered, inspected by counsel, and marked with stickers prior to trial. Counsel shall familiarize themselves with all exhibits (and the numbering thereof) prior to trial. Counsel will not be afforded time during trial to examine exhibits that are or should have been listed.

20.

The following designated portions of the testimony of the persons listed below may be introduced by deposition:

**Plaintiff and Defendant:** Dr. Stephen McCollam, Dr. Terri Milburn, Preston Cunningham, Pemberton Truck Lines via Rule 30(b)(6), Bob Pemberton, and Paul Boston. The specific portions are outlined in the parties' Report Regarding Deposition Designations, except for Paul Boston, because his deposition has not occurred yet.

**Plaintiff:** If Dr. Mark Albritton is not available on the date that the Court selects for trial, as discussed in emails with the Court on August 11, 2017, then Plaintiff may need to call him by deposition as well. Currently, Plaintiff intends to call Dr. Albritton live, so his deposition has not been taken.

Any objections to the depositions of the foregoing persons or to any questions or answers in the depositions shall be filed in writing no later than the day the case is first scheduled for trial. Objections not perfected in this manner will be deemed waived or abandoned. All depositions shall be reviewed by counsel and all extraneous and unnecessary matter, including non-essential colloquy of counsel, shall be deleted. Depositions, whether preserved by stenographic means or videotape, shall not go out with the jury.

21.

Attached hereto as Attachments "H-1" for the plaintiff, "H-2" for the defendant, and "H-3", etc. for other parties, are any trial briefs which counsel may wish to file containing citations to legal authority concerning evidentiary questions and any other legal issues which counsel anticipate will arise during the trial of the case. Limitations, if any, regarding the format and length of trial briefs is a matter of



individual practice which shall be established by each judge.

22.

In the event this is a case designated for trial to the court with a jury, requests for charge must be submitted no later than 9:30 a.m. on the date on which the case is calendared (or specially set) for trial. Requests which are not timely filed and which are not otherwise in compliance with LR 51.1, will not be considered. In addition, each party should attach to the requests to charge a short (not more than one (1) page) statement of that party's contentions, covering both claims and defenses, which the court may use in its charge to the jury.

Counsel are directed to refer to the latest edition of the Eleventh Circuit District Judges Association's Pattern Jury Instructions and Devitt and Blackmar's Federal Jury Practice and Instructions in preparing the requests to charge. For those issues not covered by the Pattern Instructions or Devitt and Blackmar, counsel are directed to extract the applicable legal principle (with minimum verbiage) from each cited authority.

23.

If counsel desire for the case to be submitted to the jury in a manner other than upon a general verdict, the form of submission agreed to by all counsel shall be shown in Attachment "I" to this Pretrial Order. If counsel cannot agree on a special form of submission, parties will propose their separate forms for the consideration of the court.

**Plaintiff:** wishes to submit Attachment "I-1" to the jury.

**Defendant:** wishes to submit Attachment "I-2" to the jury.

24.

Unless otherwise authorized by the court, arguments in all jury cases shall be limited to one-half hour for each side. Should any party desire any additional time for argument, the request should be noted (and explained) herein.

**Plaintiff:** Requests an hour for closing arguments. The disputed issues here include liability, causation, *and* damages. Plaintiff must address the liability-

related testimony of not only Plaintiff and the non-party witnesses, but also three defense witnesses (Bob Pemberton, Preston Cunningham, and William Johnson). Plaintiff must address injury causation. Plaintiff must then address damages, which include multiple surgeries, pain and suffering, and diminished quality of life.

**Defendant:** Defendant requests an hour for the same reasons.

25.

If the case is designated for trial to the court without a jury, counsel are directed to submit proposed finding of fact and conclusions of law not later than the opening of trial.

26.

Pursuant to LR 16.3, lead counsel and persons possessing settlement authority to bind the parties are scheduled to meet in person on October 16, 2017<sup>1</sup>, to discuss in good faith the possibility of settlement of this case. The court ( ) has or (X) has not discussed settlement of this case with counsel. It appears at this time that there is:

**Plaintiff and Defendant:**

( ) A good possibility of settlement

( X ) Some possibility of settlement

( ) Little possibility of settlement

( ) No possibility of settlement

---

<sup>1</sup> See 9/26/2017 Emails with Court. This conference was initially scheduled for September 26, and then for October 2, and has now been rescheduled for October 16.

27.

Unless otherwise noted, the court will not consider this case for a special setting, and it will be scheduled by the clerk in accordance with the normal practice of the court.

The parties respectfully request a special setting, as discussed in emails with the Court on August 11, 2017.

28.

The plaintiff estimates that it will require 2-3 days to present its evidence. The defendant estimates that it will require 1-2 days to present its evidence. It is estimated that the total trial time is 3-5 days.

29.

IT IS HEREBY ORDERED that the above constitutes the pretrial order for the above captioned case ( ) submitted by stipulation of the parties or ( ) approved by the court after conference with the parties.

IT IS FURTHER ORDERED that the foregoing, including the attachments thereto, constitutes the pretrial order in the above case and that it supersedes the pleadings which are hereby amended to conform hereto and that this pretrial order shall not be amended except by Order of the court to prevent manifest injustice. Any attempt to reserve a right to amend or add to any part of the pretrial order after the pretrial order has been filed shall be invalid and of no effect and shall not be binding upon any party or the court, unless specifically authorized in writing by the court.

IT IS SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
The Honorable  
JUDGE UNITED STATES DISTRICT COURT

Each of the undersigned counsel for the parties hereby consents to entry of the foregoing pretrial order, which has been prepared in accordance with the form pretrial order adopted by this court.

**CRUSER, MITCHELL, NOVITZ,  
SANCHEZ, GASTON & ZIMET, LLP**

*/s/ Kathleen Hurley*

---

Meridian II, Suite 2000  
275 Scientific Drive  
Norcross, GA 30092  
(404) 881-2622  
(404) 881-2630 (Fax)  
[rcruser@cmlawfirm.com](mailto:rcruser@cmlawfirm.com)  
[khurley@cmlawfirm.com](mailto:khurley@cmlawfirm.com)  
[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)

**J. ROBB CRUSER**  
Georgia Bar No. 199480  
**KATHLEEN M. HURLEY**  
Georgia Bar No. 379659  
**MAGGIE D. BEALL**  
Georgia Bar No. 636320  
*Attorneys for Defendants*

**BUTLER TOBIN, LLC**

*/s/ J.E. Butler III*

---

1932 N. Druid Hills Road, NE  
Suite 250  
Atlanta, GA 30319  
(404) 587-8423  
(404) 581-5877 – fax  
[jeb@butlertobin.com](mailto:jeb@butlertobin.com)  
[darren@butlertobin.com](mailto:darren@butlertobin.com)

**JAMES E. BUTLER, III**  
Georgia Bar No. 116955  
**DARREN M. TOBIN**  
Georgia Bar No. 200383  
*Attorneys for Plaintiff*

## Attachment A

### **Plaintiff:**

1. Are you able to understand, speak, and read in the English language?
2. Do you have any injury, illness, or disability—either physical or mental—that would make it difficult for you to sit on this jury for a 3-5 day trial?<sup>2</sup>
3. Do you have any ownership interest or other financial ties with Pemberton Truck Lines, Inc., which is based in Knoxville, Tennessee?
4. Are you related by blood or marriage to Defendant William Johnson, who lives in Citra, Florida?
5. Do you own stock in, or have insurance through, Cherokee Insurance Company, which is based in Sterling Heights, Michigan?

### **Defendant:**

The questions which the Defendant request that the Court propound to the jurors concerning their legal qualifications to serve include the following:

1. Are you at least eighteen (18) years old and a citizen of the U.S.?
2. Are you able to read, write, and understand the English language?
3. Are you able to speak the English language?
4. Do you suffer from any mental or physical infirmities which might prevent you from satisfactorily carrying out your duties as a juror?
5. Are any prospective jurors, officers, directors, stockholders, or employees, or related by blood or marriage to any officers, directors, stockholders, employees of Cherokee Insurance Company?
6. Does any prospective juror have any personal, familial or financial

---

<sup>2</sup> See 28 U.S.C.A. § 1865(b)(3).

relationship with:

- a. Kent Allen White
  - b. Butler Tobin, LLC
  - c. Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP
  - d. William Edward Johnson, II
  - e. Pemberton Truck Lines, Inc.
  - f. Cherokee Insurance Company
  - g. Hon. Timothy C. Batten, Sr.
  - h. Any of Plaintiff's witnesses
7. To your knowledge, does any prospective juror have an interest, financial or otherwise, in the outcome of this case?

Attachment B-1

**Knowledge of Organizations and People**

1. Please raise your hand if you or a close friend or family member have ever worked for, or had business dealings with, Cherokee Insurance Company.
2. Please raise your hand if you or a close friend or family member have ever worked for, or had business dealings with, Pemberton Truck Lines.
3. Please raise your hand if you know:
  - a. Defendant William Johnson II, a former driver for Pemberton Truck Lines.
  - b. Bob Pemberton, president of Pemberton Truck Lines.
  - c. Preston Cunningham, director of safety and human resources for Pemberton Truck Lines.
  - d. *[any witness on Defendants' witness list]*
4. Please raise your hand if you or a close friend or family member have ever been represented by the law firm of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP.
5. Please raise your hand if you or a close friend or family member have ever worked for, or had business dealings with, the law firm of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP.
6. Do you know any of the following lawyers for Defendants Cherokee Insurance, Pemberton Truck Lines, and William Johnson:
  - a. J. Robb Cruser, lawyer for defendants?
  - b. Kathleen "Katy" Hurley, lawyer for defendants?
  - c. Maggie Beall *[pronounced like "Bell"]*, lawyer for defendants?

**Ties with Relevant Industries**

7. Please raise your hand if you or a close friend or family member have ever worked in the fields of claims adjusting, insurance, or risk management.

*[Follow up as appropriate—what person actually did in that field, where, and for how long.]*

8. Please raise your hand if you or a close friend or family member have ever worked in the trucking or logistics industry. *[Follow up as appropriate—what person actually did in that field, where, and for how long.]*
9. Please raise your hand if you or a close friend or family member have ever worked in the medical field. *[Follow up as appropriate—what person actually did in that field, where, and for how long.]*
10. Please raise your hand if you or a close friend or family member have ever worked in the legal field. *[Follow up as appropriate—what person actually did in that field, where, and for how long.]*
11. Please raise your hand if you are currently a student. *[Plaintiff requests that the Court follow up with students by asking what industry or job he or she intends to pursue upon graduation.]*

### **Attitudes and Beliefs Regarding Judicial System**

12. Please raise your hand if you believe that lawsuits are a drain on the economy.
13. Please raise your hand if you believe that lawsuits are costing us all too much money.
14. Please raise your hand if you believe that there are too many lawsuits, and the law should be changed so there were fewer.
15. Please raise your hand if you believe that jury verdicts are too high, and the law should be changed so they were lower.
16. Please raise your hand if you are opposed, for moral or philosophical reasons, to the idea of awarding money damages for physical injuries.
17. Please raise your hand if you *agree* with the statement that ‘if I were on a jury, I could not award damages for things like mental anguish or pain and suffering.’



18. Please raise your hand if you *could not* come back with a verdict that compensated the Plaintiff for his medical bills, assuming that the evidence supported it.
19. Please raise your hand if you *could not* come back with a verdict that compensated the Plaintiff for his pain and suffering, assuming that the evidence supported it.
20. Please raise your hand if you *could not* come back with a verdict that compensated the Plaintiff for changes to his life caused by the collision, assuming that the evidence supported it.

### **Experience with Damages**

21. Please raise your hand if you or a close friend or family member have ever had surgery on your shoulder. [*Plaintiff requests that the Court follow up by asking what kind of surgery it was and whether there were any lingering effects.*]
22. Please raise your hand if you or a close friend or family member have ever had surgery on your hand. [*Plaintiff requests that the Court follow up by asking what kind of surgery it was and whether there were any lingering effects.*]
23. Please raise your hand if you or a close friend or family member have received treatment for post-concussive syndrome. [*Plaintiff requests that the Court follow up by asking whether there were any lingering effects.*]

### **General**

24. Please raise your hand if you do **not** have a driver's license. [*Plaintiff requests that the Court follow up by asking whether that person has ever driven regularly, and when that person last drove regularly.*]
25. Please raise your hand if you have any management or supervisory responsibilities at your job.
26. Please raise your hand if you have ever owned your own business.

27. Please raise your hand if you have ever been a reverend, pastor, rabbi, or other religious leader.
28. Please raise your hand if you have ever called in to a radio talk show about something *other than* sports. [*Plaintiff requests that the Court follow up by asking when and what it was about.*]
29. Please raise your hand if, for any reason, you would be less than completely fair and impartial to both sides. I am not going to ask why. I just want to know if anyone feels that something in their background, experience, occupation, or anything else causes you to feel that it would be difficult for you to be fair and impartial in this particular case.
30. Please raise your hand if you would like to talk to us privately about any issue that has come up in jury selection or otherwise relates to your ability to hear this case as a juror.

Attachment B-2

**DEFENDANT'S GENERAL VOIR DIRE QUESTIONS**

1. Do you know or do you recognize any of the attorneys or parties present in court or any other members of the jury panel? If so, please explain the basis of this recognition.
2. Have you or has any close friend or family member that you are aware of ever made a claim against an insurance company for bodily injuries?
3. Do you know or are you in any way familiar with anyone by the name of Kent Allen White?
4. Do you have any training or experience in law? If so, please explain the nature and extent of training or experience in law.
5. Have you or any member of your immediate family ever received money as a result of a claim for bodily injuries? If so, please explain the nature of the event and ultimate outcome of the claim.
6. Have you or any member of your immediate family ever been injured in a car accident? If so, please explain.
7. Have you or any member of your immediate family ever been injured in an accident with a tractor-trailer? If so, please explain.
8. Have you or any member of your immediate family ever been denied an insurance claim? If so, please explain.
9. Have you or any member of your immediate family ever been a plaintiff or a defendant in a lawsuit? If so, please explain the nature of the lawsuit and whether or not you were satisfied with the outcome.
10. Do you believe that just because someone gets injured in a car accident that the insurance company should pay?
11. Do you believe that just because someone gets injured in a tractor-trailer accident that the trucking company should pay?
12. Have you ever testified in court or been a witness in a lawsuit?

13. Have you ever served on a jury?
14. If so, have you ever been a jury foreperson?
15. What was the result of the case?
16. Does anyone believe that tractor-trailers are generally responsible for car accidents?
17. Do you feel that you will be able to put aside personal sympathies in this case and follow the law as given to you by the judge?

## Attachment C

### **Succinct Factual Summary**

On April 24, 2015, an eighteen-wheeler owned by Pemberton Truck Lines and driven by William Johnson was heading south on a two-lane stretch of State Route 16. The eighteen-wheeler was driving too fast. It came up behind a garbage truck driven by Kent White, who was heading south on State Route 16 following his established route. As White tried to make a left turn, Johnson suddenly, negligently, and recklessly pulled into the opposite lane and tried to pass him. The Pemberton truck collided with the garbage truck. The collision knocked White unconscious. It caused serious injuries, including to White's arm, shoulder, and brain. As a result of the collision, Mr. White has undergone multiple surgeries, has received neurological care, and has lasting injuries.

### **Relevant Authorities and Acts of Negligence**

1. Official Code of Georgia Annotated:
  - a. O.C.G.A. § 40-6-46 (passing zones)
  - b. O.C.G.A. § 40-6-48 (maintaining lane)
  - c. O.C.G.A. § 40-6-44 (passing)
  - d. O.C.G.A. §§ 40-6-181, 40-6-182 (speed limits)
  - e. O.C.G.A. § 40-6-180 (reasonable and prudent speeds)
2. CDL Handbook (Plaintiff's Ex. 19):
  - a. 2.4.1

- b. 2.5.2
  - c. 2.6.5
  - d. 2.13.2
  - e. 2.20
3. Georgia Driver's Manual (Plaintiff's Ex. 14): § 5, p. 23
  4. Federal Motor Carrier Safety Regulations ("FMCSR"): § 395.11
  5. Johnson recklessly and negligently attempted to pass White on State Route 16.
  6. Johnson was negligent because he was driving while fatigued.

## **Damages**

1. Medical Bills
  - a. dollar amount claimed: \$216,392.58
  - b. authorized by: O.C.G.A. § 51-12-7 (necessary expenses); O.C.G.A. § 51-12-2(b) (special damages)
2. Physical Pain and Suffering (Past and Future)
  - a. dollar amount claimed: Intangible; to be determined by enlightened conscience of jury.
  - b. authorized by: O.C.G.A. § 51-12-2(a) (general damages); *St. Paul Fire & Marine Ins. Co. v. Dillingham*, 112 Ga. App. 422, 424-25 (1965)
3. Mental Pain and Suffering (Past and Future)
  - a. dollar amount claimed: Intangible; to be determined by enlightened conscience of jury.
  - b. authorized by: O.C.G.A. § 51-12-2(a) (general damages); *Williams v. Vinson*, 104 Ga. App. 886, 892-93 (1961)
4. Interference with Normal Living

- a. dollar amount claimed: Intangible; to be determined by enlightened conscience of jury.
- b. authorized by: O.C.G.A. § 51-12-2(b) (general damages); *Food Lion, Inc. v. Williams*, 219 Ga. App. 352, 355-56 (1995)

## Attachment D

### **DEFENDANT'S STATEMENT OF THE CASE**

This is a case involving an accident between a tractor-trailer and a commercial garbage truck. Defendants contend that Plaintiff was contributorily negligent, failed to exercise ordinary care and caused his injuries. After pulling out in front of the tractor-trailer driven by Defendant William Edward Johnson, II, Plaintiff failed to use his left turn signal, striking the right side of the tractor-trailer without warning as Defendant William Edward Johnson, II attempted to pass Plaintiff at the end of a passing zone. Defendants deny any negligence and further deny that Defendant William Johnson, III was the proximate cause of Plaintiff's alleged damages. Defendants further deny the nature and extent of Plaintiff's alleged damages.

Defendants contend that Plaintiff's Complaint fails to state a claim upon which relief can be granted against Defendant Pemberton Truck Lines, Inc. for negligent hiring and contracting of Defendant William Edward Johnson, II as Defendant Pemberton Truck Lines, Inc., admits that it is the employer of Defendant Johnson.

Defendants contend that Plaintiff fails to state a claim for punitive damages, as there is no evidence of willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care, which would raise the presumption of conscious indifference to the consequences by the Defendants in this matter. Alternatively, this Defendant shows that punitive damages, if any, are limited to a maximum of \$250,000, pursuant to O.C.G.A. § 51-12-5.1. Defendants reserve the right to supplement this response.

### **DEFENDANT'S ILLUSTRATIVE CASE LAW**

The Defendants believe that various statutes and cases may apply to this matter including, but not limited to:

Nail v. Green, 147 Ga. App. 660, 249 S.E.2d 666 (1978);

Wallace v. Yarbrough, 266 Ga. App. 184, 270 S.E.2d 357 (1988);

Turner v. Masters, 304 Ga. App. 855, 698 S.E.2d 346 (2010);

Willis v. Love, 232 Ga. App. 543, 502 S.E.2d 487 (1998);



Hutcherson v. Progressive Corp., 984 F.2d 1152 (11th Cir. 1993);

Durben v. Am. Materials, Inc., 232 Ga. App. 750, 503 S.E.2d 618 (1998);

S.E.2d 358 (1995);

O.C.G.A. § 51-11-7;

O.C.G.A. § 40-6-49;

O.C.G.A. § 51-12-13;

O.C.G.A. § 51-12-2;

O.C.G.A. § 51-12-3;

O.C.G.A. § 51-12-8;

O.C.G.A. § 51-12-6;

## Attachment E

### Plaintiff and Defendant:

1. This collision occurred on April 24, 2015 on State Route 16 in Coweta County, Georgia.
2. Both vehicles were driving south.
3. Defendant Johnson was attempting to pass Plaintiff White.
4. Defendant William Johnson was an employee of Defendant Pemberton Truck Lines, Inc. and was acting within the course and scope of his employment at the time of the collision. [See Pemberton's Resp. to Pl.'s 1<sup>st</sup> RFA Nos. 10-11 (Set 1).]
5. The "additional videos" and "additional training" that Bob Pemberton referred to his June 29, 2017 deposition (between times 10:33:09 and 10:33:35; and from page 38, line 21 to page 39, line 3 of the transcript) were the video regarding "Changing Lanes" and "Approaching Intersections" shown in the screenshot below. [See Pemberton's Resp. to Pl.'s 3<sup>rd</sup> RFA No. 1.]



## Attachment F-1

Plaintiff will have present at trial: Plaintiff Kent White

Plaintiff may have present at trial:

- Cameron Rosser – P.O. Box 586, Grantville, GA 30220
- Paul Boston – 4001 Camelback Rd., Apt Q26, Phoenix AZ 85019
- Promise Whitley – 45 Pine Needle Court, Newnan, GA 30263
- Sergeant K. Thompson – 517 Turkey Creek Road, Newnan, GA 30263
- Dr. Mark Albritton – 1336 GA-54, Fayetteville, GA 30214
- Yoshelda White – 501 Carlton Ln, Palmetto, Georgia 30268
- Fred Parks (neighbor)
- Bobby Strozier (neighbor)
- Katrina Melson (mother-in-law)
- Cory White (brother)
- Viondi White (brother)
- Ernest Mays (friend)
- Bishop Billy B. Avery (pastor)
- Rodney \_\_\_\_\_ (taught piano at Place of Refuge Church in Newnan)

- Records custodian (if necessary) for the video of the collision taken from the Waste Industries truck or other evidence listed in Attachment G-1.
- Any witnesses listed by Defendant
- Plaintiff notes that Defendant represented to Plaintiff that Defendant Johnson would be present at trial in an email on 7/27/2017, which said that he “will be present to testify at trial.” 2017-07-27 Email from Beall to Butler (“Exhibit A” to deposition of Defendant Johnson; “Attachment J” here).
- Plaintiff does not anticipate calling any retained experts. Some of the witnesses that Plaintiff may call—such as Plaintiff’s doctors or the law enforcement officers who responded to the scene—may qualify as experts, but the undersigned does not read this Order as requiring a “specific summary of the expected testimony” for those witnesses. To the extent that such a summary *is* required, Plaintiff directs Defendants to the deposition testimony of McCollam and Milburn, to the medical records of Albritton, and to the police report. If Plaintiff has mis-read this Order and a “specialized summary” is required for treating doctors or investigating officers, then Plaintiff will of course do whatever the Court directs.

Attachment F-2

**DEFENDANT'S WITNESS LIST**

Defendant will call at trial:

None

May call:

1. Kent Allen White
2. Paul Boston
3. Cameron Rosser
4. William Edward Johnson, II
5. Bob Pemberton
6. Preston Cunningham
7. Debra L. Davis
8. Officer K. Thompson, badge no. 0331
9. James Wagner, Custard Insurance Adjusters, Inc.
10. Lisa Shimko
11. Stephen McCollam, MD
12. Terri Milburn, MSN, FNP
13. Any witnesses identified by Plaintiff and who were also timely identified during the discovery period
14. Any custodian of any records listed in attachment G2

Attachment G-1

Exhibit Number	Description
1	Amended Notice of Video Deposition of Pemberton Tuck Lines 30(b)(6)
2	Defendant Pemberton Truck Lines, Inc.'s Responses and Objections to Plaintiff's Request for Admission to Pemberton Truck Lines, Inc.
3	Pemberton Truck Lines Employee Driver Handbook
4	Termination Record for CDL Drivers (CM003-CM004)
5	Pemberton Home Page
6	MCP50 Driver Guide – February 2012
7	Defendant Pemberton Response and Objections to Plaintiff's First Set of Interrogatories
8	Defendant Pemberton Second Supplemental Responses and Objections to Plaintiff's First Set of Interrogatories
9	Thumb drive containing video of collision from Waste Industries (two files) (mp4 format)
10	Photo of Cab of Truck
11	Photo of Truck Rim Damage

12	Photo of Truck Side Damage
13	Defendant William Edward Johnson, II's Responses and Objections to Plaintiff's First Interrogatories
14	2013 DDS Drivers Manual
15	Diagram of Accident
16	Photo - Aerial View of Stapler Rd.
17	Photo – Street view of Road
18	Scene Video _ (Photo of Last Frame)
19	Florida CDL Handbook 2015-2016
20	Idle Talk Newsletter, Feb 2015
21	Idle Talk Newsletter, March 2015
22	Idle Talk Newsletter, April 2015
23	Dr. McCollam CV
24	Dr. McCollam - Medical Records 05/06/2015 re Hand X-Ray

25	X-Ray – Lateral View
26	Dr. McCollam – 05/14/2015 - Operative Report – Tendon Transfer
27	Medical Illustration of Pulvertaft Weave
28-A	Medical Illustration of Tendon Surgery
28-B	Medical Illustration of Tendon Surgery – with Doctor Markings
29	Dr. Milburn - 09/01/2015 HL Medical Records –Midtown Neurology
30	Medical Illustration – Neurological Injury
31	Dr. Milburn - 11/10/2015 Medical Records–Midtown Neurology
32	Dr. Milburn - 05/24/2016 Medical Records –Midtown Neurology
33	Dr. Milburn - 10/03/2016 Medical Records –Midtown Neurology
34	07/18/2017 Emails regarding “Changing Lanes” and “Approaching Intersection” Videos
35	Plntfs 3 <sup>rd</sup> RFAs to Pemberton
36	Def. Pemberton’s Responses to Plntfs 3 <sup>rd</sup> RFAs



37	Thumb Drive – Containing 30(b)(6) Clip
38	Thumb Drive – Containing Three Training Videos
39	Video Still from Surveillance Footage in Waste Industry Truck and Scene Inspection Photo
40	Video Still Images of Scene Collision
41	2017-07-27 Email – Beall to JB3 re Johnson Present at Trial
42	Screenshot of Training Videos
43	Johnson’s Video Training Log
44	Map – Where Garbage Truck Entered SR-16
45	Map – Where Johnson allegedly began passing
46	Certified Citations Issued 04/24/2017
47	Photo of Johnson’s Current Truck
48	Dr. Albritton – Explanatory Image of Tendon of Bicep Muscle
49	Dr. Albritton – Explanatory Image of Rotator Cuff

50	Dr. Albritton – Explanatory Image of Labral Tear
51	Dr. Albritton – Explanatory Image of Three surgical Tools
52	Dr. Albritton – Explanatory Image of Five Surgical Tools
53	Dr. Albritton – 12/30/2015 Initial Office Visit Notes
54	Dr. Albritton - Operative Report
55	Dr. Albritton – 08/31/2016 – Office Visit Note – MMI
56	Dr. Albritton – 09/30/2016 – Office Visit Note
57	Dr. Albritton – 12/30/2016 – Office Visit Note
58	Photo of Kent White – Hand wrapped
59	Photo of Scar
60	Photo of Stitches in Forearm
61	Photo of Neck and Chest Cuts and Abrasions
62	Photo of Shoulder and Bicep Laceration

63	Photo of Arm Bruising
64	Photo of Bicep Laceration
65	Photo of Stiches in Wrist – 1
66	Photo of Stiches in Wrist – 2
67	Photo of Hand Lacerations – 1
68	Photo of Hand Lacerations – 2
69	Sergeant Thompson’s Dashcam Video
70	Photo of Garbage Truck in Ditch – Rear View
71	Photo of Roadway
72	Photo of Garbage Truck in Ditch – Side View – 1
73	Photo of Garbage Truck in Ditch – Side View – 2
74	Photo of Tow Truck and Roadway
75	Photo of Truck Rim – Taken by Johnson

76	Photo of Truck Damage – Side – Taken by Johnson
77	Photo of Truck Damage – Side – Taken by Johnson – No.2
78	Photo of Truck Damage – Side of Cab – Taken by Johnson
79	Photo of Truck Damage – Side of Cab – Taken by Johnson – No. 2
80	Photo of Truck Damage – Side Mirror – Taken by Johnson
81	Photo of Truck Damage – Side of Cab – Close Up – Taken by Johnson
82	Photo of Truck Damage – Connector – Take by Johnson
83	Photo of Truck Damage – Side – Close up – Taken by Johnson – 1
84	Photo of Truck Damage – Side – Close up – Taken by Johnson – 2
84	Photo of Truck Damage – Side – Close up – Taken by Johnson – 3
85	Photo of Truck Damage – Side – Close up – Taken by Johnson – 4
86	Photo of Truck Damage – Side – Close up – Taken by Johnson – 5
87	Photo of Truck Damage – Side – Close up – Taken by Johnson – 6

88	Photo of Truck Damage – Side – Close up – Taken by Johnson – 7
89	Photo of Truck Damage – Side – Broken Wire – Taken by Johnson
90	Photo of Truck Damage – Back of Cab – Taken by Johnson
91	Photo of Truck Damage – Tire – Taken by Johnson
92	Photo of Truck Damage – Rear – Taken by Johnson
93	Photo of Truck Damage – Front – Taken by Johnson
94	Photo of Truck Damage – Front and Side– Taken by Johnson
95	01/11/16 Wreck Report – Passing Insufficient Distance
96	05/19/2017 Henry County Abstract – Speeding Ticket – Certified
97	01/11/2016 Duval County – Disposition – Improper Lane Change – Certified
98	05/07/2015 Spoliation Letter to Cherokee Insurance
99	05/21/2015 Spoliation Letter to Cherokee Insurance No. 2
100	01/26/2017 Lee County Clerk – Driving School Completing Certificate

101	02/23/2017 Lee County Clerk – Driver Improvement School
102	02/14/2017 Florida MVR
103	09/15/2017 – Seat Belt Ticket
104	05/19/2009 Certified Speeding Ticket
105	04/24/2015 – Wreck Report
106	All Medical Records and Bills – Redacted
107	Medical Bill Recap
108	mm/dd/yyyy Def. Pemberton’s Response to Plntfs 4 <sup>th</sup> RFAs ( to be filed)
109	08/07/2017 Def. Johnson’s Second Supplemental Responses to Plntfs RPDs
110	08/07/2017 Def. Pemberton’s Responses to Plntfs 3 <sup>rd</sup> RFAs
111	07/27/2017 Def. Pemberton’s 2 <sup>nd</sup> Supplemental Responses to Plntfs RPDs
112	07/27/2017 Def. Pemberton’s Responses to Plntfs 2 <sup>nd</sup> RPDs
113	07/27/2017 Def. Cherokee’s Responses to Plntfs 2 <sup>nd</sup> RPDs

114	07/27/2017 Def. Johnson's Response to Plntfs 2 <sup>nd</sup> RPDs
115	07/28/2017 Def. Johnson's 3 <sup>rd</sup> Supplemental ROG Responses
116	06/12/2017 – Def. Pemberton Responses to Plnfs 2 <sup>nd</sup> RFAs
117	06/06/2017 – Def. Pemberton 2 <sup>nd</sup> Supplemental Responses to Plntfs ROGs
118	06/06/2017 – Def. Johnson 2 <sup>nd</sup> Supplemental Responses to Plntfs ROGs
119	05/05/2017 Def. Johnson's 1 <sup>st</sup> Supplemental Response to Plntfs RPDs
120	05/05/2017 Def. Johnson's 1 <sup>st</sup> Supplemental Response to Plntfs ROGs
121	2017-05-05 Def Pemberton Truck Lines' 1st Supp Resp to Plaintiff's 1st ROGs
122	2017-05-05 Def Cherokee Insurance Co 's 1st Supp Resp to Plaintiff's 1st RPDs
123	2017-05-05 Def Cherokee Insurance Co 's 1st Supp Resp to Plaintiff's 1st ROGs
124	2017-05-05 - Def Pemberton Truck Lines' 1st Supp Resp to Plaintiff's 1st RPDs
125	2017-04-05 Def. Johnson's Responses to Plntfs RPDs
126	2017-04-05 Def. Johnson's Responses to Plntfs ROGs

127	2017-04-05 Def Cherokee Insurance Responses to Pltf's 1st RPDs
128	2017-04-05 Def Cherokee Insurance Responses to Pltf's 1st ROGS
129	2017-03-30 Def. Cherokee Insurance's Response to Plntfs RFAs
130	03/17/2017 Def Johnson's Responses to Plntfs RFAs
131	03/17/2017 Def Cherokee's Responses to Plntfs RFAs
132	03/17/2017 Def Cherokee's Responses to Plntfs RPDs
133	03/17/2017 Def Johnson's Responses to Plntfs RPDs
134	03/17/2017 Def Pemberton's Responses to Plntfs RPDs
135	03/17/2017 Def Cherokee's Responses to Plntfs ROGs
136	01/16/2017 Complaint
137	02/14/2017 – Def. Johnson's Answer
138	02/14/2017 – Def. Cherokee's Answer
139	02/14/2017 – Def. Pemberton's Answer



140	07/30/2007 Moving Forward Stuck Vehicle Report (CM 0048-0050)
141	10/15/2010 Failure to Obey Traffic Control Device (CM 0028)
142	Internet Archive Affidavit
143	CM 001-CM 0002 -Cherokee Insurance Dec Page
144	CM 005-CM 103 Pemberton Truck Lines' File on W. Johnson II
145	CM 048 Pemberton Termination 05-23-2008
146	CM 105-CM 106 09-15-2006 Marion FL Traffic Citation
147	CM 107 05-19-2009 Holmes County FL - Traffic Citation
148	CM 108-CM 110 Coweta State court Disposition
149	CM 111 04-24-2015 Traffic Citation
150	CM 112-CM 117 Wreck Report 04-24-2015
151	CM 117-CM 126 Driver Daily Logs 04-16-15 to 04-25-15
152	CM 127-CM 130 04-24-2015 Alcohol and Drug Screening

153	CM 131-CM137 First Advantage Payroll History Report
154	CM 138 State of Tennessee International Registration Plan Apportioned Cab card
155	CM 139-CM 165 Pemberton Work Orders
156	CM 166-CM 168 Photos of Pemberton Truck
157	CM 169-CM 189 Pemberton Alcohol and Drug testing
158	CM 0190-CM 0251 -Pemberton Truck Lines - Employee Driver Handbook for Commercial MV Drivers
159	CM 252-CM 263 Safer System Info
160	CM 0264-0265 - Pemberton Loss Notice
161	CM 0266 - Cherokee Loss Notice
162	CM 00267-C0309 Color Photos from Custard
163	CM 00310 - CM 00315 Log of Johnson's Module Training
164	CM 00316 - 00317 Johnson's Pre- employment drug screening
165	CM 00318 - 00325 Johnson's Fuel Transaction Receipts

166	2015-04-16 to 04-25 Fuel Transaction History
167	2013-10-30 & 04-24-2015 Drug Test Results
168	Waste Industries Video – Original Format (two clips) (DCE File)
169	Written Declaration and Certification of Records of Regularly Conducted Activity Pursuant to O.C.G.A. § 24-9-902(11) and § 24-8-803(6) – Waste Industries Video

Attachment G-2

**DEFENDANTS' EXHIBIT LIST**

1. The driver qualification file of William Edward Johnson, II (CM 0003 – 0095)
2. Driver's daily logs, Driver daily inspections and supporting documents (CM 0117 – 0126)
3. State of Georgia Traffic Crash Report for the subject incident (CM 0112 – 0116)
4. Cherokee Insurance Company Loss Notice (CM 0266)
5. Pemberton Truck Lines Loss Notice (CM 0264 – 0265)
6. Maintenance records for the subject tractor (CM 0139 – 0165)
7. Maintenance records for the trailer
8. Photographs taken at the scene (CM 0267 – 0309)
9. Photographs of the subject tractor trailer (CM 0166 – 0168; 0326 – 0355)
10. Pemberton Truck Lines, Inc. Policies and Procedures Regarding Drugs and Alcohol (CM 0169 – 0189)
11. Pemberton Truck Lines, Inc. Employee Driver Handbook (CM 0190 – 0252)
12. Pemberton Truck Lines, Inc. Safety Measurement System statistics (CM 0253 – 0263)
13. Copy of Cherokee Insurance Policy Declarations Page (CM 0001 – 0002)
14. Copy of Driver Post-Accident Drug/Alcohol Test (CM 0127 – 0131)
15. List of Driver Drug/Alcohol Testing (CM 0316)
16. Copy of Driver Payroll History Report (CM 0132 – 0137)
17. Tennessee Registration Cab Card (CM 0138)
18. Record of Driver Training Modules (CM 0310 – 0315)
19. Driver Training Module Video: Adverse Driving Conditions
20. Driver Training Module Video: Approaching Intersections
21. Driver Training Module Video: Backing a Rig Safely
22. Driver Training Module Video: Bridges and Overpasses
23. Driver Training Module: Changing Lanes
24. Driver Training Module: Cleaning Out Trailer

25. Driver Training Module: Distracted Driver (Cell Phone)
26. Driver Training Module: Distracted Driving (Family at Cemetery)
27. Driver Training Module: Distracted Driving (Grocery Cart Worker)
28. Driver Training Module: Entering/Exit Truck Cab
29. Driver Training Module: Fatigue Management
30. Driver Training Module: Federal DOT CMV Medical Examinations Check List
31. Driver Training Module: FMCSA Hours of Service Rules and Regulations
32. Driver Training Module: Fuel Efficiency
33. Driver Training Module: HOS (New Series)
34. Driver Training Module: Jackknifing
35. Driver Training Module: Rest Stop Routines
36. Driver Training Module: Right Turns, Left Turns
37. Driver Training Module: Safe Lifting
38. Driver Training Module: Seatbelts
39. Driver Training Module: Sleep Apnea
40. Driver Training Module: Slips, Trips, and Falls
41. Driver Training Module: Speed Management
42. Driver Training Module: Tailgating
43. Driver Training Module: Three Points of Contact
44. Driver Training Module: Triangle Placement
45. Driver Training Module: Trucking Professionals Nutrition and Health
46. Record of Driver Fuel Transactions (CM 0317 – 0325)
47. Plaintiff's Certified Medical Records from Orthopaedic South Surgical Center
48. Plaintiff's Certified Medical Records from American Heath Imaging
49. Plaintiff's Certified Medical Records from American Medical Response
50. Plaintiff's Certified Medical Records from Resurgens Orthopaedics
51. Plaintiff's Certified Medical Records from Peachtree Orthopaedics
52. Plaintiff's Certified Medical Records from BenchMark Rehab Partners
53. Plaintiff's Certified Medical Records from Rocky Mountain Holdings, LLC
54. Plaintiff's Certified Medical Records from Midtown Neurology

55. Plaintiff's Certified Medical Records from Atlanta Medical Center
56. Plaintiff's Complaint
57. Plaintiff's Responses to Defendant Pemberton Truck Lines, Inc.'s Interrogatories
58. Plaintiff's Responses to Defendant Pemberton Truck Lines, Inc.'s Request for Production of Documents.

Attachment I-1

**Plaintiff's Verdict Form**

1. We the jury find:

a. \_\_\_\_\_ in favor of Plaintiff in the following amounts (*before* any reduction for fault):

i. \$\_\_\_\_\_ for medical bills

ii. \$\_\_\_\_\_ for physical pain and suffering (past and future)

iii. \$\_\_\_\_\_ for mental pain and suffering (past and future)

iv. \$\_\_\_\_\_ for interference with daily living

b. \_\_\_\_\_ in favor of Defendants

2. We the jury find fault in the following percentages (must add up to 100%):

a. \_\_\_\_\_ Pemberton Truck Lines and/or William Johnson

b. \_\_\_\_\_ Kent White

**SPECIAL VERDICT FORM**

**PART I: (Mark one)**

\_\_\_\_\_ We the jury find in favor of the Plaintiff.

OR

\_\_\_\_\_ We the jury find in favor of the Defendants.

If you find in favor of the Defendants, please stop and return this verdict to the Court. If you find in favor of the Plaintiff, please continue to Part II.

**PART II:**

With respect to the April 24, 2015 incident, please apportion negligence (by percentage), if any, as you find it to be, among the following: (A finding of zero percent negligence equals no negligence)

(a) Kent White \_\_\_\_\_

(b) William Edward Johnson, II \_\_\_\_\_

TOTAL (must equal 100%) 100%

If you find that Kent White's negligence is 50% or greater, please stop and return this verdict to the Court. If you find that Kent White's negligence is less than 50%, please continue to Part III.

**PART III:**

Without any reduction for your percentages of negligence, what is the total



amount of legally recoverable damages, if any, sustained by Plaintiff Kent White as a result of the April 24, 2015 incident? \$\_\_\_\_\_ (insert such sum in dollars and cents as you think Plaintiff is entitled to recover).

## Attachment J

## Sarah Hedrick

---

**From:** Jeb Butler  
**Sent:** Thursday, July 27, 2017 1:27 PM  
**To:** Maggie D. Beall, Esq.  
**Cc:** Sarah Hedrick; Kathleen M. Hurley, Esq.  
**Subject:** RE: White v. Pemberton et al.: [Defendant Johnson]

That handles it; thanks.

Jeb Butler  
**Butler Tobin LLC**  
1932 North Druid Hills Rd.  
Suite 250  
Atlanta, GA 30319  
Telephone: 404-587-8423  
Facsimile: 404-581-5877  
[jeb@butlertobin.com](mailto:jeb@butlertobin.com)  
[www.butlertobin.com](http://www.butlertobin.com)

The information contained in this email may be confidential and privileged. This email is intended only for the person it is addressed to within the body of the email—do not copy or distribute it to anyone else without express permission. If this email is not intended for you, please immediately notify us by phone or reply email and delete this message. Unless you have signed a written fee agreement with our firm, we do not represent you as your attorney.

---

**From:** Maggie D. Beall, Esq. [mailto:mbeall@cmlawfirm.com]  
**Sent:** Thursday, July 27, 2017 1:24 PM  
**To:** Jeb Butler <jeb@butlertobin.com>  
**Cc:** Sarah Hedrick <sarah@butlertobin.com>; Kathleen M. Hurley, Esq. <khurley@cmlawfirm.com>  
**Subject:** RE: White v. Pemberton et al.: [Defendant Johnson]

Jeb,

To my knowledge Mr. Johnson still lives in Florida. However, because he is a named party, he has been very cooperative and will be present to testify at trial. If you have any questions, please feel free to call me to discuss this afternoon.

Thanks,  
Maggie

Maggie D. Beall, Esq.  
Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP  
Atlanta Office  
Meridian II, Suite 2000  
275 Scientific Drive  
Norcross, Georgia 30092  
(678) 684-2148 direct  
(404) 881-2622 main line  
(404) 881-2630 facsimile  
[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)  
[www.cmlawfirm.com](http://www.cmlawfirm.com)

California | Florida | Georgia | Indiana | New Jersey | New York | Pennsylvania | South Carolina

This message and any attachments contain information from the law firm of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP and may contain information that is CONFIDENTIAL and/or legally protected under attorney work product, attorney-client communication, joint defense or another recognized privilege.

This information is intended only for use of those individuals and/or entities who were correctly named on the TO, CC and/or BCC lines above. If you are not one of the above-named recipients, or an unintended recipient, you are notified that your receipt of this message was inadvertent and you are not to read, copy, disseminate or otherwise use this message and attachments. You are further notified that any disclosure, copying, distribution or taking of any action in reliance on this message or attachments, without the express consent of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP, is strictly forbidden. The unauthorized use, dissemination, distribution or reproduction of this message, including attachments, is prohibited and may be unlawful. If you have received this message in error, please immediately delete the message, attachments and any hard drive copies, and notify sender so that the error may be corrected.

---

**From:** Jeb Butler [<mailto:jeb@butlertobin.com>]  
**Sent:** Thursday, July 27, 2017 11:03 AM  
**To:** Maggie D. Beall, Esq.  
**Cc:** Sarah Hedrick; Kathleen M. Hurley, Esq.  
**Subject:** RE: White v. Pemberton et al.: [Defendant Johnson]

Ms. Hurley and Ms. Beall,

Since I don't know where Defendant Johnson lives, I can't tell whether he's within the subpoena power of the Court—I never did get an answer to the emails below. I know that Johnson lived in Florida at one point, but I don't know if he's moved to GA or whether yall are flying him in for this deposition.

My thinking is that tomorrow I'll to take a deposition mainly aimed at discovery (though I'll take it for all purposes permitted by the Federal Rules). Then later if it appears necessary (because, for instance, Johnson is beyond the Court's subpoena power), I may take his deposition for use at trial, even if that second deposition comes after the discovery period is formally closed.

Please let me know if there is an objection to that plan. If there is, we might need to get it straightened out today.

Regards,  
Jeb

Jeb Butler  
**Butler Tobin LLC**  
1932 North Druid Hills Rd.  
Suite 250  
Atlanta, GA 30319  
Telephone: 404-587-8423  
Facsimile: 404-581-5877  
[jeb@butlertobin.com](mailto:jeb@butlertobin.com)  
[www.butlertobin.com](http://www.butlertobin.com)

The information contained in this email may be confidential and privileged. This email is intended only for the person it is addressed to within the body of the email—do not copy or distribute it to anyone else without express permission. If this email is not intended for you, please immediately notify us by phone or reply email and delete this message. Unless you have signed a written fee agreement with our firm, we do not represent you as your attorney.

---

**From:** Jeb Butler  
**Sent:** Sunday, July 16, 2017 1:04 PM  
**To:** 'Maggie D. Beall, Esq.' <[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)>

**Cc:** Sarah Hedrick <[sarah@butlertobin.com](mailto:sarah@butlertobin.com)>

**Subject:** RE: White v. Pemberton et al.: Written Discovery

Does Johnson reside in Georgia now, or is he still in Florida?

Jeb Butler

**Butler Tobin LLC**

1932 North Druid Hills Rd.

Suite 250

Atlanta, GA 30319

Telephone: 404-587-8423

Facsimile: 404-581-5877

[jeb@butlertobin.com](mailto:jeb@butlertobin.com)

[www.butlertobin.com](http://www.butlertobin.com)

The information contained in this email may be confidential and privileged. This email is intended only for the person it is addressed to within the body of the email—do not copy or distribute it to anyone else without express permission. If this email is not intended for you, please immediately notify us by phone or reply email and delete this message. Unless you have signed a written fee agreement with our firm, we do not represent you as your attorney.

---

**From:** Jeb Butler

**Sent:** Thursday, July 06, 2017 5:12 PM

**To:** Maggie D. Beall, Esq. <[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)>

**Cc:** Sarah Hedrick <[sarah@butlertobin.com](mailto:sarah@butlertobin.com)>

**Subject:** RE: White v. Pemberton et al.: Written Discovery

Thanks, & 2pm is fine. Where is he working?

NOD to follow.

---

**From:** Maggie D. Beall, Esq. [<mailto:mbeall@cmlawfirm.com>]

**Sent:** Thursday, July 6, 2017 5:10 PM

**To:** Jeb Butler <[jeb@butlertobin.com](mailto:jeb@butlertobin.com)>

**Subject:** RE: White v. Pemberton et al.: Written Discovery

He will be available in our office in Norcross on July 28<sup>th</sup>. Due to his work schedule, we are requesting a 2:00 pm start time.

Thanks,  
Maggie

Maggie D. Beall, Esq.

Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP

Atlanta Office

Meridian II, Suite 2000

275 Scientific Drive

Norcross, Georgia 30092

(678) 684-2148 direct

(404) 881-2622 main line

(404) 881-2630 facsimile

[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)

[www.cmlawfirm.com](http://www.cmlawfirm.com)

California | Florida | Georgia | Indiana | New Jersey | New York | Pennsylvania | South Carolina

This message and any attachments contain information from the law firm of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP and may contain information that is CONFIDENTIAL and/or legally protected under attorney work product, attorney-client communication, joint defense or another recognized privilege.

This information is intended only for use of those individuals and/or entities who were correctly named on the TO, CC and/or BCC lines above. If you are not one of the above-named recipients, or an unintended recipient, you are notified that your receipt of this message was inadvertent and you are not to read, copy, disseminate or otherwise use this message and attachments. You are further notified that any disclosure, copying, distribution or taking of any action in reliance on this message or attachments, without the express consent of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP, is strictly forbidden. The unauthorized use, dissemination, distribution or reproduction of this message, including attachments, is prohibited and may be unlawful. If you have received this message in error, please immediately delete the message, attachments and any hard drive copies, and notify sender so that the error may be corrected.

---

**From:** Jeb Butler [<mailto:jeb@butlertobin.com>]  
**Sent:** Thursday, July 06, 2017 5:06 PM  
**To:** Maggie D. Beall, Esq.  
**Cc:** Kathleen M. Hurley, Esq.; Sarah Hedrick  
**Subject:** RE: White v. Pemberton et al.: Written Discovery

I don't believe I've heard back yet on **where** Mr. Johnson is available. Once we know that, we can prepare NOD.

---

**From:** Jeb Butler  
**Sent:** Monday, June 26, 2017 5:24 PM  
**To:** Maggie D. Beall, Esq. <[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)>  
**Cc:** Kathleen M. Hurley, Esq. <[khurley@cmlawfirm.com](mailto:khurley@cmlawfirm.com)>; Sarah Hedrick <[sarah@butlertobin.com](mailto:sarah@butlertobin.com)>  
**Subject:** RE: White v. Pemberton et al.: Written Discovery

Let's depose Mr. Johnson on July 28. Where is he available?

Jeb Butler  
**Butler Tobin LLC**  
1932 North Druid Hills Rd.  
Suite 250  
Atlanta, GA 30319  
Telephone: 404-587-8423  
Facsimile: 404-581-5877  
[jeb@butlertobin.com](mailto:jeb@butlertobin.com)  
[www.butlertobin.com](http://www.butlertobin.com)

The information contained in this email may be confidential and privileged. This email is intended only for the person it is addressed to within the body of the email—do not copy or distribute it to anyone else without express permission. If this email is not intended for you, please immediately notify us by phone or reply email and delete this message. Unless you have signed a written fee agreement with our firm, we do not represent you as your attorney.

---

**From:** Maggie D. Beall, Esq. [<mailto:mbeall@cmlawfirm.com>]  
**Sent:** Monday, June 26, 2017 4:41 PM  
**To:** Jeb Butler <[jeb@butlertobin.com](mailto:jeb@butlertobin.com)>  
**Cc:** Kathleen M. Hurley, Esq. <[khurley@cmlawfirm.com](mailto:khurley@cmlawfirm.com)>; Sarah Hedrick <[sarah@butlertobin.com](mailto:sarah@butlertobin.com)>  
**Subject:** RE: White v. Pemberton et al.: Written Discovery

Hi Jeb,

I am still working on the verifications for Mr. Johnson and for Cherokee.

For Mr. Johnson's deposition, Katy is available July 24, 26, 27 and 28 as well as August 1, 2, and 3.

Please let me know if any of those dates work.

Thanks,  
Maggie

Maggie D. Beall, Esq.  
Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP  
Atlanta Office  
Meridian II, Suite 2000  
275 Scientific Drive  
Norcross, Georgia 30092  
(678) 684-2148 direct  
(404) 881-2622 main line  
(404) 881-2630 facsimile  
[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)  
[www.cmlawfirm.com](http://www.cmlawfirm.com)

California | Florida | Georgia | Indiana | New Jersey | New York | Pennsylvania | South Carolina

This message and any attachments contain information from the law firm of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP and may contain information that is CONFIDENTIAL and/or legally protected under attorney work product, attorney-client communication, joint defense or another recognized privilege.

This information is intended only for use of those individuals and/or entities who were correctly named on the TO, CC and/or BCC lines above. If you are not one of the above-named recipients, or an unintended recipient, you are notified that your receipt of this message was inadvertent and you are not to read, copy, disseminate or otherwise use this message and attachments. You are further notified that any disclosure, copying, distribution or taking of any action in reliance on this message or attachments, without the express consent of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP, is strictly forbidden. The unauthorized use, dissemination, distribution or reproduction of this message, including attachments, is prohibited and may be unlawful. If you have received this message in error, please immediately delete the message, attachments and any hard drive copies, and notify sender so that the error may be corrected.

---

**From:** Jeb Butler [<mailto:jeb@butlertobin.com>]  
**Sent:** Friday, June 23, 2017 12:56 AM  
**To:** Maggie D. Beall, Esq.  
**Cc:** Kathleen M. Hurley, Esq.; Sarah Hedrick  
**Subject:** RE: White v. Pemberton et al.: Written Discovery

Following up regarding the deposition of Defendant Johnson.

---

**From:** Jeb Butler  
**Sent:** Tuesday, June 13, 2017 10:53 AM  
**To:** Maggie D. Beall, Esq. <[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)>  
**Cc:** Kathleen M. Hurley, Esq. <[khurley@cmlawfirm.com](mailto:khurley@cmlawfirm.com)>  
**Subject:** RE: White v. Pemberton et al.: Written Discovery

Thanks.

Jeb Butler  
**Butler Tobin LLC**  
1932 North Druid Hills Rd.

Suite 250  
Atlanta, GA 30319  
Telephone: 404-587-8423  
Facsimile: 404-581-5877  
[jeb@butlertobin.com](mailto:jeb@butlertobin.com)  
[www.butlertobin.com](http://www.butlertobin.com)

The information contained in this email may be confidential and privileged. This email is intended only for the person it is addressed to within the body of the email—do not copy or distribute it to anyone else without express permission. If this email is not intended for you, please immediately notify us by phone or reply email and delete this message. Unless you have signed a written fee agreement with our firm, we do not represent you as your attorney.

---

**From:** Maggie D. Beall, Esq. [<mailto:mbeall@cmlawfirm.com>]  
**Sent:** Tuesday, June 13, 2017 10:45 AM  
**To:** Jeb Butler <[jeb@butlertobin.com](mailto:jeb@butlertobin.com)>  
**Cc:** Kathleen M. Hurley, Esq. <[khurley@cmlawfirm.com](mailto:khurley@cmlawfirm.com)>  
**Subject:** RE: White v. Pemberton et al.: Written Discovery

Jeb,

I have attached the verification of Pemberton Truck Lines. I am working on getting the other verifications as well.

Let's schedule Plaintiff's deposition for Wednesday July 12<sup>th</sup> at 2:00 PM at your office. I will prepare the notice and get it to you shortly.

I am still working on dates for Mr. Johnson's deposition. As soon as I hear from him, I will let you know.

Thanks,  
Maggie

Maggie D. Beall, Esq.  
Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP  
Atlanta Office  
Meridian II, Suite 2000  
275 Scientific Drive  
Norcross, Georgia 30092  
(678) 684-2148 direct  
(404) 881-2622 main line  
(404) 881-2630 facsimile  
[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)  
[www.cmlawfirm.com](http://www.cmlawfirm.com)

California | Florida | Georgia | Indiana | New Jersey | New York | Pennsylvania | South Carolina

This message and any attachments contain information from the law firm of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP and may contain information that is CONFIDENTIAL and/or legally protected under attorney work product, attorney-client communication, joint defense or another recognized privilege.

This information is intended only for use of those individuals and/or entities who were correctly named on the TO, CC and/or BCC lines above. If you are not one of the above-named recipients, or an unintended recipient, you are notified that your receipt of this message was inadvertent and you are not to read, copy, disseminate or otherwise use this message and attachments. You are further notified that any disclosure, copying, distribution or taking of any action in reliance on this message or attachments, without the express consent of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP, is strictly forbidden. The unauthorized use, dissemination, distribution or reproduction of this message, including attachments, is prohibited and may be unlawful. If you have received this message in error, please immediately delete the message, attachments and any hard drive copies, and notify sender so that the error may be corrected.



---

**From:** Jeb Butler [<mailto:jeb@butlertobin.com>]  
**Sent:** Saturday, June 10, 2017 11:24 AM  
**To:** Maggie D. Beall, Esq.  
**Cc:** Sarah Hedrick; Kathleen M. Hurley, Esq.  
**Subject:** RE: White v. Pemberton et al.: Written Discovery

Please provide discovery verifications for Defendants' interrogatory responses, as required by Para. 7 of the Court's Instructions. (This was also something Defendants agreed to do on 04/28/17, as shown below.)

Jeb Butler  
**Butler Tobin LLC**  
1932 North Druid Hills Rd.  
Suite 250  
Atlanta, GA 30319  
Telephone: 404-587-8423  
Facsimile: 404-581-5877  
[jeb@butlertobin.com](mailto:jeb@butlertobin.com)  
[www.butlertobin.com](http://www.butlertobin.com)

The information contained in this email may be confidential and privileged. This email is intended only for the person it is addressed to within the body of the email—do not copy or distribute it to anyone else without express permission. If this email is not intended for you, please immediately notify us by phone or reply email and delete this message. Unless you have signed a written fee agreement with our firm, we do not represent you as your attorney.

---

**From:** Jeb Butler  
**Sent:** Thursday, June 08, 2017 5:31 PM  
**To:** 'Maggie D. Beall, Esq.' <[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)>  
**Cc:** Sarah Hedrick <[sarah@butlertobin.com](mailto:sarah@butlertobin.com)>; Kathleen M. Hurley, Esq. <[khurley@cmlawfirm.com](mailto:khurley@cmlawfirm.com)>  
**Subject:** RE: White v. Pemberton et al.: Written Discovery

Maggie,

Plaintiff is available for deposition July 7, 12, or 13.

Please let me know when Defendant Johnson is available.

Regards,  
Jeb

Jeb Butler  
**Butler Tobin LLC**  
1932 North Druid Hills Rd.  
Suite 250  
Atlanta, GA 30319  
Telephone: 404-587-8423  
Facsimile: 404-581-5877  
[jeb@butlertobin.com](mailto:jeb@butlertobin.com)  
[www.butlertobin.com](http://www.butlertobin.com)

The information contained in this email may be confidential and privileged. This email is intended only for the person it is addressed to within the body of the email—do not copy or distribute it to anyone else without express permission. If this email is not intended

for you, please immediately notify us by phone or reply email and delete this message. Unless you have signed a written fee agreement with our firm, we do not represent you as your attorney.

---

**From:** Maggie D. Beall, Esq. [<mailto:mbeall@cmlawfirm.com>]  
**Sent:** Wednesday, June 07, 2017 9:36 AM  
**To:** Jeb Butler <[jeb@butlertobin.com](mailto:jeb@butlertobin.com)>  
**Cc:** Sarah Hedrick <[sarah@butlertobin.com](mailto:sarah@butlertobin.com)>; Kathleen M. Hurley, Esq. <[khurley@cmlawfirm.com](mailto:khurley@cmlawfirm.com)>  
**Subject:** RE: White v. Pemberton et al.: Written Discovery

Jeb,

The discovery responses are attached. Could you please send me dates for the Plaintiff's deposition?

Thanks,  
Maggie

Maggie D. Beall, Esq.  
Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP  
Atlanta Office  
Meridian II, Suite 2000  
275 Scientific Drive  
Norcross, Georgia 30092  
(678) 684-2148 direct  
(404) 881-2622 main line  
(404) 881-2630 facsimile  
[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)  
[www.cmlawfirm.com](http://www.cmlawfirm.com)

California | Florida | Georgia | Indiana | New Jersey | New York | Pennsylvania | South Carolina

This message and any attachments contain information from the law firm of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP and may contain information that is CONFIDENTIAL and/or legally protected under attorney work product, attorney-client communication, joint defense or another recognized privilege.

This information is intended only for use of those individuals and/or entities who were correctly named on the TO, CC and/or BCC lines above. If you are not one of the above-named recipients, or an unintended recipient, you are notified that your receipt of this message was inadvertent and you are not to read, copy, disseminate or otherwise use this message and attachments. You are further notified that any disclosure, copying, distribution or taking of any action in reliance on this message or attachments, without the express consent of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP, is strictly forbidden. The unauthorized use, dissemination, distribution or reproduction of this message, including attachments, is prohibited and may be unlawful. If you have received this message in error, please immediately delete the message, attachments and any hard drive copies, and notify sender so that the error may be corrected.

---

**From:** Jeb Butler [<mailto:jeb@butlertobin.com>]  
**Sent:** Thursday, June 01, 2017 8:55 PM  
**To:** Kathleen M. Hurley, Esq.; Maggie D. Beall, Esq.  
**Cc:** Sarah Hedrick  
**Subject:** Re: White v. Pemberton et al.: Written Discovery

By when will Defendants provide the information and discovery supplements?

Jeb Butler  
Butler Tobin LLC

(404) 587-8423  
1932 N. Druid Hills Rd. NE  
Suite 250  
[jeb@butlertobin.com](mailto:jeb@butlertobin.com)  
[www.butlertobin.com](http://www.butlertobin.com)

The information contained in this email may be confidential and privileged. This email is intended only for the person it is addressed to within the body of the email—do not copy or distribute it to anyone else without express permission. If this email is not intended for you, please immediately notify us by phone or reply email and delete this message. Unless you have signed a written fee agreement with our firm, we do not represent you as your attorney.

On May 30, 2017, at 18:12, Jeb Butler <[jeb@butlertobin.com](mailto:jeb@butlertobin.com)> wrote:

Thank you.

Jeb Butler  
**Butler Tobin LLC**  
1932 North Druid Hills Rd.  
Suite 250  
Atlanta, GA 30319  
Telephone: 404-587-8423  
Facsimile: 404-581-5877  
[jeb@butlertobin.com](mailto:jeb@butlertobin.com)  
[www.butlertobin.com](http://www.butlertobin.com)

The information contained in this email may be confidential and privileged. This email is intended only for the person it is addressed to within the body of the email—do not copy or distribute it to anyone else without express permission. If this email is not intended for you, please immediately notify us by phone or reply email and delete this message. Unless you have signed a written fee agreement with our firm, we do not represent you as your attorney.

---

**From:** Kathleen M. Hurley, Esq. [<mailto:khurley@cmlawfirm.com>]  
**Sent:** Tuesday, May 30, 2017 6:12 PM  
**To:** Jeb Butler <[jeb@butlertobin.com](mailto:jeb@butlertobin.com)>; Maggie D. Beall, Esq. <[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)>  
**Cc:** Sarah Hedrick <[sarah@butlertobin.com](mailto:sarah@butlertobin.com)>  
**Subject:** RE: White v. Pemberton et al.: Written Discovery

Jeb

Sorry for the delay. I have been out of the office and Maggie is out this week. I will look into your questions and get you what you need.

Sent on the new Sprint Network from my Samsung Galaxy S®4

----- Original message -----

From: Jeb Butler <[jeb@butlertobin.com](mailto:jeb@butlertobin.com)>  
Date: 05/29/2017 5:58 PM (GMT-05:00)

To: "Maggie D. Beall, Esq." <[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)>  
Cc: "Kathleen M. Hurley, Esq." <[khurley@cmlawfirm.com](mailto:khurley@cmlawfirm.com)>, Sarah Hedrick <[sarah@butlertobin.com](mailto:sarah@butlertobin.com)>  
Subject: RE: White v. Pemberton et al.: Written Discovery

Katy and Maggie,

Unless I missed them, I do not believe we received the discovery supplements referred to below *or* answers to the two questions asked in Plaintiff's 05/18/17 email.

Regards,  
Jeb Butler

Jeb Butler  
**Butler Tobin LLC**  
1932 North Druid Hills Rd.  
Suite 250  
Atlanta, GA 30319  
Telephone: 404-587-8423  
Facsimile: 404-581-5877  
[jeb@butlertobin.com](mailto:jeb@butlertobin.com)  
[www.butlertobin.com](http://www.butlertobin.com)

The information contained in this email may be confidential and privileged. This email is intended only for the person it is addressed to within the body of the email—do not copy or distribute it to anyone else without express permission. If this email is not intended for you, please immediately notify us by phone or reply email and delete this message. Unless you have signed a written fee agreement with our firm, we do not represent you as your attorney.

---

**From:** Jeb Butler  
**Sent:** Thursday, May 18, 2017 5:42 PM  
**To:** 'Maggie D. Beall, Esq.' <[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)>  
**Cc:** Kathleen M. Hurley, Esq. <[khurley@cmlawfirm.com](mailto:khurley@cmlawfirm.com)>; Sarah Hedrick <[sarah@butlertobin.com](mailto:sarah@butlertobin.com)>  
**Subject:** RE: White v. Pemberton et al.: Written Discovery

Thank you. When the discovery supplements are complete, please email copies of them over.

Defendants write in connection with ROG 17 that the subject truck had "a QUALCOMM system." However, Qualcomm is a large company that manufactures many systems. Please identify the Qualcomm device or system by model designation and year.

Defendants write in connection with ROG 20 that Pemberton "ran yearly checks into Defendant [Johnson]'s driving records, and checked the mileage records from his driving logs." What were the results? Please produce all documents relating to those audits, inquiries, or checks pursuant to RPD 36.

Jeb Butler  
**Butler Tobin LLC**  
1932 North Druid Hills Rd.  
Suite 250  
Atlanta, GA 30319  
Telephone: 404-587-8423  
Facsimile: 404-581-5877  
[jeb@butlertobin.com](mailto:jeb@butlertobin.com)  
[www.butlertobin.com](http://www.butlertobin.com)

The information contained in this email may be confidential and privileged. This email is intended only for the person it is addressed to within the body of the email—do not copy or distribute it to anyone else without express permission. If this email is not intended for you, please immediately notify us by phone or reply email and delete this message. Unless you have signed a written fee agreement with our firm, we do not represent you as your attorney.

---

**From:** Maggie D. Beall, Esq. [<mailto:mbeall@cmlawfirm.com>]  
**Sent:** Thursday, May 18, 2017 4:19 PM  
**To:** Jeb Butler <[jeb@butlertobin.com](mailto:jeb@butlertobin.com)>  
**Cc:** Kathleen M. Hurley, Esq. <[khurley@cmlawfirm.com](mailto:khurley@cmlawfirm.com)>; Sarah Hedrick <[sarah@butlertobin.com](mailto:sarah@butlertobin.com)>  
**Subject:** RE: White v. Pemberton et al.: Written Discovery

Hi Jeb,

Please see Defendants' completed responses to your additional questions below. Discovery will be supplemented accordingly.

1. *ROG 7 to Pemberton: This ROG sought the identities of certain persons, and Pemberton provided only a partial response. Because of some of the information that we have exchanged since the case began, Plaintiff does not need to request a full response to ROG 7. However, Plaintiff does request answers to the following:*
  - a. *Who was William Johnson's supervisor? **William Johnson did not have a traditional direct supervisor. He communicated with his assigned dispatcher, depending on the load and shift. He communicated any accidents or issues to a member of the Safety department, including Debbie Davis and Preston Cunningham. All other operations based issues were directed to John Pemberton.***
  - b. *To whom did William Johnson's supervisor report? **Preston Cunningham or Bob Pemberton.***
  - c. *Who at Pemberton investigated the collision? **Debbie Davis and Preston Cunningham.***
  - d. *Who assisted defense counsel in compiling responses to written discovery? (Plaintiff would normally figure this out from the verification, but I ask because we have not received that.) **Preston Cunningham.***
2. *ROG 17 to Pemberton: Please note that ROG 17 asked Pemberton to "[i]dentify all electronic devices capable of recording" certain electronic or GPS data. (Emphasis added). Pemberton's supplemental response says that "Defendant has no responsive documents." (Emphasis added). I am sure this is simple oversight, but please identify the devices as the interrogatory requests. **While the subject truck contained a QUALCOMM system, no data was pulled within the 7-day retrieval window before it was purged in the ordinary course of business.***
3. *ROG 20 to Pemberton: This ROG asks whether Pemberton ever conducted an audit, inquiry, or check into Johnson's driving records. Pemberton not answered. Please do so. **Pemberton ran yearly checks into Defendant's driving records, and checked the mileage records from his driving logs.***
4. *ROG 34 to Pemberton: This dealt with insurance. Was there any separate insurance policy that does, or may, provide coverage for the trailer? See OCGA 33-3-28 (substantive law). **There is no separate or excess insurance coverage other than the Cherokee Insurance policy no. CA150021.***
5. *RPD 13 to Pemberton: Please produce the "Distracted Driving quiz" and "Hours of Service quiz" to which Pemberton's response referred. **These documents have already been produced. See CM 0083 and CM 0084.***
6. *Annual certifications: Defendants wrote that there was no annual certification form for Johnson in 2015 because he resigned that year. 04/28/17 Email. On what date did Johnson resign, and when was the last date on which he drove for Pemberton? **Johnson resigned from Pemberton on 12/24/2015. This was also the last day that he drove for Pemberton.***
7. *ROG 22 to Johnson: This interrogatory asked into previous wrecks. This information is relevant to Plaintiff's negligent hiring and negligent retention claims. Please respond to the interrogatory, not merely by producing documents that may or may not contain the answer (because not all wrecks appear on an MVR), but by answering the question*

*asked.* Defendant recalls the following collisions: 04/24/15 and 01/11/16. See CM 0005-0010; CM 0018; CM 0020-0022; CM 0024-0029; CM 0041; CM 0053; CM 0064; CM 0097-0098.

8. *ROG 23 to Johnson: This interrogatory asked into previous driving violations. This information is relevant to Plaintiff's negligent hiring and negligent retention claims. Please respond to the interrogatory, not merely by producing documents (because not all violations appear on an MVR), but by answering the question asked.* Defendant recalls the following citations: Speeding (late 1980s), Speeding (1990s); Speeding (2005); Failure to obey signal (11/2011); Passing with insufficient distance (4/24/2015). See CM 0005-0010; CM 0018; CM 0020-0022; CM 0024-0029; CM 0041; CM 0053; CM 0064; CM 0097-0098.

Thanks,  
Maggie  
Maggie D. Beall, Esq.  
Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP  
Atlanta Office  
Meridian II, Suite 2000  
275 Scientific Drive  
Norcross, Georgia 30092  
(678) 684-2148 direct  
(404) 881-2622 main line  
(404) 881-2630 facsimile  
[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)  
[www.cmlawfirm.com](http://www.cmlawfirm.com)

California | Florida | Georgia | Indiana | New Jersey | New York | Pennsylvania | South Carolina

This message and any attachments contain information from the law firm of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP and may contain information that is CONFIDENTIAL and/or legally protected under attorney work product, attorney-client communication, joint defense or another recognized privilege.

This information is intended only for use of those individuals and/or entities who were correctly named on the TO, CC and/or BCC lines above. If you are not one of the above-named recipients, or an unintended recipient, you are notified that your receipt of this message was inadvertent and you are not to read, copy, disseminate or otherwise use this message and attachments. You are further notified that any disclosure, copying, distribution or taking of any action in reliance on this message or attachments, without the express consent of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP, is strictly forbidden. The unauthorized use, dissemination, distribution or reproduction of this message, including attachments, is prohibited and may be unlawful. If you have received this message in error, please immediately delete the message, attachments and any hard drive copies, and notify sender so that the error may be corrected.

---

**From:** Jeb Butler [<mailto:jeb@butlertobin.com>]  
**Sent:** Thursday, May 11, 2017 4:51 PM  
**To:** Maggie D. Beall, Esq.  
**Cc:** Kathleen M. Hurley, Esq.; Sarah Hedrick  
**Subject:** RE: White v. Pemberton et al.: Written Discovery

Thank you for your email.

If you ever need more time—for instance, because someone is out of town—all you have to do is ask. The date you propose for full responses, May 19, will be fine.

Jeb Butler  
**Butler Tobin LLC**  
1932 North Druid Hills Rd.  
Suite 250  
Atlanta, GA 30319  
Telephone: 404-587-8423  
Facsimile: 404-581-5877  
[jeb@butlertobin.com](mailto:jeb@butlertobin.com)  
[www.butlertobin.com](http://www.butlertobin.com)

The information contained in this email may be confidential and privileged. This email is intended only for the person it is addressed to within the body of the email—do not copy or distribute it to anyone else without express permission. If this email is not intended for you, please immediately notify us by phone or reply email and delete this message. Unless you have signed a written fee agreement with our firm, we do not represent you as your attorney.

---

**From:** Maggie D. Beall, Esq. [<mailto:mbeall@cmlawfirm.com>]  
**Sent:** Thursday, May 11, 2017 4:46 PM  
**To:** Jeb Butler <[jeb@butlertobin.com](mailto:jeb@butlertobin.com)>  
**Cc:** Kathleen M. Hurley, Esq. <[khurley@cmlawfirm.com](mailto:khurley@cmlawfirm.com)>; Sarah Hedrick <[sarah@butlertobin.com](mailto:sarah@butlertobin.com)>  
**Subject:** RE: White v. Pemberton et al.: Written Discovery

Jeb,

You requested the information below this past Sunday on May 7, 2017, and on Tuesday May 9, 2017, suddenly demanded that Defendant respond with the information by today, Thursday May 11, 2017 by the close of the business day. Defendant has not had adequate time to gather the information due to Safety Director Preston Cunningham being out of the office this week. However, Defendant has made a good faith effort to respond. Please see Defendants' responses to your additional questions below. Discovery will be supplemented accordingly.

1. *ROG 7 to Pemberton: This ROG sought the identities of certain persons, and Pemberton provided only a partial response. Because of some of the information that we have exchanged since the case began, Plaintiff does not need to request a full response to ROG 7. However, Plaintiff does request answers to the following:*

- a. *Who was William Johnson's supervisor? Information to be obtained from Preston Cunningham when he returns to the office next week, and supplemented to Plaintiff by May 19<sup>th</sup>.*
- b. *To whom did William Johnson's supervisor report? Preston Cunningham*
- c. *Who at Pemberton investigated the collision? Debbie Davis and Preston Cunningham*
- d. *Who assisted defense counsel in compiling responses to written discovery? (Plaintiff would normally figure this out from the verification, but I ask because we have not received that.) Preston Cunningham*

2. *ROG 17 to Pemberton: Please note that ROG 17 asked Pemberton to "[i]dentify all electronic devices capable of recording" certain electronic or GPS data. (Emphasis added). Pemberton's supplemental response says that "Defendant has no responsive documents." (Emphasis added). I am sure this is simple oversight, but please identify the devices as the interrogatory requests. Information to be obtained from Preston Cunningham when he returns to the office next week, and supplemented to Plaintiff by May 19<sup>th</sup>.*

3. *ROG 20 to Pemberton: This ROG asks whether Pemberton ever conducted an audit, inquiry, or check into Johnson's driving records. Pemberton not answered. Please do so. Information to be obtained from Preston Cunningham when he returns to the office next week, and supplemented to Plaintiff by May 19<sup>th</sup>.*

4. *ROG 34 to Pemberton: This dealt with insurance. Was there any separate insurance policy that does, or may, provide coverage for the trailer? See OCGA 33-3-28 (substantive law). Information to be obtained from Preston Cunningham when he returns to the office next week, and supplemented to Plaintiff by May 19<sup>th</sup>.*

5. *RPD 13 to Pemberton: Please produce the "Distracted Driving quiz" and "Hours of Service quiz" to which Pemberton's response referred. These documents have already been produced. See CM 0083 and CM 0084.*

6. *Annual certifications: Defendants wrote that there was no annual certification form for Johnson in 2015 because he resigned that year. 04/28/17 Email. On what date did Johnson resign, and when was the last date on which he drove for Pemberton? Information to be obtained from Preston Cunningham when he returns to the office next week, and supplemented to Plaintiff by May 19<sup>th</sup>.*

7. *ROG 22 to Johnson: This interrogatory asked into previous wrecks. This information is relevant to Plaintiff's negligent hiring and negligent retention claims. Please respond to the interrogatory, not merely by producing documents that may or may not contain the answer (because not all wrecks appear on an MVR), but by answering the question*

*asked.* Per the numerous documents produced, Defendant recalls the following collisions: 04/24/15 and 01/11/16. See CM 0005-0010; CM 0018; CM 0020-0022; CM 0024-0029; CM 0041; CM 0053; CM 0064; CM 0097-0098.

8. *ROG 23 to Johnson: This interrogatory asked into previous driving violations. This information is relevant to Plaintiff's negligent hiring and negligent retention claims. Please respond to the interrogatory, not merely by producing documents (because not all violations appear on an MVR), but by answering the question asked.* Per the numerous documents produced, Defendant recalls the following citations: Speeding (late 1980s), Speeding (1990s); Speeding (2005); Failure to obey signal (11/2011); Passing with insufficient distance (4/24/2015). See CM 0005-0010; CM 0018; CM 0020-0022; CM 0024-0029; CM 0041; CM 0053; CM 0064; CM 0097-0098.

Thank you for your patience.

Thanks,  
Maggie  
Maggie D. Beall, Esq.  
Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP  
Atlanta Office  
Meridian II, Suite 2000  
275 Scientific Drive  
Norcross, Georgia 30092  
(678) 684-2148 direct  
(404) 881-2622 main line  
(404) 881-2630 facsimile  
[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)  
[www.cmlawfirm.com](http://www.cmlawfirm.com)

California | Florida | Georgia | Indiana | New Jersey | New York | Pennsylvania | South Carolina

This message and any attachments contain information from the law firm of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP and may contain information that is CONFIDENTIAL and/or legally protected under attorney work product, attorney-client communication, joint defense or another recognized privilege.

This information is intended only for use of those individuals and/or entities who were correctly named on the TO, CC and/or BCC lines above. If you are not one of the above-named recipients, or an unintended recipient, you are notified that your receipt of this message was inadvertent and you are not to read, copy, disseminate or otherwise use this message and attachments. You are further notified that any disclosure, copying, distribution or taking of any action in reliance on this message or attachments, without the express consent of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP, is strictly forbidden. The unauthorized use, dissemination, distribution or reproduction of this message, including attachments, is prohibited and may be unlawful. If you have received this message in error, please immediately delete the message, attachments and any hard drive copies, and notify sender so that the error may be corrected.

---

**From:** Jeb Butler [<mailto:jeb@butlertobin.com>]  
**Sent:** Tuesday, May 09, 2017 10:45 PM  
**To:** Maggie D. Beall, Esq.  
**Cc:** Kathleen M. Hurley, Esq.; Sarah Hedrick  
**Subject:** Re: White v. Pemberton et al.: Written Discovery

Please respond by the close of business on Thursday, May 11.

Jeb Butler  
Butler Tobin LLC  
(404) 587-8423  
1932 N. Druid Hills Rd. NE  
Suite 250  
[jeb@butlertobin.com](mailto:jeb@butlertobin.com)  
[www.butlertobin.com](http://www.butlertobin.com)



The information contained in this email may be confidential and privileged. This email is intended only for the person it is addressed to within the body of the email—do not copy or distribute it to anyone else without express permission. If this email is not intended for you, please immediately notify us by phone or reply email and delete this message. Unless you have signed a written fee agreement with our firm, we do not represent you as your attorney.

On May 7, 2017, at 16:04, Jeb Butler <[jeb@butlertobin.com](mailto:jeb@butlertobin.com)> wrote:

Ms. Hurley and Ms. Beall,

Thank you for the formal discovery supplements that you emailed to me on 05/05/17. I believe the issues are narrowed.

A few follow-ups:

1. ROG 7 to Pemberton: This ROG sought the identities of certain persons, and Pemberton provided only a partial response. Because of some of the information that we have exchanged since the case began, Plaintiff does not need to request a *full* response to ROG 7. However, Plaintiff does request answers to the following:
  - a. Who was William Johnson's supervisor?
  - b. To whom did William Johnson's supervisor report?
  - c. Who at Pemberton investigated the collision?
  - d. Who assisted defense counsel in compiling responses to written discovery? (Plaintiff would normally figure this out from the verification, but I ask because we have not received that.)
2. ROG 17 to Pemberton: Please note that ROG 17 asked Pemberton to “[i]dentify all electronic devices capable of recording” certain electronic or GPS data. (Emphasis added). Pemberton's supplemental response says that “Defendant has no responsive *documents*.” (Emphasis added). I am sure this is simple oversight, but please *identify the devices* as the interrogatory requests.
3. ROG 20 to Pemberton: This ROG asks whether Pemberton ever conducted an audit, inquiry, or check into Johnson's driving records. Pemberton not answered. Please do so.
4. ROG 34 to Pemberton: This dealt with insurance. Was there any separate insurance policy that does, *or may*, provide coverage for the trailer? See OCGA 33-3-28 (substantive law).
5. RPD 13 to Pemberton: Please produce the “Distracted Driving quiz” and “Hours of Service quiz” to which Pemberton's response referred.

6. Annual certifications: Defendants wrote that there was no annual certification form for Johnson in 2015 because he resigned that year. 04/28/17 Email. On what date did Johnson resign, and when was the last date on which he drove for Pemberton?
  
7. ROG 22 to Johnson: This interrogatory asked into previous wrecks. This information is relevant to Plaintiff's negligent hiring and negligent retention claims. Please respond to the interrogatory, not merely by producing documents that may *or may not* contain the answer (because not all wrecks appear on an MVR), but by answering the question asked.
  
8. ROG 23 to Johnson: This interrogatory asked into previous driving violations. This information is relevant to Plaintiff's negligent hiring and negligent retention claims. Please respond to the interrogatory, not merely by producing documents (because not all violations appear on an MVR), but by answering the question asked.

Regards,  
Jeb Butler

---

**From:** Jeb Butler  
**Sent:** Wednesday, May 3, 2017 6:52 PM  
**To:** Maggie D. Beall, Esq. <[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)>  
**Cc:** Kathleen M. Hurley, Esq. <[khurley@cmlawfirm.com](mailto:khurley@cmlawfirm.com)>; Sarah Hedrick <[sarah@butlertobin.com](mailto:sarah@butlertobin.com)>  
**Subject:** RE: White v. Pemberton et al.: Written Discovery

Ms. Hurley and Ms. Beall,

Thank you for your email. I will look forward to receiving the supplemental responses that Defendants are to send on 05/05/17. While I disagree with much of what Defendants wrote below, it does not seem necessary or productive to argue every issue to its conclusion. Plaintiff can decide what action is necessary upon receipt of Defendants' formal responses.

To the extent it may influence Defendants' responses, it is Plaintiff's position that a litigant is entitled to a *final answer* to a meritorious, unobjectionable discovery request. That is, in response to a meritorious, unobjectionable request, the requesting party is entitled to know:

1. whether the sought-after evidence or information exists, or does not; and
2. whether the sought-after evidence or information has been produced, or has not.

Once the deadline for response has passed, it is *not* appropriate for a litigant to provide partial answers and claim that it "will supplement" later. If a party dribbles out discovery over the months-long course of a case, depositions may need to be retaken and earlier depositions may prove to have been unnecessary. That wastes everyone's time. Plaintiff seeks final answers (particularly as to important issues like GPS or electronic truck records) so that we can know what we are dealing with and move this litigation to the next stage.

"Generally, a party's unequivocal assertion that all documents have been produced pursuant to a discovery request is dispositive." *Allstate Ins. Co. v. Vizcay*, 2013 WL 12157472. at \*2 (M.D. Fla. 2013).

You mentioned a demand. Plaintiff will make an offer soon. If you need a date certain for that, let me know and I will provide one. As I recall, what I said was that Plaintiff would *gather medical records*, which we are still receiving, and make an offer (see joint preliminary report).

Please send the supplemental responses via FedEx or UPS with a tracking number. As you may remember, last time we had some difficulties with the mail, which I think was caused by USPS assigning a new mailperson to our office area.

Regards,  
Jeb Butler

Jeb Butler  
**Butler Tobin LLC**  
1932 North Druid Hills Rd.  
Suite 250  
Atlanta, GA 30319  
Telephone: 404-587-8423  
Facsimile: 404-581-5877  
[jeb@butlertobin.com](mailto:jeb@butlertobin.com)  
[www.butlertobin.com](http://www.butlertobin.com)

The information contained in this email may be confidential and privileged. This email is intended only for the person it is addressed to within the body of the email—do not copy or distribute it to anyone else without express permission. If this email is not intended for you, please immediately notify us by phone or reply email and delete this message. Unless you have signed a written fee agreement with our firm, we do not represent you as your attorney.

---

**From:** Maggie D. Beall, Esq. [<mailto:mbeall@cmlawfirm.com>]  
**Sent:** Wednesday, May 03, 2017 4:24 PM  
**To:** Jeb Butler <[jeb@butlertobin.com](mailto:jeb@butlertobin.com)>  
**Cc:** Kathleen M. Hurley, Esq. <[khurley@cmlawfirm.com](mailto:khurley@cmlawfirm.com)>; Sarah Hedrick <[sarah@butlertobin.com](mailto:sarah@butlertobin.com)>  
**Subject:** FW: White v. Pemberton et al.: Written Discovery

Jeb,

You are correct in that Plaintiff served these discovery requests contemporaneously with the Complaint. However, the case was then removed to federal court. We did not require Plaintiff to re-file its discovery requests when it was removed to federal court, nor did we object to the fact that you had more than 25 interrogatories (including all subparts), as we did not wish to burden the court with unnecessary motions. (FYI: Plaintiff's served Mr. Johnson with 36 Interrogatories, served Pemberton Truck Lines with 36 Interrogatories, and served Cherokee Insurance Company with 10 Interrogatories, all not including any subparts). However, it seems that this professional courtesy was done in vain. Perhaps we should have not responded to Plaintiff's discovery requests, and insisted that you file a motion for leave to amend the requests in order to comply with the federal rules. Instead, we chose to work with you since we are of the opinion that dealing with discovery in a hyper-adversarial way only aggravates litigation and drives up legal fees. It is our hope that the parties will be more flexible and amicable to one another moving forward. We will continue to work with you, reiterate to you that we are not hiding or withholding any documents, and convey that we will get you the things and information you are asking for in a timely manner.

Further, we have tried to make it clear that we would like to try and resolve this case. During the Rule 26(f) Conference, Katy asked you for a demand, but we still have not received one. Please send us a demand so that we can attempt to resolve this case without the cost of unnecessary discovery disputes.

In response to your most recent email, we reply specifically below:

1. *Date for Completion.* Responses were due a long time ago. At this late date it is insufficient to write, as Defendants have, that "Defendants are working to compile and supplement any and all responses as it receives

*such documents or materials.” Defendants much search and produce all information in Defendants’ possession, custody, or control. See Allstate Ins. Co. v. Vizcay, 2013 WL 12157472. at \*2 (M.D. Fla. 2013) (parties must conduct “diligent and thorough search”); Continental Cas. Co. v. Compass Bank, 2006 WL 533510, at \*17 (S.D. Ala. 2006) (same); In re: Steiefel Laboratories Inc. v. Brookstone Pharmaceuticals, L.L.C., 2011 WL 13136820, at \*4 (N.D. Ga. 2011) (Special Master) (same); accord Commodores Entertainment Corp. v. McClary, 2015 WL 12843873, at \*3 (M.D. Fla. 2015) (“The time for Plaintiff to complete its production of documents has come.”).*

*It is insufficient to write, as Defendants have, that Defendants “will supplement” at some unknown, unspecified future date. **BY WHEN will Defendants produce all responsive evidence and information?***

It is not insufficient to write, as Defendants have, that Defendants “will supplement” without providing a specific date. This case was removed to federal court on February 14, 2017—and discovery has just begun! While you continue to act as if we have been avoiding responding to discovery for several months, the discovery period for this case began on March 16, 2017. Meaning that at the earliest, Defendant’s discovery responses would have been due April 17, 2017. Defendants responded to Plaintiff’s Interrogatories and Requests for Production of Documents on April 5, 2017. As we have previously reiterated, Defendants have been working to compile and supplement any and all responses as it receives such documents or materials. **Defendants cannot be expected to instantly have anything and everything the Plaintiff demands, especially since Plaintiff’s requests were so voluminous, overly broad and unduly burdensome.** However, after a diligent and thorough search, we have no additional documents to produce and will supplement our responses by Friday, May 5, 2017.

2. *Completeness of Responses. Defendants state, many times, that “As previously stated, Defendants are not withholding information or documents.” That is good so far as it goes, because “[g]enerally, a party’s unequivocal assertion that all documents have been produced pursuant to a discovery request is dispositive.” Allstate Ins. Co. v. Vizcay, 2013 WL 12157472. at \*2 (M.D. Fla. 2013). However, Plaintiff presumed upon sending Plaintiff’s 04/14/17 email that Defendants had completed the reasonable and thorough search that the Federal Rules require. Defendants’ recent email calls that presumption into question.*

***Where Defendants wrote that “Defendants are not withholding information or documents,” does that mean that Defendants have produced all responsive evidence and information? Or not?***

*If not, please explain (1) why Defendants have not produced all responsive evidence and information, (2) when Defendants began the search that the Rules require, (3) who was involved in that search, and (4) by what date the search will be complete.*

Again, Defendants are not withholding or reserving any materials or documents to be provided at “some unknown, unspecified future time.” Defendants have worked to compile and supplement any and all responses as it receives such documents or materials. **Defendants cannot be expected to instantly have anything and everything the Plaintiff demands, especially since Plaintiff’s requests were so voluminous, overly broad and unduly burdensome.** Where Defendants wrote that “Defendants are not withholding information or documents,” means that Defendants have produced all responsive evidence and information to date. Further, after a diligent and thorough search, we have no additional documents to produce and will supplement our responses by Friday, May 5, 2017.

3. *Electronic data. Plaintiff has been seeking this evidence for a long time now, and Defendants are still giving odd, obfuscatory responses. See ROG 17 and RPD 43 to Pemberton. Defendants have most recently written that “Counsel for the Defendants has reached out to Defendants regarding obtaining any and all GPS information. Defendants are in the process of determining whether any such responsive information exists.” As you know, that is a BS response.*
  - a. *The requested electronic data is obviously relevant and should have been preserved since the date of the wreck. Plaintiff identified it in Plaintiff’s 05/07/15 spoliation letter; Plaintiff requested it along with the*

*Complaint; both parties specifically discussed it before filing the Discovery Plan; and Plaintiff specifically emphasized it in Plaintiff's email of 04/14/17. **How is it possible that Defendants still "determining" whether this evidence "exists"?***

- b. *On what date did "Counsel for the Defendants [reach] out to Defendants" about this information?*
- c. *Defendants' most recent statement on the matter refers to "any and all GPS information." Please note that the discovery requests include, but are broader than, GPS information—for instance, the requests include other electronic data.*

Defendants believe that the truck was put back into service after this incident and that no electronic data was obtained from the vehicle. Counsel for Defendants has produced everything it has obtained except the Wagner reports. Should Defendants locate additional information or data, it will be produced as soon as it is obtained by defense counsel. Specifically, Defendants will supplement with any electronic information it has—which is not a "BS" response. **Defendants cannot be expected to instantly have anything and everything the Plaintiff demands, especially since Plaintiff's requests were so voluminous, overly broad and unduly burdensome.** However, after a diligent and thorough search, we have no additional documents to produce and will supplement our responses by Friday, May 5, 2017.

- 4. *Photographs. Defendants produced poor-quality photographs at CM 0166-0168, and now write that the quality of those photographs is "the only format possible." Who took the photographs?*

Earlier today, we were able to obtain color copies of all photographs taken by James Wagner. These are attached in PDF format. These photographs will be formally produced with our supplemental our responses.

- 5. *Trip documents. In RPD 42 to Pemberton and RPD 48 to Johnson, Plaintiff asked for documents related to Johnson's trip. Defendants wrote that other than the driver logs, "Defendant does not have the other suggested requested information." Does that mean that, as to RPD 42 to Pemberton and RPD 48 to Johnson, Defendants have produced all responsive information in Defendants' possession, custody, or control?*

*If so, what happened to the other requested evidence and information?*

Defendants have produced Mr. Johnson's daily drivers logs which detail his whereabouts on the date of loss as well as payroll documents. After a diligent and thorough search, we have no additional documents to produce.

- 6. *Wagner report. Defendants have withheld the Wagner report in response to ROG 26 to Pemberton and several other responses. I understand from Defendants' discovery responses that Defendants' basis for withholding the document is work product (please let me know if that is incorrect). On what date was the Wagner report written, and to whom was it disseminated?*

In anticipation of litigation, independent adjuster James Wagner was hired by Cherokee Insurance Company to investigate and gather information related to this incident. As a part of that process, Mr. Wagner prepared six reports from April 24, 2015 through August 7, 2015 for Lisa Shimko at Cherokee Insurance Company.

- 7. *Attachments. Defendants email repeatedly referred to attached documents. However, there were no attachments to Defendants' email. Please send the attachments. Please also note that any documents that Defendants produce, whether "formally" or "informally," should be Bates numbered.*

Our apologies. Please see attached.

Thanks,  
Maggie

Maggie D. Beall, Esq.  
Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP  
Atlanta Office  
Meridian II, Suite 2000  
275 Scientific Drive  
Norcross, Georgia 30092  
(678) 684-2148 direct  
(404) 881-2622 main line  
(404) 881-2630 facsimile  
[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)  
[www.cmlawfirm.com](http://www.cmlawfirm.com)

California | Florida | Georgia | Indiana | New Jersey | New York | Pennsylvania | South Carolina

This message and any attachments contain information from the law firm of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP and may contain information that is CONFIDENTIAL and/or legally protected under attorney work product, attorney-client communication, joint defense or another recognized privilege.

This information is intended only for use of those individuals and/or entities who were correctly named on the TO, CC and/or BCC lines above. If you are not one of the above-named recipients, or an unintended recipient, you are notified that your receipt of this message was inadvertent and you are not to read, copy, disseminate or otherwise use this message and attachments. You are further notified that any disclosure, copying, distribution or taking of any action in reliance on this message or attachments, without the express consent of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP, is strictly forbidden. The unauthorized use, dissemination, distribution or reproduction of this message, including attachments, is prohibited and may be unlawful. If you have received this message in error, please immediately delete the message, attachments and any hard drive copies, and notify sender so that the error may be corrected.

---

**From:** Jeb Butler [<mailto:jeb@butlertobin.com>]  
**Sent:** Sunday, April 30, 2017 1:52 PM  
**To:** Kathleen M. Hurley, Esq.; Maggie D. Beall, Esq.  
**Cc:** Sarah Hedrick  
**Subject:** RE: White v. Pemberton et al.: Written Discovery

Katy and Maggie,

Defendants must timely produce the materials in Defendants' possession, custody, or control. Plaintiff served these discovery requests contemporaneously with the Complaint. Responses were due in this Court in March, and then Plaintiff voluntarily extended the time for response at Defendants' request. Even after that, Defendants had not produced all responsive information and evidence. Plaintiff then gave Defendants an additional two weeks following my 04/14/17 email below. Defendants still have not produced all responsive information and evidence. This has gone on long enough.

Specifically, Plaintiff responds to your 04/28/17 correspondence as follows. Please respond by the close of business on Wednesday, May 3, 2017. If we cannot get this sorted out very soon, Plaintiff will involve the Court and will seek fees and any other appropriate sanctions.

1. Date for Completion. Responses were due a long time ago. At this late date it is insufficient to write, as Defendants have, that "Defendants are working to compile and supplement any and all responses as it receives such documents or materials." Defendants must search and produce all information in Defendants' possession, custody, or control. See *Allstate Ins. Co. v. Vizcay*, 2013 WL 12157472, at \*2 (M.D. Fla. 2013) (parties must conduct "diligent and thorough search"); *Continental Cas. Co. v. Compass Bank*, 2006 WL 533510, at \*17 (S.D. Ala. 2006) (same); *In re: Steiefel Laboratories Inc. v. Brookstone Pharmaceuticals, L.L.C.*, 2011 WL 13136820, at \*4 (N.D. Ga. 2011) (Special Master) (same); *accord Commodores Entertainment Corp. v. McClary*, 2015 WL 12843873, at \*3 (M.D. Fla. 2015) ("The time for Plaintiff to complete its production of documents has come.").

It is insufficient to write, as Defendants have, that Defendants “will supplement” at some unknown, unspecified future date. **BY WHEN will Defendants produce all responsive evidence and information?**

2. Completeness of Responses. Defendants state, many times, that “As previously stated, Defendants are not withholding information or documents.” That is good so far as it goes, because “[g]enerally, a party's unequivocal assertion that all documents have been produced pursuant to a discovery request is dispositive.” *Allstate Ins. Co. v. Vizcay*, 2013 WL 12157472. at \*2 (M.D. Fla. 2013). However, Plaintiff presumed upon sending Plaintiff's 04/14/17 email that Defendants had completed the reasonable and thorough search that the Federal Rules require. Defendants' recent email calls that presumption into question.

**Where Defendants wrote that “Defendants are not withholding information or documents,” does that mean that Defendants *have produced all responsive evidence and information*? Or not?**

If not, please explain (1) why Defendants have *not* produced all responsive evidence and information, (2) when Defendants began the search that the Rules require, (3) who was involved in that search, and (4) by what date the search will be complete.

3. Electronic data. Plaintiff has been seeking this evidence for a long time now, and Defendants are still giving odd, obfuscatory responses. See ROG 17 and RPD 43 to Pemberton. Defendants have most recently written that “Counsel for the Defendants has reached out to Defendants regarding obtaining any and all GPS information. Defendants are in the process of determining whether any such responsive information exists.” As you know, that is a BS response.
  - a. The requested electronic data is obviously relevant and should have been preserved since the date of the wreck. Plaintiff identified it in Plaintiff's 05/07/15 spoliation letter; Plaintiff requested it along with the Complaint; both parties specifically discussed it before filing the Discovery Plan; and Plaintiff specifically emphasized it in Plaintiff's email of 04/14/17. **How is it possible that Defendants still “determining” whether this evidence “exists”?**
  - b. *On what date* did “Counsel for the Defendants [reach] out to Defendants” about this information?
  - c. Defendants' most recent statement on the matter refers to “any and all GPS information.” Please note that the discovery requests include, but are broader than, GPS information—for instance, the requests include other electronic data.
4. Photographs. Defendants produced poor-quality photographs at CM 0166-0168, and now write that the quality of those photographs is “the only format possible.” Who took the photographs?
5. Trip documents. In RPD 42 to Pemberton and RPD 48 to Johnson, Plaintiff asked for documents related to Johnson's trip. Defendants wrote that other than the driver logs, “Defendant does not have the other suggested

requested information.” Does that mean that, as to RPD 42 to Pemberton and RPD 48 to Johnson, Defendants have produced all responsive information in Defendants’ possession, custody, or control?

If so, what happened to the other requested evidence and information?

6. Wagner report. Defendants have withheld the Wagner report in response to ROG 26 to Pemberton and several other responses. I understand from Defendants’ discovery responses that Defendants’ basis for withholding the document is work product (please let me know if that is incorrect). On what date was the Wagner report written, and to whom was it disseminated?
7. Attachments. Defendants email repeatedly referred to attached documents. However, there were no attachments to Defendants’ email. Please send the attachments. Please also note that any documents that Defendants produce, whether “formally” or “informally,” should be Bates numbered.

Jeb Butler  
**Butler Tobin LLC**  
1932 North Druid Hills Rd.  
Suite 250  
Atlanta, GA 30319  
Telephone: 404-587-8423  
Facsimile: 404-581-5877  
[jeb@butlertobin.com](mailto:jeb@butlertobin.com)  
[www.butlertobin.com](http://www.butlertobin.com)

The information contained in this email may be confidential and privileged. This email is intended only for the person it is addressed to within the body of the email—do not copy or distribute it to anyone else without express permission. If this email is not intended for you, please immediately notify us by phone or reply email and delete this message. Unless you have signed a written fee agreement with our firm, we do not represent you as your attorney.

---

**From:** Maggie D. Beall, Esq. [<mailto:mbeall@cmlawfirm.com>]  
**Sent:** Friday, April 28, 2017 3:00 PM  
**To:** Jeb Butler <[jeb@butlertobin.com](mailto:jeb@butlertobin.com)>; Kathleen M. Hurley, Esq. <[khurley@cmlawfirm.com](mailto:khurley@cmlawfirm.com)>  
**Cc:** Sarah Hedrick <[sarah@butlertobin.com](mailto:sarah@butlertobin.com)>  
**Subject:** RE: White v. Pemberton et al.: Written Discovery

Dear Jeb,

Katy and I are writing in response to your April 14, 2017 e-mail regarding a few different discovery concerns. The concerns you raised in your e-mail seem easily resolvable. I will address each in turn below:

1. **Issues Relevant to All or Many of Defendants’ Discovery Responses**
  - a. *General Objections Defendants’ responsive pleadings include “general objections” and “preliminary statement[s].” Please withdraw those. As the Court’s standing order indicates, “[g]eneral objections are not allowed.” Standing Instructions Regarding Civil Litigation (hereinafter “Standing Order”) ¶ 10.*

We will remove the general objections.



- b. *“Will Produce.” Defendants repetitively provided incomplete discovery responses and wrote that Defendants “will supplement” at some unknown, unspecified future time. The deadline for response, even as voluntarily extended, has passed. The Court’s succinct rule regarding initial disclosures (which were addressed in Plaintiff’s email of 03/30/17) seems appropriate here: “[r]esponses may not be reserved to be provided at a later time.” Standing Order ¶ 9...*

Defendant contends that these responses are not “incomplete.” We are not withholding or reserving any materials or documents to be provided at “some unknown, unspecified future time.” Defendants are working to compile and supplement any and all responses as it receives such documents or materials. Defendants cannot be expected to instantly have anything and everything the Plaintiff demands. Defendants will supplement any and all responses within a timely manner.

- c. *Non-Party Requests and Subpoenas. On 03/31/17, Defendants agreed to produce “all records that [Defendants] request and receive from non-parties.” Response to RFA 9 (to all Defendants). However, on 04/05/17, Defendants announced that Defendants would only produce such records if Plaintiff would “pay reasonable copying costs,” and that Defendants would only produce that evidence “once all non-party requests are responded to.” See Pemberton’s Resp. to RPD 3; Johnson Resp. to RPD 2; Cherokee Resp. to RPD 2.*

Defendants will provide Plaintiff an electronic copy of any and all non-party records once they are received. To date, Defendants have not received any such records.

- d. *Finality. In some instances, Defendants have responded with both an objection and a response. Although that may be procedurally proper if the objection is meritorious, it creates a problem if Defendant is withholding evidence pursuant to the objection and not identifying what that withheld evidence is. Where that happens—i.e., where Defendant withholds discoverable evidence without identifying it—neither the Court nor Plaintiff is able to assess the propriety of Defendant’s decision to withhold evidence. For that reason, Defendant should generally either identify what is being withheld, state that no responsive material is being withheld, or withdraw the nonmeritorious objection. Haeger v. Goodyear Tire and Rubber Co., No. CV-05-02046-PHX-ROS, at 57-59 (D. Ariz. Nov. 8, 2012).*

As previously stated, Defendants are not withholding information or documents. The responses will add this confirmation.

- e. *Verifications. Please provide verifications for all Interrogatory responses. See FRCP 33(b)(5).*

Defendants will supplement with verifications once they are received.

## 2. Issues Regarding Specific Documents

- a. *Documents that Appear to be Missing. There are certain documents that Defendants said were being produced, but that either were not produced or that Plaintiff is unable to locate among the production. As to the below documents, please either Bates-stamp and produce them, or identify the Bates numbers where the documents were already produced.*

- i. *Pemberton Truck Lines Inc. Loss Report (see, e.g., Pemberton’s Response to RPD 8)*

1. Please see attached.

- ii. *pre- and post-trip reports (see, e.g., Pemberton’s Response to RPDs 23-26)*

1. 117-126

iii. *Cherokee Loss Notice (see, e.g., Pemberton's Response to RPD 37)*

1. Please see attached.

iv. *IntelliApp documents (see, e.g., Pemberton's Response to RPD 9) (are these the documents produced at CM 0005-0095?)*

1. Yes.

b. *Annual Certifications. Defendant Pemberton has represented that every year, it had Defendant Johnson fill out a form describing any violations in the preceding twelve months. I see two such forms for 2013 (CM 0027 & 0043) and one for 2014 (CM 0018), but have not found one for 2015. Please produce the 2015 form, or identify the Bates number where it has already been produced.*

Defendant Johnson did not sign a form in 2015, as he resigned prior to the end of 2015.

c. *Photographs. Defendants produced certain photographs of the subject tractor-trailer at CM 0166-0168. It appears that the pictures were printed in black and white, then scanned, and then produced. Please produce the photographs in their original, color format.*

Defendants do not have any "original color photographs," and have produced them in the only format possible.

d. *Electronic or GPS Data. This is crucial evidence. As you recall, the parties discussed it and mentioned it in Paragraph 11 of the Joint Preliminary Report and Discovery Plan. Please produce it promptly. See, e.g., ROG 17 and RPD 43 to Defendant Pemberton.*

Counsel for Defendants will produce any and all electronic data, if available, once it is received.

e. *Pemberton Truck Lines Inc. Loss Report & Cherokee Loss Notice. As these were produced in the regular course of Defendants' business, Plaintiff believes they are discoverable.*

Please see attached.

### 3. Issues Regarding Pemberton's Responses to Interrogatories

a. *ROG 9: This ROG seeks policies and procedures, and the objection—regarding alleged confidentiality—is not a valid reason to withhold responsive material. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the "finality" paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- b. *ROG 10: This ROG seeks training materials, and the objection—regarding alleged confidentiality—is not a valid reason to withhold responsive material. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- c. *ROG 17: This ROG seeks certain electronic or GPS information, and Defendant provided no substantive response at all, even though the parties specifically discussed this issue and referred to it in Paragraph 11 of the Joint Preliminary Report and Discovery Plan. Plaintiff has referred to this discovery request above already, but mentions it again here because of its importance. Please provide a complete response.*

Counsel for the Defendants has reached out to Defendants regarding obtaining any and all GPS information. Defendants are in the process of determining whether any such responsive information exists. Should any responsive information exist, it will be provided to Plaintiff in a timely manner.

- d. *ROG 19: This ROG seeks instructions to drivers about what to do following a collision, which is relevant to understanding Defendant Johnson’s conduct and statements following the collision—in a general sense, it goes to bias. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- e. *ROG 26: This ROG seeks photographs, videos and evidence about the collision. Is Defendant withholding anything responsive to ROG 26 except the Wagner report?*

Defendants are not withholding anything responsive except the Wagner report.

- f. *ROG 29: This ROG seeks internal documents, such as emails, reports, analyses, and the other categories mentioned in the ROG, about the collision. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- g. *ROG 34: This ROG asks after insurance coverage, which Defendants must provide pursuant to the substantive law of O.C.G.A. § 33-3-28. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- h. *ROG 35: This ROG seeks insurance information. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

4. **Issues Regarding Pemberton’s Responses to Requests for Production**

- a. *RPD 4: This RPD seeks information about Johnson that is in Pemberton’s possession, custody, or control. This evidence is relevant to Plaintiff’s negligent hiring, training, and retention claims. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- b. *RPD 28: This RPD seeks instructions to drivers about what to do following a collision, which is relevant to understanding Defendant Johnson’s conduct and statements following the collision—in a general sense, it goes to bias. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- c. *RPD 42: This RPD seeks documents relating to Johnson’s trips. There is no objection, so the Defendant’s response indicates that all responsive documents have been produced. That does not appear to be the case, however, as there are no documents fitting most of the categories listed in the request.*

*Please produce the requested information. In order to make this easier, Plaintiff will voluntarily limit the scope of this request to the date of the collision, April 24, 2015.*

Defendant has already produced the subject driver’s logs, which is evidence of Johnson’s subject trips. Defendant does not have the other suggested requested information detailed in Plaintiff’s RPD No. 48.

- d. *RPD 43: This RPD seeks certain electronic or GPS information, and Defendant provided no substantive response at all, even though the parties specifically discussed this issue and referred to it in Paragraph 11 of the Joint Preliminary Report and Discovery Plan. Plaintiff has referred to this discovery request above already, but mentions it again here because of its importance. Please provide a complete response.*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- e. *RPD 54: This RPD asks after insurance coverage, which Defendants must provide pursuant to the substantive law of O.C.G.A. § 33-3-28. Please supplement this response by either withdrawing the*

*objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- f. *RPD 55: This RPD seeks insurance information. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

## 5. Issues Regarding Johnson’s Responses to Interrogatories

- a. *ROG 13: This ROG seeks information about Johnson’s medical conditions that are relevant to his ability to safely and legally operate a commercial motor vehicle under the FMCSR. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- b. *ROG 22: This ROG seeks information about Johnson’s driving history, which is relevant to Plaintiff’s claims regarding negligent hiring, training, and retention. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- c. *ROG 23: This ROG seeks information about Johnson’s driving history, which is relevant to Plaintiff’s claims regarding negligent hiring, training, and retention. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- d. *ROG 28: This ROG seeks information about conversations and events on the scene of the collision after the wreck. That is discoverable. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- e. *ROG 29: This ROG seeks photographs, videos and evidence about the collision. Is Defendant withholding anything responsive to ROG 26 except the Wagner report?*

Defendants are not withholding anything responsive except the Wagner report.

6. **Issues Regarding Johnson's Responses to Requests for Production**

- a. *RPD 10: This RPD seeks training materials, and the objection—regarding alleged confidentiality—is not a valid reason to withhold responsive material. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- b. *RPD 11: This RPD seeks training materials, and the objection—regarding alleged confidentiality—is not a valid reason to withhold responsive material. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- c. *RPD 24: This RPD seeks instructions to drivers about what to do following a collision, which is relevant to understanding Defendant Johnson's conduct and statements following the collision—in a general sense, it goes to bias. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- d. *RPD 31: This RPD seeks information about Johnson's medical conditions that are relevant to his ability to safely and legally operate a commercial motor vehicle under the FMCSR. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- e. *RPD 33: This RPD seeks information about Johnson's driving history, which is relevant to Plaintiff's claims regarding negligent hiring, training, and retention. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- f. *RPD 34: This RPD seeks information about Johnson's driving history, which is relevant to Plaintiff's claims regarding negligent hiring, training, and retention. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the "finality" paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- g. *RPD 48: This RPD seeks evidence about Johnson's trips. In order to make this easier, Plaintiff will voluntarily limit the scope of this request to the date of the collision, April 24, 2015.*

Defendant has already produced the subject driver's logs, which is evidence of Johnson's subject trips. Defendant does not have the other suggested requested information detailed in Plaintiff's RPD No. 48.

#### **7. Issues Regarding Cherokee's Responses to Interrogatories**

- a. *ROG 6: This ROG seeks photographs, videos and evidence about the collision. Is Defendant withholding anything responsive to ROG 26 except the Wagner report?*

Defendants are not withholding anything responsive except the Wagner report.

- b. *ROG 10: This ROG seeks insurance information. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the "finality" paragraph above).*

As previously stated, Defendants are not withholding information or documents. The responses will add this confirmation.

#### **8. Issues Regarding Cherokee's Responses to Requests for Production**

- a. *RPD 3: This RPD asks after insurance coverage, which Defendants must provide pursuant to the substantive law of O.C.G.A. § 33-3-28. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the "finality" paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

- b. *RPD 4: This RPD seeks insurance information. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you do withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the "finality" paragraph above).*

As previously stated, Defendants are not withholding information or documents. The supplemental responses will add this confirmation.

In the future, I am happy to try and resolve these issues more casually. Please do not hesitate to call Katy or me whenever you have any questions or concerns. Have a great weekend.

Thanks,  
Maggie  
Maggie D. Beall, Esq.  
Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP  
Atlanta Office  
Meridian II, Suite 2000  
275 Scientific Drive  
Norcross, Georgia 30092  
(678) 684-2148 direct  
(404) 881-2622 main line  
(404) 881-2630 facsimile  
[mbeall@cmlawfirm.com](mailto:mbeall@cmlawfirm.com)  
[www.cmlawfirm.com](http://www.cmlawfirm.com)

California | Florida | Georgia | Indiana | New Jersey | New York | Pennsylvania | South Carolina

This message and any attachments contain information from the law firm of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP and may contain information that is CONFIDENTIAL and/or legally protected under attorney work product, attorney-client communication, joint defense or another recognized privilege.

This information is intended only for use of those individuals and/or entities who were correctly named on the TO, CC and/or BCC lines above. If you are not one of the above-named recipients, or an unintended recipient, you are notified that your receipt of this message was inadvertent and you are not to read, copy, disseminate or otherwise use this message and attachments. You are further notified that any disclosure, copying, distribution or taking of any action in reliance on this message or attachments, without the express consent of Cruser, Mitchell, Novitz, Sanchez, Gaston & Zimet, LLP, is strictly forbidden. The unauthorized use, dissemination, distribution or reproduction of this message, including attachments, is prohibited and may be unlawful. If you have received this message in error, please immediately delete the message, attachments and any hard drive copies, and notify sender so that the error may be corrected.

---

**From:** Jeb Butler [<mailto:jeb@butlertobin.com>]  
**Sent:** Friday, April 14, 2017 6:54 PM  
**To:** Kathleen M. Hurley, Esq.; Maggie D. Beall, Esq.  
**Cc:** Sarah Hedrick  
**Subject:** White v. Pemberton et al.: Written Discovery

Ms. Hurley and Ms. Beall,

Plaintiff received Defendants' discovery responses in the mail yesterday. Although Plaintiff served these discovery requests contemporaneously with the Complaint and Summons, and although Plaintiff voluntarily extended the time allotted to Defendants for response, Defendants' discovery responses remain incomplete. We would like to rectify that without troubling the Court.

Please accept this as a good-faith attempt to resolve a discovery dispute without the necessity of Court intervention as required by FRCP 37(a)(1).

Please respond, and serve supplemental discovery pleadings addressing these issues, by 04/28/17, two weeks from today.

1. **Issues Relevant to All or Many of Defendants' Discovery Responses**

- a. **General Objections.** Defendants' responsive pleadings include "general objections" and "preliminary statement[s]." Please withdraw those. As the Court's standing order indicates, "[g]eneral objections are not allowed." Standing Instructions Regarding Civil Litigation (hereinafter "Standing Order") ¶ 10.



- b. “Will Produce.” Defendants *repetitively* provided incomplete discovery responses and wrote that Defendants “will supplement” at some unknown, unspecified future time. The deadline for response, even as voluntarily extended, has passed. The Court’s succinct rule regarding initial disclosures (which were addressed in Plaintiff’s email of 03/30/17) seems appropriate here: “[r]esponses may not be reserved to be provided at a later time.” Standing Order ¶ 9.

This is a recurring issue. *See*:

- i. Pemberton Responses to ROGs 17, 20
- ii. Pemberton Responses to RPDs 10, 17, 32, 33, 36, 43, 49
- iii. Johnson Responses to ROGs 20
- iv. Johnson Responses to RPDs 30, 40, 46

This problem of non-production affects *all* of the above-listed discovery responses. Please supplement each of those responses with a complete response. Because this “will produce” issue is addressed here, Plaintiff has not re-listed each of the foregoing discovery requests in the discussion of specific discovery requests below. Nonetheless, Defendants should provide complete responses to these discovery requests by 04/28/17, two weeks from today.

(In the context of discovery requests targeting expert witnesses, Defendants’ “will supplement” response makes sense and is fine—in that context only, Plaintiff does not object to it.)

- c. Non-Party Requests and Subpoenas. On 03/31/17, Defendants agreed to produce “all records that [Defendants] request and receive from non-parties.” Response to RFA 9 (to all Defendants). However, on 04/05/17, Defendants announced that Defendants would only produce such records if Plaintiff would “pay reasonable copying costs,” *and* that Defendants would only produce that evidence “once all non-party requests are responded to.” *See* Pemberton’s Resp. to RPD 3; Johnson Resp. to RPD 2; Cherokee Resp. to RPD 2.

i. It would be simpler to produce evidence in this case without charging “copying costs” to each other. However, Plaintiff will pay “copying costs” for this evidence if Defendants will reimburse Plaintiff, at the same rate, for every page of medical records and other evidence that Plaintiff has produced and does produce in the future. But this page-counting is going to be an administrative headache and more trouble than it is worth. For that reason, Plaintiff proposes that both parties simply produce the evidence without charging the other side. Please let me know if agreement on this is possible.

ii. Plaintiff does not agree that Defendants may withhold records obtained from non-parties until “all non-party requests are responded to.” As you know, non-parties sometimes do not respond at all, or may take a long time to respond. For that reason, such evidence should be timely produced like all other documents exchanged in discovery. Please let me know if agreement on this is possible.

- d. Finality. In some instances, Defendants have responded with both an objection and a response. Although that may be procedurally proper *if* the objection is meritorious, it creates a problem if Defendant is withholding evidence pursuant to the objection and not identifying what that withheld evidence is. Where that happens—i.e., where Defendant withholds discoverable evidence without identifying it—neither the Court nor Plaintiff is able to assess the propriety of Defendant’s decision to

withhold evidence. For that reason, Defendant should generally either identify what is being withheld, state that no responsive material is being withheld, or withdraw the nonmeritrious objection. *Haeger v. Goodyear Tire and Rubber Co.*, No. CV-05-02046-PHX-ROS, at 57-59 (D. Ariz. Nov. 8, 2012).

This issue recurs frequently in Defendants' responses, as noted below in the portion addressing individual discovery requests. However, it can usually be addressed quickly if Defendant will (1) identify what is being withheld, (2) state that no responsive material is being withheld, or (3) withdraw the objection.

However, Plaintiff agrees that Defendant may withhold—without mentioning or logging—communications *solely* between a defendant and the Crusier Mitchell firm, and documents *created by* the Crusier Mitchell firm. (Obviously this exception does not apply to communications between defendants or other entities that were then forwarded to the Crusier Mitchell firm, or documents created by defendants or other entities and then provided to the Crusier Mitchell firm.)

- e. Verifications. Please provide verifications for all Interrogatory responses. See FRCP 33(b)(5).

## 2. Issues Regarding Specific Documents

- a. Documents that Appear to be Missing. There are certain documents that Defendants *said* were being produced, but that either were not produced or that Plaintiff is unable to locate among the production. As to the below documents, please either Bates-stamp and produce them, or identify the Bates numbers where the documents were already produced.
  - i. Pemberton Truck Lines Inc. Loss Report (*see, e.g.,* Pemberton's Response to RPD 8)
  - ii. pre- and post-trip reports (*see, e.g.,* Pemberton's Response to RPDs 23-26)
  - iii. Cherokee Loss Notice (*see, e.g.,* Pemberton's Response to RPD 37)
  - iv. IntelliApp documents (*see, e.g.,* Pemberton's Response to RPD 9) (are these the documents produced at CM 0005-0095?)
- b. Annual Certifications. Defendant Pemberton has represented that every year, it had Defendant Johnson fill out a form describing any violations in the preceding twelve months. I see two such forms for 2013 (CM 0027 & 0043) and one for 2014 (CM 0018), but have not found one for 2015. Please produce the 2015 form, or identify the Bates number where it has already been produced.
- c. Photographs. Defendants produced certain photographs of the subject tractor-trailer at CM 0166-0168. It appears that the pictures were printed in black and white, then scanned, and then produced. Please produce the photographs in their original, color format.
- d. Electronic or GPS Data. This is crucial evidence. As you recall, the parties discussed it and mentioned it in Paragraph 11 of the Joint Preliminary Report and Discovery Plan. Please produce it promptly. *See, e.g.,* ROG 17 and RPD 43 to Defendant Pemberton.

- e. Pemberton Truck Lines Inc. Loss Report & Cherokee Loss Notice. As these were produced in the regular course of Defendants' business, Plaintiff believes they are discoverable.

### 3. Issues Regarding Pemberton's Responses to Interrogatories

- a. ROG 9: This ROG seeks policies and procedures, and the objection—regarding alleged confidentiality—is not a valid reason to withhold responsive material. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the "finality" paragraph above).
- b. ROG 10: This ROG seeks training materials, and the objection—regarding alleged confidentiality—is not a valid reason to withhold responsive material. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the "finality" paragraph above).
- c. ROG 17: This ROG seeks certain electronic or GPS information, and Defendant provided no substantive response at all, even though the parties specifically discussed this issue and referred to it in Paragraph 11 of the Joint Preliminary Report and Discovery Plan. Plaintiff has referred to this discovery request above already, but mentions it again here because of its importance. Please provide a complete response.
- d. ROG 19: This ROG seeks instructions to drivers about what to do following a collision, which is relevant to understanding Defendant Johnson's conduct and statements following the collision—in a general sense, it goes to bias. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the "finality" paragraph above).
- e. ROG 26: This ROG seeks photographs, videos and evidence about the collision. Is Defendant withholding anything responsive to ROG 26 except the Wagner report?
- f. ROG 29: This ROG seeks internal documents, such as emails, reports, analyses, and the other categories mentioned in the ROG, about the collision. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the "finality" paragraph above).
- g. ROG 34: This ROG asks after insurance coverage, which Defendants must provide pursuant to the substantive law of O.C.G.A. § 33-3-28. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive

evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).

- h. ROG 35: This ROG seeks insurance information. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).

4. **Issues Regarding Pemberton’s Responses to Requests for Production**

- a. RPD 4: This RPD seeks information about Johnson that is in Pemberton’s possession, custody, or control. This evidence is relevant to Plaintiff’s negligent hiring, training, and retention claims. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).
- b. RPD 28: This RPD seeks instructions to drivers about what to do following a collision, which is relevant to understanding Defendant Johnson’s conduct and statements following the collision—in a general sense, it goes to bias. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).
- c. RPD 42: This RPD seeks documents relating to Johnson’s trips. There is no objection, so the Defendant’s response indicates that all responsive documents have been produced. That does not appear to be the case, however, as there are no documents fitting most of the categories listed in the request.

Please produce the requested information. In order to make this easier, Plaintiff will voluntarily limit the scope of this request to the date of the collision, April 24, 2015.

- d. RPD 43: This RPD seeks certain electronic or GPS information, and Defendant provided no substantive response at all, even though the parties specifically discussed this issue and referred to it in Paragraph 11 of the Joint Preliminary Report and Discovery Plan. Plaintiff has referred to this discovery request above already, but mentions it again here because of its importance. Please provide a complete response.
- e. RPD 54: This RPD asks after insurance coverage, which Defendants must provide pursuant to the substantive law of O.C.G.A. § 33-3-28. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).

- f. RPD 55: This RPD seeks insurance information. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).

5. **Issues Regarding Johnson’s Responses to Interrogatories**

- a. ROG 13: This ROG seeks information about Johnson’s medical conditions that are relevant to his ability to safely and legally operate a commercial motor vehicle under the FMCSR. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).
- b. ROG 22: This ROG seeks information about Johnson’s driving history, which is relevant to Plaintiff’s claims regarding negligent hiring, training, and retention. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).
- c. ROG 23: This ROG seeks information about Johnson’s driving history, which is relevant to Plaintiff’s claims regarding negligent hiring, training, and retention. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).
- d. ROG 28: This ROG seeks information about conversations and events on the scene of the collision after the wreck. That is discoverable. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).
- e. ROG 29: This ROG seeks photographs, videos and evidence about the collision. Is Defendant withholding anything responsive to ROG 26 except the Wagner report?

6. **Issues Regarding Johnson’s Responses to Requests for Production**

- a. RPD 10: This RPD seeks training materials, and the objection—regarding alleged confidentiality—is not a valid reason to withhold responsive material. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).

- b. RPD 11: This RPD seeks training materials, and the objection—regarding alleged confidentiality—is not a valid reason to withhold responsive material. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).
  
- c. RPD 24: This RPD seeks instructions to drivers about what to do following a collision, which is relevant to understanding Defendant Johnson’s conduct and statements following the collision—in a general sense, it goes to bias. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).
  
- d. RPD 31: This RPD seeks information about Johnson’s medical conditions that are relevant to his ability to safely and legally operate a commercial motor vehicle under the FMCSR. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).
  
- e. RPD 33: This RPD seeks information about Johnson’s driving history, which is relevant to Plaintiff’s claims regarding negligent hiring, training, and retention. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).
  
- f. RPD 34: This RPD seeks information about Johnson’s driving history, which is relevant to Plaintiff’s claims regarding negligent hiring, training, and retention. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).
  
- g. RPD 48: This RPD seeks evidence about Johnson’s trips. In order to make this easier, Plaintiff will voluntarily limit the scope of this request to the date of the collision, April 24, 2015.

Subject to that limitation, please respond completely.

## **7. Issues Regarding Cherokee’s Responses to Interrogatories**

- a. ROG 6: This ROG seeks photographs, videos and evidence about the collision. Is Defendant withholding anything responsive to ROG 26 except the Wagner report?
  
- b. ROG 10: This ROG seeks insurance information. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive

evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).

**8. Issues Regarding Cherokee’s Responses to Requests for Production**

- a. RPD 3: This RPD asks after insurance coverage, which Defendants must provide pursuant to the substantive law of O.C.G.A. § 33-3-28. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).
  
- b. RPD 4: This RPD seeks insurance information. Please supplement this response by either withdrawing the objection, or stating that no responsive materials have been withheld. If you *do* withhold responsive evidence or information, please identify specifically what evidence or information Defendant is withholding (as discussed in the “finality” paragraph above).

Regards,

Jeb Butler

“If a man has any greatness in him, it comes to light, not in one flamboyant hour, but in the ledger of his daily work.” - Beryl Markham

Jeb Butler  
**Butler Tobin LLC**  
1932 North Druid Hills Rd.  
Suite 250  
Atlanta, GA 30319  
Telephone: 404-587-8423  
Facsimile: 404-581-5877  
[jeb@butlertobin.com](mailto:jeb@butlertobin.com)  
[www.butlertobin.com](http://www.butlertobin.com)

<image001.png>

The information contained in this email may be confidential and privileged. This email is intended only for the person it is addressed to within the body of the email—do not copy or distribute it to anyone else without express permission. If this email is not intended for you, please immediately notify us by phone or reply email and delete this message. Unless you have signed a written fee agreement with our firm, we do not represent you as your attorney.