



The National Trial Competition 50th Anniversary

2025 Regional Case Problem

NO. 25-REG-CV

**BLAKE WOODEN, individually and on
behalf of Kareem Wooden and the Estate
of Lew Wooden**

Plaintiff,

v.

SABAN TRUCKING, INC.

Defendant.

&
&
&
&
&
&
&
&
&
&

IN THE 50TH DISTRICT COURT

IN AND FOR

TRAVIS COUNTY

STATE OF LONE STAR

Prepared by:

Nicholas Cotter, UC Berkeley School of Law
Matthew Woodham, Samford University Cumberland School of Law
Justin Bernstein, UCLA School of Law

Copyright 2024

Texas Young Lawyers Association

and

Matt Woodham, Nicholas Cotter, Justin Bernstein

All Rights Reserved

December 6, 2024

Dear Students and Coaches,

We would be honored to write the National Trial Competition case in any year. But this is a special year. NTC started in 1975. That makes it the oldest trial competition at any level – high school, college, or law school. And that makes this the competition’s 50th anniversary.

All three of us are NTC veterans – as coaches, competitors, or both. We thank the Texas Young Lawyers Association, who hosts the competition, and the American College of Trial Lawyers, who sponsors it. Their dedication and support have helped generations of students gain invaluable courtroom skills and helped recognize the very best student advocates in the country. (And they gave us valuable feedback on this case!)

We also thank the tens of thousands of students and thousands of coaches who have devoted so much effort and energy to the National Trial Competition. An adversarial system only works when both parties are zealously represented, and an educational trial competition only works when everyone gives their best. We and our students have gotten so much from the National Trial Competition, and so we thank everyone reading this – whether this is your first NTC or your fiftieth.

This is the first time NTC has invited coaches to write the regional and national problems. We’ve done our best to honor the ways that TYLA and ACTL have written problems in the past – while also endeavoring to reflect the requests and suggestions urged by the law school coaching community. We welcome ideas on how to improve the case. Please use the questionnaire circulated by TYLA by January 3, 2025.

Good luck to all schools!

Sincerely,

Three handwritten signatures in blue ink. The first signature is 'Matt Woodman', the second is 'Nicholas Cotter', and the third is 'Justin B.' with a long horizontal line extending to the right.

Matt, Nick, and Justin

**IN THE 50TH DISTRICT COURT
IN AND FOR TRAVIS COUNTY**

**BLAKE WOODEN, individually and on
behalf of Kareem Wooden and the Estate
of Lew Wooden**

Plaintiff,

v.

SABAN TRUCKING, INC.

Defendant.

&
&
&
&
&
&
&
&
&
&

CASE NO. 25-REG-CV

COMPLAINT

Plaintiff Blake Wooden, in an individual and representative capacity, brings suit against the Defendant, Saban Trucking, Inc. (“Defendant”), as follows:

1. This Court has personal and subject matter jurisdiction and is a proper venue.
2. Plaintiff Blake Wooden (“Wooden”) is an individual residing in the State of Lone Star; Blake Wooden is the parent and duly authorized representative of Kareem Wooden, and the estate of Lew Wooden, deceased (collectively “Plaintiffs”).
3. Defendant, a company that provides nationwide trucking and shipping services, is a private corporation duly organized and existing under the laws of the State of Lone Star and authorized to do, and is doing, business in the State of Lone Star.
4. On December 23, 2023, Plaintiffs were traveling eastbound on Interstate 20 near Midland, Lone Star. Blake Wooden drove the family’s Ford Fusion. The car hit a patch of “black ice” and started to spin across the median.
5. At the same moment, Defendant’s 18-wheeler truck driven by Defendant employee Rene Lombardi was driving westbound on the opposite side of the I-20 highway.
6. Defendant’s truck struck the Woodens’ Ford Fusion.
7. As a result of the crash, Blake Wooden and Kareem Wooden suffered devastating physical injuries, and Lew Wooden died.

FIRST CAUSE OF ACTION: NEGLIGENCE – DIRECT LIABILITY

8. Plaintiffs repeat and reallege paragraphs 1-7 as if fully set forth here.
9. Defendant owed Plaintiffs a duty of care.

10. Defendant breached that duty through its negligent policies, practices, and/or conduct regarding hiring, training, supervision, scheduling, equipment, communication, weather monitoring, and driving speeds.

11. Defendant's negligence caused Plaintiffs' injuries.

SECOND CAUSE OF ACTION: NEGLIGENCE – VICARIOUS LIABILITY

12. Plaintiffs repeat and reallege paragraphs 1-7 as if fully set forth here.

13. At all relevant times, Rene Lombardi and Jack Clark were acting within the scope of their employment for Defendant.

14. Defendant's employees owed Plaintiffs a duty of care.

15. Defendant's employees breached that duty through their negligent driving, supervision, weather monitoring, and decision to be on the road despite dangerous conditions.

16. Negligence by Lombardi and/or Clark caused Plaintiffs' injuries.

THEREFORE, Plaintiff demands judgment against Defendant and compensatory, general, special, and punitive damages in an amount exceeding \$700,000,000.

Dated: December 30, 2023

Respectfully submitted,

Robert Calonico

Robert Calonico
The Oski Law Firm
1868 Memorial Way
Bandera, Lone Star
Attorneys for Plaintiff

I, Blake Wooden, a United States citizen and Lone Star resident, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on this 30th day of December, 2023.

Blake Wooden

Blake Wooden

**IN THE 50TH DISTRICT COURT
IN AND FOR TRAVIS COUNTY**

**BLAKE WOODEN, individually and on
behalf of Kareem Wooden and the Estate
of Lew Wooden**

Plaintiff,

v.

SABAN TRUCKING, INC.

Defendant.

&
&
&
&
&
&
&
&
&
&

CASE NO. 25-REG-CV

ANSWER

Defendant Saban Trucking, Inc. answers the Plaintiffs' Complaint as follows:

1. This Court has personal and subject matter jurisdiction and is a proper venue.
 - a. Defendant's response: **Admitted**
2. Plaintiff Blake Wooden ("Wooden") is an individual residing in the State of Lone Star; Blake Wooden is the parent and duly authorized representative of Kareem Wooden, and the estate of Lew Wooden, deceased (collectively "Plaintiffs").
 - a. Defendant's response: **Admitted**
3. Defendant, a company that provides nationwide trucking and shipping services, is a private corporation duly organized and existing under the laws of the State of Lone Star and authorized to do, and is doing, business in the State of Lone Star.
 - a. Defendant's response: **Admitted**
4. On December 23, 2023, Plaintiffs were traveling eastbound on Interstate 20 near Midland, Lone Star. Blake Wooden drove the family's Ford Fusion. The car hit a patch of "black ice" and started to spin across the median.
 - a. Defendant's response: **Lacks Sufficient Information to Respond**
5. At the same moment, Defendant's 18-wheeler truck driven by Defendant employee Rene Lombardi was driving westbound on the opposite side of the I-20 highway.
 - a. Defendant's response: **Admitted**
6. Defendant's truck struck the Woodens' Ford Fusion.
 - a. Defendant's response: **Admitted**
7. As a result of the crash, Blake Wooden and Kareem Wooden suffered devastating physical injuries, and Lew Wooden died.
 - a. Defendant's response: **Admitted**

FIRST CAUSE OF ACTION: NEGLIGENCE – DIRECT LIABILITY

8. Plaintiffs repeat and reallege paragraphs 1-7 as if fully set forth here.
 - a. Defendant's Response: **Repeats respective responses to paragraphs 1-7.**
9. Defendant owed Plaintiffs a duty of care.
 - a. Defendant's Response: **Admitted.**
10. Defendant breached that duty through its negligent policies, practices, and/or conduct regarding hiring, training, supervision, scheduling, equipment, communication, weather monitoring, and driving speeds.
 - a. Defendant's Response: **Denied.**
11. Defendant's negligence caused Plaintiffs' injuries.
 - a. Defendant's Response: **Denied.**

SECOND CAUSE OF ACTION: NEGLIGENCE – VICARIOUS LIABILITY

12. Plaintiffs repeat and reallege paragraphs 1-7 as if fully set forth here.
 - a. Defendant's Response: **Repeats respective responses to paragraphs 1-7.**
13. At all relevant times, Rene Lombardi and Jack Clark were acting within the scope of their employment for Defendant.
 - a. Defendant's Response: **Admitted.**
14. Defendant's employees owed Plaintiffs a duty of care.
 - a. Defendant's Response: **Admitted.**
15. Defendant's employees breached that duty through their negligent driving, supervision, weather monitoring, and decision to be on the road despite dangerous conditions.
 - a. Defendant's Response: **Denied.**
16. Negligence by Lombardi and/or Clark caused Plaintiffs' injuries.
 - a. Defendant's Response: **Denied.**

AFFIRMATIVE DEFENSES

1. Plaintiff's claims are barred because Plaintiffs' injuries were caused by an Act of Nature.
2. Plaintiff's claims are barred or must be reduced because of Wooden's comparative fault.

PRAYER FOR RELIEF

THEREFORE, Defendant prays for Judgment against Plaintiff as follows:

1. That Plaintiff take nothing in this action;
2. That Judgment be entered in favor of Defendant and against Plaintiff;

3. For costs of suit incurred herein; and
4. For any other and further relief as the Court deems just and proper.

Dated: January 11, 2024

Respectfully submitted,

Art Barnes

Art Barnes
Leland Furd LLP
1982 Trombone Street
Uncertain, Lone Star
Attorneys for Defendant

I, Terry Saban, a United States citizen and Lone Star resident, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on this 11th day of January, 2024.

Terry Saban

Terry Saban
CEO, Saban Trucking, Inc.

**IN THE 50TH DISTRICT COURT
IN AND FOR TRAVIS COUNTY**

**BLAKE WOODEN, individually and on
behalf of Kareem Wooden and the Estate
of Lew Wooden**

Plaintiff,

v.

SABAN TRUCKING, INC.

Defendant.

&
&
&
&
&
&
&
&
&
&

CASE NO. 25-REG-CV

COURT ORDER

GENERAL

1. The case is bifurcated. This phase deals only with liability.
2. Plaintiffs’ recovery is reduced by the percentage of harm attributed to Blake Wooden’s negligence. Neither party may mention this to the jury at trial.
3. Plaintiffs will call Blake Wooden and Pat Summit. Defendant will call Rene Lombardi and Riley Kerr.¹ This does not preclude reading deposition testimony. All witnesses are gender neutral.
4. Before woodshedding, opposing counsel must complete the Elections Form together. Any dismissed claims or affirmative defenses must be announced to the Court before opening statements and will be constructively stricken from the Jury Instructions and Verdict Form. Any elections to dismiss a claim or affirmative defense must be made before trial.

JOINT EXHIBIT LIST

1. Police Report	10. Route Map (Lone Star)	20. Federal regulations (excerpt)
2. Diagram (blank)	11. Route Map (Midland)	21. BAC Chart
3. Diagram (crash)	12. Photo - Plaintiff’s car	22. Deposition - Saban
4. Diagram (post-crash)	13. Photo - Wooden children	23. Deposition - Wooden
5. Photo - Black ice	14. Weather reports	24. Deposition - Rene Lombardi
6. Photo - Saban truck	15. Crash reports	25. Expert Report - Summit
7. Photo - Wreck	16. Receipt	26. Deposition - Summit
8. Delivery Schedule	17. Toxicology Report	27. Expert Report - Kerr
9. Route Map (U.S.)	18. Saban Handbook (excerpts)	28. Deposition - Kerr
	19. CMV Handbook (excerpts)	

¹ If schools use this case in their trial advocacy courses, it also works with three witnesses per side: Cox testifying for Plaintiff, Saban testifying for Defendant, and Exhs. 1-4 *not* preadmitted. For advanced courses, instructors may allow Saban, Lombardi, or Wooden to be called adversely.

EVIDENTIARY RULINGS

5. In making arguments to the Court, the parties may cite to the Federal Rules of Evidence and Federal Rules of Civil Procedure and the Advisory Committee Notes of each.
6. Only items listed in the Joint Exhibit List may be offered into evidence.
7. Objections under FRE 1002, commonly known as “best evidence” objections, may only be raised as to items on the Joint Exhibit List.
8. Because witnesses cannot be recalled, parties may not object to cross-examination as outside the scope of direct examination.
9. All FRE and FRCP notice requirements have been satisfied.
10. Challenges to the sufficiency of the Complaint and Answer have been heard and denied.
11. If asked, witnesses must admit that their depositions and expert reports are complete statements of everything they know about this case. A witness may not respond to an impeachment by saying, “I wasn’t asked that in my deposition” or the equivalent.
12. On agreement of the parties, Exhibits 1-4 are preadmitted without redaction or limitation.
13. Exhibits 14, 15, and 17 qualify as public records under FRE 803(8).
14. The court takes judicial notice that Exhibit 21, an authentic BAC chart from a national medical organization, is a reliable authority under FRE 803(18)(B).
15. Time spent reading an exhibit, or select portions of an exhibit, to the jury shall be deducted from that party’s time allocation. Reading may not be constructive (i.e., advocates must actually read it aloud).

STIPULATIONS

16. The parties agree that the following stipulations are true and may be read to the jury:
 1. Lone Star is in the Central Time Zone.
 2. Exhibit 15 is an authentic screenshot of a Lone Star Department of Transportation webpage from December 23, 2023 at 1:56 p.m. All accidents in Exhibit 15 were posted on the webpage within 30 minutes of their occurrence.
 3. On I-20, these are the distances from each city to the site of this accident in Midland: Toyah 58 miles; Pecos 48 miles; Monahans 29 miles; Odessa 10 miles.
 4. Exhibits 18-20 are accurate and authentic excerpts of their respective documents. The parties agree that portions of such documents *not* excerpted are irrelevant to this action and waive all FRE 106 “rule of completeness” objections to these exhibits.
 5. Summit and Kerr each read the other’s report and deposition transcript. Their opinions have not changed.

6. If asked, witnesses must admit they were deposed under penalty of perjury and they reviewed their transcripts and made no changes. All deposition questions were asked by the opposing party, but both parties had the chance to question each deponent.
7. Exhibit 22 is an authentic copy of Terry Saban's deposition.
8. The parties jointly hired an independent accident reconstructionist, who reached the following conclusion, which the parties accept as true and correct: If the Saban truck had been driving 10-15 miles per hour when the Woodens' Ford Fusion entered the westbound side of I-20, Rene Lombardi would have had time to stop before hitting the Ford Fusion.

**IN THE 50TH DISTRICT COURT
IN AND FOR TRAVIS COUNTY**

**BLAKE WOODEN, individually and on
behalf of Kareem Wooden and the Estate
of Lew Wooden**

Plaintiff,

v.

SABAN TRUCKING, INC.

Defendant.

&
&
&
&
&
&
&
&
&
&

CASE NO. 25-REG-CV

**PRETRIAL ELECTIONS
FORM**

Round # _____ Plaintiff Team # _____ Defense Team # _____

Plaintiffs elect to DISMISS the following claims (check one):

- Dismissing Count One - Direct Liability (striking Question 1 from Verdict Form)
- Dismissing Count Two - Vicarious Liability (striking Question 2 from Verdict Form)
- Dismissing neither claim

Defendant elects to DISMISS the following affirmative defenses (check one):

- Dismissing Act of Nature affirmative defense (striking Question 3 from Verdict Form)
- Dismissing Comparative Negligence defense (striking Questions 4-5 from Verdict Form)
- Dismissing both affirmative defenses (striking Questions 3-5 from Verdict Form)
- Dismissing neither affirmative defense

The parties agree to preadmit the following exhibits (in addition to Exhibits 1-4):

One advocate for each party should sign below to affirm the above.

Plaintiffs

Defendant

**IN THE 50TH DISTRICT COURT
IN AND FOR TRAVIS COUNTY**

**BLAKE WOODEN, individually and on
behalf of Kareem Wooden and the Estate
of Lew Wooden**

Plaintiff,

v.

SABAN TRUCKING, INC.

Defendant.

&
&
&
&
&
&
&
&
&
&

CASE NO. 25-REG-CV

JURY INSTRUCTIONS

Duties of the Jury

You must decide what the facts are. It is up to all of you, and you alone, to decide what happened, based only on the evidence that has been presented to you in this trial. You should use your common sense and life experience in deciding whether testimony is true and accurate.

Do not let bias or prejudice influence your decision. Many people have assumptions or stereotypes about other people and may be unaware of them. You must not be biased in favor of or against any person or party because of their disability, gender, nationality, national origin, race or ethnicity, religion, gender identity, sexual orientation, age, or socioeconomic status.

Evidence

“Evidence” includes sworn testimony of witnesses, exhibits admitted into evidence, stipulations, and anything else I told you to treat as evidence. Nothing that the attorneys say is evidence. In their opening statements and closing arguments, the attorneys discuss the case, but their remarks are not evidence. Their questions are not evidence. Only the witnesses’ answers are evidence.

During trial, attorneys may have objected to questions or moved to strike witness answers. If I sustained an objection, you must ignore the question. If the witness was not permitted to answer, do not guess the answer. If I ordered testimony stricken, you must disregard it.

During the trial, you were told that both parties agreed, or stipulated, to certain facts. Because there is no dispute about those facts you must also accept them as true.

Burden of Proof

The parties must persuade you, by the evidence presented in court, that what they are required to prove is more likely to be true than not true. In criminal trials, the prosecution must prove the defendant is guilty beyond a reasonable doubt. But in civil trials like this one, the party who is required to prove something need prove only that it is more likely to be true than not true.

Witnesses

You will have to decide if you believe each witness. You may believe all, part, or none of a witness's testimony. You may consider, among other factors, the following:

1. How well did the witness see, hear, or sense what the witness described in court?
2. How well did the witness remember and describe what happened?
3. How did the witness look, act, and speak while testifying?
4. Did the witness have any bias, motive, or incentive to say something that was not true?
5. Was the witness's testimony as to a particular fact consistent with other things the witness said? Was the witness's testimony consistent with other evidence?
6. If a witness gave inconsistent statements, do you believe it to be an honest mistake or deliberate lie? Was the subject of the inconsistent statement important to the case?

During the trial you heard testimony from expert witnesses. The law allows an expert to state opinions about matters in the expert's field of expertise even if the expert has not witnessed any of the events involved in the trial. As with any other witness, it is up to you to decide whether you believe the expert's testimony and choose to use it as a basis for your decision.

PLAINTIFF'S FIRST CAUSE OF ACTION: DIRECT LIABILITY

Blake, Kareem, and Lew Wooden ("Plaintiffs") claim that they were harmed and that Saban Trucking ("Defendant") is responsible for that harm because Saban Trucking was negligent. To establish this claim, Plaintiff must prove all of the following:

1. Plaintiffs were harmed;
2. Defendant was negligent through its policies, practices, and/or conduct;
3. Defendant knew or should have known that its policies, practices, and/or conduct created a particular risk to others;
4. Defendant's negligence was a substantial factor in causing Plaintiffs' harm.

PLAINTIFF'S SECOND CAUSE OF ACTION: VICARIOUS LIABILITY

Plaintiffs claim they were harmed by the negligence of employees acting in the scope of their employment for Defendant. To establish this claim, Plaintiffs must prove all of following:

1. Plaintiffs were harmed;
2. Defendant employees Rene Lombardi and/or Jack Clark were/was negligent;
3. Defendant is vicariously liable for the negligence of Lombardi and/or Clark;
4. Lombardi's and/or Clark's negligence was a substantial factor in causing Plaintiffs' harm.

"Negligence" Explained

"Negligence" means failure to use ordinary care, that is, failing to do something that a person of ordinary prudence would have done under the same or similar circumstances. All drivers have a duty to other drivers, passengers, and pedestrians on the road. Violation of a law, regulation, or industry standard may be considered when determining if a party was negligent.

A “substantial factor” in causing harm is a factor, unbroken by any new and independent cause, that a reasonable person would consider to have contributed to the harm. It must be more than a remote or trivial factor. It does not have to be the only cause of the harm. Conduct is not a substantial factor in causing harm if the same harm would have occurred without that conduct.

An employer is “vicariously liable” for its employee’s actions while the employee is acting within the scope of their employment. The Defendant admits that Lombardi and Clark were acting in the scope of their employment at all times relevant to this case.

Presumptions Regarding Intoxication

A person is presumed incapable of safely operating a motor vehicle with .08% or more by weight of alcohol in their blood (“BAC”). A BAC of .05% or less creates a presumption that the person was not incapable of safely operating a motor vehicle. A BAC between .05% and .08% creates no presumption regarding the person’s capability to safely operate a motor vehicle. All of these presumptions may be rebutted by proof to the contrary.

AFFIRMATIVE DEFENSES TO NEGLIGENCE

Act of Nature

Defendant claims that Plaintiffs’ injuries were caused by an Act of Nature, namely black ice on the highway. To establish this claim, Defendant must prove all of the following:

1. There was a natural event;
2. The natural event was unforeseeable to Defendant;
3. The natural event was the sole cause of Plaintiffs’ injuries; and
4. Plaintiffs’ injuries would not have been prevented by the Defendant’s due care

A natural event is an event that results entirely from natural processes, such as storms, lightning, and earthquakes, rather than human activities.

Affirmative Defense - Comparative Fault of Plaintiff

Defendant claims that Blake Wooden’s negligence contributed to the harm at issue in this case. To succeed on this claim, Defendant must prove all of the following:

1. Blake Wooden was negligent; and
2. Blake Wooden’s negligence was a substantial factor in causing Plaintiffs’ injuries.

The comparative fault of the named Plaintiffs shall be determined entirely by the fault of Blake Wooden. The fault or lack of fault of Kareem Wooden, Lew Wooden, or the Estate of Lew Wooden may not be considered.

If you find that Plaintiffs’ harm was caused by both Blake Wooden and Defendant, assign each party their percentage of liability for the harm.

**IN THE 50TH DISTRICT COURT
IN AND FOR TRAVIS COUNTY**

**BLAKE WOODEN, individually and on
behalf of Kareem Wooden and the Estate
of Lew Wooden**

Plaintiff,

v.

SABAN TRUCKING, INC.

Defendant.

&
&
&
&
&
&
&
&
&
&

CASE NO. 25-REG-CV

VERDICT FORM

1. Did Plaintiff prove that Defendant was negligent and that such negligence was a substantial factor in causing injuries to Blake, Kareem, and Lew Wooden?

YES _____

NO _____

2. Did Plaintiff prove that Defendant, through the acts or omissions of Rene Lombardi and/or Jack Clark, was negligent and that such negligence was a substantial factor in causing injuries to Blake, Kareem, and Lew Wooden?

YES _____

NO _____

If you answered YES to either Question 1 or Question 2, proceed to Question 3.

If you answered NO to both Question 1 and Question 2, do not answer any additional questions.

3. Did Defendant prove that Plaintiffs' injuries were caused by an Act of Nature?

YES _____

NO _____

If YES, do not answer any additional questions. If NO, proceed to Question 4.

4. Did Defendant prove that Blake Wooden was negligent and that such negligence was a substantial factor in causing injuries to Blake, Kareem, and Lew Wooden?

YES _____

NO _____

If YES, proceed to Question 5. If NO, do not answer any additional questions.

5. Assign the percentage of liability to those you find caused the injury to Blake, Kareem, and/or Lew Wooden. The percentages you find must total 100%.

SABAN TRUCKING _____

BLAKE WOODEN _____



Lone Star Police Department
Accident Reconstruction Report
December 26, 2023



Circumstances

- Two-vehicle collision on December 23, 2023 on Interstate-20 in Midland, Lone Star.
- Vehicle 1: Ford Fusion driven by Blake Wooden (“Wooden”), with passengers children Kareem and Lew. Wooden and Kareem hospitalized. Lew killed as a result of crash.
- Vehicle 2: Saban Trucking 18-wheeler truck driven by Rene Lombardi, with passenger Jack Clark. Lombardi and Clark uninjured.

Analyst

Crash investigated by Officer Roberta Cox, a certified accident reconstructionist with 12 years of experience reconstructing more than 300 traffic accidents for Lone Star Police Department.

Data

Analyst arrived on scene at 3:12 p.m. on December 23, 2023. Inspected, measured, and photographed the scene, including black ice on I-20 East. Interviewed Lombardi and Clark at the scene and interviewed Wooden at Taylor Memorial next day. Examined both vehicles and both drivers’ cell phones, with their consent. Both phones intact and operable despite the crash. Obtained Wooden’s blood test results. No other eyewitness. No traffic cameras.

Methods

Applied standard accident reconstruction techniques accepted by law enforcement agencies nationally. All conclusions drawn to a reasonable degree of scientific certainty.

Findings

1. Crash occurred at 2:43 p.m. on I-20, between exits 138 and 139 in the State of Lone Star.
2. On all parts of the I-20 described herein and relevant to this accident, the posted speed limit was 70 miles per hour.
3. The temperature was 27 degrees Fahrenheit at 2:43 p.m.. There had been light rain, on and off, starting at noon. The rain stopped about 10 minutes before the crash. It was cloudy with light winds, less than 10 miles per hour.
4. Wooden’s car was on I-20 East, with the Wooden children in the back seats wearing seatbelts. The car was traveling 65 miles per hour in right lane when it hit black ice. The black ice caused Ford Fusion to slide. I photographed the black ice that Wooden’s car slid on. Exhibit 5 is that photograph. Wooden slammed on brakes, which slowed vehicle but

did not stop it. Vehicle left the eastbound side of I-20, crossed grassy center divide, and entered the I-20 West traveling east — towards oncoming traffic.

5. When the Ford Fusion entered I-20 West, Lombardi was driving Saban truck 45 miles per hour in westbound right lane. Clark asleep in sleeping compartment and did not see crash.
6. When the Ford Fusion entered the westbound side of the I-20, Lombardi slammed on their brakes. The vehicles crashed into each other. The Ford Fusion was totaled and crushed. The Saban truck sustained cosmetic damage but remained fully operable.
7. At the moment of impact, the Ford Fusion was traveling 22 miles per hour and the Saban Truck was traveling 30 miles an hour. The entire crash sequence – from the moment the Ford lost traction on the I-20 East until the vehicles collided on the I-20 West – was 2.9 seconds. The vehicles collided 0.6 seconds after the Ford entered westbound I-20.
8. I created Exhibits 2-4. Exhibit 2 is the crash site with measurements. Exhibit 3 is the crash sequence from the moment the Ford Fusion hit the black ice patch. The Ford Fusion traveled 200 feet, braking the whole time from 65 to 22 miles per hour. The Saban Truck traveled 187 feet, at 45 miles per hour for the first 155 feet and then braking to 30 miles per hour for the last 32 feet. Exhibit 4 shows the final resting places of both vehicles.
9. There were patches of black ice all over I-20 at the scene of the collision on both the eastbound and westbound sides of the highway. I also observed more than a dozen patches of black ice when I took I-20 West to reach the accident scene.
10. Ford Fusion weighs about 3,600 pounds. The Saban truck weighs 36,000 pounds empty, and this one had cargo weighing another 30,000 pounds.
11. I reviewed Exhibit 17. I cannot determine Wooden's BAC at the time of the crash or whether it played a role in this crash.
12. I found no odor or physical symptoms indicating that Wooden or Lombardi was intoxicated or under the influence of any intoxicants. Wooden's blood was tested at the hospital as a part of the hospital's routine diagnostic procedures. Law enforcement did not request any testing given the lack of any visible signs of intoxication.
13. Based on an inspection of Lombardi's phone and Wooden's phone, neither was texting, receiving texts, or in any way using their phone at the time of the accident.
14. Once the Ford Fusion lost control, there was nothing Wooden or Lombardi could do to avoid the accident.
15. Accordingly, MPD made – and Analyst recommends – no arrests or citations.

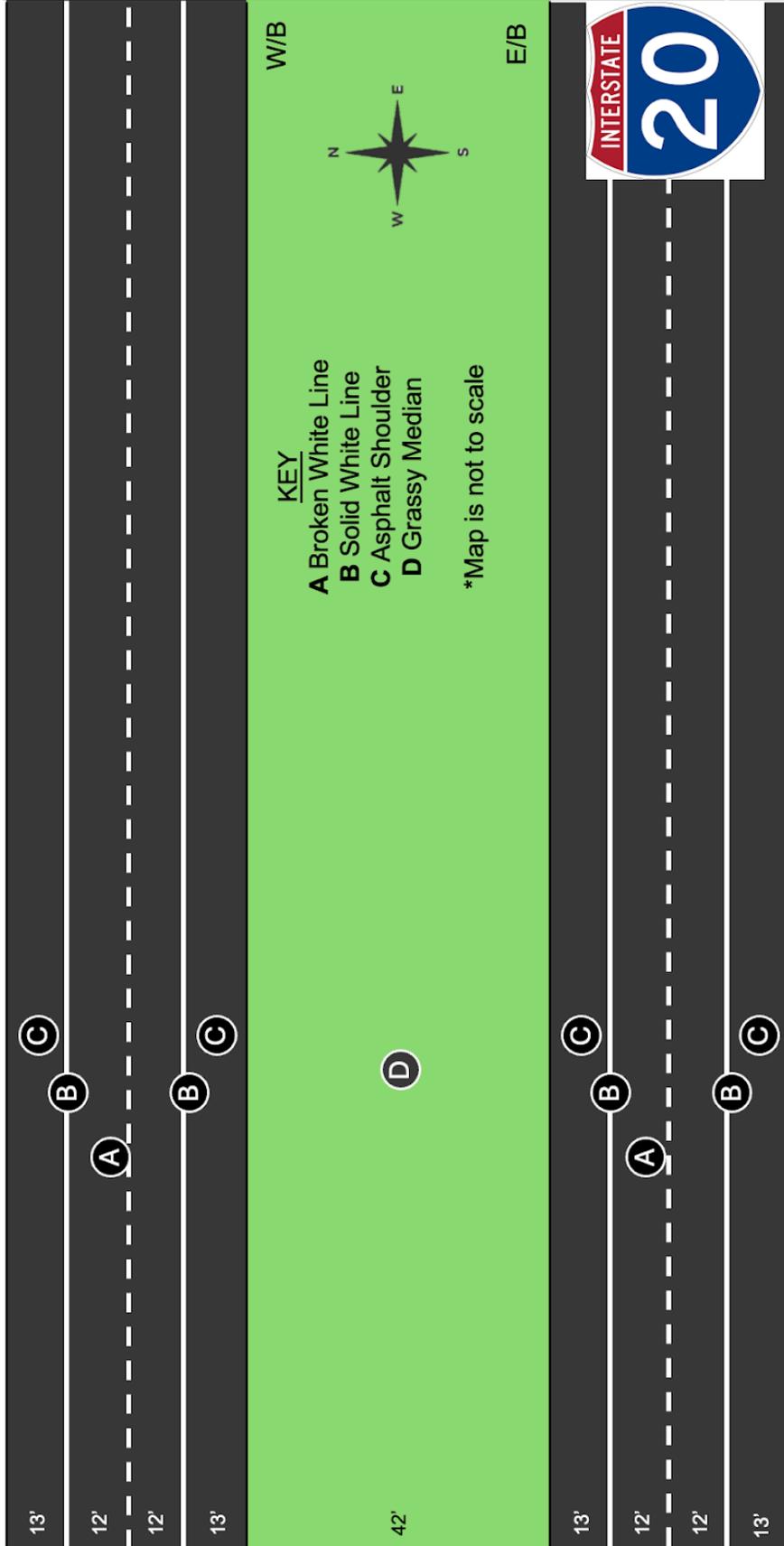


Exhibit
2

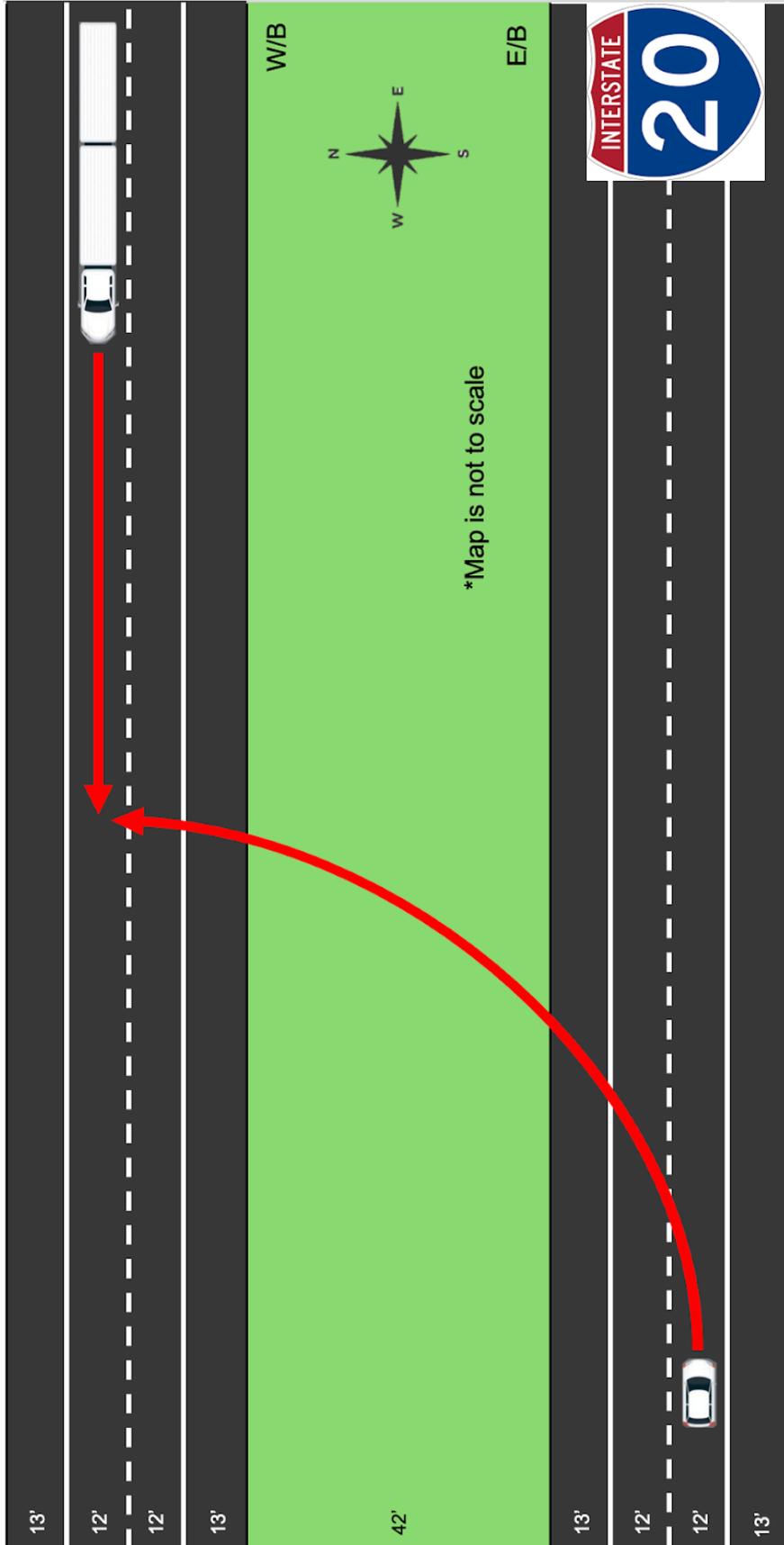


Exhibit
3

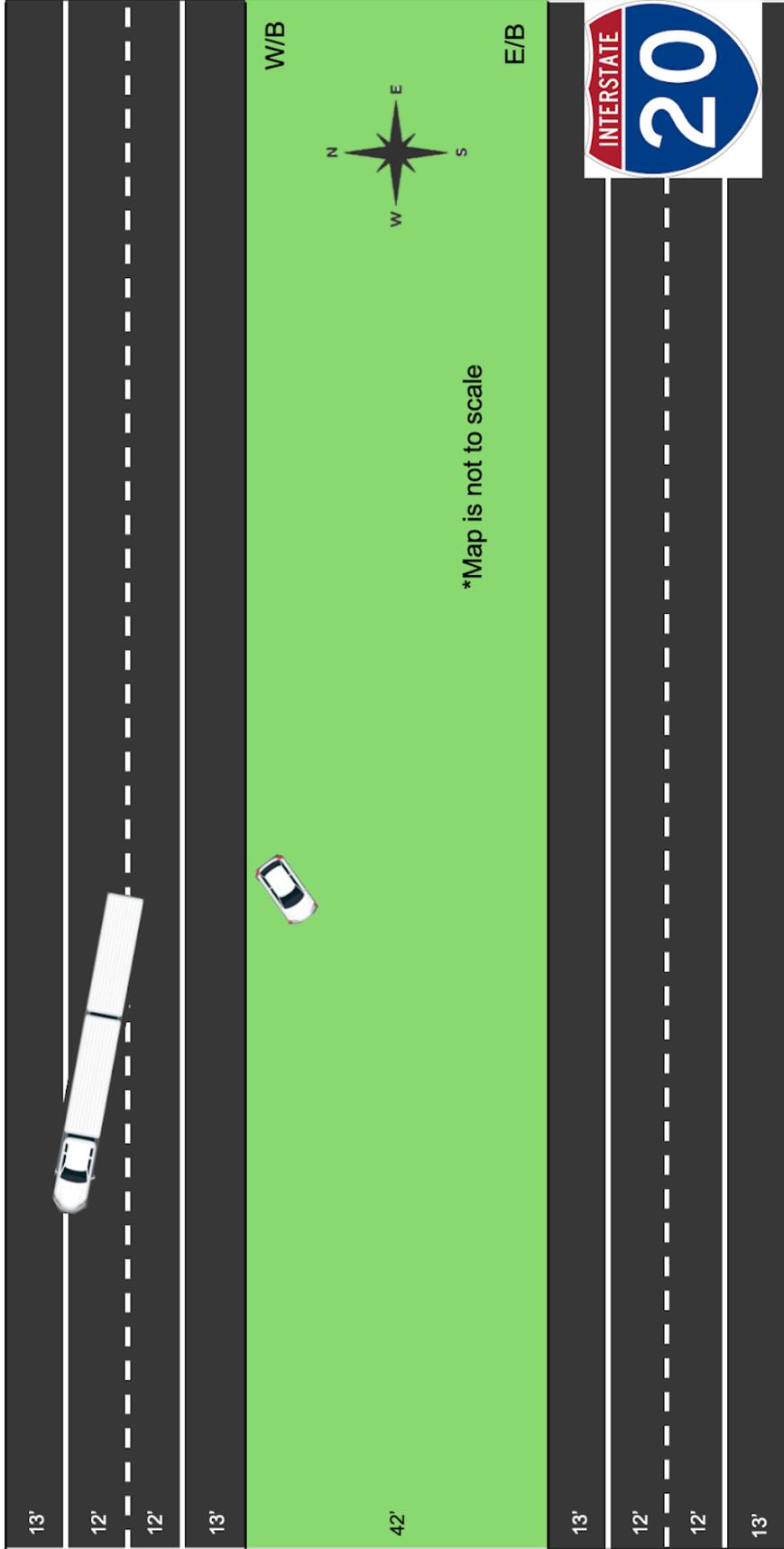


Exhibit
4



Exhibit
5



Exhibit
6



Exhibit
7



DELIVERY SCHEDULE

Delivery Number	113116
Client	Warm and Fuzzies
Merchandise	Fur coats
Weight (approx)	15 tons
Pickup Location	305 Riley Rd, Birmingham, AL 35229
Delivery Location	2763 Bancroft Way, Berkeley, CA 94704
Pickup Date/Time	December 22, 2023 @ 9:00 a.m. Central
Delivery Date	December 25, 2023 @ 12:00 p.m. Pacific (2:00 p.m. Central)
Truck	2019 Krzyzewski Devil, Fleet Number 1947
Drivers	Rene Lombardi
Trainer/Supervisor	Jack Clark
Dispatcher	Nan Lieberman



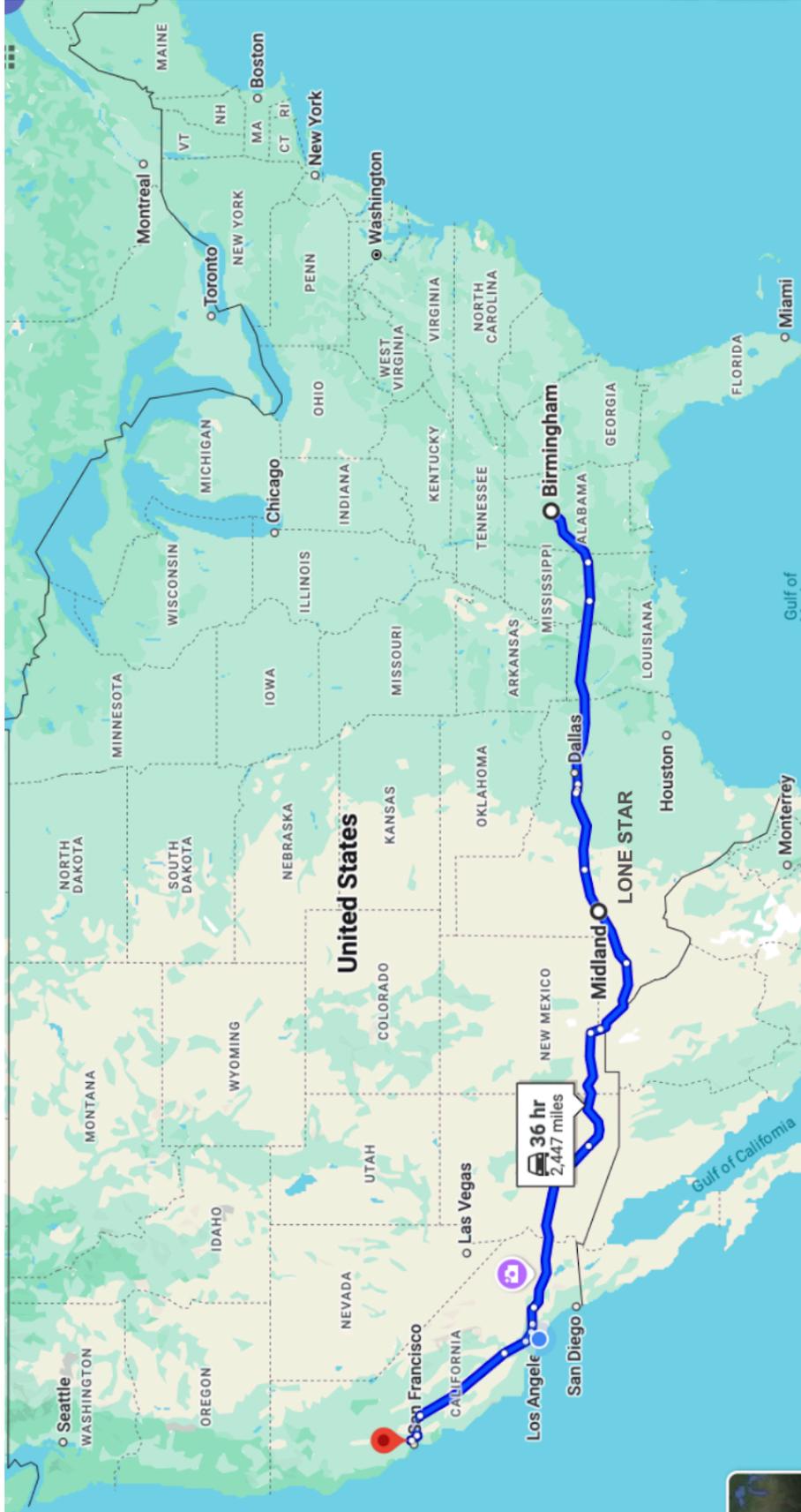


Exhibit
9

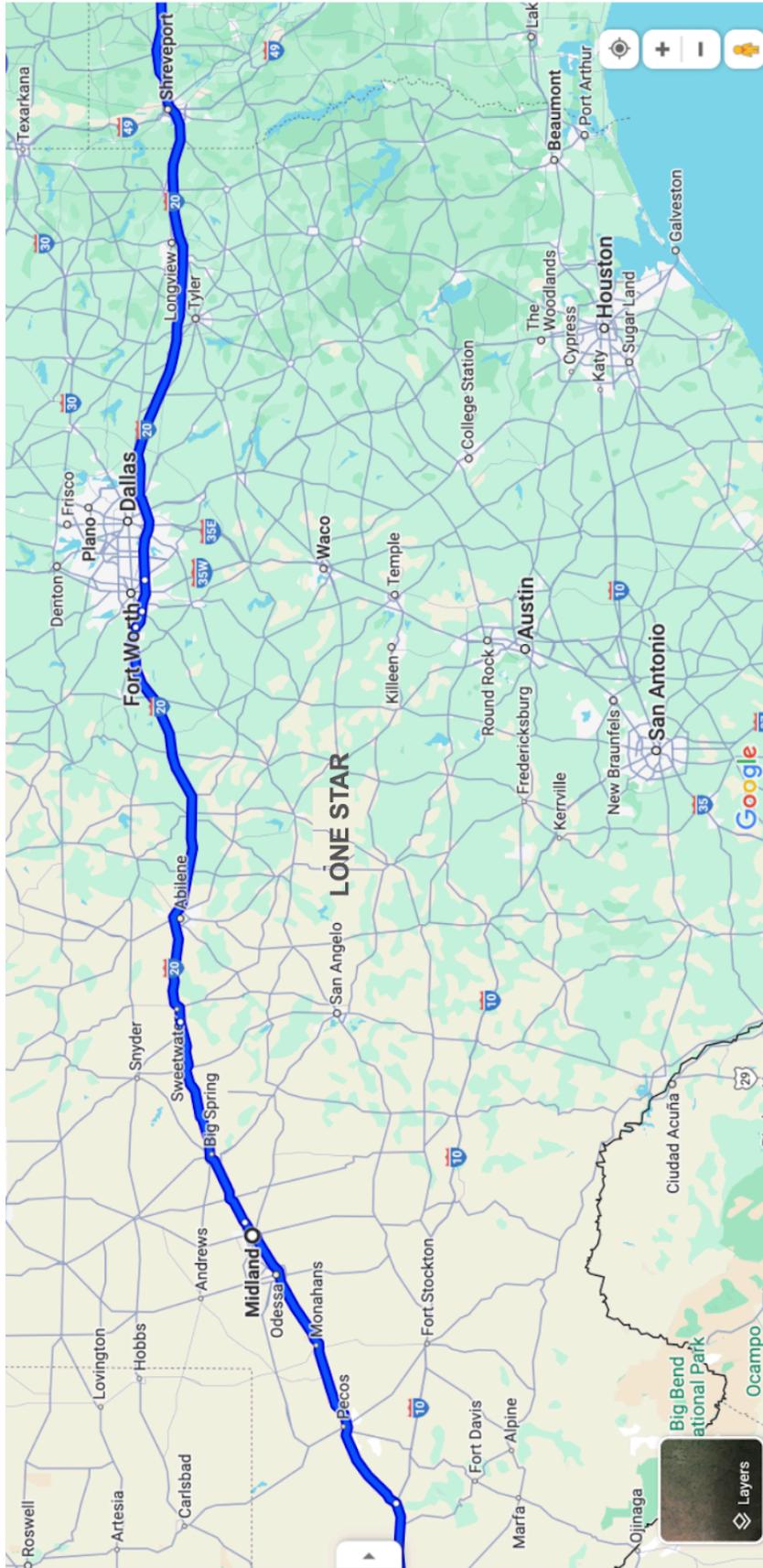


Exhibit
10

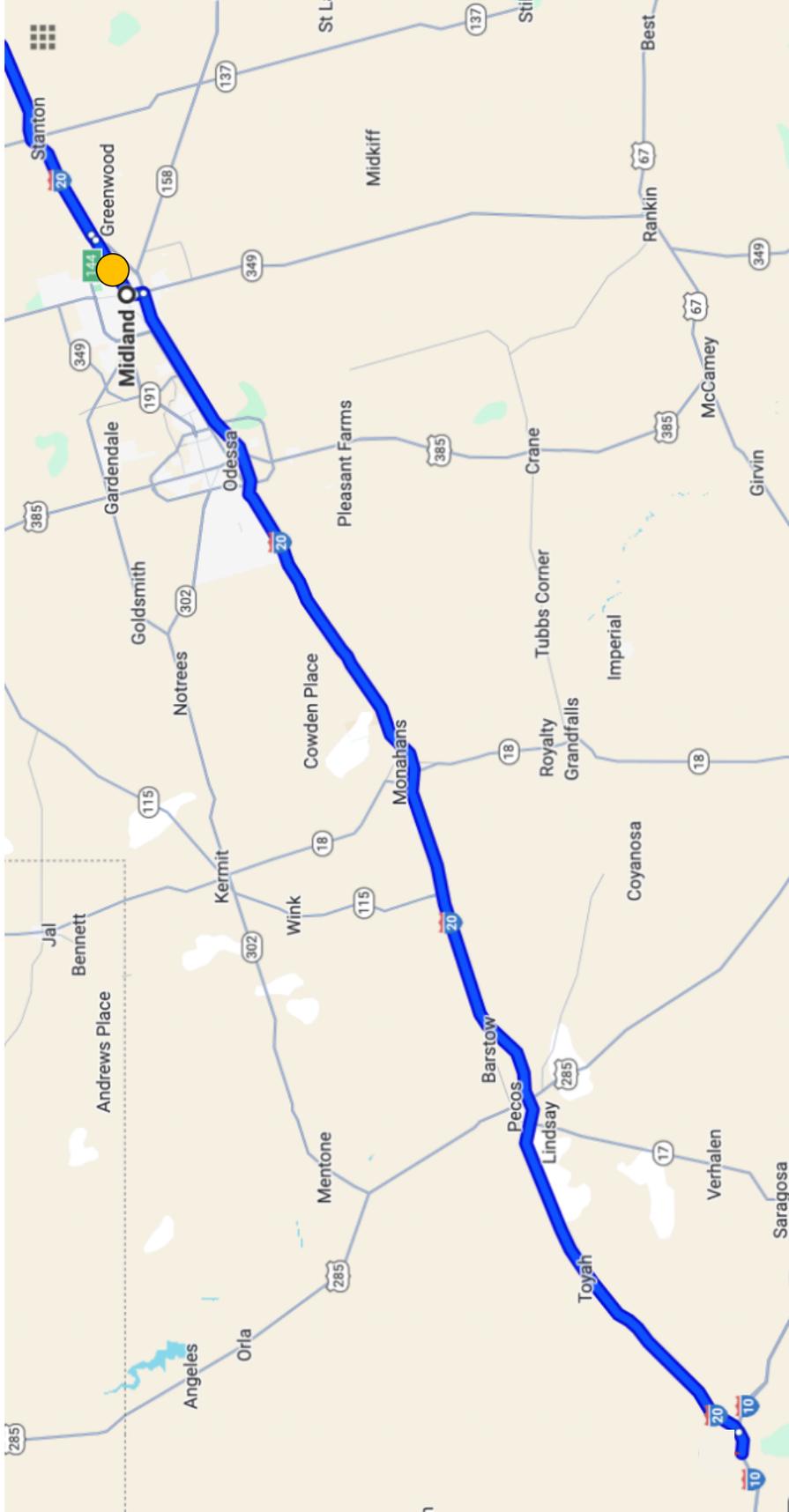


Exhibit
11



Exhibit
12



Exhibit
13



LONE STAR WEATHER SERVICE
Daily Forecast Report

Exhibit
14

Location: Midland-Odessa Area, Lone Star
Lat: 32.04°N Lon: 102.1°W Elev: 2802ft.
Date: December 23, 2023
Forecaster: Dr. Brendon Bochy, Ph.D.

Forecast posted 3:53 a.m. CST

WINTER STORM WARNING projected in this area. Sleet, freezing rain, likely ice. Conditions expected all day. Exercise caution.

High:	39°F	Wind Speed:	ENE 10 MPH
Low:	21°F	Humidity:	92 %
Average:	30°F	Barometer:	30.03 in (1016.93 mb)
Rain:	90 %	Dewpoint:	34°F (1°C)
Snow:	0 %	Visibility:	3.00 mi

Forecast updated 1:06 p.m. CST

STORM PASSED SOUTH WITHOUT ENTERING OR AFFECTING AREA. Light rain fell during morning, and expected sporadically until early evening.

High:	31°F	Wind Speed:	ENE 10 MPH
Low:	22°F	Humidity:	92 %
Average:	26°F	Barometer:	30.03 in (1016.93 mb)
Rain:	90 %	Dewpoint:	34°F (1°C)
Snow:	0 %	Visibility:	3.00 mi

Forecasts are projections and may be inaccurate. Forecasts are always subject to change. Please check back for updates.



Lone Star Department of Transportation
Traffic Accidents for December 23, 2023
Harris County

Time: 1:56 pm

Location: Interstate 20

10:32am Two car collision near Toyah, Lone Star. Cars headed East on I-20. One car lost control on slick surface, crashed into other car. Cosmetic damage to cars. No persons injured.

11:04am Single car collision near Pecos, Lone Star. Vehicle headed East on I-20. Driver claims to have lost control on icy surface, crashed into railing on side of the highway. Car totaled, minor injuries to driver.

11:38am Single car collision near Monahans, Lone Star. Vehicle headed West on I-20. Driver lost control on slippery road, crashed into railing on side of the highway. Car totaled, no injuries to driver.

12:55pm Two car collision just west of Odessa, Lone Star. Vehicles headed West on I-20. Pickup truck slid on black ice, hit a sedan. Cosmetic damage to cars. No persons injured.

1:26pm Two car collision just east of Odessa, Lone Star. Vehicles headed East on I-20. First car lost control on road, hydroplaned, and struck second car in left lane, sending second car into center median. No persons injured. Officer on scene minutes later observed black ice on Eastbound I-20.





The Olive Basket

123 Main Street
Westland, Lone Star 75023
Tel: (555) 123-4567

Date: 12/23/23 2:30 PM

Tour of Italy	\$24.99
Tour of Italy	\$24.99
Tour of Italy	\$24.99
Italian Margarita	\$13.99
<hr/>	
Subtotal	\$88.96
Tax (8.25%)	\$7.34
<hr/>	
Total	\$96.30

Thank you for dining with us!
Please come again

Exhibit
16

Toxicology Report

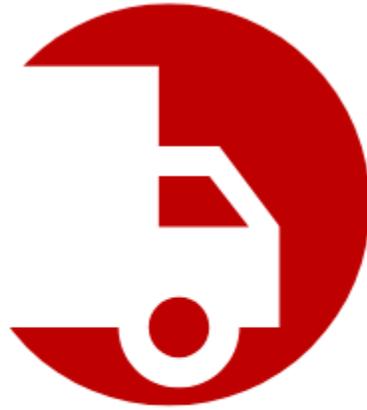
Patient Name: Blake Wooden
Report Date: December 23, 2023

Time of Blood Draw: December 23, 2023 @ 4:03 p.m.
Tests Performed: Blood Alcohol Concentration (BAC)
Comprehensive Drug Panel
Performed by: Dr. Nari Miyagi

Results:

- ❖ Blood Alcohol Concentration (BAC): 0.031%

- ❖ Comprehensive Drug Panel:
 - Amphetamines: Negative
 - Barbiturates: Negative
 - Benzodiazepines: Negative
 - Cannabinoids (THC): Negative
 - Cocaine: Negative
 - Opiates: Negative
 - Phencyclidine (PCP): Negative
 - Synthetic Cannabinoids: Negative
 - Synthetic Stimulants (e.g., Bath Salts): Negative



SABAN TRUCKING

We Haul In A Hurry

Employee Handbook

January 3, 2007



GOALS

Our business is not merely getting goods from place to place. It's getting goods from place to place intact and on time.

Drivers whose merchandise is damaged during transit may face warning, fine, suspension, or termination.

Drivers who miss delivery deadlines, even by minutes, may face warning, fine, suspension, or termination.

SAFETY

Safety is our number one priority. Safety should guide your choices at all times. Always consider the safety of yourselves, your fellow employees, and the general public.

Always be alert while driving. Do not drive while tired. Notwithstanding any delivery deadlines or goals, always rest if necessary, even if it means pulling off the road to a rest stop. Comply with all rest regulations. When two drivers are assigned to a truck, both should be awake and alert whenever the truck is moving. One purpose of a second driver is to provide an extra set of eyes and good judgment for the driver behind the wheel.

Monitor and heed the conditions. Do not drive in dangerous weather conditions. Rain, snow, ice, hail, fog, winds, and storms can create dangerous driving conditions. Notwithstanding any delivery deadlines or goals, do not drive in unsafe conditions.

Drive safely. Always obey the rules of the road. Regardless of any posted speed limits, always drive at a safe speed given the conditions. Sometimes this will mean driving more slowly than the posted speed limit.

Remember that in most encounters with other vehicles, your truck will be the larger vehicle, and your truck will be harder to steer, slow, or stop. Exercise caution to protect yourself and to protect others on the road.

LONE STAR Commercial Motor Vehicle Drivers Handbook



LONE STAR DEPARTMENT OF PUBLIC SAFETY
Rebecca Hammon, Director

Revised and Effective January 1, 2021

Exhibit
19

Purpose

This handbook aims to help drivers (a) obtain the knowledge to pass the CDL tests and earn a Commercial Drivers License and (b) operate their commercial vehicles safely.

Commercial vehicles are large, heavy, and – compared to personal vehicles – difficult to maneuver, slow, and stop. Operated incorrectly, commercial vehicles can pose a danger not just to the driver and nearby vehicles, but to everyone on both sides of the road. The rules in this handbook are designed to protect everyone on the road.

1.1.1 – Always Have a Plan

Always look for hazards. However, don't forget why you are looking for the hazards – they may turn into emergencies. You look for the hazards to have time to plan a way out of any emergency. Always be prepared to take action based on your plans. In this way, you will be a prepared, defensive driver who will improve your own safety as well as the safety of all road users.

1.2 - Distracted Driving

A driver distraction is anything that takes your attention away from driving. Distracted driving can cause collisions, resulting in injury, death or property damage.

Approximately 5,500 people are killed each year on U.S. roadways and an estimated 448,000 are injured in motor vehicle crashes involving distracted driving.

Activities inside the vehicle that can distract include: talking to passengers; adjusting the radio, CD player or climate controls; eating, drinking or smoking; reading maps or other literature; picking up something that fell; talking on a cell phone or CB radio; reading

or sending text messages; using any type of telematic or electronic devices (such as navigation systems, pagers, personal digital assistant, computers, etc.); daydreaming or being occupied with other mental distractions; and many others. Possible distractions that could occur outside a moving vehicle: outside traffic, vehicles or pedestrians; outside events such as police pulling someone over or a crash scene; sunlight/sunset; objects in roadway; road construction; reading billboards or other road advertisements; and many others.

1.3. - Aggressive Drivers/Road Rage

Aggressive driving is the act of operating a motor vehicle in a selfish, bold, or pushy manner, without regard for the rights or safety of others. Road rage is operating a motor vehicle with the intent of doing harm to others or physically assaulting a driver or their vehicle. Both increase accidents.

1.4 - Driving at Night

You are at greater risk when you drive at night. Drivers can't see hazards as quickly as in daylight, so they have less time to respond. Glare poses a safety risk. Fatigued drivers are prone to errors and accidents.

1.5. - Driver Fatigue

Fatigue impairs your vision and judgment. Fatigue causes errors related to speed and distance, increases your risk of being in a crash, causes you to not see and react to hazards as quickly, and affects your ability to make critical decisions.

Fatigued or drowsy driving is one of the leading causes of traffic collisions. NHTSA estimates that 100,000 police-reported crashes a year are the result of drowsy

driving. Drivers may experience short bursts of sleep lasting only a few seconds or fall asleep for longer periods of time.

These are signs that you may be too fatigued to drive safely:

- Sleep-deprived or fatigued (6 hours of sleep or less triples your risk)
- Suffering from sleep loss (insomnia), poor quality sleep, or a sleep debt
- Driving long distances without proper rest breaks
- Driving through the night, mid-afternoon or when you would normally be asleep.
- Taking sedating medications
- Working more than 60 hours a week (increases your accident risk by 40%)
- Driving alone or on a long, rural, dark or boring road
- Flying, changing time zone

1.6. - Driving in Winter

1.6.1. – Vehicle Checks

Make sure your vehicle is ready before driving in winter weather. You should make a regular vehicle inspection, paying extra attention to the following items: Coolant Level; Antifreeze Amount; Defrosting and Heating Equipment; Wipers and Washers; Tires; Tire Chains; Lights and Reflectors; Windows and Mirrors; Hand Holds, Steps, and Deck Plates; Radiator Shutters and Winterfront; and Exhaust System.

1.6.2 – Driving

Slippery Surfaces. Drive slowly and smoothly on slippery roads. If it is very slippery, you shouldn't drive at all. Slow to a crawl. Stop at the first safe place.

Start Gently and Slowly. When first starting, get the feel of the road. Don't hurry.

Check for Ice. Check for ice on the road, especially bridges and overpasses. A lack of spray from other vehicles indicates ice has formed on the road. Also, check your mirrors and wiper blades for ice. If they have ice, the road will likely be icy.

Adjust Turning and Braking to Conditions. Make turns as gently as possible. Don't brake any harder than necessary, and don't use the engine brake or speed retarder. They can cause the driving wheels to skid on slippery surfaces.

Adjust Speed to Conditions. Don't pass slower vehicles unless necessary. Go slowly and watch far enough ahead to keep a steady speed. Avoid having to slow down and speed up. Take curves at slower speeds and don't brake while in curves. Be aware that as the temperature rises to the point where ice begins to melt, the road becomes even more slippery. Slow down more.

Adjust Space to Conditions. Don't drive alongside other vehicles. Keep a longer following distance. When you see a traffic jam ahead, slow down or stop to wait for it to clear. Try hard to anticipate stops early and slow down gradually. Watch for snowplows, as well as salt and sand trucks, and give them plenty of room.

Wet Brakes. When driving in heavy rain or deep standing water, your brakes will get wet. Water in the brakes can cause the brakes to be weak, to apply unevenly, or to grab. This can cause lack of braking power, wheel lockups, pulling to one side or the other, and jackknife if you pull a trailer.

1.10 - Driving Emergencies

1.10.1 – Steering to Avoid a Crash

Stopping is not always the safest thing to do in an emergency. When you don't have enough room to stop, you may have to steer away from what's ahead. Remember, you can almost always turn to miss an obstacle more quickly than you can stop. (However, top-heavy vehicles and tractors with multiple trailers may flip over.) Keep both hands on the steering wheel.

To execute a quick turn safely, do not apply the brake while you are turning. It's very easy to lock your wheels while turning. If that happens, you may skid out of control. Do not turn any more than needed to clear whatever is in your way. The more sharply you turn, the greater the chances of a skid or rollover. Be prepared to "counter-steer," that is, to turn the wheel back in the other direction, once you've passed whatever was in your path. Unless you are prepared to counter-steer, you won't be able to do it quickly enough. You should think of emergency steering and counter-steering as two parts of one driving action.

If an oncoming driver has drifted into your lane, a move to your right is best. If that driver realizes what has happened, the natural response will be to return to his or her own lane. If something is blocking your path, the best direction to steer depends on the situation. If you have been using your mirrors, you'll know which lane is empty and can be safely used. If the shoulder is clear, going right may be best. No one is likely to be driving on the shoulder but someone may be passing you on the left. If you are blocked on both sides, a move to the right may be best. At least you won't force anyone into an opposing traffic lane and a possible head-on collision.

If possible, avoid braking until your speed has dropped to about 20 mph. Then brake gently to avoid skidding on a loose surface.

1.10.2 – How to Stop Quickly and Safely

If somebody suddenly pulls out in front of you, your natural response is to hit the brakes. This is a good response if there's enough distance to stop, and you use the brakes correctly.

Brake in a way that will keep your vehicle in a straight line and allow you to turn if necessary. You can use "controlled braking" or "stab braking."

Controlled Braking. With this method, you apply the brakes as hard as you can without locking the wheels. Keep steering wheel rotations minimal while braking. If you need to make a larger steering adjustment or if the wheels lock, release the brakes. Re-apply the brakes as soon as you can.

Stab Braking. With this method, you apply your brakes all the way and release brakes when wheels lock up. As soon as the wheels start rolling, apply the brakes fully again. It can take up to one second for the wheels to start rolling after you release the brakes. If you re-apply the brakes before the wheels start rolling, the vehicle won't straighten.

Don't Jam the Brakes. Emergency braking does not mean pushing down on the brake pedal as hard as you can. That will lock the wheels and cause a skid. When wheels are skidding, you cannot control the vehicle.

Federal Motor Carrier Safety Regulations Excerpts

49 C.F.R. Pt. 380, Appendix A Class A / CDL Training Curriculum

Class A CDL applicants must complete the Class A CDL curriculum outlined in this Appendix. ... There is no required minimum number of instruction hours for theory training, but the training instructor must cover all topics set forth in the curriculum. There is no required minimum number of instruction hours for behind-the-wheel (range and public road) training, but the training instructor must cover all topics set forth in the behind-the-wheel curriculum. ...

Section A1.2 Safe Operating Procedures. This section must teach the practices required for safe operation of the combination vehicle on the highway under various road, weather, and traffic conditions. The training providers must teach driver-trainees the Federal rules governing the proper use of seat belt assemblies. ...

Unit A1.2.4 Speed Management. This unit must teach driver-trainees how to manage speed effectively in response to various road, weather, and traffic conditions. The instruction must include methods for calibrating safe following distances taking into account commercial motor vehicle braking distances under an array of conditions including traffic, weather, and commercial motor vehicle weight and length. ...

Unit A1.2.7 Extreme Driving Conditions. This unit must teach driver-trainees about the specific problems presented by extreme driving conditions. The training provider will emphasize the factors affecting the operation of commercial motor vehicles in cold, hot, and inclement weather and on steep grades and sharp curves. The training provider must teach proper tire chaining procedures. ...

Unit A1.3.1 Hazard Perception. The unit must teach driver-trainees to recognize potential hazards in the driving environment in order to reduce the severity of the hazard and neutralize possible emergency situations. The training providers must teach driver-trainees to identify road conditions and other road users that are a potential threat to the safety of the combination vehicle and suggest appropriate adjustments. The instruction must emphasize hazard recognition, visual search, adequate surveillance, and response to possible emergency-producing situations encountered by CMV drivers in various traffic situations.

49 C.F.R. § 382.301 Pre-employment testing.

(a) Prior to the first time a driver performs safety-sensitive functions for an employer, the driver shall undergo testing for controlled substances as a condition prior to being used, unless the employer uses the exception in paragraph (b) of this section. No employer shall allow a driver, who the employer intends to hire or use, to perform safety-sensitive functions unless the employer has received a controlled substances test result from the MRO or C/TPA indicating a verified negative test result for that driver.

(b) An employer is not required to administer a controlled substances test required by paragraph (a) of this section if:

- (1) The driver has participated in a controlled substances testing program that meets the requirements of this part within the previous 30 days; and
- (2) While participating in that program, either: (i) Was tested for controlled substances within the past 6 months (from the date of application with the employer), or (ii) Participated in the random controlled substances testing program for the previous 12 months (from the date of application with the employer); and
- (3) The employer ensures that no prior employer of the driver of whom the employer has knowledge has records of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months.

49 C.F.R. § 382.303 Post-accident testing.

(b) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each employer shall test for controlled substances for each of its surviving drivers: (1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or ...

49 C.F.R. § 383.113 Required skills.

(c) Safe on-road driving skills. All applicants for a CDL must possess and demonstrate the following safe on-road driving skills for their vehicle class:

- (1) Ability to use proper visual search methods;
- (2) Ability to signal appropriately when changing direction in traffic;
- (3) Ability to adjust speed to the configuration and condition of the roadway, weather and visibility conditions, traffic conditions, and motor vehicle, cargo and driver conditions;
- (4) Ability to choose a safe gap for changing lanes, passing other vehicles, as well as for crossing or entering traffic;
- (5) Ability to position the motor vehicle correctly before and during a turn to prevent other vehicles from passing on the wrong side, as well as to prevent problems caused by off-tracking;
- (6) Ability to maintain a safe following distance depending on the condition of the road, visibility, and vehicle weight;
- (7) Ability to adjust operation of the motor vehicle to prevailing weather conditions including speed selection, braking, direction changes, and following distance to maintain control; and
- (8) Ability to observe the road and the behavior of other motor vehicles, particularly before changing speed and direction.

49 C.F.R. § 383.135. Passing knowledge and skills tests.

(a) Knowledge tests.

- (1) To achieve a passing score on each of the knowledge tests, a driver applicant must correctly answer at least 80 percent of the questions.

(2) If a driver applicant who fails the air brake portion of the knowledge test (scores less than 80 percent correct) is issued a CLP or CDL, an air brake restriction must be indicated on the CLP or CDL as required in § 383.95(a).

(3) A driver applicant who fails the combination vehicle portion of the knowledge test (scores less than 80 percent correct) must not be issued a Group A CLP or CDL.

(b) Skills Tests. (1) To achieve a passing score on each segment of the skills test, the driver applicant must demonstrate that he/she can successfully perform all of the skills listed in § 383.113 and attain the scores listed in Appendix A of the examiner manual referred to in § 383.131(b) for the type of vehicle being used in the test. ...

49 C.F.R. § 392.6. Schedules to conform with speed limits.

No motor carrier shall schedule a run nor permit nor require the operation of any commercial motor vehicle between points in such period of time as would necessitate the commercial motor vehicle being operated at speeds greater than those prescribed by the jurisdictions in or through which the commercial motor vehicle is being operated.

49 C.F.R. § 392.14. Hazardous conditions; extreme caution.

Extreme caution in the operation of a commercial motor vehicle shall be exercised when hazardous conditions, such as those caused by snow, ice, sleet, fog, mist, rain, dust, or smoke, adversely affect visibility or traction. Speed shall be reduced when such conditions exist. If conditions become sufficiently dangerous, the operation of the commercial motor vehicle shall be discontinued and shall not be resumed until the commercial motor vehicle can be safely operated. Whenever compliance with the foregoing provisions of this rule increases hazard to passengers, the commercial motor vehicle may be operated to the nearest point at which the safety of passengers is assured.

49 C.F.R. § 395.3. Maximum driving time for property-carrying vehicles.

(a) ... no motor carrier shall permit or require any driver used by it to drive a property-carrying commercial motor vehicle, nor shall any such driver drive a property-carrying commercial motor vehicle, regardless of the number of motor carriers using the driver's services, unless the driver complies with the following requirements:

(1) Start of work shift. A driver may not drive without first taking 10 consecutive hours off duty;

(2) 14-hour period. A driver may not drive after a period of 14 consecutive hours after coming on-duty following 10 consecutive hours off-duty.

(3) Driving time and interruptions of driving periods—

(i) Driving time. A driver may drive a total of 11 hours during the period specified in paragraph (a)(2) of this section.

(ii) Interruption of driving time. ... driving is not permitted if more than 8 hours of driving time have passed without at least a consecutive 30-minute interruption in driving status. A consecutive 30-minute interruption of driving status may be satisfied either by off-duty, sleeper berth or on-duty not driving time or by a combination of off-duty, sleeper berth and on-duty not driving time.

BLOOD ALCOHOL PERCENTAGE

Drinks



Body Weight in Pounds

	100	120	140	160	180	200	220	240
0	.00	.00	.00	.00	.00	.00	.00	.00
1	.04	.03	.03	.02	.02	.02	.02	.02
2	.08	.06	.05	.05	.04	.04	.03	.03
3	.11	.09	.08	.07	.06	.06	.05	.05
4	.15	.12	.11	.09	.08	.08	.07	.06
5	.19	.16	.13	.12	.11	.09	.09	.08
6	.23	.19	.16	.14	.13	.11	.10	.09
7	.26	.22	.19	.16	.15	.13	.12	.11
8	.30	.25	.21	.19	.17	.15	.14	.13
9	.34	.28	.24	.21	.19	.17	.15	.14
10	.38	.31	.27	.23	.21	.19	.17	.16



Only safe driving limit



Impairment begins



Driving skills significantly affected

Possible criminal penalties



Legally intoxicated

Criminal penalties



Possible death

Exhibit
21

Deposition Transcript - Terry Saban

1
2 The witness, TERRY SABAN, having been duly sworn, testified as follows on May 1, 2024:

3 Q. Please introduce yourself.

4 A. I'm Terry Saban. I am the President and founder of Saban Trucking. We employ
5 roughly 12,000 people nationwide and with annual revenue over three billion dollars.

6 Q. Where did you grow up?

7 A. London.

8 Q. London, Lone Star?

9 A. London, England. Not everything happens in Lone Star.

10 Q. Explain Saban Trucking's hiring policies regarding truck drivers.

11 A. Saban Trucking is steadfastly committed to only employing the most highly qualified
12 and safest drivers. All our drivers are hired on a probationary basis. They must undergo
13 a four-phase training program, which is the most rigorous program in the country. We
14 will not retain any trainee hire who either does not complete that training program or
15 fails to demonstrate exemplary commitment to safety and timeliness.

16 Q. What percentage of Saban drivers have previous professional driving experience?

17 A. 39 percent do, and 61 percent don't. So, almost exactly fifty-fifty.

18 Q. What are you looking for when hiring drivers?

19 A. They need to have gone through truck driving school and attain their CDL, a
20 commercial drivers license. Beyond that, we prefer drivers without driving experience at
21 other companies. We want our drivers to learn the Saban way. Drivers who have
22 employment history with other trucking companies have to un-learn just as much as we
23 need them to learn about the Saban process.

24 Q. Tell me about your internal driver training program.

25 A. It's a four-phase process. In Phase 1, trainee drivers are assigned routes that typically do
26 not have difficult or hazardous road conditions. In Phase 2, trainee drivers handle routes
27 in mountainous regions or other places with difficult road conditions. In Phases 1 and 2,
28 a supervisor rides with the trainee driver. In Phase 3, trainee drivers drive the same type
29 of routes as in Phase 1 without supervision. Phase 4 is Phase 2 without supervision.

30 Q. What is the Saban training policy regarding hazardous road conditions?



31 A. We specifically train our drivers to maneuver hazardous road conditions in Phase 2 of
32 our training program. Trainee Drivers already have a baseline understanding of those
33 skills from Driving School. Phase 2 of our training program goes into more depth than
34 the Driving School does, and we even have a training 18 wheeler that is outfitted to
35 mimic hazardous conditions like wet or icy roads or a blown tire. We do not allow our
36 drivers to operate a Saban vehicle without supervision until Phase 3.

37 Q. Who supervises the Trainee Drivers?

38 A. Another employee with a CDL who has at least one year of driving experience with us.
39 Training Drivers—that’s what we call them—go through a three-hour course to learn
40 how to train our new hires.

41 Q. Why is the course that trains the trainers only three hours?

42 A. There’s not much they need to learn. Once you know the Saban way, you can teach it.

43 Q. Are Saban trucks outfitted with CB radios or walkie-talkies?

44 A. No. That is purposeful. We want our drivers to have as few distractions as possible.
45 We don’t want constant radio chatter or a bunch of unnecessary instruments competing
46 with the road for the attention of our drivers. If our drivers need to communicate with us
47 at HQ, we want them to stop driving, pull over, and make a phone call. We don’t want
48 them trying to talk with us while operating a dangerous vehicle.

49 Q. Are Saban trucks outfitted with temperature gauges?

50 A. No. The manufacturer sells us the trucks with temperature gauges, but we remove the
51 gauges as soon as the trucks arrive from the factory. We want to minimize distractions
52 for drivers. Besides, any smartphone can tell you the temperature.

53 Q. What is your company’s policy regarding the monitoring and communication of
54 hazardous weather conditions?

55 A. Our policy is that our drivers are responsible for monitoring weather conditions and
56 adjusting accordingly. They are the ones who are on the ground, so they’re the ones best
57 equipped to recognize and adjust to hazardous conditions.

58 Q. Is that unusual in the industry?

59 A. A little. But being the best is unusual too. Less imaginative companies have a
60 centralized communication system where HQ radios out alerts and stuff. It’s just noise,
61 though. You don’t need somebody on the radio to tell you there’s traffic ahead or

62 whatever. We've got GPS now. We've got the internet on our phones. Our drivers are
63 extremely well trained, and we trust them to arm themselves with whatever information
64 they need to do their jobs safely and quickly. Emphasis on the quickly. Kidding.

65 Q. Are you, though? What is your policy regarding late deliveries by Trainee Drivers?

66 A. We don't have an official policy. Each Trainee Driver is assessed at the end of their
67 training period on a whole matrix of factors that we consider in whether to retain the
68 Trainee at the end of their training period. Sure, one of those factors is timeliness, but
69 there are lots of others.

70 Q. What would you do if a Trainee Driver was one day late on one delivery?

71 A. That is unacceptable. We tell our customers that we get it there on time—if we don't,
72 we don't charge them the full amount or might even not charge them at all. At best,
73 we'd break even on the deal, but more often, we lose money. An hour late is the same as
74 being a month late. We'd probably not retain a Trainee Driver who was a day late on a
75 delivery absent some extenuating circumstance. Before you ask, yes, I would consider
76 undrivable roads an extenuating circumstance.

77 Q. What would you do if a driver were an hour late?

78 A. Depends on the driver's seniority and track record. But there would be consequences.
79 We might dock their pay, or give them less desirable routes. That might sound harsh. But
80 customers depend on our punctuality. We're not running a charity.

81 Q. What are your policies regarding a Training Driver supervising a Trainee Driver?

82 A. We don't have a specific one. We trust our Training Drivers to make the decision about
83 exactly how much hands-on supervision a Trainee needs. So I guess our policy is,
84 "monitor the trainee however much the individual and the circumstances call for."

85 Q. When a Training Driver is traveling with a Trainee Driver, how are they supposed to
86 divide the driving time?

87 A. The trainee does all the driving. The Training Driver is there purely to observe, train,
88 and evaluate, not to drive.

89 Q. What's the policy regarding sleep for the Training Driver?

90 A. They can sleep during the rest hours. When the truck is moving, they need to be awake.
91 It's hard to observe, train, and evaluate when you're asleep.

92 Q. How fast are Saban drivers told to drive?

93 A. Saban drivers should drive as fast as they can safely and lawfully drive.

94 Q. Can you give me a number?

95 A. No. It depends on the circumstances. We tell our drivers to drive as fast as they can

96 safely and lawfully drive.

97 Q. How familiar are you with the facts of this lawsuit, *Wooden v. Saban*?

98 A. Very. I read the police report, talked to my people, and spoke to our lawyers.

99 Q. What responsibility does Saban accept for its role in this accident?

100 A. Zero. None. My driver was in their lane, driving the right direction, under the speed

101 limit. The other driver was going faster, on the wrong side of the freeway, driving

102 toward oncoming traffic, probably drunk. This lawsuit is a shakedown, nothing more.

103 Suing a big company just because we have money. We did nothing wrong. This plaintiff

104 is a con artist. You and their other lawyer are con artists too. I won't pay a dime.

105 Q. Do you recognize Exhibit 1 and the diagrams marked as Exhibits 2-4?

106 A. Yes, I read these. They show my driver was driving safely.

107 Q. Doesn't Exhibit 1 also show your Training Driver was asleep on the job?

108 A. Oh, I didn't know that. Clark told me he was awake at the time of the accident.

109 Q. Do you recognize Exhibits 8-11?

110 A. This is our delivery schedule for this particular delivery and the maps show the route. I

111 saw these documents for the first time after the crash. As CEO, I don't deal with

112 individual deliveries. Our operations team does that.

113 Q. Who in your operations team chose the schedule for this delivery?

114 A. No idea.

115 Q. How does your operations team determine the amount of time the driver will have to

116 make a delivery?

117 A. I don't know the details. I just know they're very safety-focused. Complying with all

118 laws and regulations. Et cetera.

119 Q. Looking more closely at Exhibit 8, who refers to "fur coats" as "warm and fuzzies"?

120 A. No one. No one says that.

121 Q. What is Exhibit 6?

122 A. The truck at issue in this case from before the wreck. .

123 Q. What is Exhibit 5?

124 A. Um. Ice?

125 Q. What kind of ice?

126 A. I didn't know there were different kinds of ice.

127 Q. What is Exhibit 7?

128 A. A photo of this crash. Horrible stuff. Our hearts go out to the Wooden family.

129 Q. Showing you Exhibits 14 and 15. Was Saban monitoring weather and road conditions on
130 December 23, 2023?

131 A. Yes, our drivers are always supposed to monitor weather and road conditions. But if
132 you're asking me if any dispatcher or person at corporate was doing that, no. We trust
133 our boots on the ground.

134 Q. What is Exhibit 18?

135 A. These are excerpts from our employee handbook. It's been in effect since the day I
136 started the company in 2007.

137 Q. Who wrote it?

138 A. Some of our operations executives, working with some of our most experienced drivers.

139 Q. What policy changes has Saban made since the December 23, 2023 crash?

140 A. None. You don't fix what ain't broken.

141 Q. Do Lombardi and Clark still work for Saban?

142 A. Absolutely.

143 Q. What are Exhibits 19 and 20?

144 A. These look like excerpts from the Commercial Drivers License Manual and the Federal
145 Motor Carrier Safety Regulations.

146 Q. Are you familiar with these authorities?

147 A. I never read them. But I know they exist. And I told my management team to make sure
148 all laws, regs, and traffic codes are reflected in our handbook, training, and operations.

149 Q. What do you know about this case that you haven't already shared?

150 A. Nothing.

Deposition Transcript - Blake Wooden

1
2 The witness, BLAKE WOODEN, having been duly sworn, testified as follows on May 2, 2024:

3 Q. State your name and background.

4 A. My name is Blake Wooden. I am 32 years old. I am a physical education teacher at
5 Midland High School, where I also coach the girl’s basketball team. I was a single
6 parent to two beautiful children: Kareem, who was 12 at the time of the accident, and
7 Lew, who was killed by the defendant when he was just seven years old. Kareem is still
8 with us but is now quadriplegic and requires 24-hour medical care. My life is ruined.

9 Q. On December 23, 2023, why were you driving?

10 A. I was taking my boys to see my parents. My boys loved Christmas, so I wanted them to
11 get two Christmas mornings. We were going to have “normal” Christmas morning on
12 the 24th at my parents’ house and “Santa” Christmas morning at our place on the 25th.

13 Q. Where do your parents live?

14 A. In Dallas, a six hour drive from us. Our house is in Gardendale. Out in the country.

15 Q. Had you made that drive before?

16 A. Oh, dozens of times. I always take the same route, on I-20.

17 Q. How far had you made it from your home by the time of the crash?

18 A. Not far. We left home around noon. We didn’t even make it to Midland before Kareem
19 and Lew started fighting over the iPad. I couldn’t take the noise, so we stopped at Olive
20 Basket for a break and to get something to eat.

21 Q. Did you decide to stop because of unsafe driving conditions?

22 A. Maybe a little. But more because everybody was hungry. Eastbound traffic was brutal
23 because of an accident. The guys on the radio said we had winter weather incoming. I
24 figured the traffic would clear while we ate. And I could keep my eye on the weather.

25 Q. How long were you at the Olive Basket?

26 A. About an hour and a half.

27 Q. Were you intoxicated when you left?

28 A. Of course not. Why would you even ask that?

29 Q. Showing you Exhibit 16. What’s that?

30 A. It’s my receipt from the Olive Basket that day. How’d you get that?

31 Q. So you were drinking when you stopped at the Olive Basket?

- 32 A. Yeah, I guess I forgot about that. But I didn't have much. I didn't even have the side
33 shot that comes with the Italian Margarita.
- 34 Q. What?
- 35 A. The Italian Margarita is a cocktail with 1.5 oz. of alcohol that is served with an extra 1.5
36 oz. shot of liqueur on the side. You can either drink the shot on its own or add it to the
37 cocktail. I drank the Italian Margarita, but when I saw the rain and thought about the
38 six-hour drive ahead of us, I decided not to touch the "side" shot.
- 39 Q. How much did you weigh at the time of the accident?
- 40 A. 180 pounds.
- 41 Q. What time did you get back on the road after lunch?
- 42 A. 2:30 p.m.
- 43 Q. Were you speeding?
- 44 A. No. I was going about 60. The listed speed limit is 70. I made sure to stay under the
45 speed limit because the roads were wet.
- 46 Q. Were you attentive?
- 47 A. Very. Both kids fell asleep right after we ate, and I turned off the radio so I could focus.
- 48 Q. Tell us about the crash.
- 49 A. It was about 2:45. Road was pretty empty. I was going about 60 miles an hour. All of a
50 sudden, we hit an ice patch. I never saw it, the road looked black and clear to me. But I
51 felt it. My car slid side to side. I could tell I hit ice. I took my foot off the brake for a
52 second and pressed again. Same thing, but this time the sliding was much worse. I
53 steered slightly to the left to avoid the ice. But when I turned, I lost all control.
54 Everything happened so fast it's hard to say exactly what happened. I think the car spun
55 a full circle while we went over the median. That's when that truck hit us.
- 56 Q. Describe what you saw the truck do before the collision.
- 57 A. The truck was on I-20 West in the right lane. It wasn't going as fast as most cars on the
58 highway, but it wasn't going slow either. Maybe 50 miles an hour? I don't think the
59 truck honked or even braked, but I can't be sure. I do know the truck never changed
60 course, or swerved, or anything like that. It just plowed right into me.
- 61 Q. What did you do after the collision?

62 A. I was unconscious for a bit. When I came to, I turned back to my kids. Their seatbelts
63 were still on. Our roof was crushed into the passenger compartment, so I couldn't see
64 them. Neither answered when I said their names. I started screaming, "are you okay?"
65 Silence. I got my seatbelt off, deflated the airbag that had deployed, got out of the car,
66 and went to the back seat. Both my babies were unconscious.

67 Q. What did the Saban people do?

68 A. Once I saw how bad things were for my kids, I started yelling for help. A person in a
69 Saban Trucking shirt was standing nearby and was on the phone. The name on their
70 Saban uniform was, "Clark." I begged them to call 911. Clark looked sleepy and rubbed
71 his eyes. He said, "wait a sec, I'm on the line with HQ" and "I need to do a wellness
72 check on our merchandise before I can make any other calls." I was stunned. I asked
73 another person in a Saban shirt – that said, "Lombardi" —to help us. Lombardi said,
74 "I'm very sorry, but we need to get going ASAP because we need to reach Santa Fe
75 today and we were already behind schedule."

76 Q. What did you do then?

77 A. Around that time, a decent human being drove up and called 911. The ambulance got
78 there ten minutes later. Poor Lew had catastrophic injuries to his brain and several
79 lacerated organs. He lingered for about three days in the hospital before he died.

80 Q. Did you suffer any injuries?

81 A. I got a concussion and broke my shoulder blade and collar bone. I've fully healed.

82 Q. Did either of those two people wearing Saban Trucking shirts ever help you?

83 A. Never. Lombardi at least told me how sorry Lombardi was and said, "I'll be praying for
84 your kids." Then Lombardi asked me if Lone Star is a "weed friendly" state.

85 Q. How did you respond?

86 A. I didn't say anything. I was so stunned. Why would Lombardi think to ask me that
87 while I'm waiting on an ambulance for my children? I think Lombardi could tell how
88 stunned and angry I was, so Lombardi walked back to the Saban truck. I saw Lombardi
89 fishing around inside the truck, then Lombardi walked over to the woods and threw
90 something into the woods. It looked like a little plastic baggie. I guess Lombardi wasn't
91 happy with where it landed, because Lombardi walked into the woods, picked up the

92 baggie, and threw it deeper into the woods. Then Lombardi ran back to the truck.
93 Lombardi looked really nervous.

94 Q. Do you recognize Exhibit 1 and the attached diagrams, Exhibits 1-4?
95 A. Yes. It's the report for my accident.

96 Q. Is it factually accurate?
97 A. As far as I know, yes. The diagram shows the path my car moved, and everything it says
98 about me is true. There are only two parts I take issue with. It talks about my drinking,
99 but I was sober when this happened. And it says that the truck driver doesn't deserve any
100 citations or arrests. That's crazy. The truck was going way too fast in those conditions.

101 Q. On December 23, 2023, did you think the Saban truck was driving unsafely?
102 A. I didn't personally observe anything that I would call unsafe.

103 Q. When was the first time you thought the Saban truck had driven unsafely?
104 A. A week after the crash, I met my two current lawyers. Before that, I considered suing the
105 government for not having a barrier in the median and for keeping the highway open
106 when there was black ice. But after speaking to my lawyers, I sued Saban instead.

107 Attorney for Wooden: Objection, attorney client privilege and attorney work product.

108 Q. Can you use Exhibit 11 to explain your route that day?
109 A. We live in Gardendale, near Odessa. I took I-20 East. Stopped for lunch about halfway
110 between where it says Odessa and where it says Midland on this map. The accident
111 happened at the spot marked with an orange circle.

112 Q. Tell me everything you knew about the weather and road conditions on December 23.
113 A. I have a weather app on my iPhone. Before we left home, it said there was a winter
114 storm along our route and we should be cautious. When we first started driving, there
115 were rain clouds but no rain. At lunch, I could see and hear the rain outside. I checked
116 my app again a couple times at lunch. It said there was some light rain raining and I
117 remember a blue icicle emoji. But the storm went south and avoided our route to Dallas,
118 so I figured we were in the clear. After lunch, while driving, I could see the roads were a
119 little wet, but I didn't see any ice or snow, and the sun was coming out. Traffic was light,
120 but no one was having trouble on the highway.

121 Q. After lunch, did you see any wrecks?
122 A. No, just a couple cars on the side of the road that looked like they'd hit each other.

123 Q. What is Exhibit 12?

124 A. That's my car, a 2017 Ford Fusion. I took this photo the day I got it.

125 Q. What condition was your car in on December 23, 2023, before the accident?

126 A. Great condition. It had 120,000 miles on it. But I had just taken it to the local mechanic,
127 QuikFix Auto, the week before. They said it was in excellent shape. They replaced a few
128 parts and did a tune-up. It drove like new.

129 Q. What is Exhibit 6?

130 A. The Saban truck that hit me. Looks like it was taken before the crash.

131 Q. What is Exhibit 13?

132 A. Those are my boys, Lew and Kareem. It was taken in 2021. Kareem is on the left and
133 Lew is on the right.

134 Q. What is Exhibit 5?

135 A. Looks like black ice.

136 Q. Did you see any black ice on the road before the crash?

137 A. No. I didn't see the black ice that caused me to lose traction on I-20 East.

138 Q. Did you see any black ice on the road after the crash?

139 A. Yes, when I crawled out of my car after the accident on I-20 West, I saw black ice on
140 I-20 West. It looked like the black ice in Exhibit 5.

141 Q. What is Exhibit 7?

142 A. This is what the scene looked like after the crash.

143 Q. What's the mangled white vehicle?

144 A. My Ford Fusion. I know it looks like a pickup truck but that's just how decimated it was.

145 Q. What are Exhibits 14 and 15?

146 A. I've never seen these before.

147 Q. What is Exhibit 17?

148 A. This is my toxicology report from the day of the crash. See, I was sober.

149 Q. What do you know about this case other than what you've said?

150 A. I've said everything I know in this deposition.

151 Q. You'll have your lawyers contact us if you remember anything else relevant to this case?

152 A. Yes.

Deposition Transcript - Rene Lombardi

1
2 The witness, RENE LOMBARDI, having been duly sworn, testified as follows on May 3, 2024:

3 Q. Tell us about yourself.

4 A. My name is Rene Lombardi. I am 25 years old. I'm originally from Naples, Florida,
5 but my family moved to Birmingham, Alabama when I was sixteen. My dad was a truck
6 driver, and he got hired by Saban Trucking in their Birmingham headquarters. I
7 finished high school and sort of drifted around for a while. Eventually, I decided to get
8 my life together, and I ended up with dad at Saban Trucking. I still work there now,
9 after having fully completed the Saban training program.

10 Q. When exactly did you start working for Saban Trucking?

11 A. I was hired in October 2023 as a Trainee Driver.

12 Q. What does that mean?

13 A. Basically, Saban hires you in a probation status, and they cut you loose if you can't pass
14 their training course or if you don't buy into "the process," as they say.

15 Q. What's the "process"?

16 A. It's just how Saban does business. Once you clock in, your only focus needs to be on
17 the next step to get the product to its destination on time.

18 Q. What was your driving record before Saban hired you?

19 A. I got my driver's license in 2015, the day I turned 16. In 2016, when I was 17, I pled
20 guilty to and was convicted of misdemeanor DUI – driving under the influence of
21 marijuana. I paid a \$2,000 fine, served one year of probation, and had to take some
22 substance abuse classes. In 2019 and again in 2021, I got tickets for speeding and pled
23 guilty to both. I was going 90 in a 75 both times and was convicted of the violation of
24 "Speeding—less than 20 miles per hour over the posted limit." That was all in Alabama.
25 The accident in this case is the only accident I've ever been in.

26 Q. Did you share that information with Saban before they hired you?

27 A. No. I don't think they asked.

28 Q. Before you joined Saban Trucking, had you received any other training on safe driving
29 for commercial vehicles?

30 A. Yes, I did a 3 week Commercial Drivers License course at University of South Alabama
31 to get my CDL. Then I had to pass two tests to get my CDL. One was a "knowledge"

**Exhibit
24**

32 test, which was written. You have to get at least 80% to pass, and I got 95%. You then
33 have to pass a “skills” test, where you actually drive an 18 wheeler. Kind of like what
34 you do to get your regular license when you’re sixteen. I passed and earned my Class A
35 CDL in May 2023. I also did a month with Freeze Trucking.

36 Q. So you worked with a different trucking company? Tell us about that.

37 A. I had just started Freeze’s training program. About a month in, I applied to Saban. Once
38 Saban gave me the offer, I left Freeze.

39 Q. Why did you leave Freeze Trucking for Saban Trucking?

40 A. They have the same base salary, but Saban offers \$500 on-time bonuses for every
41 delivery a driver makes by the deadline. Plus, Freeze wasn’t a great culture fit.

42 Q. What do you mean, not a great culture fit?

43 A. Freeze is so uptight. Micromanaging. Mandatory drug testing.

44 Q. Why would a drug test be a problem for you?

45 A. It’s just the principle, you know. Stay out of my business.

46 Q. Would you have failed your drug test?

47 A. Depends what you mean by “fail.” I like to smoke marijuana on my own time. I have
48 never gone to work remotely intoxicated. I just didn’t think it was Freeze’s business.

49 Q. Did Saban Trucking know you had worked for Freeze Trucking?

50 A. Yes. I put that on my resume when I applied.

51 Q. Did Saban Trucking ask about your time at Freeze Trucking or why you left?

52 A. No.

53 Q. Has Saban Trucking ever had you take a drug test?

54 A. No.

55 Q. Tell us about the Saban Trucking training program.

56 A. It’s a four-phase program. In Phase 1, you are assigned to routes that typically don’t
57 include difficult or hazardous road conditions. In Phase 2, Saban trains you for routes
58 in mountainous regions or other places with difficult road conditions. In Phase 1 and 2,
59 you have another driver supervise you. That’s called the Training Driver. Phase 3 is
60 Phase 1 without supervision. Phase 4 is Phase 2 without supervision.

61 Q. How did Saban’s training program differ from Freeze’s?

62 A. Same exact structure. Saban Trucking was just much more detail-focused.

- 63 Q. What training phase were you in as of December 23, 2023?
- 64 A. Phase 1. I had learned all the general safety stuff. Pre-driving checklists, securing cargo,
65 highway driving, parking lot driving, route planning, yada yada. I had logged 55 hours
66 of driving time, all in Alabama. To graduate to Phase 2, you need 75 hours of driving
67 time and a completed interstate delivery. That's what I was doing on this haul.
- 68 Q. Had you ever driven a commercial truck in hazardous conditions before December 23?
- 69 A. It rained on us a time or two, but nothing too serious.
- 70 Q. Who is "us"?
- 71 A. Me and Jack Clark. Jack was my Training Driver, and he had been driving 18 wheelers
72 for longer than I've been alive. He's a legend.
- 73 Q. Was Clark a good teacher?
- 74 A. The best. Clark took safety very seriously. One time, we spent a whole hour talking
75 about how fatigued driving is dangerous, and I did a huge, fake yawn to let him know
76 how boring it was. Clark looked at me real serious and said, "these rules are written in
77 blood." That shut me up. No matter how obvious some of these rules might seem, they
78 probably exist because somebody got hurt not following them. So Clark made sure I
79 was an expert on Saban Trucking's safety rules, written there in Exhibit 18.
- 80 Q. What is Exhibit 18?
- 81 A. The Saban employee handbook. I got it my first day at the company. I read it carefully.
- 82 Q. Tell us about the planned route you started on December 22, 2023.
- 83 A. Jack and I took a Saban 18-wheeler to pick up fur coats in Birmingham at 9 a.m. Central
84 on December 22. We needed to have them in California by Christmas by noon Pacific.
- 85 Q. What happens if you don't get the shipment to its destination on time?
- 86 A. I'd at least be reprimanded. If we were way past deadline, good chance I'd be fired. A
87 buddy of mine, Walter Cobb, started working for Saban Trucking a year before I did.
88 Walter gets migraine headaches, and he got a bad one during a delivery. He pulled over
89 to let it pass, and that made him a couple hours late. He got canned. No warning or
90 anything. Walter told me about it when it happened, and Clark confirmed it to me.
- 91 Q. How were you and Jack Clark supposed to divide up the driving?
- 92 A. I was supposed to drive, and Jack was supposed to supervise me.
- 93 Q. Is that what actually happened?

94 A. Jack drove a couple hours each day of the trip.

95 Q. Whose idea was that?

96 A. Jack's. He said, "It's better for everyone. You get some rest. I get to drive. And we
97 actually have a chance of getting there on time."

98 Q. Why would there be an issue of getting the delivery on time? You had four days.

99 A. We had less than four days. Just 38 hours. And there's all sorts of federal regs about how
100 many hours you can drive, how many hours you need to rest. Feels like you need
101 permission to blow your nose. Jack told me no one follows those rules if they want to
102 stay on schedule.

103 Q. So how much rest were you and Jack Clark actually getting during this route?

104 A. It varied by day, but we always got our 10 hours of rest, even if it meant sleeping some
105 while the other drove. There's a sleeper compartment in the semi.

106 Q. How fast were you and Jack Clark driving for most of the trip?

107 A. Obviously it depends on the situation, but we were averaging about 70 on the highway.

108 Q. Let's talk about December 23. Tell me everything that happened before the crash.

109 A. I did all the driving that day. Woke up at Bryant Motel around 5 a.m. after seven good
110 hours of sleep. We were on the road by 5:30 a.m. Stopped for breakfast at Stengel's
111 House of Waffles around 7 a.m. Back on the road by 7:45. Stopped for lunch and gas at
112 noon at Belichick's Burritos. On the road again by 12:30. Accident was at 2:43 p.m.

113 Q. What was Jack doing on December 23 while you were driving?

114 A. Mostly sleeping. Sometimes in the back. Sometimes in the passenger. That guy can fall
115 asleep anywhere, anytime. Like I said, legend.

116 Q. Did you and Jack discuss the weather while he was awake?

117 A. Yes. Around 1 p.m., Jack told me he saw a winter weather warning on his phone. We
118 really needed to make it at least to New Mexico by the end of my driving shift, and Jack
119 said, "hopefully we will make it through before things get too bad."

120 Q. At the time of the accident., were you in a safe condition to drive?

121 A. Absolutely. I was well rested and totally alert. Hands at "ten and two" the whole time.

122 Q. At the time of the accident, what was the weather like?

123 A. It was an ugly day. Alternating between storm clouds and occasional breakthroughs of
124 sunshine. It was drizzling on and off, always looking like the sky was threatening to

125 holler something worse. The storm was moving east, towards us as we drove west. But
126 rain stopped around 2:15 p.m. The roads seemed fine. I didn't see any ice, snow, or
127 anything to worry about.

128 Q. What was the temperature outside?

129 A. I don't remember checking specifically. Saban trucks don't have temperature gauges.
130 But when I got out of the truck at lunch, I went back for my heavy coat. It felt freezing.

131 Q. Did that not seem odd to you that you didn't have a temperature gauge?

132 A. Sure. Every regular car has one that I know of. And the Freeze trucks all had one. I
133 guess I never thought about it before.

134 Q. Did you or Jack receive any communications from Saban Trucking about the weather?

135 A. No. No CB radios or walkie-talkies in Saban trucks. If we have issues, we call HQ.

136 Q. Tell us about the accident.

137 A. I was on I-20 West, driving through Midland. Hands at 10 and 2, totally alert. I'd been
138 going 45 miles per hour since 2 p.m. No one else on my side of the highway because
139 there was very little traffic and everybody else was passing me. Jack was in the sleeper,
140 so I had the radio up, listening to the latest Pep Fergie hit on the radio. Out of nowhere, a
141 car drove over the median from the eastbound lane and drove right in front of me. I
142 slammed on my brakes the moment I saw the car and attempted an evasive maneuver,
143 but there was nothing I could do. It all happened in a split second.

144 Q. Why were you going 45 miles an hour?

145 A. You mean why wasn't I going faster? Because it had been raining, and I was in a semi.

146 Q. No, I meant why were you going that fast? Why were you driving at all?

147 A. The roads were fine. I had no reason not to drive normal.

148 Q. Did you see anything before the accident that concerned you about the roads?

149 A. No. No black ice, if that's where you're going. No wrecks. No vehicles sliding. Only
150 weird thing was maybe 15 or 20 miles before this accident. A Mercedes was on the left
151 shoulder of the westbound I-20. You could tell the car had been traveling westbound
152 since it was just a couple of yards into the median off the westbound lane, but the car's
153 nose was pointed eastbound like it had spun and done a 180.

154 Q. Don't you think that's because it hit some black ice and slipped?

155 A. Doubt it. If there was black ice on that stretch of road, I'd know it. I was hauling
156 thousands of pounds of fur coats resting on eighteen wheels. If any one of those wheels
157 touches ice, I'd feel it in the steering wheel. And I never felt or saw any issues.

158 Q. Had you smoked any marijuana on December 22 or 23?

159 A. No. I smoked a little to help me sleep on the night of December 21 but none at all
160 during this route.

161 Q. Did you have any marijuana with you during the trip?

162 A. No. Nothing that Wooden said about me asking about Lone Star being "weed friendly"
163 or me throwing something into the woods is true. I checked on Wooden and said I'd say
164 a prayer for the family and then got out of the way.

165 Q. Do you recognize Exhibit 1 and the diagrams attached as Exhibits 2-4?

166 A. Yes. I got a copy of these documents.

167 Q. Are Exhibits 1 through 4 accurate?

168 A. Everything they say about me, Clark, and my truck is correct. They're right about my
169 truck's path and speed. I think they're right about Wooden's path too, but I only saw
170 Wooden when their Ford entered the westbound side of the highway.

171 Q. What is Exhibit 8?

172 A. That's the delivery schedule for this trip. Clark gave it to me on December 16, 2023.

173 Q. What are Exhibits 9-11?

174 A. These maps show our route for this delivery. The accident happened at the spot marked
175 with the yellow circle on Exhibit 11.

176 Q. The planned route or actual route?

177 A. Both. We followed the planned route.

178 Q. Did you make the delivery on time?

179 A. Yes. Obviously the accident delayed us several hours, but we made up for it by trading
180 off behind the wheel and driving through the night on December 24.

181 Q. Can you identify Exhibits 6 and 7?

182 A. Exhibit 6 is my truck, taken before the wreck. Exhibit 7 is a photo of the crash site. The
183 vehicle that's destroyed is the Ford.

184 Q. What is Exhibit 12?

185 A. It looks like the car that drove into my truck.

186 Q. Exhibit 13?

187 A. Those are Wooden's kids. I saw them get removed from the wreckage by EMTs. They
188 were in bad shape.

189 Q. What is Exhibit 5?

190 A. Black ice. I know about black ice just from living in Alabama. It rarely snows there, but
191 we get black ice a lot when it rains in the winter and then the temperature falls below
192 freezing at night. And looking out for black ice is also part of the CDL training.
193 "Looking out" may not be the right way to say it. It's pretty much invisible, hence the
194 name. But you're trained to look for the conditions that make black ice more likely and
195 signs of the presence of black ice like loss of traction, slowed braking, stuff like that.

196 Q. On December 23, 2023, did you know what causes black ice?

197 A. That's easy. Wet roads plus freezing temperatures. Like I said, I aced the CDL test.

198 Q. How long does it take rain to freeze on asphalt?

199 A. Far as I know, water freezes pretty much instantly once the temperature of the water dips
200 below 32 degrees Fahrenheit.

201 Q. What are Exhibits 14 and 15?

202 A. I don't know. I've never seen these before.

203 Q. On December 23, 2023, what effort did you make to determine if there were accidents or
204 dangerous road conditions, including black ice?

205 A. I looked out my window.

206 Q. What is Exhibit 19?

207 A. These are portions of the Lone Star Commercial Motor Vehicles Handbook. I studied it
208 over and over in order to pass the CDL test. I probably haven't looked at it since.

209 Q. To your understanding, are the instructions in Exhibit 19 optional?

210 A. I'm no lawyer. But I thought the LSCMV Handbook was the law for truck drivers.

211 Q. What is Exhibit 20?

212 A. I've never seen this before.

213 Q. What do you know about this case other than what you've said in this deposition?

214 A. Nothing. I told you everything I know.

215 Q. You'll have your lawyers contact us if you remember anything else relevant to this case?

216 A. Yes.

Expert Report of Patty Summit
Re: Wooden v. Saban Trucking

**Exhibit
25**

Introduction

The Plaintiffs hired me to evaluate the Defendant's conduct and cause of the crash.

Relevant Qualifications

In 1988, I graduated from Auriemma High School and took a job as a driver for Staley Shipping, the tenth largest trucking company in America. I was a professional long-haul truck driver for Staley until 1998. I drove more than one million miles on hundreds of cross-country hauls in an 18-wheeler. I had zero collisions. In 1998, I joined Staley's management, first as a regional manager and then as a regional director for Staley's entire Southeast region. I was in charge of route selection, vehicle inspections, driver hiring (and firing), driver training, and safety.

In 2008, I opened my own consulting firm, Summit Trucking LLC. My six associates and I consult with trucking companies on best practices in hiring, training, and policies, and how to ensure compliance with trucking industry laws and practices. I have been retained as an expert in more than 500 large vehicle accident lawsuits, about equally often for the plaintiff and defense. I have testified as an expert in court more than 50 times. My most well known cases are *Lonnie Menninger v. Ouchi Motor Company, Inc.* and *Courtney White v. Aerocoach Bus Works, Inc.*

I have a Commercial Driver's License. I am certified as a crash specialist, crash investigator, and trucking safety expert by the American Trucking Association (ATA). I am an instructor for the ATA's beginner and advanced courses. I am a member of the ATA, Commercial Vehicle Safety Alliance, Accident Reconstruction Network, and Transportation Research Board. Before I aged out, I was president of the Trucking Young Leaders Association (acronym pronounced "tie-luh").

Data and Methods

I relied upon all exhibits in the Joint Exhibits List, the pleadings, and stipulations. I compared the Defendant's conduct to the trucking industry standard of care, which is consistent with Exhibits 19 and 20. The professional associations of which I am a member all use this approach.

Conclusions

1. Saban's employees violated the standard of care

Lombardi and Clark admit to violating every subsection of 49 C.F.R. § 395.3, which governs the maximum driving time for property-carrying vehicles. They also admit to violating Saban's own policies (Exhibit 18) for being awake, being rested, and who was supposed to be driving.

Lombardi and Clark violated Saban's policies, industry standards, and the law (see Exhibits 18-20) by failing to monitor the weather and for black ice in particular. Black ice is transparent ice. It's called "black ice" because all drivers can see is the black road beneath the ice. Black ice

is as slippery as other ice, making traction almost impossible. But black ice is more dangerous because it's harder for drivers to see. That's why truck drivers must monitor for black ice. Lombardi knew the risk factors for black ice – recent rain and freezing temperatures. Lombardi saw the rain and could have known the temperature with any modicum of diligence. In addition to smartphone apps, a vigilant truck driver has ways to detect icy conditions (see, e.g., Exhibit 19). They should have known there was a black ice threat on I-20.

When I-20 had black ice, Lombardi failed “reduce speed to a crawl and stop driving as soon as you can safely do so,” as required by Exhibit 19. A “crawl” in the trucking industry means 10-15 miles per hour. These safety rules exist because commercial trucks are dangerous: they're larger and heavier than standard cars, and they are harder to steer, slow, or stop. Lombardi should not have been on the road in these conditions.

If Lombardi drove under the influence of marijuana, that would violate the law and safe driving practices, and could have impaired Lombardi's decision-making and contributed to the crash.

2. Saban Trucking's policies, practices, and conduct violated the standard of care

Saban violated 49 C.F.R. §§ 382.301-03 by failing to drug test Lombardi pre-hiring and post-crash. Saban should not have hired Lombardi, who likely would have failed drug tests had they been administered.

Lombardi had not started Saban's Phase 2, which prepares drivers for dangerous conditions. Accordingly, Saban should not have permitted Lombardi to be driving during late December in freezing temperatures, when icy roads or other dangerous conditions were inevitable.

Saban could have changed Lombardi's route to avoid the black ice. For example, Saban could have told Lombardi to reach Midland via I-277, I-180, and then I-350. Traffic and weather reports from December 23, 2023 show this route had no reported black ice.

Saban failed to alert Lombardi about icy road conditions. Exhibits 14 and 15 show a black ice threat on I-20, moving toward the Saban truck. Most national trucking companies have dispatchers use weather services and accident reports to update drivers on road conditions. Saban does not (Exhibits 22 and 24). Saban was also negligent in removing their trucks' temperature gauges. Almost all commercial trucks have dashboard temperature gauges so drivers can predict black ice and other hazards. Saban's negligence meant Lombardi didn't know about the black ice threat, which meant Lombardi was driving too fast instead of being off the road altogether.

Saban's policies make accidents like this more likely. Saban incentivized timeliness and penalized lateness – “even by minutes” – in ways that pushed drivers like Lombardi to drive too fast, drive without rest, and drive in conditions that require being off the road (*See* Exhibits 18, 22, 24). I used Exhibits 8-11 to create the table below, which shows the maximum amount of driving Lombardi could do without violating federal regulations. Even if Lombardi took the minimum rest before each shift (10 hours) and rested for a minimum number of hours during each shift (3 hours rest for every 14 hours on shift), this table shows they only had 38 hours of drive time to reach their destination. All times are in Central Standard Time:

Date	Activity	Start time	End time	Rest time	Drive time
December 22	Drive shift	9 am	11 pm	3 hours	11 hours
December 22	Rest	11 pm	9 am	10 hours	
December 23	Drive shift	9 am	11 pm	3 hours	11 hours
December 23	Rest	11 pm	9 am	10 hours	
December 24	Drive shift	9 am	11 pm	3 hours	11 hours
December 24	Rest	11 pm	9 am	10 hours	
December 25	Drive shift	9 am	2 pm		5 hours
TOTAL				39 hours	38 hours

There are two major problems here. First, the delivery date and time imposed by Saban required Lombardi to drive at unsafe speeds. Lombardi had 38 hours to drive 2,447 miles. That’s an average speed of 64 miles an hour, which includes all the times when the truck is stuck in traffic, slowed by road closures, etc. A sedan can safely average that speed across the country (Exhibit 9). A commercial truck cannot. I recommend that 18-wheeler trucks maintain a speed between 55-60 miles per hour.

Second, Saban’s schedule gave Lombardi no buffer – and thus no ability to slow down or pull over in case of dangerous conditions. Even if Lombardi drove at speeds typically driven by standard size cars, Lombardi still had almost no extra time in the event of a delay. Lombardi and Clark violated Saban’s rules – when Clark drove and when one slept while the other drove – because Saban did not give them enough time to complete the delivery. Lombardi’s statements and deposition testimony confirm that Lombardi made dangerous decisions because of Saban’s rushed schedule and policies that prioritized deadlines over safety.

3. If Saban Trucking and its driver acted safely, this crash would not have happened

If the Saban truck was not on the road, this accident would not have occurred. If the Saban truck had been driving 10-15 miles per hour at the time the Ford Fusion entered the westbound side of I-20, Lombardi would have had time to stop before hitting the Ford Fusion. All the negligent acts described above helped cause this terrible accident.

I declare the foregoing to be true to the best of my knowledge.

Patty Summit
Patty Summit

May 15, 2024
Date

Deposition Transcript - Patty Summit

1
2 The witness, PATTY SUMMIT, having been duly sworn, testified as follows on May 30, 2024:

3 Q. Please summarize your compensation in this case.

4 A. My hourly rate is \$600. I spent 15 hours on this case before today’s deposition. I will
5 charge \$5,000 a day if called upon to testify at trial.

6 Q. Describe your experience with Saban Trucking.

7 A. I’ve been hired by the plaintiff party in 8 lawsuits against Saban Trucking. In each case,
8 I concluded that they were at fault for an accident.

9 Q. What is Saban’s reputation in the trucking industry?

10 A. Among national trucking companies, they have one of the better safety reputations. They
11 pay their drivers more than the national average, which tends to attract better drivers.

12 Q. You think Saban and its driver should have been aware of the black ice. What percentage
13 of truck drivers on the I-20 on December 23, 2023 were aware of the black ice?

14 A. I have no idea.

15 Q. Then how can you say monitoring weather conditions is the industry standard?

16 A. That’s my experience of what most national trucking companies do, and that’s what
17 rules like the CDL Manual require.

18 Q. What percentage of commercial trucks have weather gauges?

19 A. I don’t know. But I’ve never seen any 18-wheelers without one. And I have seen
20 hundreds of 18-wheelers, and I am familiar with the policies of all the major players in
21 this industry. Nobody else intentionally removes weather gauges.

22 Q. What do you know about what other companies’ dispatchers were telling their drivers
23 about I-20 conditions on December 23, 2023?

24 A. I didn’t look for that information. I couldn’t find it if I tried. I can’t just call other
25 companies and say, “tell me every message you sent your drivers on X date and time.”

26 Q. Drivers aren’t required to follow the CDL Manual, are they?

27 A. It’s not the law, if that’s what you’re asking. But I believe they are required to follow it.

28 Q. How were other commercial trucks being operated under the same conditions that day?

29 A. All I know is that, according to Lone Star accident reports, no other commercial trucks
30 got in collisions that day.

31 Q. You say Saban should have taken another route given the conditions. Was I-20 closed?

32 A. No. No part of it was closed that day.

33 Q. Had any warnings for black ice or anything else been posted on I-20 on December 23?

34 A. Not to my knowledge.

35 Q. If Saban had redirected Lombardi to one of the alternative routes you mentioned in your
36 report, how much time would that have added to the trip?

37 A. Three to five hours, depending on when dispatch gave the instruction.

38 Q. Wouldn't being on the road longer create additional safety risks?

39 A. You mean like the risk of a drunk driver hitting you or something? Sure, but nothing
40 compared to driving on black ice.

41 Q. You say Saban's corporate policies caused this accident. But you admit that Saban's
42 schedule for this trip allowed the drivers to make the delivery on time without violating
43 the Federal Motor Carrier Safety Regulations or the CDL Manual?

44 A. Yes. They didn't have a large margin for error, but it was technically possible.

45 Q. And without violating any other laws or regulations?

46 A. Yes. If everything went right.

47 Q. You said commercial trucks should generally be driven between 55 and 60 miles an
48 hour. You have no support for that opinion though, right?

49 A. I disagree. In my experience, 18-wheelers are unsafe above 60. They're too big and too
50 hard to turn to go any faster without posing a risk to others on the road. That's the
51 industry consensus. Some states have speed limits for commercial trucks. California's
52 truck speed limit is 55 miles an hour. In Washington and Hawaii, it's 60.

53 Q. But Alabama, Idaho, and Montana allow commercial trucks to go 70 miles an hour?

54 A. In some parts of those states, yes.

55 Q. You say your opinion is the consensus. Can you cite any written authority for that?

56 A. Not off the top of my head, no.

57 Q. Do you agree with the police accident reconstructionist that once the Ford Fusion lost
58 control, there was nothing Wooden or Lombardi could do to avoid this accident?

59 A. Yes.

60 Q. Then how can you blame Saban?

61 A. Because it was Saban's negligence before the three-second crash sequence that made the
62 crash unavoidable. One reason commercial trucks must slow to a crawl and stop driving

63 in icy conditions is that when other cars lose traction, the trucks won't be able to steer
64 away from those cars or slow down fast enough to avoid them. When you have the
65 biggest vehicles on the road, you need to be the safest vehicles on the road. If the
66 Defendant and its employees had acted safely, this accident wouldn't have happened.

67 Q. How can you blame Saban for an accident that began on the other side of the highway?

68 A. As the CMV Handbook says, commercial driver rules are there for the safety of
69 everyone on the road, including people on the other side of the road. And in icy
70 conditions, truck drivers aren't supposed to slow to a crawl merely to prevent their own
71 vehicles from losing traction. They're also supposed to crawl so they can react safely
72 when other drivers inevitably lose traction. We're all on the road together.

73 Q. Why doesn't your expert report contain any analysis of how Wooden was driving?

74 A. I wasn't asked to assess Wooden's conduct. Just the Defendant's conduct.

75 Q. Okay. What is your opinion about Wooden's driving and role in this accident?

76 A. I do not fault Wooden for this accident. At all. Wooden was under the speed limit.
77 Wooden was driving a car that can handle ice better than an 18-wheeler and doesn't put
78 other vehicles at risk the way an 18-wheeler does. Wooden isn't a commercial driver and
79 doesn't have the training to identify black ice conditions.

80 Q. To be clear, you see no issue with a parent having two alcoholic drinks and then driving
81 their children on wet roads?

82 A. There is no reason whatsoever to believe that is the case. Wooden says they consumed
83 one cocktail and no shot. Wooden's BAC is consistent with Wooden's memory, as
84 indicated in Exhibit 21. Besides, alcohol didn't cause the Ford Fusion to lose traction
85 and fly across the highway. Black ice did.

86 Q. How fast would you have recommended that Wooden drive a Ford Fusion under the
87 circumstances, given everything Wooden knew?

88 A. 40 to 50 miles an hour. But only with the benefit of hindsight.

89 Q. At that speed, would the accident have occurred?

90 A. Probably not. At slower speeds, the Ford Fusion was less likely to lose traction on black
91 ice, and Wooden probably would have navigated the black ice more successfully and
92 avoided the crash by braking or steering away from the Saban truck. Plus, if Wooden
93 were going slower, Lombardi would have had more time to brake.

Riley Kerr

1401 Lakeside Dr Ste 401, Oakland, CA • (555) 662-6600 • kerr@truckingdefense.com

Exhibit
27

Dear Defense Counsel,

This is my expert report in the matter of *Wooden v. Saban Trucking*. You retained me to evaluate if Saban Trucking, Inc. (Saban) complied with the trucking industry standard of care and whether Saban is responsible for the crash. In my opinion, yes, Saban met the standard of care, and, no, Saban did not cause the crash. The crash was caused by horrendous weather conditions and Blake Wooden's carelessness.

These opinions are based on review of all exhibits in the Joint Exhibits List, all pleadings, and all stipulations; application of industry standards; and my 35 years of experience in the commercial driving industry. My method was simply to compare Saban's conduct to the standard of care in the commercial trucking industry.

First, I conclude that Saban complied with the standard of care in all relevant aspects.

Hiring

Lombardi had completed truck drivers' school and obtained a Commercial Drivers License. That alone made it reasonable for Saban to hire Lombardi. In addition, Lombardi had a solid driving record and experience at another trucking company.

Training

Most trucking companies do not have any internal training program. They just require their drivers to complete truck drivers' school and pass the CDL tests. Saban goes above and beyond by having its drivers undergo a four-phase training program. Plaintiff complains that Saban allowed Lombardi to drive in icy conditions before completing the Phase 3 training on driving in hazardous conditions. But that misses the point: Lombardi had already received this training to obtain his CDL permit. And Saban had a trained and experienced driver there to supervise. Saban's training exceeds industry standards.

Vehicle

The Saban 18-wheeler is a standard make and model in the trucking industry. It has a sterling safety record. I found no evidence that the vehicle was unsafe.

Schedule

Saban's drive schedule (Exhibit 8) complied with Federal Motor Carrier Safety Regulations. Lombardi had not driven in 10 hours when they began the trip. And nothing about Saban's schedule required Lombardi to violate safety regulations. The FMCSRs permit drivers to drive 11 out of 14 hours, with 10-hour breaks between shifts. Based on Exhibit 9, this haul could be done with 38 hours of driving in a 77-hour period. As the table below illustrates, Saban's schedule complied with the FMCSRs. And this table doesn't even account for the fact that Lombardi and Clark could trade off time behind the wheel if needed.

Date	Drivers' Shift	Shift Length	Drive time
December 22	9 am to 11 pm Central	14 hours	11 hours
December 23	9 am to 11 pm Central	14 hours	11 hours
December 24	9 am to 11 pm Central	14 hours	11 hours
December 25	9 am to 2 pm Central	5 hours	5 hours
Total			38 hours

This schedule is safe. Even if Lombardi lost time due to road conditions or lower speed limits, they had opportunities to make up the time on interstate highways with multiple lanes of traffic and higher speed limits, especially in western Lone Star, New Mexico, and Arizona.

Plaintiff alleges that Clark drove at times, and each driver slept on some occasions when the other drove. That is all true. But those are examples of safe behavior, not dangerous behavior, because they ensured that the person behind the wheel was always fresh and rested.

Weather monitoring

While most other national trucking companies have a dispatcher radioing weather reports to their drivers, I do not think it is problematic that Saban chooses not to do so. For one, modern technology makes it easy for drivers to get instant information about weather, traffic, accidents, and road conditions. Moreover, I do not think that a dispatcher would have made a difference here. There were no road closures, only a few accidents, and only one report of black ice.

Second, I conclude that Lombardi and Clark complied with the standard of care.

At the time of the crash, the Saban truck was in its lane, traveling in the proper direction, and obeying the speed limit. This is good driving. I cannot fathom how anyone could blame the one driver here who was following the law. The entire crash sequence was about three seconds – and less than a second after Wooden entered I-20 West. As the police reconstructionist concluded, there was nothing Lombardi could have done to avoid this accident.

The Plaintiff alleges that Lombardi should have been driving more slowly because of certain language in the CDL Manual and Federal Motor Carrier Safety Regulations. There's a difference between the strict letter of the law and the reality of safe driving. Under the letter of the law, no one should ever exceed the speed limit even on the sunniest day or change lanes without signaling even on a vacant road. But the reality is drivers, even good drivers, do this all the time. Notwithstanding the noble goals of the CDL Manual and FMCSRs, truck drivers almost never pull off the road or slow to a crawl just because there's some rainfall on a chilly day. If that were the industry practice, goods would never get delivered on time.

It was not foreseeable that a car on the other side of the highway would lose control, cross the entire median, and cross the Saban truck's path. While there is no publicly available data about

the frequency of such “crossover collisions,” from my own experience they appear uncommon. This is the first crossover collision case I have analyzed.

The Plaintiff alleges that Clark should have been awake. It’s good for everyone to get rest on long days. Besides, if Clark had been awake at the time of the accident, nothing would have been different. This is just physics: once the Ford Fusion lost traction, this result was inevitable.

Third, I conclude that black ice caused this accident.

Based on Federal Highway Association data, every year more than 150,000 accidents and 13,000 deaths are caused by snowy, slushy, or icy pavement. While there are no statistics on black ice in particular, I can attest that black ice might be the most dangerous weather-related road condition. Normally, when there is snow or ice on a roadway it will be white, which makes it visible on the dark highway pavement and alerts drivers to its presence. But black ice is clear, so it looks like the road that is beneath the ice and there is nothing to visually alert a driver to its presence. This means drivers cannot always take adequate precautions to avoid or navigate it.

Black ice usually forms after a snowmelt on a roadway refreezes, or when roads are slick from light rain and the temperature is below freezing and that rain then freezes, which is what happened here. Obviously, Saban did not cause the black ice. Sometimes accidents happen.

Fourth, I conclude that Wooden is at fault for this accident.

Wooden was driving 65 miles an hour in dangerous road conditions. Wooden knew it had recently been raining, knew there could be ice on the roads, and knew there had been accidents nearby. Wooden was negligent to drive that fast in those circumstances.

At safer, slower speeds, Wooden would have been less likely to lose traction on the black ice, less likely to lose control of the vehicle *when* the car lost traction, and less likely to make it all the way across the median. And at a safer, slower speed, Wooden would have been going more slowly when they encountered the Saban truck. That would have given both vehicles more time to avoid the accident by braking or steering. Wooden’s negligence caused this accident.

Based on Exhibits 16, 17, and 21, Wooden was also impaired by alcohol. Wooden had a BAC of 0.031 eighty minutes after the crash. That makes me doubt Wooden’s story about not consuming the shot, and Wooden’s BAC may have been higher at the time of the crash. While I see no evidence that Wooden’s BAC was above .05 at the time of the accident, in my opinion, Wooden should not have been drinking at all given the circumstances. Alcohol diminishes reaction time, perception and driving skills. Maybe if sober, Wooden would have seen and avoided the black ice.

I declare the foregoing to be true to the best of my knowledge.

Riley Kerr
Riley Kerr

May 15, 2024
Date

Deposition Transcript - Riley Kerr

1
2 The witness, Riley Kerr, having been duly sworn, testified as follows on May 30, 2024:

3 Q. Your report doesn't list your qualifications. Can you summarize them?

4 A. I graduated from Yale University with a bachelor's degree in business administration and
5 from Lone Star's Popovich School of Business with a Masters in business
6 administration. I was hired as Regional Sales Manager of Riggins' Rigs, the largest
7 trucking company based in Lone Star and 18th largest in the U.S. I was eventually
8 promoted to Vice President of Sales and then Chief Operations Officer. In 2020, I retired
9 after 30 years at the company. Seeking a more relaxed lifestyle but not yet ready for
10 shuffleboard and cruises, I opened my own trucking consulting company. I consult with
11 Riggins' Rigs and other trucking companies on best practices and ways to optimize their
12 bottom line. I also offer my expert opinion in litigations involving trucking companies,
13 including vehicular accidents, wage and hour issues, and damaged or lost merchandise.

14 Q. How many times have you been hired as an expert witness?

15 A. Twenty-four times. Eighteen of which involved truck accidents. Four of which have
16 made it to trial, where I've been accepted as an expert by the judge.

17 Q. How many of those 24 times have you been hired by a trucking company?

18 A. All of them.

19 Q. Do you have any experience relevant to this case beyond what you've said so far?

20 A. No.

21 Q. How much is the Defendant paying you in this case?

22 A. My standard rate, \$750 per hour for my time. On May 15, I spent six hours reviewing
23 the documents, reaching my conclusions, and writing my report. I will charge \$5,000 a
24 day if asked to testify at trial.

25 Q. Have you ever worked with Saban Trucking?

26 A. When I worked at Riggins' Rigs, I became friendly with some of their executives.
27 Nominally we were rivals, but we often had the same lobbying goals. You know, trying
28 to get state governments to pass more company-friendly trucking laws. Now that I'm in
29 the consulting business, Saban has retained me in six lawsuits.

30 Q. What was the subject of those six lawsuits involving Saban?



31 A. They were accidents. Saban was the Defendant. But I concluded they did nothing wrong.
32 Two of those cases went to trial, and the jury agreed with me in both cases. No, I'm not
33 speculating. The jury in each case found that Saban Trucking was not liable.

34 Q. Let's examine your opinions. Are you saying that it's reasonable for a trucking company
35 to hire any driver with a commercial drivers license?

36 A. Pretty much, yes. If there was some problem that meant they were unsafe behind the
37 wheel, they probably wouldn't have a CDL.

38 Q. You say Saban had sufficiently trained Lombardi?

39 A. I'm saying they didn't need to train Lombardi at all. Any training they provided was
40 above and beyond what the law and industry required.

41 Q. But you agree that before this trip, Saban had provided Lombardi zero instruction –
42 classroom training or field training – on how to handle icy conditions?

43 A. That's true.

44 Q. I notice that your report says the Saban truck was a safe vehicle.

45 A. Yes. Is there a question?

46 Q. But your report doesn't discuss the Defendant's decision to remove the factory-installed
47 temperature gauge that came with the truck?

48 A. Do I not mention that? I guess I forgot.

49 Q. Temperature gauges are industry standard in the trucking industry, aren't they?

50 A. They're common. I don't know if I would call them industry standard.

51 Q. Can you name one other trucking company that doesn't have temperature gauges in all
52 its trucks?

53 A. No.

54 Q. Other than Saban, are there trucking companies that don't have dispatchers relaying
55 weather and road information to their drivers?

56 A. Yes, many regional trucking companies. And they have low accident rates.

57 Q. Any other national trucking companies that don't have dispatchers relaying weather and
58 road information to their drivers?

59 A. I don't know.

60 Q. When you were at Riggins' Rigs, how did your drivers know the weather conditions?

61 A. Our dispatchers provided updates about road conditions, accidents, road closures, and
62 weather reports. Our trucks had temperature gauges. And we trained our drivers on what
63 to look for while driving. But times change. Today's technology is incredible, and
64 drivers literally have the whole Internet in the palm of their hands.

65 Q. What were Riggins' Rigs drivers told to look for in predicting the risk of black ice?

66 A. The combination of recent rain and freezing temperatures.

67 Q. Do you acknowledge that Exhibit 15 shows the presence of black ice on I-20?

68 A. Yes, but it's asking a lot to require trucking companies to constantly check public
69 websites like this for accidents.

70 Q. Using the same website, can you please take out your phone and find today's Lone Star
71 accident report for I-20?

72 A. Okay. I just did it.

73 Q. How long did that take you?

74 A. About 60 seconds. What's your point?

75 Q. Let's talk about Saban's schedule for this trip, Exhibit 8. What speed did Lombardi need
76 to average to complete the delivery on time?

77 A. 64 miles an hour to reach the destination by noon Pacific on December 25th.

78 Q. Isn't that unsafe?

79 A. No. In ideal highway conditions, commercial trucks are safe up to 65 miles per hour.

80 Q. But don't some states like California often have 55 mile an hour speed limits for trucks?

81 A. Sure. But this truck wasn't in California. They were in Lone Star. At the location where
82 this accident happened, the speed limit was 70 miles per hour for all vehicles.

83 Q. Do you agree that Exhibits 19 and 20 both applied to Lombardi?

84 A. Yes, because Lombardi was driving a commercial truck.

85 Q. How can you say Lombardi was driving safely when the CDL Manual required slowing
86 to a crawl or being off the road altogether?

87 A. Those guidelines are great in theory, but they're not the reality of how people drive.

88 Q. You're calling the CDL Manual a guideline?

89 A. I realize it's more than a guideline, but you know what I mean. It's not the law.

90 Q. What speed does "slow to a crawl" mean?

91 A. In the trucking industry, about 15 miles an hour.

- 92 Q. If Lombardi was going 15 miles an hour when Wooden first entered the westbound side
93 of the I-20, would Lombardi have had enough time to stop before hitting Wooden?
- 94 A. I believe so, yes.
- 95 Q. Your report doesn't mention Saban's drug testing. Did Saban comply with the federal
96 drug testing requirements we see in Exhibit 20?
- 97 A. Looks like Saban forgot to drug test Lombardi. But there's no proof Lombardi used
98 controlled substances on December 23. Or that they impacted Lombardi's driving.
- 99 Q. What is the basis for your opinion that Lombardi had a "solid driving record"?
- 100 A. Lombardi's deposition.