

FULTON COUNTY STATE COURT

STATE OF GEORGIA

DAVID J. DILLON,

Plaintiff,

vs.

SEAN M. HARRIS,

Defendant.

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* JURY TRIAL DEMANDED
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* CASE NO.: 11EV012099J
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SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

P. Charles Scholle
P. Charles Scholle, P.C.
6340 Sugarloaf Parkway
Suite 200
Duluth, Georgia 30097
770-717-5100

an Answer to the Complaint which is herewith served upon you, within 30 days after service of this Summons upon you exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in this Complaint.

This _____ day of _____, _____.

Clerk of State Court

By: _____
Deputy Clerk

FULTON COUNTY STATE COURT

STATE OF GEORGIA

DAVID J. DILLON,

Plaintiff,

vs.

GROENDYKE TRANSPORT, INC.,

Defendant.

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JURY TRIAL DEMANDED

CASE NO.: 11EV01099J

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

P. Charles Scholle
P. Charles Scholle, P.C.
6340 Sugarloaf Parkway
Suite 200
Duluth, Georgia 30097
770-717-5100

an Answer to the Complaint which is herewith served upon you, within 30 days after service of this Summons upon you exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in this Complaint.

This _____ day of _____, _____.

Clerk of State Court

By: _____
Deputy Clerk

FULTON COUNTY STATE COURT

STATE OF GEORGIA

DAVID J. DILLON,

Plaintiff,

vs.

GREAT WESTERN INSURANCE
COMPANY,

Defendant.

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* JURY TRIAL DEMANDED
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* CASE NO.: 11EV01099J
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SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

P. Charles Scholle
P. Charles Scholle, P.C.
6340 Sugarloaf Parkway
Suite 200
Duluth, Georgia 30097
770-717-5100

an Answer to the Complaint which is herewith served upon you, within 30 days after service of this Summons upon you exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in this Complaint.

This _____ day of _____, _____.

Clerk of State Court

By: _____
Deputy Clerk

FULTON COUNTY STATE COURT

STATE OF GEORGIA

DAVID J. DILLON,

Plaintiff,

vs.

SEAN M. HARRIS, GROENDYKE
TRANSPORT, INC., GREAT WESTERN
INSURANCE COMPANY AND JOHN
DOES 1-5,

Defendant.

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COMPLAINT FOR DAMAGES

COMES NOW DAVID J. DILLON, Plaintiff in the above-styled action, and brings this Complaint for Damages, and shows the Court the following:

1.

DAVID J. DILLON is, and at all times material to this action, was a resident of the State of Georgia.

2.

Defendant SEAN M. HARRIS is subject to the jurisdiction and venue of this Court.

3.

Defendant SEAN M. HARRIS is a resident of the state of Louisiana and may be personally served at 30460 Main Eve Street, Livingston Parrish, Walker, Louisiana 70785.

4.

Defendant GROENDYKE TRANSPORT, INC. is subject to the jurisdiction and venue of this Court.

5.

1

Defendant GROENDYKE TRANSPORT, INC. is a business operating in Georgia and may be served by service upon its registered agent, to wit: CT Corporations System at 1201 Peachtree Street, NE, Fulton County, Atlanta, Georgia 30361.

6.

Defendant GREAT WESTERN INSURANCE COMPANY is subject to the jurisdiction and venue of this Court.

7.

Defendant GREAT WESTERN INSURANCE COMPANY is a business operating in Georgia and may be served by service upon its registered agent, to wit: Raymond D. Jones at 3605 Sandy Plains Road, Suite 240-409, Cobb County, Marietta, Georgia 30066. GREAT WESTERN INSURANCE COMPANY is an insurance company which provides public liability insurance on the tractor trailer units which were involved in the motor vehicle accident out of which this cause of action arises, and it is subject to the jurisdiction and venue of this Court under the Georgia Direct Action Statue (codified in O.C.G.A. §46-7-12) as the insured of the motor contract carrier which was operating those tractor trailer units in Georgia under a certificate of public convenience and necessity issued by the Public Safety Commission.

8.

The true names or capacities of Defendants named herein as John Does (1-5) [hereinafter collectively referred to as "John Does"] are unknown to the Plaintiff, who therefore sues said Defendants by such fictitious names. Plaintiff will amend this Complaint to show said John Does' true names and service addresses when the same have been ascertained. Plaintiff identifies John Does 1-5 as either joint tortfeasors or possible additional liable parties. Plaintiff alleges on information and belief that John Does are in some manner responsible for the acts or omissions

alleged herein.

9.

On November 10, 2009, Defendant SEAN M. HARRIS operated his vehicle in a negligent fashion, striking Plaintiff's vehicle and injuring Plaintiff.

10.

The Defendant SEAN M. HARRIS owed duties of due and reasonable care to Plaintiff, as well as to other motorists on the road.

11.

Defendant SEAN M. HARRIS's negligence, which constitutes the direct and proximate cause of the injury to Plaintiff DAVID J. DILLON, also consisted of, but was not limited to, the following:

- (a) Driving in a reckless disregard for the safety of others in violation of O.C.G.A. § 40-6-390;
- (b) Failing to exercise ordinary diligence in violation of O.C.G.A. § 51-1-2-64;
- (c) Failure to maintain reasonable control of vehicle;
- (d) Failure to operate vehicle in a safe fashion under the circumstances then existing;
- (e) Failure to take evasive or other reasonable action in order to control vehicle or maintain lane;
- (f) Failure to exercise ordinary care;
- (g) Failure to keep a proper lookout;
- (h) Committing other reckless and negligent acts and omissions, as shall be shown by the evidence and proven at trial.

12.

That Defendant SEAN M. HARRIS was incompetent to drive a commercial motor

vehicle and Defendant GROENDYKE TRANSPORT, INC. had actual knowledge of his incompetence; thus GROENDYKE TRANSPORT, INC. is liable for Plaintiff's injuries for negligently entrusting the tractor trailer to Defendant SEAN M. HARRIS.

13.

That Defendant SEAN M. HARRIS was not skilled in driving a commercial motor vehicle and Defendant GROENDYKE TRANSPORT, INC. had actual knowledge of his lack of skill and yet GROENDYKE TRANSPORT, INC. hired SEAN M. HARRIS to drive a tractor trailer, thus GROENDYKE TRANSPORT, INC. is liable for Plaintiff's injuries for negligently hiring SEAN M. HARRIS to drive a commercial motor vehicle.

14.

At all times material hereto, Plaintiff DAVID J. DILLON conducted himself in a safe and lawful manner, and did not in any way cause or contribute to the circumstances which caused him to sustain serious bodily injury.

15.

As a direct and proximate result of Defendant's negligence, Plaintiff DAVID J. DILLON has suffered and will continue to suffer the following:

- (a) past, present and future physical and mental pain and suffering;
- (b) past, present and future loss of enjoyment of life;
- (c) past, present and future loss of earnings and income; and
- (d) past, present and future loss of ability to labor and earn money, as well as other damages.

16.

As a direct and proximate result of the injuries sustained in the subject collision caused

by the negligence of Defendant, Plaintiff DAVID J. DILLON has incurred substantial medical expenses and will continue to require and incur reasonable and necessary medical expenses due to his painful injuries.

17.

By reason of the foregoing, Plaintiff DAVID J. DILLON is entitled to recover from Defendant compensatory and other damages in such amounts as may be shown by the evidence at trial and determined in the enlightened conscience of the jury.

WHEREFORE, DAVID J. DILLON prays and respectfully demands verdict and judgment as follows:

- (a) That Summons and Process issue and that the named Defendant be served with a copy of this Complaint and that Defendant be required to appear and answer;
- (b) That Plaintiff be awarded compensatory damages against Defendant, in such an amount as may be shown by the evidence and as may be determined in the enlightened conscience of the jury;
- (c) That Plaintiff be awarded special damages in an amount as may be shown by the evidence and proven at trial;
- (d) That Defendant be charged with all Court costs attributable to this action and such other costs reasonably incurred in the prosecution and trial of this case;
- (e) That Plaintiff be granted a trial by jury; and,
- (f) That Plaintiff be granted such other and further relief as may be shown by the evidence and the law, and as this Court may deem just and appropriate.

THIS _____ DAY OF _____, _____.

P. Charles Scholle
Attorney for Plaintiff
Georgia Bar Number 629736

6340 Sugarloaf Parkway
Suite 200
Duluth, Georgia 30097
770-717-5100

FULTON COUNTY STATE COURT

STATE OF GEORGIA

DAVID J. DILLON,

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vs.

SEAN M. HARRIS, GROENDYKE
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**PLAINTIFFS' FIRST INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS AND NOTICE TO PRODUCE TO
DEFENDANT SEAN M. HARRIS**

COMES NOW DAVID J. DILLON Plaintiff in the above-styled action, and propounds the attached First Continuing Interrogatories to Defendant, SEAN M. HARRIS, pursuant to O.C.G.A. §9-11-33, §9-11-34, § 9-11-30(b)(5), and §24-10-26, respectively, to be answered separately and individually under oath.

Answers to these Interrogatories shall be served upon the attorney for the Plaintiff at the offices of P. Charles Scholle, P.C., 6340 Sugarloaf Parkway, Suite 200, Duluth, Georgia 30097 no later than forty-five (45) days after service of these Interrogatories, or at any hearing or deposition in the above matter which is scheduled prior to 45th day after service.

PART I

INTRODUCTION AND DEFINITIONS

(A) Each Interrogatory seeks information available to the Defendant, its attorneys and agents, and all persons acting in their behalf. Accordingly, as used herein, the term "Defendant," "you," "your," refer without limitation to the Defendant, the Defendant's attorneys or

investigators, insurers, agents and all other persons acting in the Defendant's behalf. Each of the Interrogatories shall be deemed to be continuing in the manner provided by law.

(B) As used herein, "person" means an individual firm, partnership, corporation, proprietorship, association, governmental body, or any other organization or entity. When the term "identify" is used in conjunction with the term "person" or if the answer of any Interrogatory herein refers to a person (as defined herein), you are to state each such person's (1) full legal name, (2) present or last known address and telephone number, business or residential, and (3) occupation, job title, business affiliation and/or nature of business.

(C) When the term "identify" is used herein in conjunction with a document or other tangible thing, or if the answer to any Interrogatory refers to such a document or other tangible thing, you are to state with respect to each such item: (1) the date of the item, (2) the identity of the person who has custody or control of the item, and (3) the nature and substance of the item; all with sufficient particularity to enable it to be identified in a Request to Produce. Alternatively, you may produce the item, provided each document is appropriately marked so as to identify the Interrogatory to which the document is responsive.

(D) If any document or identification of any document or oral communication is withheld under a claim of privilege, provide information sufficient to determine the identity of the document or oral communication and, as well, state the basis for any asserted claim of privilege.

(E) As used herein, "date" should mean the exact day, month and year, if ascertainable, or if not, the best approximation (including relationship to other events).

(F) If you object to part of an Interrogatory and refuse to answer that part, state your objection and answer the remaining portion of that Interrogatory. If you object to the scope or

time period of an Interrogatory and refuse to answer that part, state your objection and answer the remaining portion of that Interrogatory. If you object to the scope or time period of an Interrogatory and refuse to answer for that scope of time, state your objection in an answer for that Interrogatory for the scope and time period that you believe is appropriate.

(G) If any of the following Interrogatories cannot be answered in full after exercising due diligence to secure the information, please so state and answer to the extent possible, specifying your inability to answer the remainder, and stating whatever information you have concerning the Interrogatory.

PART II
INTERROGATORIES

1.

Please identify all persons assisting in answering these interrogatories.

2.

State your full name, give your present residence address, date of birth, social security number, the name of your present employer and your job title, the name of your employer on the date of the incident giving rise to this lawsuit, and list all other names by which you have been known throughout your lifetime, including the dates that you were known by these names.

3.

Please list your present residence address and all other addresses at which you have resided in the past five (5) years and the dates of each residency.

4.

Please state whether or not you contend that any other person contributed in any way to the incident which gives rise to this action, and if so, state the following;

- (a) The name and address of the person who you contend contributed to same;
- (b) Please state in detail the allegations of negligence, common law or negligence per se allegations which you contend were committed by said persons.

5.

Do you claim that the occurrence in question was in any way caused by a mechanical defect or malfunction of your vehicle? If so, state the details of said malfunction, when you first had knowledge of said defect and how you believe it contributed to said incident.

6.

During the thirteen hour period immediately preceding this wreck, please state:

- (a) The exact number of hours and fractions thereof you were driving the tractor trailer;
- (b) The exact number of hours and fractions thereof you recorded on your logbook as driving hours; and
- (c) If you drove more hours than reflected in your log book as driving hours, please explain the reasons for doing so.

7.

Did you receive a traffic citation as a result of this occurrence? If so, give the date, place and manner of disposition of the citation.

8.

Describe in narrative detail the events surrounding the occurrence, including but not limited to a description of how, when and where this incident occurred.

9.

Please state where you were driving your vehicle from and what your destination was at the time of the collision.

10.

Please state whether or not you, the Defendant driver consumed any alcoholic beverages of any type or any sedative, tranquilizer or other drug, medicine or pill during the seventy-two (72) hours immediately preceding the incident giving rise to this action.

11.

Please state whether, at the time of the incident which is the subject matter of this litigation, you had any physical disabilities whatsoever and, if so, please describe same.

12.

State whether you have ever been arrested or convicted of a crime (other than a traffic offense)? If so, please identify each incident, date of arrest, the court in which any criminal proceeding against you was held, and the disposition of each charge if applicable. See Lewis v. State, 243 Ga. 443 (1979); Hightower v. General Motors Corp., 175 Ga. App. 112 (1985).

13.

Please list all violations of motor vehicle or traffic laws or ordinances to which you have ever pled guilty or nolo contendere or to which you have been found guilty, the date of such offense, the court in which each case was heard and the nature of the violation charged.

14.

State whether you have ever been issued an "out of service" sticker in accordance with 49 C.F.R. §396.9. If you have been issued such a form state:

- (a) the times and places that all such stickers were issued;
- (b) what repairs were indicated on the "out of service" sticker; and
- (c) the name, occupation and address of the person or persons currently in possession, control or custody of the original or copies of the "out of service" sticker issued to you.

15.

State whether you have ever been declared "out of service" in accordance with 49 C.F.R.

§ 395.13. If so state:

- (a) the date and place of each occasion you were declared "out of service";
- (b) the reason you were declared "out of service"; and
- (c) the company that you were hauling for at the time you were declared out of service.

16.

State whether you were ever required to complete a "driver vehicle inspection report" for the seventy-two hour prior to this incident and forty-eight hours after this incident and, if so, state:

- (a) any deficiencies noted on the vehicle;
- (b) what action was taken to correct any deficiencies; and
- (c) the identity of the person(s) with a copy of said reports.

17.

State the identity of all persons that to you or your representative's knowledge, information or belief:

- (a) were eyewitnesses to the incident giving rise to this lawsuit; and
- (b) have relevant knowledge concerning any issues involved in this lawsuit who were not identified in subpart (a), including every person interviewed by you, or on your behalf, in regard to the above entitled action.

18.

Please identify each expert expected to testify at trial and state the subject matter the expert is expected to testify about, the substance of the facts and opinions to which the expert is expected to testify, and give a summary of the grounds for each opinion. See O.C.G.A. § 9-11-

26(b)(4)(A)(I) / Fed. R. Civ. P. 26(b)(4)(A)(I). Please note that this interrogatory applies to all expert witnesses including all practitioners of the healing arts. The trial court has the power to exclude any expert or any expert testimony not fairly disclosed in your answer to this interrogatory.

19.

State the names, last-known addresses, places of employment, job classification, and present whereabouts of all agents, servants, employees, representatives, private investigators, or others who investigated this incident on behalf of the defendant.

20.

Describe with particularity all photographs, charts, diagrams, videotapes, and other illustrations of any person, place or thing involved in this lawsuit, giving the date each was made and the name and address of the person(s) with possession, custody or control of each item.

21.

State whether on the date and at the time of the incident which forms the basis of this litigation, Defendant SEAN M. HARRIS was an employee of Defendant GROENDYKE TRANSPORTATION. If Defendant SEAN M. HARRIS was an employee of Defendant GROENDYKE TRANSPORTATION at the time of this collision state whether Defendant SEAN M. HARRIS was acting within the scope of his employment for Defendant GROENDYKE TRANSPORTATION at the time and place of the incident which forms the basis for this litigation.

22.

If the answer to the preceding interrogatory is negative, state what relationship did exist between Defendant SEAN M. HARRIS and Defendant GROENDYKE TRANSPORTATION at the time and on the date of the incident which forms the basis of this litigation.

23.

Please state whether, at the time of the incident which is the subject matter of this litigation, you had a valid driver's license from any state, and if your answer is in the affirmative, state the following:

- (a) the state of issue;
- (b) Whether there are any restrictions on said license;
- (c) Nature of any such restrictions.

24.

If you have ever been a party to a lawsuit, including a claim for workers' compensation or a bankruptcy proceeding, identify the person involved, give the style and number of the case, the nature of the litigation, the role you or your family member had in the matter (plaintiff, defendant, etc.) and the court or administrative body before which the suit was filed.

25.

With regard to each statement (oral, written, recorded, court or deposition transcript, etc.) taken from any person with knowledge relevant to this lawsuit, please state the name of each person giving each statement, the name and address of the person or entity taking each statement, the date each statement was taken, and the name and address of each person having possession, custody or control of each statement.

PART III

PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND NOTICE

TO PRODUCE

TO DEFENDANT SEAN M. HARRIS

DEFINITIONS AND INSTRUCTIONS

(A) This request for production of documents shall be deemed continuing to the extent permitted by O.C.G.A. § 9-11-26(e), so as to require defendant to serve upon plaintiff supplemental answers if defendant or its attorneys obtain further information between the time the answers are served and the time of trial.

(B) The following definitions shall apply to this request.

1. "Document", whether singular or plural, shall mean documents and other tangible things defined in the broadest sense permitted by the Georgia Civil Practice Act and shall include without limitation originals or, if such are not available, true copies of all memoranda, reports, evaluations, correspondence, interoffice communications or memoranda, agreements, contracts, invoices, checks, journals, ledgers, telegraphs, telexes, handwritten notes, periodicals, pamphlets, computer or business machine printouts, accountant's work papers, accountant's statements and writing, notations or records of meetings, books, papers, diaries, promissory notes, evidences of indebtedness, security agreements, loan applications, leases, documents creating or reflecting security interests, loan agreements, financing statements, deposit slips, advertising, office manuals, employee manuals, rules and regulations, reports of experts, drafts and copies of any of the foregoing, or such documents as are not an identical copy of an original or where such copy contains any commentary or notation whatsoever that does not appear on the original, tape recordings or other sound or visual production materials and any other written matter, tangible or physical objects, however produced or reproduced, upon which words or phrases are affixed and from which by appropriate transfixion such

matter or tangible thing may be produced in the possession, custody or control of either defendant or their agents, attorneys, or employees.

2. "Person" means any natural person, corporation, partnership, proprietorship, association, governmental entity, agency, group, organization or group of persons.

(C) Whenever production is requested of a document which is no longer in your possession, custody or control, your response should identify the document by name, number, form or description, and by date made, and the date which the document was most recently in your possession, custody and control, the disposition made of the document, and the identity of the person or person now in possession, custody or control of such document. If the document has been destroyed, the response should state the reason for its destruction and the identity of the person or persons who destroyed the document and who directed that document to be destroyed.

(D) If you object to part of a request and refuse to answer that part, state your objections and answer the remaining portion of that request. If you object to the scope or time period of the request and refuse to answer for that scope or time period, state your objection and answer the request for the scope or time period you believe is appropriate. If any of the following requests cannot be responded to in full after exercising due diligence to secure the information, please so state and answer to the extent possible, specifying your inability to answer the remainder, and stating whatever information you have concerning the unanswered portions. If your response is qualified in any particular, please set forth the details of such qualifications.

(E) In the event you wish to assert attorney/client privilege or work-product exclusion, or both, as to any document requested by any of the following specific requests, then

as to each document subject to such assertion, you are requested to provide plaintiffs with identification of such document in writing, such identification to include the nature of the document, the sender, the author, the recipient, the recipient of each copy, the date, the name of each person to whom the original of any copy was circulated, the names appearing on any circulation list of the department associated with such document, a summary statement of the subject matter of such document in sufficient detail to permit the Court to reach a determination in the event of a motion to compel, and an indication of the basis for assertion of the privilege or the like.

(F) The following Request for Production of Documents and Notice to Produce is made under the provisions of O.C.G.A. §9-11-34, §9-11-30(b)(5), and §24-10-26.

(G) You are hereby notified to produce for inspection and copying at the offices of P. Charles Scholle, P.C., 6340 Sugarloaf Parkway, Suite 200, Duluth, Georgia 30097, within 45 days after the date of service of this Request for Production of Documents and Notice to Produce; and pursuant to O.C.G.A. § 9-11-30(b)(5), at the time of the taking of Defendant's deposition, and pursuant to O.C.G.A. § 24-10-26, upon any hearing and upon the trial of the above-styled case, the following documents and records which are in your possession, custody or control, the same to be used as evidence by the Plaintiff, to wit:

1.

Any statement in your control from the Plaintiff, whether written or recorded.

2.

All photographs, charts, diagrams, videotapes, and other illustrations of any person, place or thing involved in this lawsuit.

3.

All documents evidencing, reflecting, relating to or constituting any communication between Plaintiff and Defendant driver including without limitation all correspondence, letters, notes, tapes, memoranda, and any other evidence of communications that in any way relates to this litigation.

4.

The original or a true and accurate copy of the declaration sheet or coverage page of all insurance policies which provide coverage for this incident.

5.

All documents evidencing, reflecting, relating to any traffic citation(s) that you received as a result of this collision.

6.

All documents evidencing, reflecting, relating to or constituting an incident report regarding this collision.

7.

A true and accurate copy of your driver's license.

8.

A copy of the defendant driver's daily logs as required by 49 C.F.R. §395.8 for the thirty (30) day period preceding the date of this incident and for the thirty (30) day period subsequent to this incident and all administrative driver's log or driving time or work time audits created by the Defendant SEAN M. HARRIS, during that time period.

9.

A copy of the pre-trip inspection report.

10.

A copy of the Defendant driver's medical certificate in accordance with 49 C.F.R. §391 et. seq.

11.

Any photographs of the scene of this incident.

12.

A copy of the Post Accident Report as required by 49 C.F.R. § 382.303 as filed by Defendant driver following the incident which forms the basis for this litigation.

13.

A copy of the periodic inspection report as required by 49 C.F.R. §396.21.

THIS _____ DAY OF _____, _____.

P. Charles Scholle
Attorney for Plaintiff
Georgia Bar Number 629736

6340 Sugarloaf Parkway
Suite 200
Duluth, Georgia 30097
770-717-5100

FULTON COUNTY STATE COURT

STATE OF GEORGIA

DAVID J. DILLON,

Plaintiff,

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SEAN M. HARRIS, GROENDYKE
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**PLAINTIFFS' FIRST REQUESTS FOR
ADMISSION TO DEFENDANT SEAN M. HARRIS**

COMES NOW DAVID J. DILLON, Plaintiff in the above-styled action, and requests, pursuant to O.C.G.A. § 9-11-36, that Defendant admit under oath the truth of the facts hereinafter set forth, within forty-five (45) days after service of this discovery request upon said Defendant.

1.

Sean M. Harris has been correctly named as a Defendant in the present action with respect to the legal description of Defendant's name.

2.

The State Court of Fulton County has personal jurisdiction over Defendant.

3.

The State Court of Fulton County has subject matter jurisdiction over this action.

4.

The State Court of Fulton County is the court of proper venue in this action.

5.

This Defendant received process in this action, and such process and service is sufficient.

THIS _____ DAY OF _____, _____.

P. Charles Scholle
Attorney for Plaintiff
Georgia Bar Number 629736

6340 Sugarloaf Parkway
Suite 200
Duluth, Georgia 30097
770-717-5100

FULTON COUNTY STATE COURT

STATE OF GEORGIA

DAVID J. DILLON,

Plaintiff,

vs.

SEAN M. HARRIS, GROENDYKE
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**PLAINTIFFS' FIRST INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS AND NOTICE TO PRODUCE TO
DEFENDANT GROENDYKE TRANSPORT, INC.**

COMES NOW DAVID J. DILLON Plaintiff in the above-styled action, and propounds the attached First Continuing Interrogatories to Defendant, GROENDYKE TRANSPORT, INC., pursuant to O.C.G.A. §9-11-33, §9-11-34, § 9-11-30(b)(5), and §24-10-26, respectively, to be answered separately and individually under oath.

Answers to these Interrogatories shall be served upon the attorney for the Plaintiff at the offices of P. Charles Scholle, P.C., 6340 Sugarloaf Parkway, Suite 200, Duluth, Georgia 30097 no later than forty-five (45) days after service of these Interrogatories, or at any hearing or deposition in the above matter which is scheduled prior to 45th day after service.

PART I

INTRODUCTION AND DEFINITIONS

(A) Each Interrogatory seeks information available to the Defendant, its attorneys and agents, and all persons acting in their behalf. Accordingly, as used herein, the term "Defendant," "you," "your," refer without limitation to the Defendant, the Defendant's attorneys or

investigators, insurers, agents and all other persons acting in the Defendant's behalf. Each of the Interrogatories shall be deemed to be continuing in the manner provided by law.

(B) As used herein, "person" means an individual firm, partnership, corporation, proprietorship, association, governmental body, or any other organization or entity. When the term "identify" is used in conjunction with the term "person" or if the answer of any Interrogatory herein refers to a person (as defined herein), you are to state each such person's (1) full legal name, (2) present or last known address and telephone number, business or residential, and (3) occupation, job title, business affiliation and/or nature of business.

(C) When the term "identify" is used herein in conjunction with a document or other tangible thing, or if the answer to any Interrogatory refers to such a document or other tangible thing, you are to state with respect to each such item: (1) the date of the item, (2) the identity of the person who has custody or control of the item, and (3) the nature and substance of the item; all with sufficient particularity to enable it to be identified in a Request to Produce. Alternatively, you may produce the item, provided each document is appropriately marked so as to identify the Interrogatory to which the document is responsive.

(D) If any document or identification of any document or oral communication is withheld under a claim of privilege, provide information sufficient to determine the identity of the document or oral communication and, as well, state the basis for any asserted claim of privilege.

(E) As used herein, "date" should mean the exact day, month and year, if ascertainable, or if not, the best approximation (including relationship to other events).

(F) If you object to part of an Interrogatory and refuse to answer that part, state your objection and answer the remaining portion of that Interrogatory. If you object to the scope or

time period of an Interrogatory and refuse to answer that part, state your objection and answer the remaining portion of that Interrogatory. If you object to the scope or time period of an Interrogatory and refuse to answer for that scope of time, state your objection in an answer for that Interrogatory for the scope and time period that you believe is appropriate.

(G) If any of the following Interrogatories cannot be answered in full after exercising due diligence to secure the information, please so state and answer to the extent possible, specifying your inability to answer the remainder, and stating whatever information you have concerning the Interrogatory.

PART II
INTERROGATORIES

1.

Does any insurance agreement exist under the terms of which the person or company issuing the same may be called upon to satisfy all or part of any judgment which may be entered in favor of the Plaintiff in this action? If so, describe in detail the contents and terms of all such policies (including any subordinate, umbrella or excess insuring agreement or agreements), the name(s) of all insurers, the limits of liability and the amount of deductible or retainage, if any.

2.

State the following: the date SEAN M. HARRIS, was first employed by GROENDYKE TRANSPORT, INC., and the name, address, and job rating of the person who was SEAN M. HARRIS's immediate superior on November 10, 2009, and if said supervisor no longer works for you, the date that his or her employment was terminated.

3.

State the following: whether Defendant SEAN M. HARRIS had operated a 2007 CTRI

Commercial Vehicle at any time prior to the time he was hired by Defendant GROENDYKE TRANSPORT, INC., and if so, how long, the name and address of each prior employer, the dates he worked for each, the type of work he performed for each, the reason for the termination of his employment with each prior employer; the qualifications of Defendant SEAN M. HARRIS to perform his work; whether Defendant GROENDYKE TRANSPORT, INC. requested and/or received a report, memorandum, or a letter from any prior employer of Defendant SEAN M. HARRIS regarding his qualifications; if so, for each letter, report, or memorandum, state the name and address of the prior employer, the date of the instrument, the name, address and job rating of the person issuing such letter, report, or memorandum, the name, address and job rating of the person to whom the letter, report, or memorandum was sent; and the name, address and job title of the person who is the present custodian thereof.

4.

State the following: describe the specific duties that Defendant SEAN M. HARRIS was to perform on November 10, 2009; what his normal working hours were for one month immediately preceding this above date; the name, address, and job title of the person who assigned the duties for him for the date; the specific work he was performing at the time of the collision, including where he was coming from, his load, and his destination.

5.

Did Defendant SEAN M. HARRIS attend a training program at the request or direction of Defendant GROENDYKE TRANSPORT, INC. or any other person or firm which prepared him as an operator of a 2007 CTRI Commercial Vehicle or other similar vehicles? If so, describe fully, including but not limited to, the name, address, and job title of the person in charge of the training program, and the dates during which Defendant SEAN M. HARRIS

participated in the training program.

6.

State the following: whether Defendant SEAN M. HARRIS has been absent from his job at any time as a result of any mental, emotional, or drug-related disorder, and, if so, state the date of each such absence, the name of, or a description of, the disorder; whether Defendant SEAN M. HARRIS had ever been reprimanded, suspended or dismissed from his job as a result of any infraction of rules or regulations at his place of employment, and if so, state the date, describe the rule or regulation violated, and the punishment imposed; whether Defendant SEAN M. HARRIS has ever been involved in any vehicular incident before, either previous to or during his present employment, and if so, as to each incident, state the date and location of each, whether legal proceedings were commenced, the outcome of any such proceedings, the result of any settlement in the absence of legal proceedings, whether any traffic citations were issued against Defendant SEAN M. HARRIS; whether Defendant SEAN M. HARRIS has ever received a traffic citation, if so, state the date, location, and charge, along with the disposition of each charge either before a court of law or otherwise.

7.

Describe the tractor-trailer combination unit which was involved in the subject incident of November 10, 2009, giving its make, year of manufacture, date of purchase or lease, weight, length, and width, as to both tractor and trailer separately.

8.

Describe the markings on the truck or tractor-trailer unit consisting of legends or markings painted or otherwise inscribed thereon concerning ownership, operation, weight, and license or registrations, describing the location of each marking or legend upon the tractor-trailer

unit.

9.

Do you know the identity of any person who was a witness to the occurrence? If any, state as to each and every witness, including parties, known to you or your agents or employees to have seen, heard, or known about the occurrence: the name and address of each, the location where each witness was at the time he heard or learned about the occurrence, the substance, as best you can give it, of all information or knowledge about the occurrence, the substance, as best you can give it, of all information or knowledge about the occurrence known, whether or not any such witness gave any statement or account, either oral or in writing, of his or her knowledge of the occurrence, and, if so, give the substance of the same.

10.

Describe in detail any and all conversations, sounds, utterances, speech or noises made by Plaintiff after the incident that is the subject of Plaintiff's complaint which were heard by any agent or employee of Defendant SEAN M. HARRIS or by any other person known to Defendant.

11.

Describe in full detail how the incident which is the subject of this complaint happened, giving all the events in detail in the order in which they took place, before, at the time of, and after the incident, which had any bearing on the cause and manner of the happening of the same.

12.

Did any person other than Defendant SEAN M. HARRIS or any agent or employee of Defendant GROENDYKE TRANSPORT, INC. in any way cause or contribute to cause the happening of the incident which is the subject of Plaintiff's complaint? If your answer to the preceding interrogatory is in the affirmative, state: the full identity, including name, address and

physical description of any such person, how and in what manner such person in any way caused or contributed to cause the same.

13.

State all facts on which you rely as tending to show any negligence or lack of care of any kind on the part of the Plaintiff.

14.

Describe in detail the load or object carried on the trailer at the time of the incident alleged by the Plaintiff, giving a description of the load or object, including, its weight in pounds, its length in feet, and its height in feet above ground.

15.

On or about the date of the alleged incident of Plaintiff, did Defendant GROENDYKE TRANSPORT, INC. have any established procedure for the inspection of the vehicle or the type of vehicle that was involved in the collision? If your answer is in the affirmative, give: a description of the procedure, the date and time of day when the most recent inspection was made just prior to the date and time of the alleged collision, the identification, including the name, job title and address, of each person who participated in such inspection, in complete detail, what such inspection revealed or disclosed.

16.

Describe any repairs made to the subject vehicle, which SEAN M. HARRIS was driving as described in Plaintiff's complaint, for the ninety (90) day period prior to November 10, 2009.

17.

Identify and describe any written rules, procedures, standards, guidelines, policies or the like of Defendant GROENDYKE TRANSPORT, INC. pertaining to the safe driving and

operation of its motor vehicles.

18.

Identify and describe any training materials, books, pamphlets, notices, letters, handouts, or the like, which Defendant GROENDYKE TRANSPORT, INC. has in its possession, custody or control pertaining to the safe driving and operation of its motor vehicles.

19.

Do you, or does any agent or employee of Defendant GROENDYKE TRANSPORT, INC. have possession or control of, or know of the existence of any maps, pictures, videotapes, films, photographs, plates, drawings, diagrams, measurements, or other written descriptions of the occurrence, or the areas, or persons involved? If your answer is in the affirmative, state for each such item: its nature, its specific subject matter, the date and time it was made or taken, the identification, including name, address, and present whereabouts of the person making or taking it, and the identification, including name and address of the person at whose request it was made or taken.

20.

If it is your contention that Defendant GROENDYKE TRANSPORT, INC. is not the employer of Defendant SEAN M. HARRIS, or if it is your contention that Defendant GROENDYKE TRANSPORT, INC. is not a proper party to this action, state in full detail the factual basis for any such contentions and cite any statutory or case law upon which you rely to support same, as well as the name of the entity who you contend is the employer of Defendant SEAN M. HARRIS.

21.

If it is your contention that Defendant GROENDYKE TRANSPORT, INC. has not been

properly served, state in detail the factual basis for the alleged defects in service or process and cite the statutory or case law upon which you rely to support said contention.

22.

Please identify the manner or method by which GROENDYKE TRANSPORT, INC. ensures that its drivers are in compliance with the driving hours as put forth by the FMCSA and that the driver's logbooks are accurate, and:

- (a) Identify all persons who review the drivers' logbooks for compliance with the maximum allowable driving hours as put forth by the FMCSA; and
- (b) How often the log books are reviewed.

23.

State whether Defendant SEAN M. HARRIS was an employee of Defendant GROENDYKE TRANSPORT, INC. on the date and at the time of the incident which forms the basis of this litigation. If Defendant SEAN M. HARRIS was an employee of Defendant GROENDYKE TRANSPORT, INC. at the time of this collision, state whether Defendant SEAN M. HARRIS was acting within the scope of his employment for Defendant GROENDYKE TRANSPORT, INC. at the time and place of the incident which forms the basis for this litigation.

24.

If the answer to the preceding interrogatory is negative, state what relationship did exist between Defendant GROENDYKE TRANSPORT, INC. and Defendant SEAN M. HARRIS at the time and on the date on the incident which forms the basis of this litigation.

25.

Please state whether or not you contend that any other person contributed in any way to

the incident which gives rise to this action, and if so, state the following;

- (a) The name and address of the person who you contend contributed to same; and
- (b) Please state in detail the allegations of negligence, common law or negligence per se allegations, which you contend were committed by said persons.

26.

Do you claim that the occurrence in question was in any way caused by a mechanical defect or malfunction of your vehicle? If so, state the details of said malfunction, when you first had knowledge of said defect and how you believe it contributed to said incident.

27.

During the thirteen-hour period immediately preceding this wreck, please state:

- (a) The exact number of hours, including fractions thereof, the Defendant driver was driving according to the onboard recording device report;
- (b) The exact number of hours, including fractions thereof, the Defendant driver was driving according to his log book; and
- (c) If there is a discrepancy between the hours in subparts (a) and (b), please explain why such a discrepancy exists.

28.

How long on average does it take to download the onboard recording device data from the tractor unit in question and state the frequency that GROENDYKE TRANSPORT, INC. performs such download. If GROENDYKE TRANSPORT, INC. does not download the on board recording device data on a routine basis, please explain why it does not.

29.

Regarding the tractor (power unit) that was involved in this collision state:

- (a) any changes from its original configuration;
- (b) the contents and weight of the load being transported at the time of the incident;
and
- (c) whether the tractor-trailer or truck involved in the incident had an on-board recording device, computer, tachograph, trip monitor, trip recorder, or trip master.

30.

State whether Defendant GROENDYKE TRANSPORT, INC. conducted a post-accident test in accordance with 49 C.F.R. §382.303 concerning the incident which forms the basis of this litigation. If Defendant GROENDYKE TRANSPORT, INC. did conduct a test, state:

- (a) the name, occupation, and address of the individual who conducted the test;
- (b) the date and time when the test was conducted; and
- (c) the name and address of the person who has custody of said test results.

31.

Identify the person, organization or agency which has possession of, custody of or control over the records regarding systematic inspection and maintenance of the tractor involved in this incident as provided for by 49 C.F.R. § 396.3 for the six-month period preceding this incident.

32.

State whether Defendant GROENDYKE TRANSPORT, INC. requires the completion by every driver of a "driver's vehicle inspection report" as contemplated by 49 C.F.R. § 396.11. If Defendant GROENDYKE TRANSPORT, INC. did require such a report please state:

- (a) whether such "driver's vehicle inspection report" was maintained by Defendant driver on the date of the incident which forms the basis of this litigation and for the preceding two weeks; and

- (b) the persons, organizations or agencies which have custody of, possession of, or control over the "driver vehicle condition reports" of Defendant GROENDYKE TRANSPORT, INC.'s drivers.

33.

State whether Defendant GROENDYKE TRANSPORT, INC. requires its drivers to maintain a "driver's daily log" as provided by 49 C.F.R. § 395.8. If Defendant GROENDYKE TRANSPORT, INC. does require its driver's to maintain a log state:

- (a) whether Defendant GROENDYKE TRANSPORT, INC. has in its possession, custody or control daily logs of Defendant Driver; and
- (b) the dates of the daily logs of Defendant Driver currently in possession, custody of control of Defendant GROENDYKE TRANSPORT, INC..

34.

State whether Defendant GROENDYKE TRANSPORT, INC. maintained systematic inspection and maintenance records as provided for by 49 C.F.R. § 396.3. If Defendant GROENDYKE TRANSPORT, INC. did maintain such a record state whether such records of inspection and maintenance are maintained for the vehicle which was driven by Defendant driver on the date and at the time of the incident which forms the basis of this litigation, and if so, state the person, organization or agency which has possession of, custody of, or control over said records for a period commencing one year before the incident which forms the basis of this litigation and continuing to date.

35.

Identify each insurance carrier that may provide coverage for damages resulting from this collision and as to each state the effective dates of coverage with policy limits and:

- (a) Whether said insurance company is defending you under a reservation of rights;
- (b) State whether the policy was on file with the GPSC on the date of the incident;
and
- (c) State whether the policy had been accepted and approved by the GPSC pursuant to O.C.G.A. 46-7-12(c).

36.

Please identify the owner of the vehicle which the Defendant SEAN M. HARRIS was operating at the time of this incident.

37.

Did the Defendant GROENDYKE TRANSPORT, INC. make an inquiry into the Defendant SEAN M. HARRIS's motor record during preceding three (3) at the time of hiring or at any time thereafter? If so, state any violations contained therein.

38.

State the manner and method by which you administered tests for controlled substances on your drivers and how often these tests were conducted.

39.

Identify the person(s) who have knowledge of the following:

- (a) company safety policies and operations;
- (b) maintenance and repairs of the truck involved in the incident giving rise to this litigation for the 1-year period preceding the incident;
- (c) responsibility for maintaining company records, including the safety director; director of fleet safety program; medical review officer; director of employee assistance program; medical technologist (for blood, urine and breath tests);

dispatchers; mechanics who worked on the truck; supervisors of the mechanics; person(s) who administer both the driving test and the written test to the Defendant SEAN M. HARRIS; officer of official in charge of operational safety; supervisor of records.

40.

Identify when SEAN M. HARRIS left for the trip at issue, what he was carrying, from where SEAN M. HARRIS left to begin his trip, SEAN M. HARRIS's destination and intended route, the time allotted by GROENDYKE TRANSPORT, INC. for the trip, and when SEAN M. HARRIS was scheduled to return to GROENDYKE TRANSPORT, INC.'s facilities.

41.

Give the name, address and telephone number of all persons that to you or your representative's knowledge, information or belief:

- (a) were eyewitnesses to the incident giving rise to this lawsuit;
- (b) have relevant knowledge concerning any issues involved in this lawsuit who were not identified in subpart (a), including every person interviewed by you, or on your behalf, in regard to the above entitled action.

42.

Please identify each expert expected to testify at trial and state the subject matter the expert is expected to testify about, the substance of the facts and opinions to which the expert is expected to testify, and give a summary of the grounds for each opinion. See O.C.G.A. § 9-11-26(b)(4)(A)(I) / Fed. R. Civ. P. 26(b)(4)(A)(I). Please note that this interrogatory applies to all expert witnesses including all practitioners of the healing arts. The trial court has the power to exclude any expert or any expert testimony not fairly disclosed in your answer to this

interrogatory.

43.

Describe with particularity all photographs, charts, diagrams, videotapes, and other illustrations of any person, place or thing involved in this lawsuit, giving the date each was made and the name and address of the person(s) with possession, custody or control of each item.

44.

Within thirty-two (32) hours after the incident did the Defendant driver provide a urine sample to be tested for the use of controlled substances. If so identify the person who performed the test.

45.

Describe in narrative detail the events surrounding the occurrence, including but not limited to a description of how, when and where this incident occurred.

46.

State the name, age, address, occupation, and place of employment of every person interviewed by you, or on your behalf, in regard to the above entitled action, and the date and place of such interviews.

47.

With regard to each statement (oral, written, recorded, court or deposition transcript, etc.) taken from any person with knowledge relevant to this lawsuit, please state the name of each person giving each statement, the name and address of the person or entity taking each statement, the date each statement was taken, and the name and address of each person having possession, custody or control of each statement.

PART III

PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND NOTICE

TO PRODUCE

TO DEFENDANT GROENDYKE TRANSPORT, INC.

DEFINITIONS AND INSTRUCTIONS

(A) This request for production of documents shall be deemed continuing to the extent permitted by O.C.G.A. § 9-11-26(e), so as to require defendant to serve upon plaintiff supplemental answers if defendant or its attorneys obtain further information between the time the answers are served and the time of trial.

(B) The following definitions shall apply to this request.

1. "Document", whether singular or plural, shall mean documents and other tangible things defined in the broadest sense permitted by the Georgia Civil Practice Act and shall include without limitation originals or, if such are not available, true copies of all memoranda, reports, evaluations, correspondence, interoffice communications or memoranda, agreements, contracts, invoices, checks, journals, ledgers, telegraphs, telexes, handwritten notes, periodicals, pamphlets, computer or business machine printouts, accountant's work papers, accountant's statements and writing, notations or records of meetings, books, papers, diaries, promissory notes, evidences of indebtedness, security agreements, loan applications, leases, documents creating or reflecting security interests, loan agreements, financing statements, deposit slips, advertising, office manuals, employee manuals, rules and regulations, reports of experts, drafts and copies of

any of the foregoing, or such documents as are not an identical copy of an original or where such copy contains any commentary or notation whatsoever that does not appear on the original, tape recordings or other sound or visual production materials and any other written matter, tangible or physical objects, however produced or reproduced, upon which words or phrases are affixed and from which by appropriate transfixion such matter or tangible thing may be produced in the possession, custody or control of either defendant or their agents, attorneys, or employees.

2. "Person" means any natural person, corporation, partnership, proprietorship, association, governmental entity, agency, group, organization or group of persons.

(C) Whenever production is requested of a document which is no longer in your possession, custody or control, your response should identify the document by name, number, form or description, and by date made, and the date which the document was most recently in your possession, custody and control, the disposition made of the document, and the identity of the person or person now in possession, custody or control of such document. If the document has been destroyed, the response should state the reason for its destruction and the identity of the person or persons who destroyed the document and who directed that document to be destroyed.

(D) If you object to part of a request and refuse to answer that part, state your objections and answer the remaining portion of that request. If you object to the scope or time period of the request and refuse to answer for that scope or time period, state your objection and answer the request for the scope or time period you believe is appropriate. If any of the following requests cannot be responded to in full after exercising due diligence to secure the

information, please so state and answer to the extent possible, specifying your inability to answer the remainder, and stating whatever information you have concerning the unanswered portions. If your response is qualified in any particular, please set forth the details of such qualifications.

(E) In the event you wish to assert attorney/client privilege or work-product exclusion, or both, as to any document requested by any of the following specific requests, then as to each document subject to such assertion, you are requested to provide plaintiffs with identification of such document in writing, such identification to include the nature of the document, the sender, the author, the recipient, the recipient of each copy, the date, the name of each person to whom the original of any copy was circulated, the names appearing on any circulation list of the department associated with such document, a summary statement of the subject matter of such document in sufficient detail to permit the Court to reach a determination in the event of a motion to compel, and an indication of the basis for assertion of the privilege or the like.

(F) The following Request for Production of Documents and Notice to Produce is made under the provisions of O.C.G.A. §9-11-34, §9-11-30(b)(5), and §24-10-26.

(G) You are hereby notified to produce for inspection and copying at the offices of P. Charles Scholle, P.C., 6340 Sugarloaf Parkway, Suite 200, Duluth, Georgia 30097, within 45 days after the date of service of this Request for Production of Documents and Notice to Produce; and pursuant to O.C.G.A. § 9-11-30(b)(5), at the time of the taking of Defendant's deposition, and pursuant to O.C.G.A. § 24-10-26, upon any hearing and upon the trial of the above-styled case, the following documents and records which are in your possession, custody or control, the same to be used as evidence by the Plaintiff, to wit:

1.

A complete copy of any insurance agreement (including all excess and umbrella policies) under which any person or entity carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment.

2.

All photographs, videotapes, accident reports, drawings, or diagrams of the accident scene or the vehicles involved in the subject November 10, 2009 incident.

3.

All other documents and materials referred to in your answers to Plaintiff's Interrogatories.

4.

A copy of any time or travel log records showing deliveries made or pick-ups received by Defendant SEAN M. HARRIS on behalf of Defendant GROENDYKE TRANSPORT, INC. for the 90-day period preceding November 10, 2009.

5.

A copy of all trip reports showing deliveries made or pick-ups received by Defendant SEAN M. HARRIS on behalf of Defendant GROENDYKE TRANSPORT, INC. for the 90-day period preceding November 10, 2009.

6.

A copy of the work schedule of Defendant SEAN M. HARRIS showing his hours worked and routes followed for the 90-day period preceding November 10, 2009.

7.

A copy of the Articles of Incorporation of GROENDYKE TRANSPORT, INC..

8.

A copy of the Certificate of Public Convenience and Necessity issued by the Georgia Public Service Commission to GROENDYKE TRANSPORT, INC., which was in effect on SEAN M. HARRIS, in regard to the vehicle driven by Defendant SEAN M. HARRIS and identified in Plaintiff's Complaint.

9.

Any documents relating to the Georgia Public Service Commission or ICC registration regarding the tractor-trailer vehicle driven by Defendant SEAN M. HARRIS and alleged in Plaintiff's complaint and in effect on SEAN M. HARRIS.

10.

Copies of the documents of title stating ownership of the vehicle and component parts thereof which was driven by Defendant SEAN M. HARRIS on behalf of Defendant GROENDYKE TRANSPORT, INC. on SEAN M. HARRIS and which was involved in the incident referred to in Plaintiff's Complaint.

11.

All employment records and personnel files regarding Defendant SEAN M. HARRIS, including but not limited to his application for employment, any records of training received by him in connection with his employment with Defendant GROENDYKE TRANSPORT, INC., all disciplinary notices, all tests, all qualifications, and all performance evaluation reports and other records.

12.

Complete maintenance and repair records for the Defendant GROENDYKE

TRANSPORT, INC. tractor-trailer vehicle identified in Plaintiff's complaint and the complete records of any inspection made by Defendant GROENDYKE TRANSPORT, INC. or others of said vehicle.

13.

All manifests, bills of lading, trip leases or other documents relating to the tractor-trailer vehicle named in Plaintiffs' complaint for the one month period prior to and including SEAN M. HARRIS.

14.

All written rules, procedures, standards, guidelines, policies or the like of Defendant Defendant GROENDYKE TRANSPORT, INC. pertaining to the safe driving and operation of its motor vehicles.

15.

All training materials, books, pamphlets, letters, notices, videotapes, movies, or the like, which Defendant GROENDYKE TRANSPORT, INC. has in its possession, custody or control, pertaining to the safe driving and operation of its motor vehicles.

16.

All form MC-50 accident report forms or any other forms or reports prepared by Defendant GROENDYKE TRANSPORT, INC., and submitted to the Motor Carrier Safety Office of the Federal Highway Administration, with respect to the subject SEAN M. HARRIS incident, which forms the basis for this instant action.

17.

Any and all supplemental reports (accident and otherwise) completed by Defendant GROENDYKE TRANSPORT, INC., its employees, agents or representatives and submitted to

the Motor Carrier Safety Office or any other State or Federal agency or third party or other entity with respect to the subject SEAN M. HARRIS incident which forms the basis for this instant action.

18.

Any statement in your control from the Plaintiff, whether written or recorded.

19.

All photographs, charts, diagrams, videotapes, and other illustrations of any person, place or thing involved in this lawsuit.

20.

All documents evidencing, reflecting, relating to or constituting any communication between plaintiff and defendant including without limitation all correspondence, letters, notes, tapes, memoranda, and any other evidence of communications that in any way relates to this litigation.

21.

The original or a true and accurate copy of the declaration sheet or coverage page of all insurance policies which provide coverage for this incident.

22.

All documents evidencing, reflecting, relating to or constituting an incident report regarding this collision.

23.

A copy of the defendant driver's daily logs as required by 49 C.F.R. §395.8 for the thirty (30) day period preceding the date of this incident and for the thirty (30) day period subsequent to this incident and all administrative driver's log or driving time or work time audits created by

the Defendant GROENDYKE TRANSPORT, INC. during that time period.

24.

A copy of the pre-trip inspection report.

25.

A copy of the Defendant SEAN M. HARRIS's medical certificate in accordance with 49 C.F.R. §391 et. seq.

26.

Any photographs of the scene of this incident.

27.

A copy of the Post Accident Report as required by 49 C.F.R. § 382.303 as filed by Defendant driver SEAN M. HARRIS following the incident which forms the basis for this litigation.

28.

A copy of the periodic inspection report as required by 49 C.F.R. §396.21.

29.

A copy of the SEAN M. HARRIS's employment file including but not limited to:

- (a) applications for employment containing the nature and extent of applicant's experience in motor vehicles;
- (b) a list of all violations of commercial motor vehicle laws or ordinances other than parking of which applicant was convicted or forfeited bond or collateral during the three (3) years preceding the date of application;

- (c) statement setting forth in detail the facts and circumstances surrounding any denial, revocation, or suspension of any license, permit, or privilege to operate a commercial motor vehicle; and
- (d) a list of employers during the three (3) years preceding the date the application is submitted.

30.

A copy of the Defendant's "drivers manual" issued to the Defendant driver SEAN M. HARRIS by GROENDYKE TRANSPORT, INC..

31.

A copy of the certificate of SEAN M. HARRIS's road test in accordance with §391.31.

32.

Produce a copy of every complaint and/or recommendation by any person or entity about defects, needed repair and/or maintenance of the vehicle involved in this incident for the six month period prior to the incident.

33.

Produce a copy of the repair/maintenance record or inspection record for the vehicle involved in this incident for the six month period prior to the incident.

34.

The complete maintenance file maintained by the Defendant GROENDYKE TRANSPORT, INC. in accordance with 49 C.F.R. § 396 et. seq., on the vehicle inclusive of any inspections, repairs or maintenance done to the vehicle, and daily condition reports submitted by drivers for one year prior to the incident

35.

All results of any pre-employment, random or post-accident drug testing on Defendant SEAN M. HARRIS.

36.

All documents of any on-board recording monitor, trip recorder, trip master, or device known by any other name which records information concerning the operation of the tractor trailer for the 30 days before the incident through the date of the incident.

37.

All documents generated by the Defendant company's incident review board and/or internal organization that reviews incidents of its drivers concerning the chargeability of the incident.

THIS _____ DAY OF _____, _____.

P. Charles Scholle
Attorney for Plaintiff
Georgia Bar Number 629736

6340 Sugarloaf Parkway
Suite 200
Duluth, Georgia 30097
770-717-5100

FULTON COUNTY STATE COURT

STATE OF GEORGIA

DAVID J. DILLON,

Plaintiff,

vs.

SEAN M. HARRIS, GROENDYKE
TRANSPORT, INC., GREAT WESTERN
INSURANCE COMPANY AND JOHN
DOES 1-5,

Defendant.

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* JURY TRIAL DEMANDED
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* CASE NO.: 11EV01099J
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**PLAINTIFFS' FIRST REQUESTS FOR
ADMISSION TO DEFENDANT GROENDYKE TRANSPORT, INC.**

COMES NOW DAVID J. DILLON, Plaintiff in the above-styled action, and requests, pursuant to O.C.G.A. § 9-11-36, that Defendant admit under oath the truth of the facts hereinafter set forth, within forty-five (45) days after service of this discovery request upon said Defendant.

1.

Groendyke Transport, Inc. has been correctly named as a Defendant in the present action with respect to the legal description of Defendant's name.

2.

The State Court of Fulton County has personal jurisdiction over Defendant.

3.

The State Court of Fulton County has subject matter jurisdiction over this action.

4.

The State Court of Fulton County is the court of proper venue in this action.

5.

This Defendant received process in this action, and such process and service is sufficient.

THIS _____ DAY OF _____, _____.

P. Charles Scholle
Attorney for Plaintiff
Georgia Bar Number 629736

6340 Sugarloaf Parkway
Suite 200
Duluth, Georgia 30097
770-717-5100

FULTON COUNTY STATE COURT

STATE OF GEORGIA

DAVID J. DILLON,

Plaintiff,

vs.

SEAN M. HARRIS, GROENDYKE
TRANSPORT, INC., GREAT WESTERN
INSURANCE COMPANY AND JOHN
DOES 1-5,

Defendant.

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**PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS
AND NOTICE TO PRODUCE TO
DEFENDANT GREAT WESTERN INSURANCE COMPANY**

COMES NOW DAVID J. DILLON Plaintiff in the above-styled action, and propounds the attached First Continuing Request for Production of Documents to Defendant, GREAT WESTERN INSURANCE COMPANY, pursuant to O.C.G.A. § 9-11-26(e), as follows:

DEFINITIONS AND INSTRUCTIONS

(A) This request for production of documents shall be deemed continuing to the extent permitted by O.C.G.A. § 9-11-26(e), so as to require defendant to serve upon plaintiff supplemental answers if defendant or its attorneys obtain further information between the time the answers are served and the time of trial.

(B) The following definitions shall apply to this request.

1. "Document", whether singular or plural, shall mean documents and other tangible things defined in the broadest sense permitted by the Georgia Civil Practice Act and shall

include without limitation originals or, if such are not available, true copies of all memoranda, reports, evaluations, correspondence, interoffice communications or memoranda, agreements, contracts, invoices, checks, journals, ledgers, telegraphs, telexes, handwritten notes, periodicals, pamphlets, computer or business machine printouts, accountant's work papers, accountant's statements and writing, notations or records of meetings, books, papers, diaries, promissory notes, evidences of indebtedness, security agreements, loan applications, leases, documents creating or reflecting security interests, loan agreements, financing statements, deposit slips, advertising, office manuals, employee manuals, rules and regulations, reports of experts, drafts and copies of any of the foregoing, or such documents as are not an identical copy of an original or where such copy contains any commentary or notation whatsoever that does not appear on the original, tape recordings or other sound or visual production materials and any other written matter, tangible or physical objects, however produced or reproduced, upon which words or phrases are affixed and from which by appropriate transfixion such matter or tangible thing may be produced in the possession, custody or control of either defendant or their agents, attorneys, or employees.

2. "Person" means any natural person, corporation, partnership, proprietorship, association, governmental entity, agency, group, organization or group of persons.

(C) Whenever production is requested of a document which is no longer in your possession, custody or control, your response should identify the document by name, number, form or description, and by date made, and the date which the document was most recently in your possession, custody and control, the disposition made of the document, and the identity of

the person or person now in possession, custody or control of such document. If the document has been destroyed, the response should state the reason for its destruction and the identity of the person or persons who destroyed the document and who directed that document to be destroyed.

(D) If you object to part of a request and refuse to answer that part, state your objections and answer the remaining portion of that request. If you object to the scope or time period of the request and refuse to answer for that scope or time period, state your objection and answer the request for the scope or time period you believe is appropriate. If any of the following requests cannot be responded to in full after exercising due diligence to secure the information, please so state and answer to the extent possible, specifying your inability to answer the remainder, and stating whatever information you have concerning the unanswered portions. If your response is qualified in any particular, please set forth the details of such qualifications.

(E) In the event you wish to assert attorney/client privilege or work-product exclusion, or both, as to any document requested by any of the following specific requests, then as to each document subject to such assertion, you are requested to provide plaintiffs with identification of such document in writing, such identification to include the nature of the document, the sender, the author, the recipient, the recipient of each copy, the date, the name of each person to whom the original of any copy was circulated, the names appearing on any circulation list of the department associated with such document, a summary statement of the subject matter of such document in sufficient detail to permit the Court to reach a determination in the event of a motion to compel, and an indication of the basis for assertion of the privilege or the like.

(F) The following Request for Production of Documents and Notice to Produce is made under the provisions of O.C.G.A. §9-11-34, §9-11-30(b)(5), and §24-10-26.

(G) You are hereby notified to produce for inspection and copying at the offices of P. Charles Scholle, P.C., 6340 Sugarloaf Parkway, Suite 200, Duluth, Georgia 30097, within 45 days after the date of service of this Request for Production of Documents and Notice to Produce; and pursuant to O.C.G.A. § 9-11-30(b)(5), at the time of the taking of Defendant's deposition, and pursuant to O.C.G.A. § 24-10-26, upon any hearing and upon the trial of the above-styled case, the following documents and records which are in your possession, custody or control, the same to be used as evidence by the Plaintiff, to wit:

1.

Defendant's insurance policies, insurance agreements, and any subordinate insuring agreements, which in any way, may provide the Defendant with insurance coverage in the event of an award for Plaintiffs of any sum by the way of judgment in this case.

2.

Any written, recorded, or transcribed statement made by anyone concerning this action or the subject of this matter action.

3.

Any maps, plats, drawings, estimates, videotapes, or photographs pertaining to the incident which is the subject matter of this lawsuit.

4.

Any statements of witnesses who claim to have seen the impact as it occurred between the vehicles referred to in Plaintiffs' Complaint and/or claim to have seen either vehicle within one block of the incident and/or claim to have seen the vehicles prior to being removed from the

accident area.

5.

Any statements made by anyone who claims to have heard or seen Plaintiffs or any Defendant hereto make any statement either against or for his/her/their interest at the accident scene or at any other time or location.

6.

All documents which you and/or your representatives rely upon to demonstrate and support any facts relevant to this litigation and any documents which you and/or your representatives contend are relevant to the issues involved in this action.

7.

All reports, drawings, or correspondence made by experts whom Defendant expects to testify in this action.

THIS _____ DAY OF _____, _____.

P. Charles Scholle
Attorney for Plaintiff
Georgia Bar Number 629736

6340 Sugarloaf Parkway
Suite 200
Duluth, Georgia 30097
770-717-5100

FULTON COUNTY STATE COURT

STATE OF GEORGIA

DAVID J. DILLON,

Plaintiff,

vs.

SEAN M. HARRIS, GROENDYKE
TRANSPORT, INC., GREAT WESTERN
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Defendant.

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JURY TRIAL DEMANDED

CASE NO.: 11EV01099J

**PLAINTIFFS' FIRST REQUESTS FOR
ADMISSION TO DEFENDANT GREAT WESTERN INSURANCE COMPANY**

COMES NOW DAVID J. DILLON, Plaintiff in the above-styled action, and requests, pursuant to O.C.G.A. § 9-11-36, that Defendant admit under oath the truth of the facts hereinafter set forth, within forty-five (45) days after service of this discovery request upon said Defendant.

1.

Great Western Insurance Company has been correctly named as a Defendant in the present action with respect to the legal description of Defendant's name.

2.

The State Court of Fulton County has personal jurisdiction over Defendant.

3.

The State Court of Fulton County has subject matter jurisdiction over this action.

4.

The State Court of Fulton County is the court of proper venue in this action.

5.

This Defendant received process in this action, and such process and service is sufficient.

THIS _____ DAY OF _____, _____.

P. Charles Scholle
Attorney for Plaintiff
Georgia Bar Number 629736

6340 Sugarloaf Parkway
Suite 200
Duluth, Georgia 30097
770-717-5100