

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

OLIVER JORDAN;

Plaintiff,

v.

EVANS DELIVERY COMPANY, INC., ENC
HOLDING CORPORATION, AND ACE
AMERICAN INSURANCE COMPANY;

Defendant.

Civil Action

No.: 3:20-cv-00060-TCB

**PLAINTIFF’S RESPONSE TO DEFENDANTS’ MOTION TO STAY, OR IN
THE ALTERNATIVE, MOTION TO LIMIT THE SCOPE OF DISCOVERY**

Plaintiff respectfully files this response to Defendants’ motion to stay, or in the alternative, motion to limit the scope of discovery as follows.

I. Factual and Procedural Background

After dark on October 1, 2019, a driver operating a tractor trailer for Defendants Evans Delivery Company, Inc. and ENC Holding Corporation (collectively, “the Evans Defendants”) was illegally backing the tractor trailer across Temple Avenue / US Highway 27. *See* Police Report (Ex. “A”). The tractor-trailer was blocking at least both northbound lanes, the center turn lane, and

the right shoulder of the road. *See* EDC 30(b)(6) Dep. 34:5-14, 52:1-53:10 (Ex. “B”). (He was probably also blocking one of the southbound lanes.) On that same night, Mr. Oliver Jordan was driving north on Temple Avenue coming home from Waffle House. Because he was unable to see the dark trailer in time, he crashed into the side of the trailer, sustaining serious injuries. *See* Police Report. The tractor-trailer driver was cited for illegal backing and illegal stopping. *Id.* The driver forfeited bond as to those two citations, which constitutes an admission of guilt. *See* Dispositions (Trial Ex. 2 & 3; collectively Ex. “C” hereto); O.C.G.A. § 40-13-58; *Highsmith v. Tractor Trailer Svc.*, No. 2:04-CV-164, 2005 WL 6032882, at *6-8 (May 13, 2010).

Diagram of Vehicles



This illustration shows how the collision happened.

Mr. Jordan suffered serious injuries in the collision, as the photos below show. Mr. Jordan was 83 at the time of the collision, and on August 24, 2020, he died from those injuries.



The image above is a screenshot from one of the responding law enforcement officers' body cameras.

On August 18, 2020, Plaintiff deposed the corporate representative of Defendant Evens Delivery Company, Inc. (“EDC”). The corporate representative *denied that the tractor-trailer driver was even partially at fault for the collision*, but nonetheless admitted that if another of EDC’s drivers proposed to back his truck across a five-lane highway at night in this manner, “I would advise him that I would prefer he made a different decision.” 30(b)(6) Dep. at 20:11-21:1; 53:11-20.

The deposition of the truck driver, Paul Reed, had been noticed for August 10, 2020. *See* Doc 8. However, because Defendants’ responses to written discovery were not complete by that date, that deposition had to be postponed.

The parties rescheduled it for September 30, 2020, and Plaintiff filed an appropriate Notice of Deposition. *See* Doc 35.

On the afternoon of Wednesday, September 23, 2020, Defendants for the first time suggested delaying the truck driver's deposition a second time. *See* Correspondence (Ex. "D"). The following morning, Plaintiff replied that "[w]e do not see any reason for delay." *Id.* Defendants filed a suggestion of death and motion to stay discovery on September 25, 2020, just five days before the long-noticed deposition of the truck driver. *See* Doc. 37. This court should deny defendant's motion to stay because there is no need for delay.

Oliver Jordan died without any spouse and having had only one child, Jean Rocker. Ms. Rocker is the wrongful death claimant pursuant to O.C.G.A. § 51-4-2(a). Ms. Rocker is also the sole heir pursuant to O.C.G.A. § 53-2-1(c), and is in the process of being appointed as the personal representative of Mr. Jordan's estate. *See* Exhibit "E". The undersigned counsel represents Ms. Rocker, and has for quite some time.

II. Argument and Citation to Authority

Rule 1 of the Federal Rules of Civil Procedure directs that the Rules "should be construed and administered to secure the just, speedy, and inexpensive

determination of every action and proceeding.” This personal injury action survives Mr. Jordan’s death. *See* O.C.G.A. § 9-2-41. As such, the purposes of the federal rules of civil procedure would be best served here by allowing discovery to continue.

Defendants cite no authority for the proposition that the filing of suggestion of death authorizes a stay of discovery. Upon the filing of a suggestion of death, the court is “empowered to set a time limit within which a substitution ha[s] to be consummated,” after which a case may be dismissed. *Escareno v. Carl Nolte Sohne GmbH & Co.*, 77 F.3d 407, 411 (11th Cir.1996). However, nothing in Rule 25 of the Federal Rules of Civil Procedure provides for a stay of the proceedings or discovery pending the substitution of the decedent’s legal representative. Filing a suggestion of death on the record has a very narrow role—it commences the 90 day period within which a motion for substitution must be filed. *Schmidt v. Merrill Lynch Trust Co.*, 2008 WL 2694891, *2 (M.D. Fla. Jun. 30, 2008) (footnotes omitted) (noting 3B Moore’s Federal Practice § 25.13[1]).

Here, Plaintiff’s sole heir, Jean Rocker, has already filed a petition for letters of administration in the Probate Court of Coweta County, and is in the process of being appointed as the administrator of Mr. Jordan’s estate. The parties have already begun discovery, so continuing the discovery process would not impose an

undue burden on Defendants. *See Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1367-68 (11th Cir. 1997) (discussing stays of discovery *before* discovery begins in the context of a motion to dismiss). Thus, Defendants' motion to stay is not a dispositive motion for which a stay of discovery is warranted.

Mr. Jordan's estate is in fact the "real party in interest" as contemplated by Rule 17 of the FRCP. Defendants misread Rule 17 for the proposition that there is no cause of action to prosecute until a legal representative is substituted. Rule 17's purpose is to protect defendants from similar actions by one other than a party to the initial action. *Celanese Corp. of America v. John Clark Industries*, 214 F.2d 551, 556 (5th Cir. 1954). That purpose is not served here, by staying discovery where there is an estate in existence with the legal representative pending appointment as administrator. Defendants argue that *theoretically*, a stay of discovery could be authorized if, hypothetically, someone other than the sole legal heir pursuant to O.C.G.A. § 53-2-1(c) could be instead appointed administrator of Mr. Jordan's estate and then bring a separate action against Defendants.

Apparently recognizing that such a scenario would be exceedingly unlikely, Defendants have moved in the alternative for a partial stay of discovery. That is, Defendants argue that they should nonetheless be permitted to seek discovery from the sources *they* desire, such as Mr. Jordan's medical providers. This would

unfairly benefit Defendants and is inconsistent with the goals of the Federal Rules of Procedure.

III. Conclusion

Plaintiff respectfully requests that the Court deny Defendants' motion in its entirety.

Respectfully submitted, this 28th day of September, 2020.

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the within and foregoing
PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO STAY upon
counsel for all parties as follows:

Jennifer C. Adair, Esq.
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This 28th day of September, 2020.

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ATTORNEYS FOR PLAINTIFF

Exhibit “A”

Agency Case Number 24-0121-2019		Agency NCIC Number GAGSP2400		GEORGIA MOTOR VEHICLE CRASH REPORT		County Coweta		Date Rec'd by GDOT	
Estimated Crash Date: 10-01-19 Time: 2125		Dispatch Date: 10-01-19 Time: 2136		Arrival Date: 10-01-19 Time: 2151		Vehicles: 2		Total Number of Injuries: 1 Fatalities: 0	
Road of Occurrence: 331 Ga Hwy 16				At Its Intersection With _____				<input type="checkbox"/> Corrected Report <input type="checkbox"/> Supp to Original <input type="checkbox"/> Hit and Run	
Not At Its Intersection But _____ <input type="checkbox"/> Miles <input type="checkbox"/> North <input type="checkbox"/> East <input type="checkbox"/> Feet <input type="checkbox"/> South <input type="checkbox"/> West				Of _____ Latitude (Y) (Format) 09.00000 Longitude (X) (Format) -08.00000					
Unit # 1		Driver <input checked="" type="checkbox"/> Ped <input type="checkbox"/> Bike		LAST NAME Paul Glen FIRST MIDDLE		Unit # 2		Driver <input checked="" type="checkbox"/> Ped <input type="checkbox"/> Bike	
Address 331 Temple Ave		City Newnan GA State GA Zip 30263 DOB 06/26/86		Driver's License No. A Class GA Country US		Address 1308 Witchar Road		City Newnan GA State GA Zip 30263 DOB 09/26/86	
Insurance Co. National Union Fire Ins		Policy No. CA2820282		Telephone No. [REDACTED]		Insurance Co. State Farm		Policy No. 1128830302 Telephone No. [REDACTED]	
Year 2007 Make Volvo Model 760		VIN 4VANC9GHX7N468185		Vehicle Color White		Year 1994 Make Toyota Model Tacoma		VIN JT4NB1A5R6199979 Vehicle Color White	
Tag # 2880861 State IN County Year 2019		Trailer Tag # HS15473 State OR County Year 2019				Tag # 115EKB State GA County Coweta Year 2020		Trailer Tag # State County Year	
<input type="checkbox"/> Same as Driver Owner's Last Name First Middle Address 1112 Route 41, Suite 103 City Schererville IN State IN Zip 46375		<input type="checkbox"/> Same as Driver Owner's Last Name First Middle Address City State Zip				<input type="checkbox"/> Same as Driver Owner's Last Name First Middle Address City State Zip		<input type="checkbox"/> Same as Driver Owner's Last Name First Middle Address City State Zip	
Removed By: Driver		Request <input type="checkbox"/> List				Removed By: County-wide		Request <input type="checkbox"/> List	
Alco Test: 2 Type: Results: Drug Test: 2 Type: Results:		Alco Test: 2 Type: Results: Drug Test: 2 Type: Results:				Alco Test: 2 Type: Results: Drug Test: 2 Type: Results:		Alco Test: 2 Type: Results: Drug Test: 2 Type: Results:	
First Harmful Event: 11		Most Harmful Event: 11		Operator/Ped Cond: 1		First Harmful Event: 11		Most Harmful Event: 11 Operator/Ped Cond: 2	
Operator Contributing Factors: 18 26		Vehicle Contributing Factors: 1		Roadway Contributing Factors: 1		Operator Contributing Factors: 1		Vehicle Contributing Factors: 1 Roadway Contributing Factors: 1	
Direction of Travel: 3		Vehicle Maneuver: 7		Non-Motor Maneuver:		Direction of Travel: 1		Vehicle Maneuver: 5 Non-Motor Maneuver:	
Vehicle Class: 7		Vehicle Type: 4		Vision Obscured: 1		Vehicle Class: 1		Vehicle Type: 2 Vision Obscured: 1	
Number of Occupants: 1		Area of Initial Contact: 9		Damage to Veh: 2		Number of Occupants: 1		Area of Initial Contact: 12 Damage to Veh: 4	
Traffic-Way Flow: 2		Road Comp: 2		Road Character: 2		Traffic-Way Flow: 2		Road Comp: 2 Road Character: 2	
Number of Lanes: 4		Posted Speed: 45		Work Zone: 0		Number of Lanes: 4		Posted Speed: 45 Work Zone: 0	
Traffic Control: 7		Device Inoperative: <input type="checkbox"/> Yes <input type="checkbox"/> No				Traffic Control: 7		Device Inoperative: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Citation Information:		Citation # 807595E O.C.G.A. § 40-6-203				Citation Information:		Citation # O.C.G.A. §	
Citation # 807596E O.C.G.A. § 40-6-240						Citation # O.C.G.A. §			
Citation # O.C.G.A. §						Citation # O.C.G.A. §			
COMMERCIAL MOTOR VEHICLES ONLY									
Carrier Name: Evans Delivery Company, INC					Carrier Name:				
Address 1112 Route 41, Suite 103 Schererville IN 46375					Address City State Zip				
U.S.D.O.T.# 085111					U.S.D.O.T.#				
No. of Axes 5 GVWR 8000					No. of Axes GVWR				
Cargo Body Type 1 Vehicle Config 0					Cargo Body Type Vehicle Config				
<input checked="" type="checkbox"/> Interstate <input type="checkbox"/> Fed Reportable <input type="checkbox"/> Intrastate <input type="checkbox"/> Yes <input type="checkbox"/> No					<input type="checkbox"/> Interstate <input type="checkbox"/> Fed Reportable <input type="checkbox"/> Intrastate <input type="checkbox"/> Yes <input type="checkbox"/> No				
C.D.L.? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No					C.D.L.? <input type="checkbox"/> Yes <input type="checkbox"/> No				
C.D.L. Suspended? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					C.D.L. Suspended? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Vehicle Placarded? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					Vehicle Placarded? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Hazardous Materials? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					Hazardous Materials? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Hazardous Materials Released? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					Hazardous Materials Released? <input type="checkbox"/> Yes <input type="checkbox"/> No				
If YES: Name of four Digit Number from Diamond or Box: _____					If YES: Name of four Digit Number from Diamond or Box: _____				
One Digit Number from Bottom of Diamond:					One Digit Number from Bottom of Diamond:				
<input type="checkbox"/> Ran Off Road <input type="checkbox"/> Down Hill Runaway <input type="checkbox"/> Cargo Loss or Shift <input type="checkbox"/> Separation of Units					<input type="checkbox"/> Ran Off Road <input type="checkbox"/> Down Hill Runaway <input type="checkbox"/> Cargo Loss or Shift <input type="checkbox"/> Separation of Units				

COLLISION FIELDS											
Manner of Collision: 1		Location at Area of Impact: 1		Weather: 2		Surface Condition: 1		Light Condition: 5			
NARRATIVE											
<p>Vehicle 1 was stopped in the roadway and attempting to back vehicle 1 into a private drive. Vehicle 1 was completely across the northbound lanes of Ga 16 and the center turn lane. Vehicle 2 was traveling north on Ga 16 in the outside lane. Vehicle 2 struck the left side of vehicle 1. The area of impact was in the outside lane of Ga 16 at its intersection with the private drive. Driver 2 was removed from the vehicle and transported prior to the investigating trooper arrival. Driver 1 stated that he was parking his truck and vehicle 2 popped over the hill. He further stated Vehicle 2 was flying. The skid marks left on the roadway from vehicle 2 were 57.5 feet on the right side and 63 feet on the left side of vehicle 2 prior to impact with vehicle 1. The trailer on vehicle 1 was primer colored and only had two side lights along the trailer, one in the middle and one at the rear.</p>											
DIAGRAM											
<div style="text-align: right; padding-right: 20px;"> INDICATE NORTH  </div>											
PROPERTY DAMAGE INFORMATION											
Damage Other Than Vehicle: none						Owner:					
WITNESS INFORMATION											
Name (Last, First)		Address			City		State		Zip Code		Telephone Number
none at scene											
OCCUPANT INFORMATION											
Name (Last, First): Reed, Paul Glen						Address: 331 Temple Ave, Newnan, Ga 30263					
1	Age: 51	Sex: M	Unit #: 1	Position: 1	Safety Eq: 3	Ejected: 1	Extricated: 2	Air Bag: 0	Injury: 0	Taken for Treatment: 2	
Injured Taken To:		By:		EMS Notified Time (Fatality Only):		EMS Arrival Time (Fatality Only):		Hospital Arrival Time (Fatality Only):			
Name (Last, First):						Address:					
2	Age:	Sex:	Unit #	Position:	Safety Eq:	Ejected:	Extricated:	Air Bag:	Injury:	Taken for Treatment:	
Injured Taken To:		By:		EMS Notified Time (Fatality Only):		EMS Arrival Time (Fatality Only):		Hospital Arrival Time (Fatality Only):			
Name (Last, First): Jordan, Oliver Dalton						Address: 1308 Witcher Road, Newnan, Ga 30263					
3	Age: 83	Sex: M	Unit #: 2	Position: 1	Safety Eq: 0	Ejected: 2	Extricated: 1	Air Bag: 0	Injury: 2	Taken for Treatment: 1	
Injured Taken To: AMC		By: A/LT		EMS Notified Time (Fatality Only):		EMS Arrival Time (Fatality Only):		Hospital Arrival Time (Fatality Only):			
Name (Last, First):						Address:					
4	Age:	Sex:	Unit #	Position:	Safety Eq:	Ejected:	Extricated:	Air Bag:	Injury:	Taken for Treatment:	
Injured Taken To:		By:		EMS Notified Time (Fatality Only):		EMS Arrival Time (Fatality Only):		Hospital Arrival Time (Fatality Only):			
ADMINISTRATIVE											
Photos Taken: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No By: TFC Kuhr 734						Officer Note: If collision resulted in a fatality please send prompt notification to the GDOT Crash Reporting Unit via either email at GeorgiaARS@dot.ga.gov or Fax at (404) 635-1963.					
Report By: SFC M. Swaney		Agency: GSP		Report Date: 10-1-19		Checked By: Sgt B. Thompson #331		Date Checked: 10-8-19			

ADDITIONAL or FULL PAGE DIAGRAM

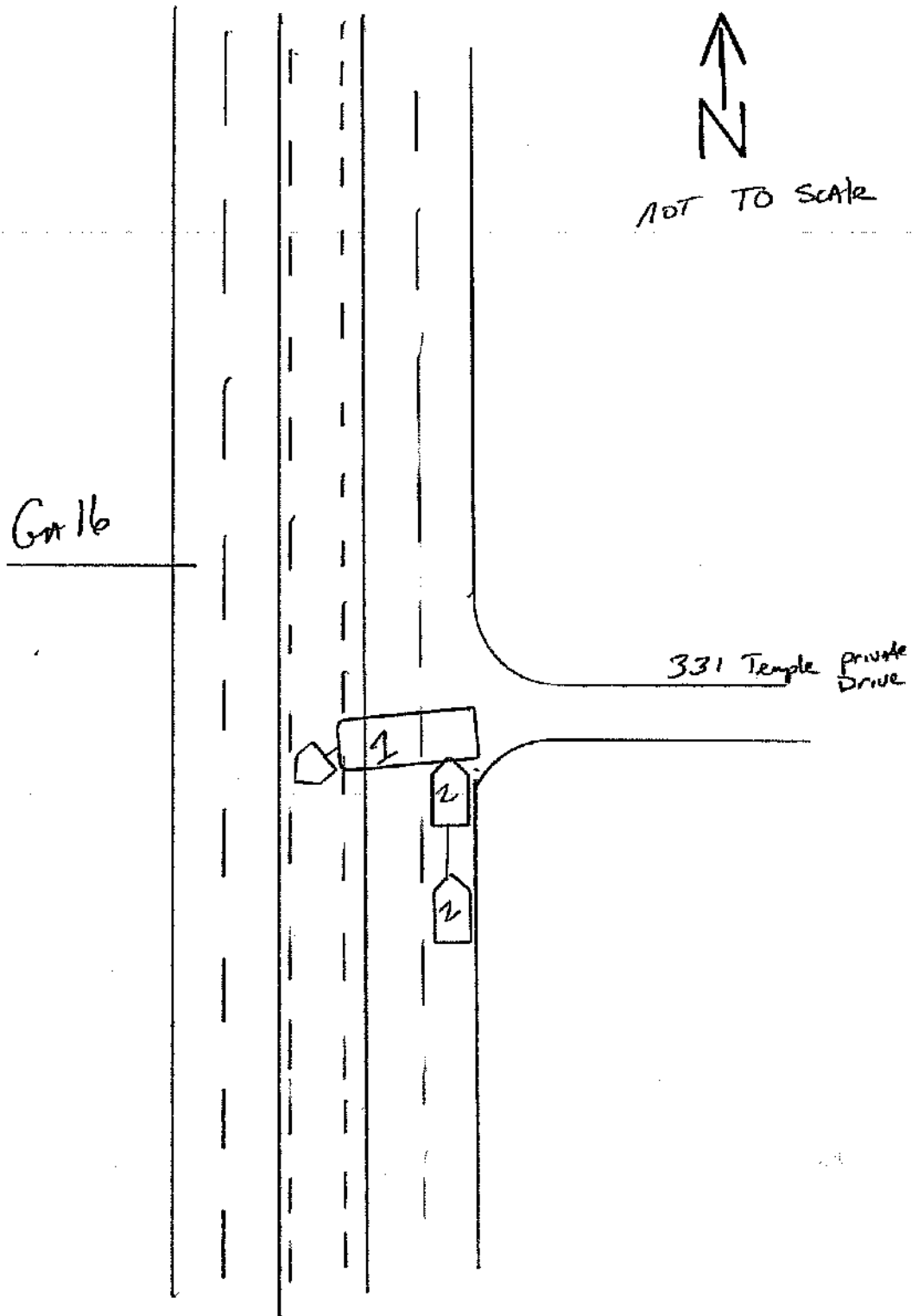


Exhibit “B”

In The Matter Of:
Jordan vs. Evans Delivery

Deposition Of:
30(b)(6) Matthew Bates

Taken On:
8/18/2020

Pope Reporting & Video, LLC
2741 Pangborn Road
404-856-0966

www.popereporting.com



IN THE UNITED STATES DISTRICT COURT
OF THE NORTHERN DISTRICT OF GEORGIA
NEWMAN DIVISION

OLIVER JORDAN,

Plaintiff,

v.

EVANS DELIVERY COMPANY,
INC., ENC HOLDING
CORPORATION, and ACE
AMERICAN INSURANCE
COMPANY,

Defendants.

CIVIL ACTION FILE NO.:

3:20-cv-60-TCB

30(b)(6) DEPOSITION OF MATTHEW J. BATES

August 18 2020
2:01 p.m. - 3:03 p.m.

Schuylkill Haven, Pennsylvania

Tara S. Nearman, CCR

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Also present: David Guynes, Videographer

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WITNESS:

MATTHEW J. BATES

Cross-examination by Mr. Butler

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<p>1 PROCEEDINGS</p> <p>2 MR. BUTLER: Mr. Bates, have you given</p> <p>3 depositions before?</p> <p>4 THE WITNESS: I have.</p> <p>5 MR. BUTLER: Okay.</p> <p>6 THE WITNESS: Can you hear me all right?</p> <p>7 MR. BUTLER: Yeah. I can hear you fine.</p> <p>8 Let's see. I guess this would be a good time</p> <p>9 to test the screens here to make sure I can do it</p> <p>10 right.</p> <p>11 Can y'all see what they now call Westlaw</p> <p>12 Classic?</p> <p>13 MS. ADAIR: Yes.</p> <p>14 MR. BUTLER: All right. Great. Well, let's</p> <p>15 get started.</p> <p>16 This will be the deposition of Evans Delivery</p> <p>17 -- are we on the steno record?</p> <p>18 VIDEOGRAPHER: Question for you. I've been</p> <p>19 asked to do a read-on as the taker of the video. Is</p> <p>20 that going to be okay with everybody?</p> <p>21 MR. BUTLER: Fine with me.</p> <p>22 VIDEOGRAPHER: Okay.</p> <p>23 MR. BUTLER: Don't start going to video just</p> <p>24 yet.</p> <p>25 VIDEOGRAPHER: Okay. Let me know when you're</p>	<p>1 A. In Gilbertsville, Pennsylvania.</p> <p>2 Q. Is that where you are today as we're taking</p> <p>3 this deposition?</p> <p>4 A. Correct.</p> <p>5 Q. Who is your employer?</p> <p>6 A. Evans Delivery Company.</p> <p>7 Q. And so when you go into work, where do you go?</p> <p>8 A. Are you asking me the town?</p> <p>9 Q. Yes.</p> <p>10 A. Okay. It's two words. I'll spell the first</p> <p>11 word. First word is Schuylkill. It's</p> <p>12 S-c-h-u-y-l-k-i-l-l. Second word is Haven, Pennsylvania.</p> <p>13 Q. We're having a little trouble hearing you. I</p> <p>14 don't know if it's a microphone issue on your end or</p> <p>15 what.</p> <p>16 A. All right. Let me try to lean in. Can you</p> <p>17 hear me better now?</p> <p>18 Q. Yeah, I can hear you better now. You said</p> <p>19 Schuylkill Haven, Pennsylvania, I think.</p> <p>20 A. Correct.</p> <p>21 Q. And is that the corporate headquarters for the</p> <p>22 Evans Network of Companies?</p> <p>23 A. Correct.</p> <p>24 Q. Is it also the corporate headquarters of Evans</p> <p>25 Delivery Company?</p>
Page 6	Page 8
<p>1 ready to go to video, and then I'll do my read-on</p> <p>2 and everything like that.</p> <p>3 MR. BUTLER: Okay. That sounds great. Will</p> <p>4 do.</p> <p>5 Ready on steno?</p> <p>6 COURT REPORTER: Yes, I'm ready.</p> <p>7 MR. BUTLER: All right. This will be the</p> <p>8 deposition of Evans Delivery Company taken pursuant</p> <p>9 to Rule 30(b)(6), taken pursuant to notice and</p> <p>10 agreement, taken for purposes of trial and all other</p> <p>11 purposes permitted by the federal rules.</p> <p>12 And with that, let's go on video.</p> <p>13 VIDEOGRAPHER: All right.</p> <p>14 MR. BUTLER: All right. Will the court</p> <p>15 reporter please swear the witness.</p> <p>16 COURT REPORTER: If you would -- if you would,</p> <p>17 raise your right hand for me, please.</p> <p>18 MATTHEW J. BATES,</p> <p>19 being duly sworn, was examined and testified as</p> <p>20 follows:</p> <p>21 CROSS-EXAMINATION</p> <p>22 BY MR. BUTLER:</p> <p>23 Q. State your name for the record, please, sir.</p> <p>24 A. Matthew Joseph Bates.</p> <p>25 Q. Where do you live?</p>	<p>1 A. Correct.</p> <p>2 Q. You work for both companies, I think; is that</p> <p>3 correct?</p> <p>4 MS. ADAIR: What do you mean "both companies"?</p> <p>5 MR. BUTLER: The Evans Network of Companies and</p> <p>6 Evans Delivery Company.</p> <p>7 THE WITNESS: The Evans Network is just a</p> <p>8 marketing moniker. It's not a company.</p> <p>9 BY MR. BUTLER: (Resuming)</p> <p>10 Q. What is the name of the entity that owns the</p> <p>11 Evans Delivery Company and Allegiant and Polaris and all</p> <p>12 those other brands that are associated with the Evans</p> <p>13 Network of Companies?</p> <p>14 A. Well, Allegiant and Polaris are brands. They</p> <p>15 aren't companies. And those brands are owned and</p> <p>16 operated by Evans. Evans is owned by a holding company</p> <p>17 called -- I think it's ENC Acquire Corporation.</p> <p>18 Q. Are you an employee of any company other than</p> <p>19 Evans Delivery Company?</p> <p>20 A. No.</p> <p>21 Q. What is your position at Evans Delivery</p> <p>22 Company?</p> <p>23 A. I'm vice president of risk.</p> <p>24 Q. Is that risk management and safety?</p> <p>25 A. At one point in time, it was, but it no longer</p>

<p style="text-align: right;">Page 9</p> <p>1 is.</p> <p>2 Q. All right. If you are not in charge of safety</p> <p>3 anymore, who is?</p> <p>4 A. My safety duties are currently being</p> <p>5 transitioned to an individual named Tom Burke.</p> <p>6 Q. When can that transition start?</p> <p>7 A. Tom was hired shortly before the COVID</p> <p>8 outbreak, so earlier this year.</p> <p>9 Q. Earlier in 2020?</p> <p>10 A. Correct.</p> <p>11 Q. You're aware that today Evans Delivery Company</p> <p>12 has chosen you to speak on its behalf in this deposition;</p> <p>13 correct?</p> <p>14 A. I am.</p> <p>15 Q. I'm going to show you now what has been marked</p> <p>16 as Plaintiff's Exhibit No. 40. Excuse me, I've got to</p> <p>17 pull it back up. You see Exhibit 40 on the screen?</p> <p>18 (Plaintiff's Exhibit No. 40 marked.)</p> <p>19 A. I do.</p> <p>20 Q. That appears to be the notice of deposition for</p> <p>21 this deposition; correct?</p> <p>22 A. It does.</p> <p>23 Q. A notice of deposition is the document that</p> <p>24 officially said we'd be taking your deposition today;</p> <p>25 right?</p>	<p style="text-align: right;">Page 11</p> <p>1 Q. Have most of them involved collisions in which</p> <p>2 someone was alleging injuries and that an Evans truck was</p> <p>3 involved?</p> <p>4 A. The majority have been auto liability, but</p> <p>5 there have been other matters.</p> <p>6 Q. When you speak about "auto liability," that</p> <p>7 refers to a case in which someone is alleging injuries</p> <p>8 and an Evans truck was involved; is that correct?</p> <p>9 A. Correct.</p> <p>10 Q. I'd like to get some background from you about</p> <p>11 Evans generally, I guess, including that marketing name,</p> <p>12 The Evans Network of Companies. Tell me -- can you now</p> <p>13 see Plaintiff's Exhibit 41 on the screen in front of you?</p> <p>14 (Plaintiff's Exhibit No. 41 marked.)</p> <p>15 A. I can.</p> <p>16 Q. On the left there, we see the logo. It says</p> <p>17 "The Evans Network of Companies"; right?</p> <p>18 A. Correct.</p> <p>19 Q. And did you just tell me -- if I heard you</p> <p>20 right, that's not a real company. That's just a</p> <p>21 marketing brand or marketing entity?</p> <p>22 A. It's not an entity. It's a marketing effort.</p> <p>23 Correct.</p> <p>24 Q. A marketing what?</p> <p>25 A. Effort.</p>
<p style="text-align: right;">Page 10</p> <p>1 A. I believe that's correct.</p> <p>2 Q. I presume you've reviewed Plaintiff's Exhibit</p> <p>3 40 before this deposition; is that correct?</p> <p>4 A. It is.</p> <p>5 Q. And Plaintiff's Exhibit 40, the notice provides</p> <p>6 a list of some of the topics we might ask you about</p> <p>7 today; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. In addition to being the director of risk,</p> <p>10 you're are also a lawyer, aren't you?</p> <p>11 A. I am.</p> <p>12 Q. You went to law school at Duquesne University</p> <p>13 School of Law, I believe.</p> <p>14 A. Duquesne, but correct.</p> <p>15 Q. Okay. Have you given depositions before?</p> <p>16 A. I have.</p> <p>17 Q. How many times?</p> <p>18 A. I don't know. I don't know.</p> <p>19 Q. Well, like, 5 or, like, 50, or, like, 500?</p> <p>20 A. Certainly not 500. Certainly more than 5. I</p> <p>21 don't whether it's less or more than 50. I would venture</p> <p>22 to guess less.</p> <p>23 Q. Okay. Have most of those deposition been in</p> <p>24 connection with your work with Evans Delivery Company?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. A marketing effort.</p> <p>2 Okay. Well, anyway, do you recognize Plaintiff's</p> <p>3 Exhibit 41 here as the "About Us" page for the Evans</p> <p>4 Network of Companies?</p> <p>5 A. Generally, yes.</p> <p>6 Q. All right. If we go, I guess, to the bottom of</p> <p>7 the first page, we can see the URL here. That would be</p> <p>8 consistent with being the "About" page for The Evans</p> <p>9 Network of Companies; right?</p> <p>10 A. Correct.</p> <p>11 Q. Now, we've established the Evans Delivery</p> <p>12 Company is a part of The Evans Network of Companies;</p> <p>13 right?</p> <p>14 A. Correct.</p> <p>15 Q. How big is the Evans Network of Companies?</p> <p>16 A. I'm not certain how you want me to measure it.</p> <p>17 Q. All right. Well, how many states does it</p> <p>18 operate in?</p> <p>19 A. Well, we're a trucking company, and most</p> <p>20 trucking companies operate in all 48 states, contiguous</p> <p>21 states, and we, being a trucking company, fit that</p> <p>22 description.</p> <p>23 Q. I mean, isn't it true that Evans Network of</p> <p>24 Companies has, like, 600 service locations?</p> <p>25 A. I would not use that number, but I would use a</p>

<p style="text-align: right;">Page 13</p> <p>1 number in the hundreds, correct.</p> <p>2 Q. Well, let's scroll down a little bit in</p> <p>3 Plaintiff's Exhibit 41, and we'll come to -- this is the</p> <p>4 top of what? It's paginated as page 2. You see the</p> <p>5 highlighted language in front of you there?</p> <p>6 A. I do.</p> <p>7 Q. That says "The network includes 600 service</p> <p>8 center locations, more than 6,000 trucks, and revenues in</p> <p>9 excess of 1.2 billion dollars." Is that correct?</p> <p>10 A. You read that right.</p> <p>11 Q. All right. Do you have any reason to disagree</p> <p>12 with this language from the Evans web page?</p> <p>13 A. I wouldn't have used the 600 service centers</p> <p>14 locations. I know why it's being used, but I would not</p> <p>15 have used that description.</p> <p>16 Q. Well, anyway, if we scroll down, we can see</p> <p>17 some of the brands associated with the marketing network</p> <p>18 -- effort -- known as Evans Network of Companies; right?</p> <p>19 A. Correct.</p> <p>20 Q. And among these brands, we see Evans Delivery</p> <p>21 Company, your employer; right?</p> <p>22 A. Correct.</p> <p>23 Q. And we also see Allegiant Intermodal, which was</p> <p>24 also on the side of Paul Reed's truck; correct?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 15</p> <p>1 though, was somewhere between 50 and 60 employees, but I</p> <p>2 -- I only had three direct reports.</p> <p>3 Q. Who did you report to? In other words, who was</p> <p>4 your boss or supervisor?</p> <p>5 A. Bo Bates.</p> <p>6 Q. As I understand it, you graduated from college</p> <p>7 in 2005; is that right?</p> <p>8 A. It is.</p> <p>9 Q. Finished law school in 2008?</p> <p>10 A. Correct.</p> <p>11 Q. You worked as a lawyer at a law firm from 2008</p> <p>12 to 2012, I think; is that right?</p> <p>13 A. It is.</p> <p>14 Q. And then you started work at Evans as a staff</p> <p>15 attorney in 2012?</p> <p>16 A. Correct.</p> <p>17 Q. Three years later, you were promoted to vice</p> <p>18 president of risk management and safety, reporting</p> <p>19 directly to the CEO, who was your father; is that right?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. Have you ever been a truck driver?</p> <p>22 A. I have not.</p> <p>23 Q. Well, Evans has -- however many locations it</p> <p>24 has, it has a bunch of locations in Georgia; isn't that</p> <p>25 correct?</p>
<p style="text-align: right;">Page 14</p> <p>1 Q. And if we keep coming down, we come to a list</p> <p>2 of the senior management team. If we look here, it's got</p> <p>3 you listed as the vice president of safety and risk</p> <p>4 management; right?</p> <p>5 A. Right.</p> <p>6 Q. We also see a C. Ryan Bates. Is that your</p> <p>7 brother?</p> <p>8 A. Correct.</p> <p>9 Q. We see a Matthew "Bo" Bates listed as the</p> <p>10 president and CEO. Is that your father?</p> <p>11 A. Correct.</p> <p>12 Q. My understanding is that Albert "Bert" Evans,</p> <p>13 the chairman of the board and the son of the founder, is,</p> <p>14 I think, your father's father-in-law; is that right?</p> <p>15 A. Correct.</p> <p>16 Q. And then my understanding is that the founder</p> <p>17 of the company was your great-grandfather; is that right?</p> <p>18 A. Correct.</p> <p>19 Q. So who -- at the time this collision occurred</p> <p>20 on October 1, 2019, who was the highest ranking safety</p> <p>21 officer in The Evans Network of Companies?</p> <p>22 A. Me.</p> <p>23 Q. And how many people were you managing at that</p> <p>24 time?</p> <p>25 A. I had three direct reports. The team in total,</p>	<p style="text-align: right;">Page 16</p> <p>1 A. We have locations in Georgia, correct.</p> <p>2 Q. I'm going to show you what -- do you know how</p> <p>3 many?</p> <p>4 A. I could make a guess, but offhand I don't know</p> <p>5 a specific number, no.</p> <p>6 Q. Okay. I think -- can you see now what I've</p> <p>7 marked as Plaintiff's Exhibit No. 42?</p> <p>8 (Plaintiff's Exhibit No. 42 marked.)</p> <p>9 A. I can.</p> <p>10 Q. It says "Service Center Locator," doesn't it?</p> <p>11 A. It does.</p> <p>12 Q. It has the Evans Delivery Company logo on it?</p> <p>13 A. Correct.</p> <p>14 Q. Right. If we look down -- I guess I'll have to</p> <p>15 represent to you that, before making this printout, I</p> <p>16 selected Georgia. If we look down, we can see a whole</p> <p>17 bunch of locations of the Evans Deliver Company or Evans</p> <p>18 Network of Companies in Georgia. Does that appear to be</p> <p>19 correct?</p> <p>20 A. Correct.</p> <p>21 Q. If we look at the URL that prints here</p> <p>22 (indicating) on the bottom of each page of Plaintiff's</p> <p>23 Exhibit 42, we can see the URL is at least consistent</p> <p>24 with this being an Evans Delivery web page; right?</p> <p>25 A. Correct.</p>

<p style="text-align: right;">Page 17</p> <p>1 Q. Now, I've gone through and counted all of 2 these. You can tell they cover 14 pages. I count 47 3 locations in Georgia. Does that sound right to you, or 4 would you prefer to count?</p> <p>5 A. I trust your counting ability.</p> <p>6 Q. All right. Well, I also pulled pictures of a 7 few of these locations just so we could get a feel for 8 what they are. Have you ever visited Evans location in 9 Savannah, Georgia?</p> <p>10 A. I have.</p> <p>11 Q. All right. Well, do you see Plaintiff's 12 Exhibit 43 in front of you?</p> <p>13 (Plaintiff's Exhibit No. 43 marked.)</p> <p>14 A. I do.</p> <p>15 Q. Do you recognize it?</p> <p>16 A. That looks like the yard, although I don't see 17 the office space; so I'm not entirely sure, but I do see 18 the banner there, which leads me to believe it is the 19 yard.</p> <p>20 Q. All right. And then if we look up at the top 21 here (indicating), we can see the Google Maps URL; 22 correct?</p> <p>23 A. Correct.</p> <p>24 Q. You see the address here (indicating) of 503 25 Bourne Avenue; correct?</p>	<p style="text-align: right;">Page 19</p> <p>1 A. You read that correctly.</p> <p>2 Q. Okay. Is that consistent with your knowledge 3 that Evans does, in fact, have a location in Palmetto, 4 Georgia?</p> <p>5 A. I don't know specifically whether it's in 6 Palmetto. I know that there's a location in Georgia. I 7 don't know the exact city.</p> <p>8 Q. Okay. Well, I'd like to talk with you next 9 about the collision that this case is about. But before 10 I get too deep into it, I wanted to make sure I was 11 correct in my understanding of where your company, Evans, 12 stands on all this stuff.</p> <p>13 So let me show you now what I've marked as 14 Plaintiff's Exhibit 7. Do you see that on the screen in 15 front of you?</p> <p>16 (Plaintiff's Exhibit No. 7 marked.)</p> <p>17 A. I do.</p> <p>18 Q. Okay. Plaintiff's Exhibit 7 is a court 19 pleading; right?</p> <p>20 A. I don't consider discovery pleadings, but...</p> <p>21 Q. Well, anyway, the name of the court and the 22 name of the case is on it; right?</p> <p>23 A. Correct. That's a caption. Correct.</p> <p>24 Q. All right. And do you see where it says 25 "Defendant Evans Delivery Company, Inc.'s Responses and</p>
<p style="text-align: right;">Page 18</p> <p>1 A. Correct.</p> <p>2 Q. And that's also the address that we see on 3 Plaintiff's Exhibit 42 on page 2; correct?</p> <p>4 A. Correct.</p> <p>5 Q. Have you ever visited the Evans location in 6 Palmetto, Georgia?</p> <p>7 A. I have not visited that one, no.</p> <p>8 Q. Well, do you see Plaintiff's Exhibit 44 on the 9 screen in front of you?</p> <p>10 (Plaintiff's Exhibit No. 44 marked.)</p> <p>11 A. I do.</p> <p>12 Q. Does that look like a Google Street View image?</p> <p>13 A. I assume so.</p> <p>14 Q. Okay. Do you see the placard there for Polaris 15 Intermodal?</p> <p>16 A. I do.</p> <p>17 Q. That's an Evans brand, isn't it?</p> <p>18 A. It is.</p> <p>19 Q. And if we look on the left here (indicating) 20 under the Google URL, we see the address of 8409 Tatum 21 Road; correct?</p> <p>22 A. You read that correctly.</p> <p>23 Q. If we go back to Plaintiff's Exhibit 42 and go 24 down to page 7, we find -- here we go. On page 9, excuse 25 me, we find that same 8409 Tatum Road address; correct?</p>	<p style="text-align: right;">Page 20</p> <p>1 Objections to Plaintiff's First Requests For Admission"?</p> <p>2 A. I do.</p> <p>3 Q. You know how requests for admissions work, 4 don't you?</p> <p>5 A. I do.</p> <p>6 Q. Basically, one party makes a statement. In 7 this, indicates Plaintiff makes a statement, and then 8 Evans can either admit it or deny it or say they don't 9 know; right?</p> <p>10 A. They can respond, correct.</p> <p>11 Q. Okay. Well, let's look at some of the requests 12 for admissions and responses. And the ones I want to 13 look at are the first two here (indicating). Number 1 14 says "Paul Reed was at fault for the collision on 15 October 1, 2019"; correct?</p> <p>16 A. You read that correctly.</p> <p>17 Q. And Evans' response was "Denied"; correct?</p> <p>18 A. You read that correctly.</p> <p>19 Q. Request for Admission No. 2 says "Paul Reed was 20 partially at fault for the collision on October 1, 2019"; 21 right?</p> <p>22 A. You read that correctly.</p> <p>23 Q. And Evans' response was "Denied"; right?</p> <p>24 A. You read that correctly.</p> <p>25 Q. Do you stand by those responses today?</p>

<p style="text-align: right;">Page 21</p> <p>1 A. We do.</p> <p>2 Q. All right. Well, who had the right-of-way?</p> <p>3 MS. ADAIR: Object to form.</p> <p>4 You can answer subject to the objection.</p> <p>5 THE WITNESS: I'm not certain of the specific</p> <p>6 law in Georgia who had the right-of-way.</p> <p>7 BY MR. BUTLER: (Resuming)</p> <p>8 Q. Well, have you looked into this collision?</p> <p>9 A. I have.</p> <p>10 Q. Your company's investigated it; right?</p> <p>11 A. We have performed an investigation, correct.</p> <p>12 Q. Do you think it's important to know who got the</p> <p>13 right-of-way?</p> <p>14 A. That was not a detail that was important to me</p> <p>15 during my investigation.</p> <p>16 Q. Well, let's talk about it now and see what we</p> <p>17 can figure out. The collision occurred on Temple Avenue,</p> <p>18 which is also known as Georgia Highway 16, and Alternate</p> <p>19 US Highway 27; correct?</p> <p>20 A. I'm not certain about the alternate names of</p> <p>21 the road.</p> <p>22 Q. Okay. Well, let's look at an exhibit here.</p> <p>23 I'll show you now what's been marked as Plaintiff's</p> <p>24 Exhibit 12. Do you see that?</p> <p>25 (Plaintiff's Exhibit No. 12 marked.)</p>	<p style="text-align: right;">Page 23</p> <p>1 BY MR. BUTLER: (Resuming)</p> <p>2 Q. Well, let me show you another question [sic]</p> <p>3 before we get to talking about the law -- another</p> <p>4 exhibit. Do you see Plaintiff's Exhibit 1 on the screen</p> <p>5 in front of you?</p> <p>6 (Plaintiff's Exhibit No. 1 marked.)</p> <p>7 A. I do.</p> <p>8 Q. Now, I'm not going to ask you to say this is</p> <p>9 correct because I don't think you've seen it before; so I</p> <p>10 won't ask you to vouch for it. But I do want to ask you</p> <p>11 this. Looking just at that picture, as between these two</p> <p>12 vehicles, is it your testimony that you don't know who</p> <p>13 would have the right-of-way?</p> <p>14 MS. ADAIR: Object to form.</p> <p>15 THE WITNESS: It's my testimony that I don't</p> <p>16 know the Georgia law.</p> <p>17 BY MR. BUTLER: (Resuming)</p> <p>18 Q. Okay. Well, let's take a look at Plaintiff's</p> <p>19 Exhibit No. 12. I tell you what, let's look at</p> <p>20 Plaintiff's Exhibit 13. Do you see 13 on the screen in</p> <p>21 front of you?</p> <p>22 (Plaintiff's Exhibit No. 13 marked.)</p> <p>23 A. I do.</p> <p>24 Q. That appears to just be a zoomed in version of</p> <p>25 the Google Maps image that was Plaintiff's Exhibit 12;</p>
<p style="text-align: right;">Page 22</p> <p>1 A. I see it.</p> <p>2 Q. All right. And it's labeled "Google Earth</p> <p>3 Overview"; right?</p> <p>4 A. Correct.</p> <p>5 Q. You've probably pulled this collision site up</p> <p>6 on Google Earth yourself, hadn't you?</p> <p>7 A. I did.</p> <p>8 Q. Does this look familiar?</p> <p>9 A. It does.</p> <p>10 Q. Okay. So it says "Temple Avenue"; right?</p> <p>11 A. Correct.</p> <p>12 Q. And here (indicating) it says 16, and here</p> <p>13 (indicating) it says 27; correct?</p> <p>14 A. It does.</p> <p>15 Q. Okay. Now, we know that in this collision</p> <p>16 Mr. Jordan and his pickup truck was heading north, and</p> <p>17 Mr. Reed and the tractor trailer was backing into his</p> <p>18 driveway; correct?</p> <p>19 A. That's my understanding, yes.</p> <p>20 Q. Now, if someone's going straight in a main</p> <p>21 traffic lane and another person is backing across that</p> <p>22 lane, who do you think has the right-of-way?</p> <p>23 MS. ADAIR: Object to the form.</p> <p>24 THE WITNESS: I still don't know the Georgia</p> <p>25 law.</p>	<p style="text-align: right;">Page 24</p> <p>1 right?</p> <p>2 A. It does.</p> <p>3 Q. Let's think about it this way. Pretend that</p> <p>4 Mr. Jordan was going straight, as he was in real life,</p> <p>5 and a tractor trailer was making a left turn in front of</p> <p>6 him across this lane. So, basically, this is just like</p> <p>7 the real case, except the tractor trailer in this</p> <p>8 hypothetical is making a left turn, going forward instead</p> <p>9 of backing up. But if one person is going straight and</p> <p>10 another person is turning across that lane, who has the</p> <p>11 right-of-way?</p> <p>12 MS. ADAIR: Object to form.</p> <p>13 THE WITNESS: I don't know the Georgia law.</p> <p>14 BY MR. BUTLER: (Resuming)</p> <p>15 Q. Okay. Who would have the right-of-way where</p> <p>16 you live?</p> <p>17 MS. ADAIR: Same objection.</p> <p>18 THE WITNESS: I'd -- the question asks me to</p> <p>19 assume a whole bunch of facts to be true, and so the</p> <p>20 person making the left-hand turn could have the</p> <p>21 right-of-way in the event that his sight lines</p> <p>22 doesn't identify any vehicles. So I just -- I have</p> <p>23 a hard time answering the question because it asks</p> <p>24 me to assume a lot of facts as true.</p> <p>25 /////</p>

<p style="text-align: right;">Page 25</p> <p>1 BY MR. BUTLER: (Resuming)</p> <p>2 Q. You do have a driver's license; right?</p> <p>3 A. I do.</p> <p>4 Q. Okay. Well, one way to figure this out might</p> <p>5 be to ask -- to look at who got the ticket; right?</p> <p>6 MS. ADAIR: Objection.</p> <p>7 THE WITNESS: I'm not certain of that, no.</p> <p>8 BY MR. BUTLER: (Resuming)</p> <p>9 Q. Well, do you know who got the ticket or the</p> <p>10 traffic citation in this collision?</p> <p>11 A. I'm aware that Mr. Reed was cited.</p> <p>12 Q. Okay. Do you know what he was cited for?</p> <p>13 A. I do not.</p> <p>14 Q. Do you think that's important?</p> <p>15 A. I think the police report tells us that.</p> <p>16 Q. Tells us what?</p> <p>17 A. What he was cited with.</p> <p>18 Q. All right. Well, that's right. Let's take a</p> <p>19 look. Do you see Plaintiff's Exhibit 55 on the screen</p> <p>20 ahead of you?</p> <p>21 (Plaintiff's Exhibit No. 55 marked.)</p> <p>22 A. I do.</p> <p>23 Q. All right. This first -- the first page is a</p> <p>24 fax cover. Does page 2 appear to begin the police report</p> <p>25 that you reviewed in connection with this case?</p>	<p style="text-align: right;">Page 27</p> <p>1 Q. Forfeiting bond is the same as admitting guilt,</p> <p>2 isn't it?</p> <p>3 MS. ADAIR: Object to form.</p> <p>4 THE WITNESS: I don't know the Georgia law.</p> <p>5 BY MR. BUTLER: (Resuming)</p> <p>6 Q. Okay. Well, so anyway, we've established now</p> <p>7 that Mr. Reed received a citation for improper backing;</p> <p>8 correct?</p> <p>9 A. Correct.</p> <p>10 Q. Let's look at Plaintiff's Exhibit 3. Do you</p> <p>11 see that?</p> <p>12 (Plaintiff's Exhibit No. 3 marked.)</p> <p>13 A. I do.</p> <p>14 Q. This is another traffic citation form; right?</p> <p>15 A. Correct.</p> <p>16 Q. This has the date of the collision, Paul Reed's</p> <p>17 name, and improper stopping along with the code section;</p> <p>18 correct?</p> <p>19 A. Correct.</p> <p>20 Q. If we scroll down to the second page of</p> <p>21 Plaintiff's Exhibit 3, we'll see that he forfeited bond</p> <p>22 here too; right?</p> <p>23 A. You read that correctly.</p> <p>24 Q. Now, Mr. Jordan did not receive a ticket or</p> <p>25 citation in this collision, did he?</p>
<p style="text-align: right;">Page 26</p> <p>1 A. It appears so, yes.</p> <p>2 Q. It's got Paul Reed's name, Oliver Jordan's</p> <p>3 name, and the date of the collision; right?</p> <p>4 A. Correct.</p> <p>5 Q. If we scroll down here (indicating) under</p> <p>6 Reed's column, we can see he's got on two citation here</p> <p>7 (indicating); right?</p> <p>8 A. That's what I see, yes.</p> <p>9 Q. Okay. Let's take a closer look at some of</p> <p>10 that. I will show you the official court disposition.</p> <p>11 Do you see Plaintiff's Exhibit 2 on the screen ahead of</p> <p>12 you now?</p> <p>13 (Plaintiff's Exhibit No. 2 marked.)</p> <p>14 A. I do.</p> <p>15 Q. This says "Uniform Traffic Citation Summons and</p> <p>16 Accusation"; right?</p> <p>17 A. You read that correctly.</p> <p>18 Q. It has the date of the collision, Paul Reed's</p> <p>19 name, and improper backing with the code section written</p> <p>20 out there, doesn't it?</p> <p>21 A. You read that correctly.</p> <p>22 Q. And if we can scroll down to the next page,</p> <p>23 we'll see the checkmark here that shows Mr. Reed</p> <p>24 forfeited his bond. Do you see that?</p> <p>25 A. I do.</p>	<p style="text-align: right;">Page 28</p> <p>1 A. Not to my knowledge.</p> <p>2 Q. Now, we said, I think, in connection with the</p> <p>3 right-of-way, I think you said you weren't familiar with</p> <p>4 Georgia law as it related to rights-of-way. Do I</p> <p>5 remember that right?</p> <p>6 A. Correct.</p> <p>7 Q. A Georgia police officer ought to know that,</p> <p>8 though, wouldn't you think?</p> <p>9 MS. ADAIR: Object to form.</p> <p>10 THE WITNESS: I don't know what the Georgia</p> <p>11 police officer does or doesn't know.</p> <p>12 BY MR. BUTLER: (Resuming)</p> <p>13 Q. Do you think a Georgia police officer would be</p> <p>14 familiar with Georgia traffic law?</p> <p>15 MS. ADAIR: Object to form.</p> <p>16 THE WITNESS: I can make assumptions, but I</p> <p>17 don't know.</p> <p>18 BY MR. BUTLER: (Resuming)</p> <p>19 Q. Well, I don't mean to -- oh, Lord, I lost my</p> <p>20 exhibits -- to cause offense or beat a dead horse, but do</p> <p>21 you see that first page of Plaintiff's Exhibit 7 on the</p> <p>22 screen ahead of you now?</p> <p>23 A. I do.</p> <p>24 Q. Do you still stand by those two responses</p> <p>25 denying fault or partial fault for this collision?</p>

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<p>1 A. I agree that we are responsible for the actions 2 in this collision, but in this instance, I don't believe 3 Mr. Reed's actions caused this accident; so, yes, I stand 4 beside the responses that were provided to the request 5 for admissions. 6 Q. Your microphone was cutting out again at the 7 beginning of that answer. Can you say that once more. 8 A. Sure. I said -- I think I said that I agree 9 that we are responsible for the actions of Mr. Reed, but 10 in this particular instance, we don't believe Mr. Reed's 11 actions caused this accident; so, yes, we stand behind 12 our answers to the request for admissions. 13 Q. Did you listen to the 9-1-1 recordings in this 14 case? 15 A. I listened to Mr. Reed's. I'm under the 16 impression there are others, and I did not listen to 17 those. 18 Q. Why not? 19 A. We're getting into attorney-client privilege. 20 Q. No, no. Why didn't you listen to the 21 recordings? 22 A. We're getting into attorney-client privilege. 23 Q. Are you going to refuse to answer that? 24 MS. ADAIR: I'm instructing him not to answer 25 anything he learned based on his communications with</p>	<p>1 communications, I'm instructing him not to answer. 2 BY MR. BUTLER: (Resuming) 3 Q. Are you going to answer, Mr. Bates? 4 A. In order for me to answer, I have to reveal -- 5 I even feel uncomfortable answering it because it's hard 6 to answer without revealing things that were discussed; 7 so I can't answer it. 8 Q. All right. Well, I can't make you; so we're 9 going to move on. 10 Let's take a listen. I think I need to share my 11 screen in order to do this; so I'm going to do that even 12 though it's just an audio recording. I'm going to play 13 this for you now. Let me know if you cannot hear it. 14 (Whereupon, a recording was played.) 15 BY MR. BUTLER: (Resuming) 16 Q. That concludes the recording. Were you able to 17 hear the screeching tires? 18 A. I was not. 19 Q. Did you hear her say, "Oh, God"? 20 A. I did not. 21 Q. Were you able to hear the recording? 22 A. Generally, yes, but it was somewhat garbled 23 given our talking to each other remote. 24 Q. Okay. Well, I'm going to ask you to assume 25 that in that recording, which we will have marked as</p>
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<p>1 counsel. If he has information outside of those 2 communications, of course, he can respond. 3 MR. BUTLER: Ms. Adair, are you instructing 4 Mr. Bates not to answer that question? 5 MS. ADAIR: I'm instructing him not to answer 6 questions that are based on information he knows 7 solely from communications with this counsel, yes. 8 BY MR. BUTLER: (Resuming) 9 Q. My question's real clear, and if someone's 10 going to tell me outright they refuse to answer, then we 11 can move on, but the question is why didn't you listen to 12 the other 9-1-1 recording? 13 MS. ADAIR: My objection and instructions to 14 him are the same. If there is information outside 15 of our communications that is responsive, he can 16 answer; otherwise, I'm instructing him not to 17 answer. 18 MR. BUTLER: So are you instructing him not to 19 answer, or are you not? 20 MS. ADAIR: Jeb, I was very clear. 21 MR. BUTLER: No -- 22 MS. ADAIR: If he has information that he knows 23 outside of our own communications, he is free to 24 give that. If, however, the only information that 25 he has derived from our attorney-client</p>	<p>1 Plaintiff's Exhibit 6 to this deposition, you can hear 2 some high pitch screeching consistent with the screeching 3 of tires, and then the caller says, "Oh, God," and then 4 the 9-1-1 operator asked what it was, and the caller says 5 that someone else almost hit the tractor trailer. 6 Now, would it seem significant to you that, even 7 after Mr. Jordan had struck this tractor trailer and the 8 taillights of his pickup truck were visible sticking out 9 from underneath the trailer, another vehicle still almost 10 hit it? 11 (Plaintiff's Exhibit No. 6 marked.) 12 MS. ADAIR: Object to form. 13 THE WITNESS: I have no way to answer that. 14 BY MR. BUTLER: (Resuming) 15 Q. Well, you've been part of the investigation and 16 analysis of this collision; right? 17 A. Correct. 18 Q. And you knew you were going to be giving a 19 deposition on this topic today; right? 20 A. Correct. 21 Q. In fact, one of your noticed topics was how the 22 subject collision occurred; right? 23 A. Correct. 24 Q. Okay. Well, would it seem important to you 25 that, even after Mr. Jordan had crashed into this trailer</p>

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<p>1 and the taillights from his pickup truck were sticking 2 out from underneath it, another driver still almost hit 3 it?</p> <p>4 MS. ADAIR: Object to form.</p> <p>5 THE WITNESS: I have no idea if the other 6 driver was eating a sandwich, whether the other 7 driver was on a cell phone, or the other driver was 8 in an argument with a passenger. I have no idea of 9 the circumstances you're asking me to comment upon, 10 which is why I can't comment upon them.</p> <p>11 BY MR. BUTLER: (Resuming)</p> <p>12 Q. Doesn't it at least suggest that that trailer 13 was hard to see?</p> <p>14 MS. ADAIR: Object to form.</p> <p>15 THE WITNESS: I refer back to my answer I just 16 gave. I just -- I have no idea of the attentiveness 17 or the circumstances surrounding the other driver, 18 who apparently was nearby this accident.</p> <p>19 BY MR. BUTLER: (Resuming)</p> <p>20 Q. Well, let's back up a little bit. Don't you 21 think it's dangerous to back a tractor trailer across a 22 five-lane highway like this?</p> <p>23 MS. ADAIR: Object to form</p> <p>24 THE WITNESS: I don't think he backed across 25 five lanes; so I don't think that question is a fair</p>	<p>1 lanes of the US highway, do you think it's more or less 2 dangerous to do that at night?</p> <p>3 MS. ADAIR: Object to form.</p> <p>4 THE WITNESS: I do not know how to answer that 5 because there are reasons that you might want to do 6 it at night versus the day because there's less 7 traffic at night than during the day; so I just -- I 8 don't know how to answer your question.</p> <p>9 BY MR. BUTLER: (Resuming)</p> <p>10 Q. You reckon a trailer is harder to see at night 11 or in the day?</p> <p>12 MS. ADAIR: Object to form.</p> <p>13 THE WITNESS: I don't know any of the instances 14 of the conspicuity in this particular case.</p> <p>15 BY MR. BUTLER: (Resuming)</p> <p>16 Q. Well, no, sir, my question was do you reckon 17 it's harder to see a trailer at night or in the day?</p> <p>18 MS. ADAIR: Same objection.</p> <p>19 THE WITNESS: Yeah, I don't know that given the 20 fact that there's headlight involved, taillights 21 involved, conspicuity involved; so I don't know the 22 answer to that.</p> <p>23 BY MR. BUTLER: (Resuming)</p> <p>24 Q. Okay. If you're going to back a tractor 25 trailer across at least three lanes of a US highway at</p>
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<p>1 question, but that aside, I don't think that the 2 backing up circumstances is unsafe. I think it's a 3 fact-in-circumstances-type question.</p> <p>4 BY MR. BUTLER: (Resuming)</p> <p>5 Q. Well, how many lanes do you think the tractor 6 trailer blocked?</p> <p>7 A. It's my understanding that this particular 8 roadway has two lanes of travel in each direction with a 9 center lane that's intended to be a turn lane for either 10 the north or southbound lanes and that Mr. Reed was in 11 that travel -- or excuse me -- that turn lane attempting 12 to back over to two northbound lanes.</p> <p>13 Q. So he was blocking three lanes, then, at least?</p> <p>14 A. Correct.</p> <p>15 Q. Don't you think it's dangerous to back a 16 tractor trailer across three lanes of the US highway?</p> <p>17 MS. ADAIR: Object to form.</p> <p>18 THE WITNESS: I think that it's a facts-and- 19 circumstance analysis. And I think that, in order 20 for him to enter or exit his property, he either 21 needs to back in or back out.</p> <p>22 BY MR. BUTLER: (Resuming)</p> <p>23 Q. Well, we'll get to some alternatives, I guess, 24 in a minute. But if you think it's more -- if you're 25 going to back a tractor trailer across at least three</p>	<p>1 night, do you think it's more dangerous or less dangerous 2 to do it without reflective triangles or a flagger?</p> <p>3 MS. ADAIR: Object to form.</p> <p>4 THE WITNESS: I've not been made aware of 5 instances where vehicles that aren't disabled or 6 aren't overdimensional utilize triangle or flaggers 7 when backing.</p> <p>8 BY MR. BUTLER: (Resuming)</p> <p>9 Q. Well, thank you. That wasn't part of my 10 question. My question was do you think it's more 11 dangerous or less dangerous to do it without triangles or 12 a flagger?</p> <p>13 MS. ADAIR: Same objection.</p> <p>14 THE WITNESS: Well, I think my answer pointed 15 out that your question assumes things that aren't 16 customarily done but for vehicles being disabled or 17 having overdimensional loads. But in the event we 18 assume things that don't happen within the industry, 19 that could make things safer.</p> <p>20 BY MR. BUTLER: (Resuming)</p> <p>21 Q. Now, I said we'd get back to the alternatives 22 for parking; so let's do that. Do you see Plaintiff's 23 Exhibit No. 10 on the screen in front of you?</p> <p>24 (Plaintiff's Exhibit No. 10 marked.)</p> <p>25 A. I still see the -- I don't know what to call</p>

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<p>1 it, but the -- there you go. Now you're getting off of</p> <p>2 it.</p> <p>3 Q. How about now? Do you see Plaintiff's</p> <p>4 Exhibit 10?</p> <p>5 A. Now, I do.</p> <p>6 Q. All right. I'll represent to you that</p> <p>7 Plaintiff's Exhibit 10 is a picture of the house where</p> <p>8 Paul Reed parked the truck and trailer. If that's true,</p> <p>9 don't you think he could have parked -- if necessary,</p> <p>10 parked the truck crossways in his yard and moved it</p> <p>11 later?</p> <p>12 MS. ADAIR: Object to form.</p> <p>13 THE WITNESS: I don't know the answer to that.</p> <p>14 BY MR. BUTLER: (Resuming)</p> <p>15 Q. Don't you think that -- was there any reason it</p> <p>16 was impossible for him to put out reflective triangles or</p> <p>17 even flares?</p> <p>18 MS. ADAIR: Same objection.</p> <p>19 THE WITNESS: If your question is was it</p> <p>20 impossible, the answer is no.</p> <p>21 BY MR. BUTLER: (Resuming)</p> <p>22 Q. Now, was it impossible for him or could he have</p> <p>23 called a flagger to the scene if he had chosen to do</p> <p>24 that?</p> <p>25 A. It's unreasonable, but it's possible.</p>	<p>1 BY MR. BUTLER: (Resuming)</p> <p>2 Q. Okay. Well, let me show you what we've marked</p> <p>3 as Plaintiff's Exhibit 44, and this is one that we've</p> <p>4 seen before. Do you see that -- the picture of the Evans</p> <p>5 location Palmetto branded Polaris Intermodal?</p> <p>6 A. I do.</p> <p>7 Q. Do you now see Plaintiff's Exhibit 45?</p> <p>8 (Plaintiff's Exhibit No. 45 marked.)</p> <p>9 A. I do. Your questions misunderstand our</p> <p>10 corporate structure, but I see it.</p> <p>11 Q. All right. Do you see the URL there</p> <p>12 (indicating) that suggests it's a Google Maps image?</p> <p>13 A. I see the URL.</p> <p>14 Q. See that same address, 8409 Tatum Road?</p> <p>15 A. I do.</p> <p>16 Q. Do you see this lot underneath the pin that</p> <p>17 says 8409 Tatum Road?</p> <p>18 A. I see the image.</p> <p>19 Q. There's plenty of room to park a truck or a</p> <p>20 trailer there, isn't there?</p> <p>21 A. Not for Mr. Reed.</p> <p>22 Q. Is it your testimony that Mr. Reed's trailer</p> <p>23 would not have fit here?</p> <p>24 A. It's my testimony that he's not permitted to</p> <p>25 park there.</p>
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<p>1 Q. Any reason why he couldn't have done that?</p> <p>2 A. Getting back to what I said earlier, flaggers</p> <p>3 are utilized in the event that a vehicle is disabled or</p> <p>4 in the event the load is overdimensional; so is it</p> <p>5 possible? Yes, but it's unreasonable.</p> <p>6 Q. Okay. Now, we talked about the Evans Delivery</p> <p>7 yard in Palmetto; right?</p> <p>8 A. Correct.</p> <p>9 Q. Do you know where Palmetto is?</p> <p>10 A. Offhand, I don't.</p> <p>11 Q. Well, I'll represent to you it's not all that</p> <p>12 far from Newnan. You know Newnan is where this collision</p> <p>13 happened; right?</p> <p>14 MS. ADAIR: Okay. Jeb, could you repeat that</p> <p>15 question. I couldn't hear it.</p> <p>16 MR. BUTLER: I'll rephrase it. I think it was</p> <p>17 not a very good question.</p> <p>18 MS. ADAIR: Oh, I just didn't hear.</p> <p>19 MR. BUTLER: Can you hear me better now?</p> <p>20 MS. ADAIR: Yeah.</p> <p>21 BY MR. BUTLER: (Resuming)</p> <p>22 Q. All right. Were you aware that Palmetto,</p> <p>23 Georgia, is not very far from Newnan, Georgia?</p> <p>24 MS. ADAIR: Object to form.</p> <p>25 THE WITNESS: I don't know the geography.</p>	<p>1 Q. Well, if the choice was to back his trailer</p> <p>2 across that US highway at night or park here</p> <p>3 (indicating), are you saying Evans would not have allowed</p> <p>4 him to park in the spot that's shown in Plaintiff's</p> <p>5 Exhibit 45?</p> <p>6 MS. ADAIR: Object to form.</p> <p>7 THE WITNESS: What I'm saying is that the yard</p> <p>8 that we're looking at right now is not owned by</p> <p>9 Evans, and it is not leased by Evans. It is leased</p> <p>10 or owned by someone who's a partner to Evans who</p> <p>11 runs under our Polaris brand, and that yard is,</p> <p>12 therefore, made available to trucks who run under</p> <p>13 the Polaris brand and customers who intend to</p> <p>14 (unintelligible) to the Polaris brand, and that</p> <p>15 Mr. Reed drove for our Allegiant brand.</p> <p>16 So when I said that yard is not available to</p> <p>17 Mr. Reed, it's because Mr. Reed was not driving for</p> <p>18 Dispatch 5 or moving freight for this particular</p> <p>19 location?</p> <p>20 BY MR. BUTLER: (Resuming)</p> <p>21 Q. Let's go back to Plaintiff's Exhibit 42. Well,</p> <p>22 that's not what I wanted. Excuse me. I want 41. You</p> <p>23 see Plaintiff's Exhibit 41 on the screen in front of you?</p> <p>24 A. I do.</p> <p>25 Q. Do you remember this as The Evans Network of</p>

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<p>1 Companies "About Us" page?</p> <p>2 A. I do.</p> <p>3 Q. If we scroll down to -- it looks like it's</p> <p>4 going to be the third page of Plaintiff's Exhibit 41 --</p> <p>5 let's see here. Do we see the Polaris Intermodal logo</p> <p>6 there?</p> <p>7 A. I do.</p> <p>8 Q. Anybody call and ask if Reed could park there?</p> <p>9 A. I don't know the answer to that question, but</p> <p>10 your question, again, misunderstands the corporate</p> <p>11 structure.</p> <p>12 Q. This sign here (indicating) that I've just</p> <p>13 highlighted on the third page of the Plaintiff's</p> <p>14 Exhibit 41 -- that's the same sign as we see on the fence</p> <p>15 here in Plaintiff's Exhibit 44, isn't it?</p> <p>16 A. I own the -- I shouldn't say "I." Evans owns</p> <p>17 the name. Evans owns the artwork. Evans does not own</p> <p>18 the yard. Evans does not lease the yard.</p> <p>19 Q. Is it the same logo or not?</p> <p>20 A. I own the name. Evans owns the name and Evans</p> <p>21 owns the artwork.</p> <p>22 Q. I think I asked if it was the same logo or not.</p> <p>23 A. And I think I gave an answer.</p> <p>24 Q. Was the answer yes?</p> <p>25 A. It was not yes. It was Evans owns the name and</p>	<p>1 Q. Well, have you been to the scene of the</p> <p>2 collision?</p> <p>3 A. No.</p> <p>4 Q. You looked at photos of it, though; right?</p> <p>5 A. Correct.</p> <p>6 Q. Let's look one more time at Plaintiff's</p> <p>7 Exhibit 10. Do you see it?</p> <p>8 A. I do.</p> <p>9 Q. What can you tell from this photo?</p> <p>10 A. Can you be more specific?</p> <p>11 Q. Well, yeah. I mean, what we were just talking</p> <p>12 about. What does this tell us about the regularity with</p> <p>13 which Reed parked his truck in this way?</p> <p>14 A. I don't know if it tells us anything.</p> <p>15 Q. Well, you see those black marks?</p> <p>16 A. I do. I just have no idea how or when they got</p> <p>17 there.</p> <p>18 Q. Well, they lead to the spot that Reed was</p> <p>19 backing his truck into, don't they?</p> <p>20 MS. ADAIR: Object to the form.</p> <p>21 THE WITNESS: I don't know whether Mr. Reed</p> <p>22 would park next to his home or in front of that</p> <p>23 vehicle that I see there; so I just -- I don't know.</p> <p>24 BY MR. BUTLER: (Resuming)</p> <p>25 Q. So if I were to say -- strike that. No, keep</p>
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<p>1 Evans owns the artwork.</p> <p>2 Q. I was not being very clear. My question was</p> <p>3 whether this highlighted logo here (indicating) on the</p> <p>4 third page of Plaintiff's Exhibit 41 that says "Polaris</p> <p>5 Intermodal" is the same logo as the one hanging on the</p> <p>6 fence here (indicating) in Plaintiff's Exhibit 44. Is it</p> <p>7 the same logo?</p> <p>8 A. Right. There the same because I own the --</p> <p>9 Evans owns the artwork and Evans owns the name, but that</p> <p>10 is all it owns.</p> <p>11 MR. BUTLER: Let's go off video for a minute,</p> <p>12 and I'm going to get my exhibits organized a little</p> <p>13 better, and that should steam us towards conclusion.</p> <p>14 I don't think we'll be here a whole lot longer.</p> <p>15 VIDEOGRAPHER: We are off video at 2:46 p.m.</p> <p>16 (Whereupon, a recess was taken.)</p> <p>17 MR. BUTLER: All right. Let's go back on</p> <p>18 video.</p> <p>19 VIDEOGRAPHER: All right. Back on video at</p> <p>20 2:49 p.m.</p> <p>21 BY MR. BUTLER: (Resuming)</p> <p>22 Q. Isn't it true, Mr. Bates, that Evans knew that</p> <p>23 Reed was regularly backing the tractor trailer across</p> <p>24 this highway?</p> <p>25 A. No, that's not true.</p>	<p>1 it that way. If I were to say, Mr. Bates, this picture,</p> <p>2 Plaintiff's Exhibit 10, shows us that Reed regularly</p> <p>3 parked his truck in this way, would you disagree with me?</p> <p>4 MS. ADAIR: Object to form.</p> <p>5 THE WITNESS: I would have no basis to agree or</p> <p>6 disagree. I don't know how those black marks got</p> <p>7 there.</p> <p>8 BY MR. BUTLER: (Resuming)</p> <p>9 Q. Well, isn't it true that Evans sent an</p> <p>10 investigator out to the scene of this collision the day</p> <p>11 after it happened?</p> <p>12 A. We had someone go out and take photos, correct.</p> <p>13 Q. And it was Custard Insurance Adjustors; right?</p> <p>14 A. I believe that's correct, yes.</p> <p>15 Q. You see Plaintiff's Exhibit No. 11 in front of</p> <p>16 you?</p> <p>17 (Plaintiff's Exhibit No. 11 marked.)</p> <p>18 A. I do.</p> <p>19 Q. Is says "Custard Insurance Adjustors" on the</p> <p>20 top right, doesn't it?</p> <p>21 A. It does.</p> <p>22 Q. And then when we scroll to the bottom, you can</p> <p>23 see the Bates numbers that suggest this is something that</p> <p>24 Evans produced to me; right?</p> <p>25 A. I assume. I don't know what those Bates</p>

<p style="text-align: right;">Page 45</p> <p>1 numbers mean, but I assume you're right.</p> <p>2 Q. As a lawyer, you know what Bates numbers are?</p> <p>3 A. I do.</p> <p>4 Q. All right. Let's go back up to the top picture</p> <p>5 here (indicating) in Plaintiff's 11, and this says "Photo</p> <p>6 No. 9. Date taken: 10/02/19"; right?</p> <p>7 A. You read that correctly.</p> <p>8 Q. The day after this collision; right?</p> <p>9 A. Correct.</p> <p>10 Q. What do you see here (indicating) in this</p> <p>11 little highlighted circle I just drew?</p> <p>12 A. Generally speaking, the same black marks that I</p> <p>13 saw in the aerial.</p> <p>14 Q. Doesn't that tell you how he was parking?</p> <p>15 MS. ADAIR: Object to form</p> <p>16 THE WITNESS: No.</p> <p>17 BY MR. BUTLER: (Resuming)</p> <p>18 Q. Okay. Well, you can see these same black marks</p> <p>19 from Google Maps; right?</p> <p>20 A. Is that where you took the aerial from?</p> <p>21 Q. No. The aerial was taken by an accident</p> <p>22 reconstruction expert. But my question was you could see</p> <p>23 the same black marks from Google Maps; right?</p> <p>24 A. I can't recall the Google Map photo offhand.</p> <p>25 Q. Well, do you see Plaintiff's Exhibit 12 in</p>	<p style="text-align: right;">Page 47</p> <p>1 residence any longer. But since he owns the truck, the</p> <p>2 tractor, I can't prevent him from taking his tractor</p> <p>3 there, but I did tell him, to the extent he has trailing</p> <p>4 equipment, that he is not to take that to his residence.</p> <p>5 Q. All right. We'll get back to that too. So</p> <p>6 when you talked to Reed, didn't you ask him whether he'd</p> <p>7 kept backing across this road?</p> <p>8 A. I did not.</p> <p>9 Q. Did you ask anyone at your company?</p> <p>10 A. I did not. I called Mr. Reed myself.</p> <p>11 Q. When did you call him?</p> <p>12 A. Upon receiving your letter.</p> <p>13 Q. Okay. So let's go ahead and pull my letter,</p> <p>14 then, I guess, since you're talking about it. I believe</p> <p>15 that it's going to be Plaintiff's Exhibit 30. Yeah. All</p> <p>16 right. Do you see my letter in front of you?</p> <p>17 (Plaintiff's Exhibit No. 30 marked.)</p> <p>18 A. I do.</p> <p>19 Q. Marked Plaintiff's 30?</p> <p>20 A. I see it.</p> <p>21 Q. The date on this letter is June 11, 2020;</p> <p>22 right?</p> <p>23 A. Correct.</p> <p>24 Q. Is it your testimony that until then you did</p> <p>25 not know whether Reed was continuing to back his truck</p>
<p style="text-align: right;">Page 46</p> <p>1 front of you?</p> <p>2 A. I do.</p> <p>3 Q. Do you see those black marks?</p> <p>4 A. I do.</p> <p>5 Q. And then I think if we look at Plaintiff's</p> <p>6 Exhibit 13, you can see them a little bit better; right?</p> <p>7 A. I do.</p> <p>8 Q. Now, isn't it true that, even after this</p> <p>9 collision and even after Reed saw Mr. Jordan get</p> <p>10 airlifted to a hospital and even after Evans sent an</p> <p>11 investigator to the scene of this collision the day after</p> <p>12 it to see what happened, Reed kept backing his tractor</p> <p>13 trailer across Temple Avenue, this highway?</p> <p>14 A. I don't know the answer to that, although I</p> <p>15 know you wrote a letter to that effect.</p> <p>16 Q. We'll get to my letter. Thank you. Is your</p> <p>17 testimony is that you don't know whether Reed kept</p> <p>18 backing across this road?</p> <p>19 A. That's my testimony, yes.</p> <p>20 Q. Why don't you know that?</p> <p>21 A. Well, because I'm not physically there; so I</p> <p>22 don't know whether he did or did not follow my</p> <p>23 instructions, but I do know that I personally -- so not</p> <p>24 anyone else -- I personally spoke to him and let him know</p> <p>25 that he was not allowed to take trailing equipment to his</p>	<p style="text-align: right;">Page 48</p> <p>1 across Temple Avenue in this manner?</p> <p>2 A. Correct.</p> <p>3 Q. Why did you wait until you heard from me to</p> <p>4 find out?</p> <p>5 A. I was more concerned about what happened on</p> <p>6 October the 1st than I was about what happened after</p> <p>7 October the 1st; so if that is an error, that is my error</p> <p>8 and my error alone, but I was more concerned about</p> <p>9 October 1. I was not as focused on future events.</p> <p>10 Q. Okay. Well, let's look at some photographs</p> <p>11 that I'll represent to you were taken by Mr. Jordan's</p> <p>12 family and friends. Do you see Plaintiff's Exhibit 20 on</p> <p>13 the screen in front of you?</p> <p>14 (Plaintiff's Exhibit No. 20 marked.)</p> <p>15 A. I do.</p> <p>16 Q. What does it show?</p> <p>17 A. To me it shows Mr. Reed following my</p> <p>18 instruction. His vehicle, which he owns, is in his</p> <p>19 driveway without a trailer on it. I don't know what date</p> <p>20 this was -- oh, October 9th. Okay. But it looks to me</p> <p>21 like he's following instruction.</p> <p>22 Q. Okay. I'll represent to you also that, when</p> <p>23 you see these dates in the top right, that is, as you</p> <p>24 correctly assumed, the date the picture was shown -- was</p> <p>25 taken, rather.</p>

<p style="text-align: right;">Page 49</p> <p>1 Do you now see Plaintiff's Exhibit 21?</p> <p>2 (Plaintiff's Exhibit No. 21 marked.)</p> <p>3 A. I do.</p> <p>4 Q. This date is 11/04/19; correct?</p> <p>5 A. Correct.</p> <p>6 Q. What do you see here in Plaintiff's Exhibit 21?</p> <p>7 A. I see Mr. Reed's vehicle with trailing</p> <p>8 equipment attached to it.</p> <p>9 Q. It's obviously backed into that same parking</p> <p>10 spot, isn't it?</p> <p>11 A. Correct.</p> <p>12 Q. Do you see Plaintiff's Exhibit 23 on the screen</p> <p>13 in front of you?</p> <p>14 (Plaintiff's Exhibit No. 23 marked.)</p> <p>15 A. I do, although the portion you're showing me is</p> <p>16 of the sky.</p> <p>17 Q. I'll scroll down in just a second. What's the</p> <p>18 date?</p> <p>19 A. January 31 of, I think, 2020. I've got my mic</p> <p>20 box right in front of the date.</p> <p>21 Q. Okay. What do you see?</p> <p>22 A. Mr. Reed's vehicle with a trailing equipment</p> <p>23 attached.</p> <p>24 Q. It's obviously backed into that same spot,</p> <p>25 isn't it?</p>	<p style="text-align: right;">Page 51</p> <p>1 A. Correct.</p> <p>2 Q. You see Plaintiff's Exhibit 25?</p> <p>3 (Plaintiff's Exhibit No. 25 marked.)</p> <p>4 A. I do.</p> <p>5 Q. It's dated March the 1st, 2020; right?</p> <p>6 A. I honestly don't see a date on it.</p> <p>7 Q. Can you see my cursor or mouse in the top</p> <p>8 right?</p> <p>9 A. No. Even if I minimize our -- oh, there you</p> <p>10 go. Thank you. Yeah, March 1, 2020.</p> <p>11 Q. That shows the same truck parked -- backed into</p> <p>12 the same spot, doesn't it?</p> <p>13 A. It does.</p> <p>14 Q. Do you see Plaintiff's Exhibit 26?</p> <p>15 (Plaintiff's Exhibit No. 26 marked.)</p> <p>16 A. I do.</p> <p>17 Q. That has a date on it of April 12, 2020; right?</p> <p>18 A. Correct.</p> <p>19 Q. It shows the same truck and the trailer backed</p> <p>20 in the same spot; right?</p> <p>21 A. It does.</p> <p>22 Q. Do you see Plaintiff's Exhibit 27?</p> <p>23 (Plaintiff's Exhibit No. 27 marked.)</p> <p>24 A. I do.</p> <p>25 Q. That's dated April 19, 2020; right?</p>
<p style="text-align: right;">Page 50</p> <p>1 A. Which means he did it successfully, I'd guess.</p> <p>2 Q. It's obviously backed into that same spot,</p> <p>3 isn't it?</p> <p>4 A. Successfully so, yes.</p> <p>5 Q. Okay. Now, I inadvertently missed the date</p> <p>6 here. That was January 31, but there's a video that I'll</p> <p>7 show you, and the video I'll represent to you comes from</p> <p>8 November 22 of 2019. Do you see the video screen in</p> <p>9 front of you?</p> <p>10 A. I do.</p> <p>11 Q. All right. I'll hit play.</p> <p>12 (Whereupon, a video was played.)</p> <p>13 That video showed Reed backing the tractor trailer</p> <p>14 into that same spot, didn't it?</p> <p>15 A. I assume it was Reed, yeah.</p> <p>16 Q. Okay. I will show you now what's been marked</p> <p>17 as Plaintiff's Exhibit 24. Do you see that?</p> <p>18 (Plaintiff's Exhibit No. 24 marked.)</p> <p>19 A. I do.</p> <p>20 Q. And the date on this is -- let's see -- is the</p> <p>21 same. So the same date as Plaintiff's Exhibit 23. It</p> <p>22 says January 31, 2020; right?</p> <p>23 A. It does.</p> <p>24 Q. And here we see the same truck backed in the</p> <p>25 same spot with a trailer behind it; right?</p>	<p style="text-align: right;">Page 52</p> <p>1 A. Correct.</p> <p>2 Q. It shows the same truck backed in the same</p> <p>3 spot; right?</p> <p>4 A. Correct.</p> <p>5 Q. I'm showing you Plaintiff's Exhibit 28. Do you</p> <p>6 see that?</p> <p>7 (Plaintiff's Exhibit No. 28 marked.)</p> <p>8 A. I do.</p> <p>9 Q. It's dated May the 5th -- excuse me --</p> <p>10 May 24, 2020; right?</p> <p>11 A. Correct.</p> <p>12 Q. It shows the same truck backed in the same</p> <p>13 spot; right?</p> <p>14 A. Correct.</p> <p>15 Q. So where is Mr. Reed supposed to park, or where</p> <p>16 does he park his trailer now?</p> <p>17 A. At the Allegiant Intermodal yard. That was the</p> <p>18 instruction.</p> <p>19 Q. Where is the Allegiant Intermodal yard?</p> <p>20 A. Other than generally saying Atlanta, I don't</p> <p>21 know.</p> <p>22 Q. Why could he not have parked his trailer at the</p> <p>23 Allegiant Intermodal yard on October the 1st, 2019?</p> <p>24 A. He could have.</p> <p>25 Q. Now, we've agreed, I think, that when this</p>

<p style="text-align: right;">Page 53</p> <p>1 tractor trailer was backing across the highway on 2 October 1, 2019, it was blocking both northbound lanes 3 and the center lane; right? 4 A. That's my understanding, yes. 5 Q. Were you aware it was also blocking the 6 shoulder of the road, which would have been to the right 7 of the northbound driver? 8 A. I didn't see a shoulder in those photos. I 9 guess, as a practical matter, it had to because he was 10 partly in this driveway; correct? 11 Q. Yeah. If an Evans driver were to come up to 12 you tomorrow and say, "Mr. Bates, I have a great idea. 13 I'm going to start backing my truck and trailer across 14 multiple lanes of a US highway at night without a flagger 15 or reflective triangles," what would you say? 16 MS. ADAIR: Object to form. 17 THE WITNESS: I would question him about a 18 flagger or triangles, like my earlier answers, but I 19 would advise him that I would prefer he made a 20 different decision. 21 MR. BUTLER: Thank you. That's all the 22 questions I have. 23 MS. ADAIR: All right. I don't have anything. 24 MR. BUTLER: All right. That's a rap. 25 VIDEOGRAPHER: We're off the record at</p>	<p style="text-align: right;">Page 55</p> <p>1 The following reporter and firm disclosures 2 were presented at this proceeding for review by 3 counsel: 4 REPORTER DISCLOSURES 5 The following representations and 6 disclosures are made in compliance with Georgia Law, 7 more specifically: 8 Article 10(B) of the Rules and Regulations of 9 the Board of Court Reporting (disclosure forms) 10 OCGA 9-11-28(c) (disqualification of reporter for 11 financial interest). 12 OCGA 15-14-37(a) and (b) (prohibitions against 13 contracts except on a case-by-case basis). 14 - I am a certified reporter in the State of Georgia. 15 - I am a subcontractor for Pope Reporting & Video. 16 - I have been assigned to make a complete and 17 accurate record of these proceedings. 18 - I have no relationship of interest in the matter 19 on which I am about to report which would disqualify 20 me from making a verbatim record or maintaining my 21 obligation of impartiality in compliance with the 22 Code of Professional Ethics. 23 - I have no direct contract with any party in this 24 action and my compensation is determined solely by 25 the terms of my subcontractor agreement. FIRM DISCLOSURES - Pope Reporting & Video was contacted to provide reporting services by the noticing or taking attorney in this matter. - There is no agreement in place that is prohibited by OCGA 12-14-37(a) and (b). Any case-specific discounts are automatically applied to all parties, at such time as any party receives a discount. - Transcripts: The transcript of this proceeding as produced will be a true, correct and complete record of the colloquies, questions, and answers as submitted by the certified court reporter. - Exhibits: No changes will be made to the exhibits as submitted by the reporter, attorneys, or witnesses. (Continued on following page)</p>
<p style="text-align: right;">Page 54</p> <p>1 3:03 p.m. 2 (Whereupon, the deposition of Mr. Matthew Bates 3 was concluded at 3:03 p.m.) 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 56</p> <p>1 - Password-Protected Access: Transcripts and 2 exhibits relating to this proceeding will be 3 uploaded to a password-protected repository, to 4 which all ordering parties will have access. 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>


1 C E R T I F I C A T E
2 STATE OF GEORGIA
3 COUNTY OF GWINNETT

4 I hereby certify that the total transcript,
5 pages 1 through 54 represent a true, complete, and
6 correct transcript of the proceedings taken down by
7 me in the case aforesaid (and exhibits admitted, if
8 applicable), that the foregoing transcript is a true
9 and correct record of the evidence given to the best
10 of my ability.

11 The above certification is expressly withdrawn
12 upon the disassembly or photocopying of the
13 foregoing transcript unless said disassembly or
14 photocopying are done under the auspices of myself
15 and the signature and original seal are attached
16 thereto.

17 I further certify that I am not a relative or
18 employee or attorney of any party, nor am I
19 financially interested in the outcome of the
20 actions.

21 This the 16th day of August 2020.

22 
23 TARA S. NEARMAN, CCR-2636
24 Certified Court Reporter
25

VIA EMAIL

Date: 8/30/2020

To: Jennifer Adair, Esq.

Re: Signature of Deponent 30(b)(6) Matthew Bates

Greetings:

The deponent has reserved the right to read and sign. Please have the deponent review the attached transcript, noting any changes or corrections on the attached Errata.

Once the Errata is signed by the deponent and notarized, please mail it to the offices of Pope Reporting (below).

When the signed Errata is returned to us, we will seal and forward to the taking attorney to file with the original transcript. We will also send copies of the Errata to all ordering parties.

If the signed Errata is not returned within the time below, the original transcript may be filed with the court without the signature of the deponent.

Date Errata due back at our offices: 10/7/2020

Please send completed Errata to:
Pope Reporting & Video, LLC
2741 Pangborn Road
Decatur, Georgia 30033
(404) 856-0966

ERRATA

JOB NUMBER: 18163

I, the undersigned, do hereby certify that I have read the transcript of my testimony,
and that

- _____ There are no changes noted.
_____ The following changes are noted:

Pursuant to Rule 30(7)(e) of the Federal Rules of Civil Procedure and/or OCGA 9-11-30(e), any changes in form or substance which you desire to make to your testimony shall be entered upon the deposition with a statement of the reasons given for making them. To assist you in making any such corrections, please use the form below. If additional pages are necessary, please furnish same and attach.

PAGE _____ LINE _____ CHANGE _____

REASON FOR CHANGE _____

PAGE _____ LINE _____ CHANGE _____

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DEPONENT'S SIGNATURE

Sworn to and subscribed before me this _____ day of

_____, _____.

NOTARY PUBLIC

My Commission Expires: _____

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Exhibit “C”

UNIFORM TRAFFIC CITATION, SUMMONS AND ACCUSATION

GAGSP 2400
NCIC NUMBER807566
Citation Number

E

Court Case Number

GEORGIA STATE PATROL

Upon (Month) 10-1-19 (Day) Tuesday (Year) 2019 at 2129 ☐ A.M. ☒ P.M.Operator License No. 057527701License Class or Type A State GA Endorsements None Expires 2024Name Reed (Last) Paul (First) Allen (Middle)Address 331 Temple AveCity Lawrenceville State GA Zip Code 30043DOB 10-19-68 Hair Brown Hgt 6'0" Wgt 320 Sex M Eyes BlueVeh. Yr. 2001 Make Volvo Style T/T Color whiteRegistration No. 288 0801 Yr. 2019 State GACOMMERCIAL DRIVER LICENSE ☒ YES ☐ NO COMMERCIAL VEHICLE ☒ YES ☐ NO ACCIDENT ☐ YES ☐ NO(ONE VIOLATION PER CITATION) ☐ VASCAR ☐ LASER ☐ RADARWithin the State of Georgia, did commit the following offense: SPEEDING Clocked by ☐ PATROL VEHICLE ☐ OTHER

(Serial # _____ Calibration/Check _____) at _____ MPH in a _____ zone

☐ DUI (Test Administered: ☐ BLOOD ☐ BREATH ☐ URINE ☐ OTHER) DUI Test Results _____

TEST ADMINISTERED BY (If Applicable): _____

OFFENSE (Other than above) Improper BuckleIn Violation of Code Section 40-6-240 or ☐ State Law ☐ Local OrdinanceREMARKS Accident # 121

WEATHER	(A) ROAD	(B)	TRAFFIC	LIGHTING	COMMERCIAL VEHICLE INFORMATION
<input checked="" type="checkbox"/> Clear	<input checked="" type="checkbox"/> Dry	<input type="checkbox"/> Concrete	<input checked="" type="checkbox"/> Light	<input type="checkbox"/> Daylight	<input type="checkbox"/> Commercial Vehicle Violation
<input type="checkbox"/> Cloudy	<input type="checkbox"/> Wet	<input type="checkbox"/> Blacktop	<input type="checkbox"/> Medium	<input checked="" type="checkbox"/> Darkness	<input type="checkbox"/> Hazardous Material Violation (PLACARD)
<input type="checkbox"/> Raining	<input type="checkbox"/> Ice	<input type="checkbox"/> Dirt	<input type="checkbox"/> Heavy	<input type="checkbox"/> Other	
<input type="checkbox"/> Other	<input type="checkbox"/> Other	<input type="checkbox"/> Other			

County of Cobb and _____ miles _____ of (city) _____on GA 16 (33) at or near _____ mile post _____ or within (city) _____at/on (secondary location) GA 34 BypassOFFICER (Print) Sageley Badge # 248 Div. 240You are hereby ordered to appear in Court to answer this charge on the 13th day of Nov 2019at 9:00 AM ☐ PM in the State Courtat Court HouseCity Lawrenceville, Georgia.

NOTICE: This citation shall constitute official notice to you that failure to appear in Court at the date and time stated on this citation to dispose of the cited charges against you shall cause the designated Court to forward your driver's license number to the Department of Motor Vehicle Safety, and your driver's license shall be suspended. (Georgia Code 17-6-11 and 40-5-56) The suspension shall remain in effect until such time as there is a satisfactory disposition in this matter or the Court notifies the Department of Motor Vehicle Safety.

LICENSE DISPLAYED IN FIELD OF VIEW ☐ YES ☐ NO RELEASED TO APPEAR

SIGNATURE ACKNOWLEDGES SERVICE OF THIS SUMMONS AND RECEIPT OF COPY OF SAME.

SIGNATURE _____

ARRESTING OFFICER'S CERTIFICATION

The undersigned has just and reasonable grounds to believe, and does believe, that the person named herein has committed the offense set forth, contrary to law.

SIGNATURE _____ Badge # 48

Signature of Arresting Officer

AUTHORIZED AND APPROVED PURSUANT TO:

2005 10 12 10 00 00 000 000 000

COURT COPY

NCIC NO. GAGSP 2400
807566 E

DATE _____ **COURT ACTION AND OTHER ORDERS**

The within complaint has been examined and there is probable cause for filing the same. Leave is hereby granted to file the complaint.

Complaint filed _____
 Bail fixed at \$ _____ or cash deposit of \$ _____

Signature of person taking bail _____ Signature of person giving bail _____

Fine in the amount of \$ _____ received as required by court schedule.

Signature of Clerk _____

Continuance to _____ Reason _____

Continuance to _____ Reason _____

Warrant Issued _____ Warrant Served _____

Waives Trial by Jury _____

ON ARRAIGNMENT, THE DEFENDANT PLEADS _____

APPEARANCE, PLEA OF GUILTY AND WAIVER

I, _____ have been advised that I am being charged with _____ and that the maximum punishment that I can receive is _____ mos. imprisonment and/or a \$ _____ fine.

I have been advised of my rights to be represented by counsel and have counsel appointed to represent me if I am indigent; plead not guilty and be tried by a jury or a judge; confront the witnesses against me; and, not give incriminating evidence against myself. I hereby waive these rights; state that I have not been induced by any threat or promise to enter this plea and do freely and voluntarily enter my plea of Guilty.

This _____ day of _____
 Accused _____

I, _____ have advised the above-named accused as indicated above of his/her rights, the nature of the case against him/her and the possible consequences of the plea as entered. I am satisfied that there is a factual basis for the guilty plea which the accused has entered and that it was entered freely and voluntarily with understanding of the nature of the charge and the consequences of the plea.

JUDGE _____

DISPOSITION AND SENTENCE

Court _____ City _____

Defendant Pleads: ☐ (3) Guilty ☐ Not Guilty ☐ (4) Nolo Cont'd

Trial: ☐ Jury ☐ Court Adjudicated ☐ (1) Guilty ☐ Not Guilty

Other Action: ☒ (2) Bond Forfeiture ☐ Nolle Prossed ☐ No Bill ☐ No Record

Sentence: Amount Fine/Forfeiture \$ 329.00
 _____ Days (Months) in Jail _____ Traffic School _____ Days (Months) probation

Other order _____

Appeal Bond of \$ _____ filed (for _____)
 Appeal to _____ Court

As provided by law, I hereby certify that the information on this ticket is a true abstract of the record of this court or bureau in this case.

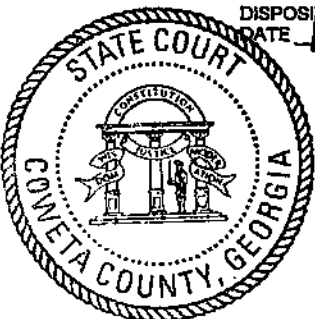
DISPOSITION
 DATE 1-18-2020

Signature of Judge or Clerk _____

STATE OF GEORGIA
 COUNTY OF COWETA

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF _____
 OF THE DOCUMENT ON FILE IN MY OFFICE
 WITNESS MY HAND AND OFFICIAL SEAL
 THIS 9th DAY OF March, 2020

SHEILA W. ECHOIS, CLERK
 BY Sheila Echols D.C.



GEORGIA

UNIFORM TRAFFIC CITATION, SUMMONS AND ACCUSATION

GAGSP

NCIC NUMBER

807565

Citation Number

Court Case Number

GEORGIA STATE PATROL

Upon (Month) 10-1-19 (Day) Tuesday (Year) 2019 at 2:29 ☐ A.M. ☒ P.M.Operator License No. 057 82 7701License Class or Type A State GA Endorsements 2024Name Reed (Last) Paul (First) Alan (Middle)Address 331 Temple AveCity Newnan State GA Zip Code 30263DOB 10-14-68 Hair Brown Hgt 601 Wgt 300 Sex M Eyes BlueVeh. Yr. 2007 Make Volvo Style T/T Color WhiteRegistration No. 2880861 Yr. 2019 State GACOMMERCIAL DRIVER LICENSE ☒ YES ☐ NO COMMERCIAL VEHICLE ☒ YES ☐ NO ACCIDENT ☒ YES ☐ NO

(ONE VIOLATION PER CITATION)

Within the State of Georgia, did commit the following offense: SPEEDING Clock by ☐ VASCAR ☐ LASER ☐ RADAR
(Serial # Calibration/Check) at MPH in a zone☐ DUI (Test Administered: ☐ BLOOD ☐ BREATH ☐ URINE ☐ OTHER) DUI Test Results TEST ADMINISTERED BY (If Applicable): OFFENSE (Other than above) 40-6-203 Improper stop in L/WIn Violation of Code Section 40-6-203 of ☐ State Law ☐ Local OrdinanceREMARKS Acc # 121770-254-2699

WEATHER	(A) ROAD	(B)	TRAFFIC	LIGHTING	COMMERCIAL VEHICLE INFORMATION
<input checked="" type="checkbox"/> Clear <input checked="" type="checkbox"/> Cloudy <input type="checkbox"/> Raining <input type="checkbox"/> Other	<input checked="" type="checkbox"/> Dry <input type="checkbox"/> Wet <input type="checkbox"/> Ice <input type="checkbox"/> Other	<input type="checkbox"/> Concrete <input checked="" type="checkbox"/> Blacktop <input type="checkbox"/> Dirt <input type="checkbox"/> Other	<input checked="" type="checkbox"/> Light <input type="checkbox"/> Medium <input type="checkbox"/> Heavy	<input checked="" type="checkbox"/> Daylight <input type="checkbox"/> Darkness <input type="checkbox"/> Other	<input type="checkbox"/> Commercial Vehicle Violation <input type="checkbox"/> Hazardous Material Violation (PLACARD)

County of Conley and miles of (city)on State (351) at or near mile post, or within (city)at/on (secondary location) On 34 By PassOFFICER Seashy Badge # 218 Div. 2410You are hereby ordered to appear in Court to answer this charge on the 13th day of Nov 2019at 9:00 ☒ AM ☐ PM in the State Courtat comthousCity Newnan, Georgia.

NOTICE: This citation shall constitute official notice to you that failure to appear in Court at the date and time stated on this citation to dispose of the cited charges against you shall cause the designated Court to forward your driver's license number to the Department of Motor Vehicle Safety, and your driver's license shall be suspended. (Georgia Code 17-6-11 and 40-5-56) The suspension shall remain in effect until such time as there is a satisfactory disposition in this matter or the Court notifies the Department of Motor Vehicle Safety.

LICENSE DISPLAYED IN LIEU OF BAIL ☒ YES ☐ NO RELEASED TO Appear

SIGNATURE ACKNOWLEDGES SERVICE OF THIS SUMMONS AND RECEIPT OF COPY OF SAME.

SIGNATURE [Signature]

ARRESTING OFFICER'S CERTIFICATION

The undersigned has just and reasonable grounds to believe, and does believe, that the person named herein has committed the offense set forth, contrary to law.

SIGNATURE [Signature] Badge # 218

Signature of Arresting Officer

AUTHORIZED AND APPROVED PURSUANT TO:

COURT COPY

SECTION I - VIOLATOR

SECTION II - VIOLATION

SECTION III - LOCATION

SECTION IV - SUMMONS

SECTION V - OFFICER CERTIFICATION

NCIC NO. GAGSP

2410

807565 E

DATE _____ **COURT ACTION AND OTHER ORDERS**

The within complaint has been examined and there is probable cause for filing the same. Leave is hereby granted to file the complaint.

Complaint filed _____
Bail fixed at \$ _____ or cash deposit of \$ _____

Signature of person taking bail _____ Signature of person giving bail _____

Fine in the amount of \$ _____ received as required by court schedule.

Signature of Clerk _____

Continuance to _____ Reason _____

Continuance to _____ Reason _____

Warrant issued _____ Warrant Served _____

Waives Trial by Jury _____

ON ARRAIGNMENT, THE DEFENDANT PLEADS _____

APPEARANCE, PLEA OF GUILTY AND WAIVER

I, _____ have been advised that I am being charged with _____ and that the maximum punishment that I can receive is _____ mos. imprisonment and/or a \$ _____ fine.

I have been advised of my rights to be represented by counsel and have counsel appointed to represent me if I am indigent; plead not guilty and be tried by a jury or a judge; confront the witnesses against me; and, not give incriminating evidence against myself. I hereby waive these rights; state that I have not been induced by any threat or promise to enter this plea and do freely and voluntarily enter my plea of Guilty.

This _____ day of _____
Accused _____

I, _____ have advised the above-named accused as indicated above of his/her rights, the nature of the case against him/her and the possible consequences of the plea as entered. I am satisfied that there is a factual basis for the guilty plea which the accused has entered and that it was entered freely and voluntarily with understanding of the nature of the charge and the consequences of the plea.

JUDGE _____

DISPOSITION AND SENTENCE

Court _____ City _____

Defendant Pleads: ☐ (3) Guilty ☐ Not Guilty ☐ (4) Nolo Cont'd

Trial: ☐ Jury ☐ Court Adjudicated ☐ (1) Guilty ☐ Not Guilty

Other Action: ☒ (2) Bond Forfeiture ☐ Nolle Prossed ☐ No Bill ☐ No Record

Sentence: Amount Fine/Forfeiture \$ 229.00
Days (Months) in jail _____ Traffic School _____ Days (Months) probation _____

Other order _____

Appeal Bond of \$ _____ filed (for _____)
Appeal to _____ Court _____

As provided by law, I hereby certify that the information on this ticket is a true abstract of the record of this court or bureau in this case.

DISPOSITION
DATE 1-22-2020

Signature of Judge or Clerk _____

STATE OF GEORGIA
COUNTY OF COWETA

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF 192 OF THE DOCUMENT ON FILE IN MY OFFICE WITNESS MY HAND AND OFFICIAL SEAL THIS 9th DAY OF March, 2020

SHEILA W. ECHOLS, CLERK
BY Sheila Echols D.C.



Exhibit “D”

Subject: RE: Discovery / Jordan v. Evans Delivery Company, et. al.
Date: Monday, September 28, 2020 at 11:57:11 AM Eastern Daylight Time
From: E. Andrew Treese
To: Jeb Butler
CC: Tom Giannotti, Morgan Lyndall, Stephanie Simmerman, Jennifer C. Adair
Attachments: image001.jpg

Received.

Andy

E. Andrew Treese

Freeman Mathis & Gary, LLP
100 Galleria Parkway | Suite 1600 | Atlanta, GA 30339-5948
D: 770.818.1293 | C: 404.392.1924
ATreese@fmglaw.com | www.fmglaw.com



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[Please read this important notice and confidentiality statement](#)

From: Jeb Butler <jeb@butlerfirm.com>
Sent: Monday, September 28, 2020 11:52 AM
To: E. Andrew Treese <ATreese@fmglaw.com>
Cc: Tom Giannotti <tom@butlerfirm.com>; Morgan Lyndall <morgan@butlerfirm.com>; Stephanie Simmerman <stephanie@butlerfirm.com>; Jennifer C. Adair <JAdair@fmglaw.com>
Subject: [EXTERNAL] RE: Discovery / Jordan v. Evans Delivery Company, et. al.

Andy, as I wrote last Thursday, we do not see any reason for delay.

Jeb Butler
Butler Law Firm
10 Lenox Pointe
Atlanta, GA 30324
Telephone: 678 940 1444
Facsimile: 678 306 4646
jeb@butlerfirm.com

From: E. Andrew Treese <ATreese@fmglaw.com>
Sent: Monday, September 28, 2020 8:10 AM
To: Jeb Butler <jeb@butlerfirm.com>
Cc: Tom Giannotti <tom@butlerfirm.com>; Morgan Lyndall <morgan@butlerfirm.com>; Stephanie Simmerman <stephanie@butlerfirm.com>; Jennifer C. Adair <JAdair@fmglaw.com>
Subject: RE: Discovery / Jordan v. Evans Delivery Company, et. al.

Good morning, Jeb. Just following up on this. Though we have filed our motion to stay, I want to avoid any misunderstanding as to Reed's deposition. Can we agree to postpone that pending a ruling on the motion to

stay?

Please let me know. If we cannot reach agreement (and that may be the case), we probably need guidance from Judge Batten. His courtroom instructions require us to email a summary of any dispute to his courtroom deputy, and to indicate that we have conferred (or tried to). With the deposition noticed for Sept. 30, I'd like to send any such message early today – preferably before noon, but I'll try to be flexible if you aren't available until early afternoon.

Andy

E. Andrew Treese

Freeman Mathis & Gary, LLP
100 Galleria Parkway | Suite 1600 | Atlanta, GA 30339-5948
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[Please read this important notice and confidentiality statement](#)

From: E. Andrew Treese

Sent: Friday, September 25, 2020 10:13 AM

To: Jeb Butler <jeb@butlerfirm.com>

Cc: Tom Giannotti <tom@butlerfirm.com>; Morgan Lyndall <morgan@butlerfirm.com>; Stephanie Simmerman <stephanie@butlerfirm.com>; Jennifer C. Adair <JAdair@fmglaw.com>

Subject: RE: Discovery / Jordan v. Evans Delivery Company, et. al.

Jeb, thanks for getting back to me on this. I tried to call a while ago, but you were about to take a deposition so I wanted to follow up by email. I wanted to give you a heads up that we are filing our suggestion of death and motion to stay this morning. In the alternative, we are asking the court to limit the scope of discovery.

Let's talk when you are available, please, about how to handle Reed's deposition in light of that motion. My preference would be simply to agree amongst counsel that Reed's depo will not proceed on September 30 and that, if our motion is denied, we will put Reed up promptly (within ten days) of the order denying the motion. If we can't reach an agreement along those lines, I will need to email Judge Batten's courtroom deputy a summary of our dispute, to determine whether the Court would like to address the issue informally or would rather that I file a motion for protective order.

Today is my wife's birthday so, though I'm in the office until noon, please call on my cellphone, 404-392-1924.

Andy

E. Andrew Treese

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From: Jeb Butler <jeb@butlerfirm.com>

Sent: Thursday, September 24, 2020 11:45 AM

To: E. Andrew Treese <ATreese@fmglaw.com>

Cc: Tom Giannotti <tom@butlerfirm.com>; Morgan Lyndall <morgan@butlerfirm.com>; Stephanie Simmerman <stephanie@butlerfirm.com>; Jennifer C. Adair <JAdair@fmglaw.com>

Subject: [EXTERNAL] RE: Discovery / Jordan v. Evans Delivery Company, et. al.

Andy, thank you for your email.

We do not see any reason for delay. Mr. Jordan died without any spouse and having had only child, Jean Rocker. Our firm represents Jean Rocker, and has for quite some time. She is the wrongful death representative (O.C.G.A. § 51-4-2(a)), the sole heir (O.C.G.A. § 53-2-1(c)), and is in the process of being appointed as the personal representative of the estate.

We do not believe that there is any risk of Mr. Reed having to sit for two depositions. Even if there was, we have doubts that it would authorize postponing this long-noticed deposition. We would also point out that Reed's testimony will relate to liability, not damages. However if it will allay your concerns, we are willing to agree to only depose Mr. Reed once, regardless of the anticipated change from a personal injury case to a wrongful death/estate case (unless Mr. Reed had to be deposed for the preservation of evidence for some reason, such as moving out of subpoena range, which I don't foresee).

Thanks,
Jeb

Jeb Butler
Butler Law Firm
10 Lenox Pointe
Atlanta, GA 30324
Telephone: 678 940 1444
Facsimile: 678 306 4646
jeb@butlerfirm.com

From: E. Andrew Treese <ATreese@fmglaw.com>

Sent: Wednesday, September 23, 2020 1:36 PM

To: Jeb Butler <jeb@butlerfirm.com>

Cc: Tom Giannotti <tom@butlerfirm.com>; Morgan Lyndall <morgan@butlerfirm.com>; Stephanie Simmerman <stephanie@butlerfirm.com>; Jennifer C. Adair <JAdair@fmglaw.com>

Subject: Discovery / Jordan v. Evans Delivery Company, et. al.

Jeb,

I'm writing about the impact of Mr. Jordan's death on the discovery process to see if we can work something out. I'll try to call later today to discuss, but have a few calls coming up shortly and wanted to send this message while I was thinking about it (and because depending on the outcome, I have a stack of non-party subpoena that I need to either send, or hold off on sending for now).

I think you have expressed some concern about whether the probate court would move quickly enough to set up the estate within the 90-day clock that a suggestion of death would trigger to substitute the proper party in interest. We understand that, which is why we haven't already filed a suggestion of death unilaterally. At the same time, Jennifer and I have some concern about Mr. Reed sitting for a deposition when (1) there is a chance (however slight) that someone other than you could represent the estate if Ms. Rocker is appointed the executor and (2) there may be a wrongful death claim coming as well, per the most recent supplemental discovery responses we received. We'd like to make sure Reed only sits for deposition once and that there is no chance someone could take a position later to state that they are entitled to depose him as well.

I see three options, then (but am certainly open to other suggestions): (1) we could continue discovery without limitation (which we oppose); (2) the defense could file a suggestion of death and a motion to stay discovery (which I'd rather avoid); or (3) we could jointly seek an order permitting the parties to continue discovery as to non-parties (police, witnesses to the accident, medical providers), but providing that "party" witnesses – Ms. Rocker, Mr. Reed, Evans employees – are not required to sit for deposition until after a motion to substitute has been filed and granted. Though this would delay Reed's depo, it would allow us to keep the case moving.

What are your thoughts? With Reed's depo noticed for September 30, I'd like to either seek an agreement on this or if we cannot agree, figure that out promptly.

Andy

E. Andrew Treese

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Exhibit “E”

SEP 11 2020

4:00pm

IN THE PROBATE COURT OF _____ COWETA _____ COUNTY
STATE OF GEORGIA

IN RE: ESTATE OF _____)

OLIVER DALTON JORDAN _____,)

DECEASED)

ESTATE NO. 2020507

PETITION FOR LETTERS OF ADMINISTRATION

The petition of SHELBY JEAN JORDAN ROCKER

[Full name(s) of Petitioner(s)] First Middle Last
whose physical address(es) is/are 81 Adcock Street, Newnan, Coweta County, GA 30263,
Street City County State Zip Code

and mailing address(es) is/are 81 Adcock Street, Newnan, Coweta County, GA 30263,
Street City County State Zip Code

shows to the Court the following:

1.

OLIVER DALTON JORDAN

[Full name of Decedent] First Middle Last

whose place of domicile was 1308 Witcher Road, Newnan, Coweta County, GA 30263,
Street City County State Zip Code

departed this life on August 23, 2020, intestate.

2.

The Decedent died intestate [without making a valid Last Will and Testament].

3.

Listed below are all of the Decedent's heirs at law, with age or majority status, address, and relationship to the Decedent set opposite the name of each:

Name	Age (or over 18)	Address	Relationship
SHELBY JEAN JORDAN ROCKER	Over 18	81 Adcock Street Newnan, GA 30263	Daughter

4.

Required: *[Provide sufficient factual information to enable the Court to conclude that all of the heirs of the Decedent are included and that there are no heirs of the same or closer degree according to O.C.G.A. § 53-2-1. Provide the names of any deceased heirs, the name and address of his or her Personal Representative, if any, and include the date of death for each. [See instructions for further clarification.] Also, state here all pertinent facts that may govern the method of giving notice to any party and that may determine whether or not a guardian ad litem should be appointed for any party. If any heirs listed above are cousins, grandchildren, nephews or nieces of the Decedent, indicate the deceased ancestor through whom they are related to the Decedent.]*

The Decedent was predeceased by his wife, Sara Jordan, who departed this life August 20, 2014, and he did not remarry before his passing.

The Decedent had one child, who is listed in Paragraph 3. The Decedent had no other children born or adopted, living or deceased, other than those listed herein.

The names provided in Paragraph 3 include each and every heir of the Decedent and there are no heirs of the same or closer degree according to O.C.G.A. Section 53-2-1.

5.

Under the law, it is necessary that said estate be administered and Petitioner,
Shelby Jean Jordan Rucker should be appointed Administrator(s)
by reason of:

[Initial one]

- JR (a) being unanimously selected by all the heirs *[This alternative does not apply if the surviving spouse is the sole heir and an action for divorce or separate maintenance was pending at the time of Decedent's death.];*
- _____ (b) being the surviving spouse where no action for divorce or separate maintenance was pending at the time of Decedent's death;
- _____ (c) being (an) heir(s) and not the surviving spouse;
- _____ (d) having been selected by a majority in interest of the heirs;
- _____ (e) being (an) eligible person(s) as defined by O.C.G.A. § 53-6-1;
- _____ (f) being (a) creditor(s) of the Decedent (evidence of the indebtedness is attached);
- _____ (g) being the county administrator.

6.

To the knowledge of the petitioner(s), no other proceedings with respect to this estate are pending, or have been completed, in any other Probate Court in this or any other state.

7.

The Decedent passed leaving an estate of real property located in _____
_____ County(ies), Georgia *[list real property that is located in another state and/or
country]* having a total fair market value of approximately \$ 0.00.

The Decedent passed leaving personal property as follows *[provide approximate value]*:

- ☒ (a) Cash/bank accounts/certificates of deposit; \$ _____
☐ (b) Stocks/bonds/brokerage accounts; \$ _____
☒ (c) Other assets of significant value *[list]*; \$ _____

Decedent was plaintiff in lawsuit pending in the Northern District of
Georgia, Case No. 3:20-cv-00060-TCB.
The potential award or settlement is of unknown value at this time.

APPROXIMATE TOTAL VALUE OF PERSONAL PROPERTY \$ _____ 0.00

8.

[Petitioner(s) MUST initial one]

J.R. (a) All heirs have consented to the waiver of bond and/or grant of certain powers
contained in O.C.G.A. § 53-12-261 to the Administrator(s). Therefore, the
Petitioner(s) hereby move(s) the Court to publish notice of the filing of the Petition
and tender(s) with this Petition publication fees. ***[This only applies if all heirs have
properly selected, acknowledged and consented to this option.]***

_____ (b) The identities and/or addresses of all heirs are not known. Therefore, the
Petitioner(s) hereby move(s) the Court to publish notice of the filing of the Petition,
and tender(s) with this Petition publication fees.

_____ (c) Notice of this Petition need not be published because the Petitioner(s) has/have
listed all heirs at law and their addresses, and Petitioner(s) is/are not requesting a
waiver of bond, inventory and returns, or the grant of powers contained in O.C.G.A.
§ 53-12-261.

9.

Additional Data: *[Where full particulars are lacking, state here the reasons for any such
omission.]*

None.

WHEREFORE, Petitioner(s) pray(s):

1. Service be perfected; and
2. That if no good cause is shown to the contrary, Petitioner
be appointed Administrator(s) of the estate of said Decedent.

Jean Rocker
Signature of Petitioner

SHELBY JEAN JORDAN ROCKER

Printed Name

81 Adcock Road

Newnan, GA 30263

Mailing Address

470-686-0109

Telephone Number

Signature of Attorney

Printed Name of Attorney

Kimberly R. Hoipkemie
Kimberly R. Hoipkemie, Esq.

Address

800 Johnson Ferry Road, NE, Suite B

Atlanta, GA 30342

Telephone Number

678-325-0345

State Bar # 300934

VERIFICATION

GEORGIA, COWETA COUNTY

Personally appeared before me the undersigned Petitioner(s) who, after being duly sworn, state(s) that the facts set forth in the foregoing Petition for Letters of Administration (and the attached Exhibit(s)) are true and correct.

Sworn to and subscribed before me this
31 day of August, 2020

Jean Rucker
Signature of Petitioner

Kimberly R. Hoipkemeier
NOTARY/CLERK OF PROBATE COURT

SHELBY JEAN JORDAN ROCKER
Printed Name of Petitioner

My Commission Expires 8/7/2021



IN THE PROBATE COURT OF _____ COWETA COUNTY
STATE OF GEORGIA

IN RE: ESTATE OF _____)

OLIVER DALTON JORDAN _____)

DECEASED _____)

ESTATE NO. _____

SELECTION BY HEIRS
(AND CONSENT OF HEIRS TO WAIVER OF BOND
AND/OR GRANT OF CERTAIN POWERS)

[make a separate page of this form for each heir consenting]

The undersigned, being 18 years of age or older, laboring under no legal disability and being an heir of the above-named Decedent, hereby acknowledges service of a copy of the Petition for Letters of Administration and notice, waives copies of same, waives further service and notice, and hereby selects Shelby Jean Jordan Rocker to act as Administrator(s) of the above-styled estate. If so indicated below, I hereby consent for the Administrator(s) to be granted the additional powers contained in (a), (b) and/or (c) below.

J.R. (a) *[optional; initial if applicable TO GRANT POWERS]* The Personal Representative is required by law to file a petition for leave to sell and obtain other approval by the Court for various acts. By initialing here I agree that the Personal Representative should be awarded all of the powers contained in O.C.G.A. § 53-12-261 including the authority in (b) and (c) below; **OR**

_____ (b) *[optional; initial if applicable TO WAIVE REPORTS]* The Personal Representative is required by law to file reports (Inventory and Returns) and provide a copy to each interested party. By initialing here I agree that the Personal Representative should not be required to file any reports with the Court; **AND/OR**

_____ (c) *[optional; initial if applicable TO WAIVE BOND]* The Personal Representative is required by law to post a bond as the Court deems necessary. By initialing here I agree that the Personal Representative should not be required to post a bond.

Sworn to and subscribed before me this 31st day of August, 2020

Shelby Jean Rocker
Signature of Heir

Shelby Jean Rocker
NOTARY/CLERK OF PROBATE COURT

SHELBY JEAN JORDAN ROCKER

Printed Name of Heir

My Commission Expires 8/7/2021

