

# ROZEK LAW OFFICES, S.C.

**Mailing Address:**

P.O. Box 510123  
Milwaukee, WI 53203

**Office Address:**

407 W. Silver Spring Drive  
Milwaukee, WI 53217

Attorney Randall L. Rozek

Telephone: 414-374-4444

Toll Free: 888-2LAWYER

Facsimile: 262-364-2825

Email: rrozek@rozeklaw.com

Website: www.rozeklaw.com

## VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

ABC TRUCKING COMPANY  
123 STREET  
ANYTOWN, ANYSTATE

Re: Our Client: (client)  
Date of Collision: (date)

Dear Sir or Madam:

Please be advised that this firm has been retained by (client), relating to serious injuries sustained on (date), due to a collision (hereinafter referred to as the "crash") with one of your employees or agents (hereinafter referred to as "your driver").

The purpose of this letter is to formally demand that you preserve and not alter any and all involved equipment, photographs, videotape, recorded audio or computer media, measurements, real evidence, documents, materials, or any other evidence or things relating to our client's claim, which are presently in your possession or the possession of your employees or agents. This includes, but is certainly not limited to any and all documents, whether paper, electronic or otherwise stored, relative to your driver and your trucking company in general and pursuant to 49 C.F.R. sections 382 to 397 including:

1. All documents required in qualifying your driver as a commercial motor carrier driver for your company, pursuant to the Federal Motor Carrier Safety Regulations, to include but not limited to (49 C.F.R. §391.11):
  - A. Employee's application for employment with your company to include the twelve items of information, pursuant to 49 C.F.R. §391.21;
  - B. All responses of State agencies to your company's inquiries concerning your driver's prior driving record, pursuant to 49 C.F.R. §391.23;
  - C. All responses of previous employers to your company's inquiries concerning your driver's past employment, pursuant to 49 C.F.R. §391.23;
  - D. Copies of any and all annual reviews of your driver's driving record, pursuant to 49 C.F.R. §391.25;
  - E. Your driver's list of violations of motor vehicle traffic laws and ordinances, required annually, pursuant to 49 C.F.R. §391.27;

- F. Your driver's road test (or equivalent), pursuant to 49 C.F.R. §391.31;
  - G. Your driver's written examination (or equivalent), pursuant to 49 C.F.R. §391.35;
  - H. Your driver's physical examination (long form), pursuant to 49 C.F.R. §391.41, 43; and
  - I. Your driver's commercial motor vehicle operator's license, pursuant to 49 C.F.R. §391.11(b)(7).
2. A complete copy of your driver's qualification and personnel file, pursuant to 49 C.F.R. §391.51.
  3. All photographs, videotapes, or other audio or computer generated media relating to the occurrence, the scene, or relating to any equipment or things originally located at or near the occurrence site;
  4. Your driver's qualification file, pursuant to 49 C.F.R. §391.51;
  5. Entire personnel file of your driver;
  6. Your driver's daily logs and any automobile on-board recording device and all supporting data for at least 6 months prior to the crash, as required, pursuant to 49 C.F.R. §395.8 and §395.15;
  7. Your driver's time records (time cards) for at least 6 months prior to the crash, as required, pursuant to 49 C.F.R. §395.8;
  8. Your company's dispatch records for your driver for at least 6 months prior to the crash;
  9. Copies of shipping documents (bills of lading, manifests, etc.) for all freight carried by your driver for at least 6 months prior to the crash;
  10. Copies of all company trip reports required of your driver for at least 6 months prior to the crash;
  11. Copies of documents relating to vehicle fuel purchased or secured by your driver for the date of the crash, and one month prior to the crash (to include records completed by your driver which indicate routes taken, mileage driven, time and dates, etc. for fuel tax purposes);
  12. All of your driver's road and bridge toll receipts, all scale weight receipts, and trailer wash-out receipts associated with your driver for the 6 months prior to the crash;
  13. Any correspondence or items relating to your driver's ability to drive a motor vehicle safely, (including letters of warning, record of disciplinary actions, etc.), pursuant to 49 C.F.R. §391.51 (b)(5);
  14. Copy of the record of your driver's truck driving training to include curriculum covering safe operating practices, i.e., visual search, speed management, space

management, night operations, hazard perception and emergency maneuvers, pursuant to 49 C.F.R. §391.51;

15. A copy of every Item associated with, or which touches upon, or which is part of your company's safety program for its truck drivers that was in effect at the time of the incident and for the three years preceding the crash, including documentation of your driver's safety meetings, subjects covered to include training aids used, e.g., videotapes, etc. as well as attendance record of your driver;

16. Copies of all of your driver's incident and/or accident reports reported to your company, any state entity, any federal entity, and any officer or employee of the Federal Highway Administration. (To include the crash and all previous incidents and/or accidents), pursuant to 49 C.F.R. §394.9;

17. Copies of all state, municipal, and company incident and/or accident reports or other incident and /or accident records concerning all incidents in which your driver has been involved in to include the crash and all previous accidents and/or incidents. State and municipal statutes; company records; see 49 C.F.R. §390.30 and 49 C.F.R. §391.51(b)(5);

18. Copies of all items related to the trip during which the crash occurred and not otherwise described in this document, including, but not limited to, documents related to meals, lodging, fuel, tools, and such other reports as were made to your company;

19. Copies of all documents which reflect your driver's inspection of his Motor Vehicle for the 6 months prior to the crash;

20. Copies of all documents related to any driving that your driver did on the five days prior to the crash and on the date of the crash not otherwise described in this letter, including, but not limited to, documents related to meals, lodging, fuel, tools, and such other reports as were made to your company;

21. Copies of all road inspections for both your driver and the Truck and Trailer operated by your driver, which were conducted by agents of the Federal Highway Administration, (Form, MRS-63, Employee-Vehicle Compliance Check), pursuant to 49 C.F.R. §395-13; 49 C.F.R. §396.9;

22. Copies of all road inspection reports for both your driver and the Truck and Trailer operated by your driver, conducted by state or municipal law enforcement agencies, pursuant to 49 C.F.R. §390.30, and any State and Municipal statutes;

23. Copies of all Truck and Trailer inspection, repair and maintenance records for the date of the crash and one year prior to the crash. This includes records covering and required systematic inspecting, repairing, and maintaining of subject vehicles, as well as records to indicate the nature and due date of the various inspection and maintenance operations to be performed. Also, all procedures, forms, check lists, etc. used in implementing the company's inspection, repair and maintenance programs in use at the time of the crash, pursuant to 49 C.F.R. §396.3;

24. Copies of your driver's daily written Truck and Trailer inspection reports for date of the crash and three months prior to the crash. (Completion of each day's work reports). This includes company certification that any defects or deficiencies have been corrected, pursuant to 49 C.F.R. §396.11;

25. If a leased Truck or Trailer is involved, a copy of lease agreement between your company and the lessor;
26. All Items related to, or logs related to, or reports concerning your driver's telephonic or radio communication with your company concerning the details of the trip involved in this crash and any trip taken by your driver for the 6 months prior to this crash;
27. Any and all bills of repair or estimates of repairs on the Truck or Trailer for damages caused by this crash;
28. Any of your company rules, regulations, or policies which were applicable to 's your driver's driving on the date of the crash;
29. All of your company's safety manuals and or company rules for the 3 years prior to the crash;
30. Any and all data from the electronic control monitor or "black box" in the engine and/or cab of the truck;
31. Any and all GPS or other geographic tracking data concerning the truck's location for the 6 months before the crash up to and including the date of crash; and
32. All statements, notes audio or video recordings and other materials or things obtained from any person having information respecting this crash or who has knowledge of the circumstances.

You are hereby specifically notified of our need for these materials and our request that they be preserved. Any destruction or other loss of these materials will be considered a spoliation of material evidence. You must refrain from destroying any of the requested documents or items. You must also take steps to safeguard the requested documents and items.

Please also provide a copy of this requested material. I will be happy to pay any costs associated with copying these documents. If you will not voluntarily provide this office with these materials then please advise so that further action can be taken to secure and obtain these materials. Please also be advised that numerous court decisions have permitted severe court sanctions when a party permanently alters important evidence after receiving written notice of a claim which also requests preservation of evidence. Unless we have your written explanation to the contrary, in writing, within five business days from the date of this letter, we will presume you will strictly abide by all requests to preserve outlined.

Respectfully Yours,

**ROZEK LAW OFFICES, S.C.**

Randall L. Rozek