

SAMPLE SPOILIATION OF EVIDENCE NOTICE

To Whom It May Concern:

This letter is being written on behalf of my client, _____, who was injured in a motor vehicle accident which occurred on _____.

We will be communicating with your liability insurer with regard to the injuries and damages my client sustained, however please forward this notice to your insurance carrier. We are also putting you on notice and apprising you of your duty to preserve evidence, including certain physical items and routine records. You are hereby notified of the possibility of litigation in this matter and notice of our request for retention of these records pursuant to the legal discovery process and federal Motor Carrier Safety Regulations.

Failure to maintain these physical items and records pursuant to our reasonable request or routine record retention policies common to your course of business will be assumed to be an improper effort to suppress, spoliates, or destroy relevant items which may be of issue in this case. Destruction of this evidence, especially after this notice, could subject you to judicial sanctions in any litigation arising from the crash.

Items you should retain include, but are not limited to:

- (a) The tractor and trailer, i.e., we request that you maintain the tractor and trailer and all parts thereof in their post collision condition until we can examine them;
- (b) Any evidence that the truck was not in proper operating condition at the time of the collision, including, but not limited to, defective equipment;
- (c) Any notes, records, photographs, statements or other documents produced or compiled in the course of any routine investigation or accident report, any police, federal or state accident investigation or report, or for any other purpose related to the incident;
- (d) Any invoices, reports, notes, repair tickets or other documents that might indicate what repairs were made to the truck both before and after the incident;
- (e) The electronic data recorder and any and all information therein;
- (f) All logs maintained by the driver reflecting his hours in service and all other information regarding his activities for the ten days preceding the collision, including, but not limited to, credit card receipts, expense reimbursement, fuel and toll receipts, etc.;
- (g) All files (such as DQ, driving record, and personnel files) maintained regarding the operator;
- (h) The service and repair history of the truck, including all history of brake repairs, adjustments, or other service;
- (i) Cell phone records pertaining to any calls made to or from the operator's phones on the day of the collision and the preceding ten days; and
- (j) E-mails and texts sent to or by the operator on the day of the collision and the preceding ten days.