

In The Matter Of:
~ [REDACTED] v. *Pemberton Truck Lines, et al.*~

Bob Pemberton
06/29/2017

Pope Reporting & Video, LLC
404-856-0966
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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION



Plaintiff

vs.

CIVIL ACTION NO.
1:17-CV-00556-WSD

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

Defendants.

VIDEO & ORAL DEPOSITION OF

BOB PEMBERTON

9:55 A.M.

EXECUTIVE SUITES

9111 CROSS PARK DRIVE

KNOXVILLE, TENNESSEE 37923

Deborah West, LCR-314 (TN), CLR

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APPEARANCES OF COUNSEL

On behalf of the Plaintiff:

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On behalf of the Defendant:

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ALSO PRESENT:

Tom West, Video Specialist

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WITNESS: BOB PEMBERTON

Examination

By Mr. Butler

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STIPULATION

The deposition of BOB PEMBERTON, called as a witness by the Plaintiff, pursuant to all applicable rules on the 29th day of June, 2017, at the offices of Executive Suites, Knoxville, Tennessee, before Deborah West, Licensed Court Reporter and Notary Public in and for the State of Tennessee.

It being agreed that Deborah West, a Tennessee Licensed Court Reporter may report the deposition in machine shorthand, afterwards reducing the same to typewritten form.

It being further agreed that all formalities as to notice, caption, certificate, transmission, et cetera, are expressly waived, INCLUDING the reading of the completed deposition by the witness, and the signature of the witness.

1 (9:55 A.M.)

2 MR. BUTLER: This will be the
3 30(b)(6) deposition of Pemberton Truck
4 Lines taken pursuant to notice and
5 agreement, taken pursuant to the Federal
6 Rules of Civil Procedure and to the
7 Federal Rules of Evidence for all
8 purposes permitted by those rules,
9 including use at trial.

10 We will take breaks if you need one.
11 I don't think we'll be here real long.
12 If you need a break, let me know. If I
13 ask a question that is unclear, let me
14 know that, and I will rephrase it.

15 MS. HURLEY: Are objections reserved
16 until the time of use of the --

17 MR. BUTLER: It is taken pursuant to
18 the rules. So if you have an objection,
19 make it now so I can hear it, please.

20 MS. HURLEY: Okay. I can do
21 speaking objections then?

22 MR. BUTLER: No. An objection
23 should be, "Objection, speculation," or
24 "Objection, asked and answered," whatever
25 like that.

1 MS. HURLEY: Okay. As long I can do
2 that. I just don't want to say that and
3 then you yell at me for doing that.

4 MR. BUTLER: Sure. As long as they
5 are not long speeches.

6 MS. HURLEY: I will try not to.

7 THE VIDEO SPECIALIST: Stand by. We
8 are on the record. This is the
9 videotaped deposition of Pemberton Truck
10 Lines' 30(b)(6) witness. The witness
11 today is Bob Pemberton. Today's date is
12 June 29, 2017. The time on the video
13 monitor is now 9:59.

14 Will counsel please identify
15 yourselves for the record, and Debbie
16 West, our court reporter, will swear in
17 the witness.

18 MR. BUTLER: Jeb Butler on behalf of

19

20 MS. HURLEY: Kathleen Hurley on
21 behalf of the defendants.

22

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25

1 BOB PEMBERTON,
2 called as a witness and having been first duly
3 sworn, was examined and testified as follows:

4 EXAMINATION

5 BY MR. BUTLER:

6 Q Good morning.

7 A Good morning.

8 Q State your name and job title for
9 the record, please.

10 A Robert Pemberton, president
11 Pemberton Truck Lines.

12 Q Pemberton, as I understand it, is a
13 privately held common and contract load carrier
14 based in Knoxville, Tennessee; is that right?

15 A Yes.

16 Q And Pemberton operates throughout
17 the continental United States, primarily in the 20
18 states east of the Mississippi River; is that true?

19 A East of the Mississippi, kind of
20 south of the Ohio.

21 Q In addition to being the president
22 of Pemberton Truck Lines, I understand that you're
23 also the chairman of the board of directors of the
24 Tennessee Trucking Association; is that right?

25 A That is incorrect.

1 Q Okay. Did you used to hold that
2 position?

3 A At one point I was on the board of
4 the Tennessee Trucking Association, that is
5 correct.

6 Q Were you at one point the chairman?

7 A Yes.

8 Q You live and work around Knoxville,
9 Tennessee, as I understand it; is that right?

10 A Yes.

11 Q We are in Knoxville taking this
12 deposition today, correct?

13 A Correct.

14 Q Do you understand that for this
15 deposition, we, that is my client and I, wanted to
16 speak with someone who could speak on behalf of
17 Pemberton Truck Lines?

18 A Yes.

19 Q And Pemberton Truck Lines, or maybe
20 you, chose you, as the president, to speak for the
21 company. Is that consistent with your
22 understanding?

23 A Yes.

24 Q So the answers you give today are
25 the answers of Pemberton Truck Lines, the company.

1 Does that make sense?

2 **A Yes, sir.**

3 Q Now, I want to show you a document
4 that I will mark as Plaintiff's Exhibit Number 1,
5 which I will represent to you is what we call a
6 notice of deposition. Take a look at that and tell
7 me if you have seen it before.

8 **A Yes, sir.**

9 (Thereupon, the respective
10 document was marked as
11 Exhibit Number 1.)

12 BY MR. BUTLER:

13 Q This contains -- this, Plaintiff's
14 Exhibit 1, contains a list of the topics on page 2
15 there that we wanted to ask you about; is that
16 right?

17 **A Yes, sir.**

18 Q Now, did you meet with Pemberton's
19 lawyer before this deposition?

20 **A Yes.**

21 Q You are probably referring to
22 Ms. Hurley who is sitting to your right; is that
23 correct?

24 **A Yes.**

25 Q How long did y'all meet for?

1 **A A few hours.**

2 **Q Today or yesterday?**

3 **A Yesterday.**

4 **Q Was that the only meeting you have**
5 **had with her?**

6 **A We met this morning.**

7 **Q How long this morning?**

8 **A Thirty, forty-five minutes.**

9 **Q I want to start -- well, let me ask**
10 **you this: Have you ever given a deposition before?**

11 **A Once before.**

12 **Q Was that -- what was that case**
13 **about?**

14 **A You know, honestly I don't know that**
15 **I recall. It was just --**

16 **Q Did it have to do with Pemberton?**

17 **A No, sir.**

18 **Q Okay. Did it have anything to do**
19 **with trucks?**

20 **A No, sir.**

21 **Q Fair enough. I want to start by**
22 **asking you some questions about responsibility.**
23 **Isn't it true that big trucks, like 18-wheelers,**
24 **have to operate by certain rules including the**
25 **Federal Motor Carrier Safety Regulations?**

1 **A They are rules for people that**
2 **operate motor vehicles for hire.**

3 Q Those would include the Federal
4 Motor Carrier Safety Regulations, right?

5 **A Yes, sir.**

6 Q Do they also include the rules of
7 the road that regular four-wheel cars have to obey,
8 as well as the rules in the Commercial Driver's
9 Manual or Commercial Driver's Handbook, right?

10 **A Yes.**

11 Q And the reason for those rules is
12 basically safety; isn't that true?

13 **A Safety for all people in the**
14 **motoring public, correct.**

15 Q The reason for that is that the
16 18-wheelers, of course, are bigger than all of the
17 other vehicles on the road, right?

18 **A Yes.**

19 Q And they are also heavier than most
20 other vehicles on the road, true?

21 **A Correct.**

22 Q And for that reason, when a large
23 truck, like an 18-wheeler gets in a collision, the
24 collision can be violent. Do you agree with that?

25 **A I agree -- all collisions can be**

1 **violent, 18-wheelers, cars, whatever, yes.**

2 Q And as a result, people can get hurt
3 in those collisions if the rules aren't followed;
4 isn't that true?

5 A **Anytime there is an accident, people
6 can get hurt.**

7 Q Particularly if the accident
8 involves a large, heavy 18-wheeler, right?

9 A **No more than usual. But, you know,
10 a violent crash can occur with 18-wheelers or cars.**

11 Q Well, do you agree that if a truck
12 company violates the rules that we have talked
13 about, the truck company should accept
14 responsibility for that?

15 A **There is liability. We feel we have
16 none in this case.**

17 Q Let me ask that question again. If
18 a truck company violates the rules, do you agree
19 that the truck company should accept responsibility
20 for that?

21 A **If trucking companies violate the
22 rules, there are laws in place that -- yeah, that
23 hold responsibility.**

24 Q Well, that's not exactly my
25 question. Let me try one more time. If a truck

1 company violates the rules, the truck company
2 should accept responsibility for that. Do you
3 agree, or do you disagree?

4 **A What rules do you mean?**

5 Q The rules we have just reviewed.
6 Those would include the rules of the road, the
7 Commercial Driver's Manual, the Federal Motor
8 Carrier Safety Regulations. The question is, if a
9 truck company violates those rules, do you agree
10 that the truck company should accept responsibility
11 for that?

12 **A I believe that if -- if rules are**
13 **knowingly broken and violated, that the**
14 **responsibility should be there.**

15 Q Responsibility should be accepted.
16 Do you agree with that?

17 **A Responsibility should be accepted.**

18 Q I want to ask you about
19 responsibility and the acceptance or denial of it
20 in this case. And I think you have already
21 answered the question that I am going to drive to.
22 I think you just said that Pemberton denies
23 responsibility in this case. Did I get that right?

24 **A That's correct.**

25 MR. BUTLER: Okay. I want to show

1 you something called Request for
2 Admission. And I will show you this
3 document, and I will mark it as
4 Plaintiff's Exhibit Number 2.

5 (Thereupon, the respective
6 document was marked as
7 Exhibit Number 2.)

8 BY MR. BUTLER:

9 Q Do you see where it says, in the
10 sort of middle of the first page there, underlined,
11 it has a bunch of language. But it is, Pemberton's
12 Responses to Plaintiff's Request for Admission.

13 Do you see that?

14 It is right here (indicating).

15 **A Yeah.**

16 Q Okay. Have you ever reviewed a
17 Request for Admission before?

18 **A Yes.**

19 Q Turn with me to page 4, and we will
20 just go over how this works. For instance,
21 ██████████ I would make a statement and ask
22 Pemberton to either admit or deny it.

23 So in the first Number 1 here on
24 page 4 it says, "You have been correctly named in
25 this case." That's the plaintiff's statement.

1 And then Pemberton's response is,
2 "Admitted." Do you see that?

3 **A Yes, sir.**

4 Q All right. Turn with me, if you
5 will, to page 14. You will see highlighted at the
6 bottom of the page there numbers 39 and 40. They
7 refer to William Johnson. That is the driver of
8 the Pemberton truck in this case, right?

9 **A Yes, sir.**

10 Q The first one says, "William Johnson
11 was at fault for the collision on April 24, 2015,"
12 and Pemberton's response was, "Denied." Did I read
13 that right?

14 **A Yes.**

15 Q The next one says, "William Johnson
16 was partially at fault for the collision on April
17 24, 2015." And on the next page, the response is
18 again, "Denied." Is that right?

19 **A Yes.**

20 Q Do you stand by those responses
21 today?

22 **A Yes.**

23 Q So Pemberton still today does not
24 accept that it was even partially at fault for the
25 collision. Do I have that right?

1 **A Correct.**

2 Q Well, isn't it true, Mr. Pemberton,
3 that your company knows that its driver, William
4 Johnson, could have prevented this collision?

5 **A The collision could have been**
6 **prevented.**

7 Q It could have been prevented by
8 Johnson, right?

9 **A It could have been prevented by both**
10 **parties.**

11 Q Well, including Johnson, right?

12 **A Prevented, I wouldn't say**
13 **"prevented."**

14 Q You wouldn't. So you're saying it
15 couldn't have been prevented by Johnson; is that
16 correct?

17 **A Correct.**

18 Q All right. Well, isn't it true that
19 every time there is a collision, Pemberton has a
20 director of safety and human resources who is
21 supposed to look at that collision and determine
22 whether it was preventable?

23 **A We have a director of safety who**
24 **looks and investigates the accidents.**

25 Q And he is supposed to determine

1 whether the wreck was preventable, right?

2 **A There are -- the D.O.T. has**
3 **provisions as to what is preventable and what is**
4 **not preventable.**

5 Q Yes, sir. My question was, isn't it
6 true that Pemberton has a director of safety and
7 human resources who is supposed to review wrecks
8 and determine whether they are preventable?

9 **A According to the D.O.T. standards,**
10 **yes.**

11 Q Well, let's just look at the
12 document. I will show you what I have marked as
13 Plaintiff's Exhibit Number 3.

14 (Thereupon, the respective
15 document was marked as
16 Exhibit Number 3.)

17 BY MR. BUTLER:

18 Q This looks like Pemberton Truck
19 Lines's employee driver handbook, right?

20 **A Yes, sir.**

21 Q Okay. Turn with me to page 15,
22 which is tabbed there for you. And there are some
23 highlighted language in the middle of that page.
24 Do you see that?

25 **A Yes, sir.**

1 Q Doesn't that say that "the director
2 of safety and human resources will review all
3 accident and injury occurrences. Occurrences
4 determined to be preventable may require
5 disciplinary action and/or training."

6 A **It does say that.**

7 Q Then if an accident is preventable,
8 that's important, right?

9 A **It's a train -- using it as a
10 training tool, yeah.**

11 Q I mean, a driver could be fired for
12 being involved in a preventable accident, right?

13 A **Yes, sir.**

14 Q And Pemberton, of course, reviewed
15 this wreck to see whether it was preventable,
16 right?

17 A **Correct.**

18 Q And isn't it true that when it did
19 so, Pemberton determined that the wreck was
20 preventable?

21 A **I believe that we said it was not
22 preventable.**

23 Q Well, let me show you a document
24 that we received in discovery in this case. I will
25 show you what I have marked as Plaintiff's Exhibit

1 Number 4.

2 (Thereupon, the respective
3 document was marked as
4 Exhibit Number 4.)

5 BY MR. BUTLER:

6 Q And this says at the top, in bold
7 there, "Termination Record for CDL Drivers," right?

8 A Yes.

9 Q And then it says, "William Johnson."
10 That's the driver in this case, right?

11 A Yes, sir.

12 Q And then if we flip to the next
13 page, you will see some highlighted language. I
14 saw you flip over there just a second ago. The
15 highlighted stuff on the top, well, there is a bold
16 thing that says, "Accident 1" there, right?

17 A Yes.

18 Q And under that it gives the date of
19 this collision and the place of this collision,
20 right?

21 A Yes, sir.

22 Q And at the bottom it says,
23 "Preventable accident or incident," doesn't it?

24 A It does.

25 Q I want to ask you about --

1 **A I believe this --**

2 Q -- some evidence?

3 **A Also -- I am not sure of the rules.**
4 **This may have been considered a D.O.T.**
5 **preventable -- a D.O.T. accident. So I don't know**
6 **if that's what they were referring to at this point**
7 **or not.**

8 Q While we are talking about the
9 collision, I wanted to ask you about some evidence
10 that my client and I asked for in this case. Isn't
11 it true that Pemberton's trucks have satellite
12 tracking equipment on them?

13 **A Yes, sir.**

14 Q And in fact, Pemberton advertises
15 that fact to potential customers, doesn't it?

16 **A I don't think we advertise it to**
17 **potential customers, per se, no.**

18 Q Let me show you, then, what I will
19 mark as Plaintiff's Exhibit Number 5.

20 (Thereupon, the respective
21 document was marked as
22 Exhibit Number 5.)

23 BY MR. BUTLER:

24 Q That is a copy of the front page or
25 the -- I guess the home page of Pemberton's

1 website, right?

2 **A Yes, it is.**

3 Q And you see highlighted there it
4 says, "We utilize late-model tractors that are
5 equipped with satellite tracking and
6 communication." Is that what it says?

7 **A Yes, it does.**

8 Q Okay. Specifically this truck, that
9 is the truck that was involved in this commission
10 and that Defendant Johnson was driving, was
11 equipped with a Qualcomm Omnitrac's MCP50 system?

12 **A I believe that's correct.**

13 Q That system monitors or can monitor
14 the truck location with GPS satellites, right?

15 **A No. The 50s uses cell service, I
16 believe.**

17 Q Well, isn't it true that that system
18 can track the truck's speed?

19 **A It can.**

20 Q And, you know, while we are talking
21 about it, I will show you a document that I have
22 marked as Plaintiff's Exhibit Number 6.

23 (Thereupon, the respective
24 document was marked as
25 Exhibit Number 6.)

1 BY MR. BUTLER:

2 Q This says, "Qualcomm MCP50 Driver
3 Guide," on the front, right?

4 A It does.

5 Q Let's turn first to page 3, which is
6 tabbed for you there. It looks like these are
7 slides from a PowerPoint presentation, I guess.
8 But do you see on the top middle right, I guess
9 I'll call it, highlighted there it says that it
10 monitors the vehicle location with GPS satellites?

11 A Yes.

12 Q And then turn with me, please, to
13 Page 21, which is also tabbed for you. And you
14 will see there highlighted in a little red box it
15 says that "the vehicle's speed and other pertinent
16 information for the period starting five minutes
17 before and ending two minutes after the critical
18 event report was triggered."

19 Is that what it says?

20 A Yeah. Those are modules that you
21 can purchase, I believe.

22 Q Okay. Well, now, isn't it true that
23 Pemberton knew on the day of this wreck that a
24 lawsuit like this was likely?

25 A Anytime any of our equipment is

1 **involved in an accident, we think that a lawsuit is**
2 **a potential.**

3 Q So Pemberton anticipated a lawsuit
4 like this on the day of this collision, right?

5 A **We think that anytime there is**
6 **damage that there could be a lawsuit.**

7 Q Is the answer to that question yes?

8 A **Repeat the question again.**

9 Q Isn't it true that Pemberton
10 anticipated a lawsuit?

11 A **I don't know that we anticipated it.**

12 Q Well --

13 A **We --**

14 Q Okay.

15 A **Anytime -- you know, anytime there**
16 **is an accident, we believe --**

17 Q I will show you.

18 A **-- that there could be a lawsuit.**

19 Q I am showing you now what I have
20 marked as Plaintiff's Exhibit 7. These are
21 interrogatories.

22 (Thereupon, the respective
23 document was marked as
24 Exhibit Number 7.)

25

1 BY MR. BUTLER:

2 Q Have you ever looked at
3 interrogatories before?

4 A Yes, sir.

5 Q You know how they work. We ask a
6 question; Pemberton answers. Does that sound fair?

7 A Yes, sir.

8 Q Turn to the tabbed page there, the
9 tab says, "Anticipated." It will take you to page
10 4 in Interrogatory 3, and it is highlighted. The
11 question is, "When did you anticipate litigation
12 with regard to this collision?" Isn't that right?

13 A That is the question, yes, sir.

14 Q Isn't the response, "Defendant
15 anticipated litigation on April 24, 2015"?

16 A That's -- that's the answer.

17 Q Okay.

18 A Yes, sir. It was probably not good
19 verbiage on our part. You know, anytime there is
20 an accident, we think there could be a potential
21 lawsuit.

22 Q Do you think in this case that the
23 jury who is going to be deciding the case would
24 like to see that GPS tracking information?

25 A I don't know what the jury would

1 **like to see.**

2 Q Well, do you think they might
3 consider it important?

4 MS. HURLEY: Objection to --
5 speculation. You can answer.

6 THE WITNESS: Do they think it could
7 be important?

8 MR. BUTLER: Yeah.

9 THE WITNESS: I think it could be
10 another fact in the case.

11 BY MR. BUTLER:

12 Q Did you know that my client and I
13 asked Pemberton for that GPS tracking information?

14 A **Yes.**

15 Q Isn't it true that Pemberton failed
16 to save that GPS tracking information and instead
17 allowed it to be recorded over?

18 A **When you -- recorded over?**

19 Q Yeah. Or deleted or purged,
20 whichever word you would like to use.

21 A **Normal course of business, those
22 things are kept for a certain length of time and
23 then they disappear. And time passed, and those
24 are gone.**

25 Q Isn't it true that Pemberton failed

1 to save that GPS information and allowed it to be
2 deleted and recorded over or purged?

3 **A It was -- again, in the normal**
4 **course of business, those go away, and we did not**
5 **capture that information.**

6 Q I will just show you the document.
7 Look at what I have marked as Plaintiff's Exhibit
8 8. This is more interrogatories, right?

9 **A Okay.**

10 (Thereupon, the respective
11 document was marked as
12 Exhibit Number 8.)

13 BY MR. BUTLER:

14 Q Flip to the first page. Doesn't it
15 say, "Responses to Plaintiff's First
16 Interrogatories"?

17 **A Yes, sir.**

18 Q Turn with me to the tabbed page.
19 And you see on page 4 Interrogatory Number 17,
20 right?

21 **A Yes, sir.**

22 Q It is highlighted, right?

23 **A It is.**

24 Q And the question asks Pemberton to
25 "identify all electronic devices capable of

1 recording collision, operation, or travel-related
2 data." And it goes on, but it mentions a Qualcomm
3 in there and a GPS device; is that right?

4 **A Yes. That's in this question, I**
5 **guess.**

6 Q Yeah. And then Pemberton gave --
7 they responded three times, and I will look at the
8 first one on April 5 of 2017. It says, "The
9 defendant will supplement," right?

10 **A Yes.**

11 Q And then on May 5, the defendant
12 responded again and says, "After a diligent search,
13 Defendant doesn't have anything," right?

14 **A That's what it says.**

15 Q And then the last supplemental
16 response there on June 6, 2017 says, quote, "While
17 the subject truck contained a 2013 Qualcomm
18 Omnitrac's MCP50 system," serial number, "no data
19 was pulled within the seven-day retrievable window
20 before it was purged in the ordinary course of
21 business."

22 **A That's what it says, yes.**

23 Q "Purged" means deleted, recorded
24 over, or gotten rid of, right?

25 **A It disappeared. It keeps -- the**

1 unit keeps information for a certain amount of
2 time, and then it -- time passes and every day
3 something has to be removed so that new information
4 can be recorded.

5 Q Well, you don't dispute that
6 Pemberton could have saved that information?

7 A I do not dispute that.

8 Q I wanted to ask you about some other
9 evidence in the case. Did you know that
10 Pemberton's insurance company, Cherokee Insurance,
11 hired an investigation company to look into this
12 collision?

13 A I don't know that for a fact, but
14 that wouldn't surprise me. They usually do.

15 Q Okay. Did you know or are you --
16 well, strike that.

17 Would you be surprised to learn that
18 Cherokee Insurance hired Custard Insurance
19 Adjusters, Inc., to investigate this collision?

20 A No, sir.

21 Q It would not surprise you?

22 A No, sir.

23 Q Have you heard of a particular
24 investigator at Custard Insurance Adjusters, Inc.,
25 named James Wagner?

1 **A I have not.**

2 Q Well, did you know that he prepared
3 investigative reports about this collision?

4 **A No.**

5 Q Has anyone told you that James
6 Wagner of Custard Insurance Adjusters, Inc.,
7 prepared six different reports about this collision
8 and gave them to Cherokee Insurance?

9 **A No. I don't know what he reported
10 or didn't report.**

11 Q Well, in your review of the
12 materials for this deposition, did you learn that
13 my client and I asked for copies of those reports?

14 **A I don't recall seeing that.**

15 Q Well, did you know that Pemberton
16 and Cherokee refused to provide those reports?

17 **A I am unaware of that.**

18 Q Well, do you know what is in those
19 six secret reports?

20 **A I don't know about --**

21 MS. HURLEY: Object to the form.

22 THE WITNESS: -- "secret," but -- I
23 don't know what's in those reports.

24 MR. BUTLER: Let me rephrase the
25 question.

1 BY MR. BUTLER:

2 Q Do you know what is in those six
3 reports?

4 A **No, sir, I don't.**

5 Q Are you curious?

6 A **Mildly.**

7 Q Are you going to ask anybody?

8 A **I will once we are finished.**

9 Q Okay. Well, if Pemberton and
10 Cherokee decide to provide those reports, will you
11 make sure that your lawyer let's me know?

12 A **Yeah. You know, I don't know what
13 Cherokee does. I can speak for what Pemberton
14 Truck Lines has, but not for Cherokee.**

15 MR. BUTLER: Let's go off video for
16 a second.

17 THE VIDEO SPECIALIST: We're going
18 to go off the record. The time is now
19 10:24.

20 MR. BUTLER: Stay on steno.

21 All right. And we will try to set
22 up the technology so I can show you the
23 video. I'll put it here. I want you to
24 be able to see.

25 MS. HURLEY: That's fine. What is

1 the video of?

2 MR. BUTLER: It is going to be of
3 the crash.

4 MS. HURLEY: Okay.

5 MR. BUTLER: Can you see what I am
6 seeing?

7 MS. HURLEY: Can you see it?

8 THE WITNESS: Yes, I can see. I'm
9 fine. Where it was was fine.

10 MR. BUTLER: I am not going to show
11 it to you immediately. I will ask you
12 some questions first.

13 Let's go back on video.

14 THE VIDEO SPECIALIST: Stand by.
15 Going back on the record. The time is
16 now 10:26.

17 BY MR. BUTLER:

18 Q Would you agree, Mr. Pemberton, that
19 this was a violent collision?

20 A **It -- it was a bad wreck. It was --**
21 **it was a bad wreck.**

22 Q You're aware, aren't you, that the
23 garbage truck [REDACTED] was driving was all smashed
24 up after the collision?

25 A **I assume there was some physical**

1 **damage to it, yeah.**

2 Q Well, were you aware that the tire
3 on the Pemberton trailer was ripped off and the
4 wheel bashed up?

5 A **Yes. I was aware the tire was off
6 and the rim was damaged.**

7 Q Were you aware there was a scrape
8 down the side of the Pemberton trailer?

9 A **Yes.**

10 Q Did you know that [REDACTED] was
11 knocked unconscious in the collision?

12 A **I did not.**

13 Q Did you know he was life-flighted by
14 helicopter from the scene of the collision?

15 A **Yes.**

16 Q Did you know that he had to have
17 multiple surgeries?

18 A **Yes.**

19 Q Have you seen the video from this
20 collision that we sent, that is my client and I
21 sent to Pemberton?

22 A **I have not.**

23 Q Did you know that it existed?

24 A **No, sir.**

25 **Well, where is the video from?**

1 Q I believe it came from Waste
2 Industries initially. That is the company that
3 owned the garbage truck.

4 A **No, I am not aware of a video.**

5 Q Okay. Well, I will show it to you.
6 For some reason the video is cut
7 into two slices, and I don't know why Waste
8 Industries did that. I will start it here, and
9 then we'll pause it.

10 Go back to the very beginning. On
11 the left you can see the inside of the garbage
12 truck, and on the right you can see the road out in
13 front of the garbage truck. Does that make sense?

14 A **Yes, sir.**

15 Q All right. I will play the video
16 for you.

17 (Video played.)

18 MR. BUTLER: Now, that's the first
19 clip. Here is the second.

20 (Video played.)

21 MR. BUTLER: Now we have watched
22 both of those clips, right?

23 THE WITNESS: Yes, we have.

24 MR. BUTLER: I will state for the
25 record that those are on the thumb drive

1 that is marked as Plaintiff's Exhibit
2 Number 9 for this deposition.

3 (Thereupon, the respective
4 thumb drive was marked as
5 Exhibit Number 9.)

6 BY MR. BUTLER:

7 Q Would you agree, after watching
8 that, that this was a violent collision?

9 A **It was -- I don't know if I would**
10 **use the term "violent," but it was a crash between**
11 **two large vehicles.**

12 Q Do you agree it was a violent
13 collision, or do you disagree with that?

14 A **"Violent" to me is semantics. I**
15 **don't think I would call it "violent."**

16 Q What would you call it?

17 A **Well, was unexpected, unacceptable.**
18 **It was --**

19 Q I will take "unacceptable."
20 I will show you now what I have
21 marked as Plaintiff's Exhibit Number 10 and
22 represent to you that is a photo of the garbage
23 truck.

24

25

1 (Thereupon, the respective
2 photograph was marked as
3 Exhibit Number 10.)

4 BY MR. BUTLER:

5 Q Have you seen that before?

6 A **I don't think so.**

7 Q Did you ask anyone for pictures of
8 the collision?

9 A **There were pictures. I have seen
10 pictures from the wreck area, I just don't recall
11 if this is one of them or not.**

12 Q All right. I will show you what I
13 have marked as Plaintiff's Exhibit Number 11.

14 (Thereupon, the respective
15 photograph was marked as
16 Exhibit Number 11.)

17 BY MR. BUTLER:

18 Q Now, that is a picture of the
19 Pemberton wheel and tire, right?

20 A **It is.**

21 Q Have you seen it before?

22 A **I think I have seen this.**

23 Q I will show you now what I have
24 marked as Plaintiff's Exhibit Number 12.

25

1 (Thereupon, the respective
2 photograph was marked as
3 Exhibit Number 12.)

4 BY MR. BUTLER:

5 Q That is a picture of the Pemberton
6 truck with that scrape that we talked about?

7 A **The trailer.**

8 Q Excuse me. You're right.

9 This is a picture of the Pemberton
10 trailer with that scrape we talked about earlier,
11 correct?

12 A **Correct.**

13 MR. BUTLER: All right. Let's go
14 off video and stay on steno.

15 THE VIDEO SPECIALIST: We're going
16 off the record. The time is now 10:31.

17 MR. BUTLER: I am finished with
18 showing you videotapes.

19 Let's go back on the video.

20 THE VIDEO SPECIALIST: We're back on
21 the record. The time is now 10:31.

22 BY MR. BUTLER:

23 Q What changes has Pemberton made to
24 make sure that collisions like this don't happen
25 again?

1 A We are constantly training our
2 drivers, all drivers, on ways to avoid all
3 accidents. We have monthly training videos. We
4 have quarterly training videos. We have
5 orientation that talks about safe driving,
6 training.

7 We are constantly trying to improve
8 the training processes for all of our drivers to
9 avoid all accidents. Nobody wants to have an
10 accident.

11 Q Thank you. My question was about
12 changes. What changes has Pemberton made, like to
13 its policies, since this collision to make sure
14 that they don't happen again?

15 A Again, we are training. We step up
16 our training. We change our training as events
17 occur. We have -- for example, if we have a
18 situation where a driver injures himself getting in
19 and out of the truck, we will step up videos on how
20 to enter and exit a truck.

21 Q What changes to Pemberton's policies
22 has Pemberton made since this collision to make
23 sure that something like this doesn't happen again?

24 A We have changed our policies and
25 procedures on training.

1 Q What changes?

2 A We show additional videos. Again,
3 additional training is what we have changed.

4 Q I don't believe I have seen these
5 videos. I want to ask you about it. Does
6 Pemberton show videos to train its drivers on how
7 to avoid collisions like this?

8 A There is defensive driving training
9 videos.

10 MR. BUTLER: Will Pemberton be
11 producing those, Ms. Hurley?

12 MS. HURLEY: Yeah. As soon as I get
13 a copy.

14 BY MR. BUTLER:

15 Q Okay. Well, let me ask you this:
16 Isn't it true that after this collision, Pemberton
17 kept Johnson on for -- as a driver for many months?

18 A That is correct.

19 Q And in fact, Pemberton -- or excuse
20 me -- strike that.

21 In fact, Johnson kept driving for
22 Pemberton until December 24 of 2015, right?

23 A I believe it was the end of that
24 year, correct.

25 Q Isn't it true that Pemberton did not

1 discipline, penalize, punish, or warn Defendant
2 Johnson?

3 **A We did not punish or penalize him.**
4 **We had some talking -- meetings, talking. I don't**
5 **know if the meetings were face-to-face, but**
6 **discussions about, again, safe driving and safe**
7 **driving techniques.**

8 Q The question was: Isn't it true
9 that Pemberton didn't discipline, penalize, punish,
10 or warn Defendant Johnson after this collision? Is
11 that true, or is that not true?

12 **A It is not true.**

13 Q All right. Well, let me show you
14 what I have marked as Plaintiff's Exhibit 13.

15 (Thereupon, the respective
16 document was marked as
17 Exhibit Number 13.)

18 BY MR. BUTLER:

19 Q This is more interrogatories, right?

20 **A Yes, sir.**

21 Q And these are to Defendant Johnson,
22 correct?

23 **A Yes.**

24 Q Flip with me to the Page 21. Page
25 21, that will be in the back there.

1 **A Sorry.**

2 Q And they are signed by -- there is a
3 signature there. It looks like that's K. Hurley.
4 Do you see the name Kathleen Hurley there on Page
5 21?

6 **A I see the name.**

7 Q That is Pemberton's lawyer seated to
8 your right, correct?

9 **A Yes, sir.**

10 Q Now, go to page 17, which is tabbed
11 for you there, and Interrogatory Number 30. Do you
12 see it highlighted there?

13 **A I do.**

14 Q Doesn't it say in the question,
15 "After the collision, did Pemberton discipline,
16 punish, reprimand, penalize, or warn you in any
17 way? If so, how?"

18 Isn't that what it says?

19 **A That's what it says.**

20 Q And the answer says, "No, Defendant
21 was not penalized." Did I read that right?

22 **A That's what he states.**

23 MR. BUTLER: Thank you. No further
24 questions.

25 MS. HURLEY: No questions.

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THE VIDEO SPECIALIST: All right.
We're going to go off the record. The
time is now 10:36. That will be the end
of this deposition.

FURTHER THE DEPONENT SAITH NOT.

(10:36 A.M.)

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REPORTER CERTIFICATE

STATE OF TENNESSEE

COUNTY OF KNOX

I, Deborah West, Licensed Court Reporter, LCR #314, in and for the State of Tennessee, do hereby certify that the deposition of BOB PEMBERTON, was reported by me and that the foregoing transcript, pages 1 through 43, inclusive, is a true and accurate record to the best of my knowledge, skills and ability.

I further certify that I am not related to, nor an employee or counsel of any of the parties to the action as defined under T.C.A Section 24-9-136, nor am I financially interested in the outcome of this case.

In witness thereof, I have hereunto set my hand on this the 12th day of July, 2017. The witness HAS waived signature.



Deborah West; 7/10/2017
14:22:14 PM; Knoxville,
Tennessee; TN LCR 314,
expires 5-6-2018;

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