

CAUSE NO.

ELIZABETH LAND, MANUEL	\$
MIRANDA, and ADAM MIRANDA,	\$
Individually, and as wrongful death	\$
beneficiaries of DEBRA BELL, and	\$
ASHLEY GRAY individually, as	\$
wrongful death beneficiary and as	\$
representative of the Estate of	\$
DEBRA BELL	\$
Plaintiffs	\$

VS.

**J.S. HELWIG AND SONS LLC, a
Texas Corporation.
Defendant**

JUDICIAL DISTRICT COURT

KAUFMAN COUNTY, TEXAS

PLAINTIFFS' ORIGINAL PETITION AND REQUESTS FOR DISCOVERY

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Elizabeth Land, Manuel Miranda, and Adam Miranda, Individually, as wrongful death beneficiaries of Debra Bell, and Ashley Gray, Individually, as wrongful death beneficiary and as representative of the Estate of Debra Bell, hereinafter referred to as "Plaintiffs", and files this their Original Petition complaining of J.S. Helwig and Sons Inc., and for cause of action would respectfully show the Court the following:

1.00 DISCOVERY CONTROL PLAN

Pursuant to Texas Rule of Procedure 190.1, discovery is intended to be conducted under Level 2 of Rule 190.4 of the Texas Rules of Civil Procedure.

2.00 PARTIES

2.01 Ashley Gray is an individual and a citizen of the State of Texas. She is the daughter of Debra Bell, deceased who was also a citizen and resident of Texas.

2.02 Elizabeth Land is an individual and a citizen of the State of Texas. She is the daughter of Debra Bell, deceased who was also a citizen and resident of Texas.

2.03 Manuel Miranda is an individual and a citizen of the State of Texas. He is the son of Debra Bell, deceased who was also a citizen and resident of Texas.

2.04 Adam Miranda is an individual and a citizen of the State of New York. He is the son of Debra Bell, deceased who was also a citizen and resident of Texas

2.05 J.S. Helwig & Sons LLC is a Texas corporation which can be served by serving its registered agent: David Watkins, 2515 McKinney Avenue, Suite 800, Dallas, Texas 75201-1978.

3.00 JURISDICTION & VENUE

3.01 The amount in controversy is within jurisdictional limits of this Court.

3.02 Kaufman County is the proper venue for this action pursuant to the Texas Civil Practice and Remedies Code, Section 15.002(a)(2), *et seq.*, because Defendant maintains its principal place of business in Kaufman County, Texas.

4.00 STATEMENT OF FACTS

4.01 On September 15, 2010, Debra Bell was a passenger in an 18-wheeler owned by Defendant and operated by an employee of Defendant. The 18-wheeler was traveling eastbound on Interstate 80 in Pennsylvania when Defendant's driver left the roadway, traveling approximately 380 feet in the median before striking a tree.

4.02 As a direct and/or proximate cause of the collision, Debra Bell was subjected to an extremely frightening and agonizingly painful set of events that culminated in her death.

5.00 VICARIOUS LIABILITY CLAIM AGAINST DEFENDANT

Defendant is vicariously liable for the damages proximately caused to Debra Bell and the Plaintiffs by virtue of the negligent conduct of its driver/employee/agent. At the time of the collision made the basis of this case, the driver of the vehicle was an employee and/or agent of Defendant. Further, the driver of the vehicle was acting within the course and scope of his employment and/or agency relationship on behalf of Defendant at the time of the subject incident. That is, the driver was acting in furtherance of the business of his employer and/or master. Therefore, Defendant is vicariously liable to Plaintiffs for the negligent acts and/or omissions of its employee/agent, on the basis of *respondeat superior* and/or agency law.

6.00 NEGLIGENCE CLAIM AGAINST DEFENDANT

6.01 At all times relevant to the occurrence in question, Defendant's employee had a duty to act as a reasonable and prudent truck driver would have acted under the same or similar circumstances. Defendant's employee breached this duty in one or more respects including, but not limited to: failing to maintain a proper lookout, failing to keep his vehicle under control, failing to pay attention to the roadway, failing to maintain a single lane of travel, failing to adequately apply his brakes in a manner sufficient to avoid the collision.

6.02 The above acts and/or omissions were a proximate cause of the collision in question and the resulting injuries and damages sustained by Debra Bell and Plaintiffs

7.00 PROXIMATE CAUSE AND DAMAGES

7.01 As a direct and proximate result of the negligent acts and/or omissions of the Defendant, Plaintiffs have suffered substantial damages for which they seek recovery from Defendant.

7.02 Ashley Gray, as the surviving daughter of Debra Bell, seeks wrongful death damages on behalf of herself, individually, consisting of past and future pecuniary loss, past and future loss of companionship and society, and past and future mental anguish, due to the wrongful death of her mother, Debra Bell.

7.03 Ashley Gray, as the representative of the Estate of Debra Bell, seeks survival damages for the conscious pain and mental anguish suffered by Debra Bell prior to her death, past medical expenses for medical treatment received by Debra Bell for her injuries and the reasonable funeral and burial expenses incurred on behalf of Debra Bell.

7.04 Elizabeth Land, as the surviving daughter of Debra Bell, seeks wrongful death damages on behalf of herself, individually, consisting of past and future pecuniary loss, past and future loss of companionship and society, and past and future mental anguish, due to the wrongful death of her mother, Debra Bell.

7.05 Manuel Miranda, as the surviving son of Debra Bell, seeks wrongful death damages on behalf of himself, individually, consisting of past and future pecuniary loss, past and future loss of companionship and society, and past and future mental anguish due, to the wrongful death of his mother, Debra Bell.

7.06 Adam Miranda as the surviving son of Debra Bell, seeks wrongful death damages on behalf of himself, individually, consisting of past and future pecuniary loss, past and future loss of companionship and society, and past and future mental anguish due, to the wrongful death of his mother, Debra Bell.

7.07 Plaintiffs also seek recovery for all costs of court and prejudgment and post-judgment interest in the maximum amounts allowable by law.

8.00 PRAYER

Plaintiffs respectfully pray that Defendant be cited to appear and answer herein, and that upon a final hearing hereof, Plaintiffs recover a judgment over and against the Defendant for the damages as pled herein in amounts the jury determines to be fair and reasonable, and for such other and further relief, at law and in equity, to which the Plaintiffs may show themselves justly entitled.

Respectfully submitted,
GROSSMAN LAW OFFICES, P.C.



Keith C. Purdue
SBN 24058060
E. Michael Grossman
SBN 08544500
12240 Inwood Rd., Suite 500
Dallas, Texas 75244
(214) 220-9191
(214) 220-9127 - Fax
ATTORNEYS FOR PLAINTIFFS

CAUSE NO. _____

**ELIZABETH LAND, MANUEL §
MIRANDA, and ADAM MIRANDA, §
Individually, and as wrongful death §
beneficiaries of DEBRA BELL, and §
ASHLEY GRAY individually, as §
wrongful death beneficiary and as §
representative of the Estate of §
DEBRA BELL §
Plaintiffs §**

IN THE _____

VS.

**J.S. HELWIG AND SONS LLC, a
Texas Corporation.
Defendant**

JUDICIAL DISTRICT COURT

KAUFMAN COUNTY, TEXAS

PLAINTIFFS' REQUEST FOR DISCLOSURE

TO: J.S. Helwig and Sons LLC.

Pursuant to Texas Rule of Civil Procedure 194, Plaintiffs request disclosure from Defendant of those items contained in 194.2(a)-(I). Upon service of citation, along with this Original Petition, Defendant is required to respond to this Request for Disclosure within fifty (50) days hereafter.

Respectfully submitted,
GROSSMAN LAW OFFICES, P.C.

7-22

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IN THE

VS.

JUDICIAL DISTRICT COURT

**J.S. HELWIG AND SONS LLC, a
Texas Corporation.
Defendant**

KAUFMAN COUNTY, TEXAS

PLAINTIFFS' REQUEST FOR INTERROGATORIES TO DEFENDANT J.S. HELWIG AND SONS, LLC

TO: J.S. Helwig and Sons LLC

Pursuant to the 197.2(a) of the Texas Rules of Civil Procedure, you are requested to respond to the written discovery as set out below herein within fifty (50) days from the date of service.

Respectfully submitted,
GROSSMAN LAW OFFICES, P.C.

Th. Dahl

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DEFINITIONS AND INSTRUCTIONS

As used herein, the words, defined below shall be deemed to have the following meanings unless indicated otherwise in an individual discovery request.

Statement: The term "Statement" as used in these requests shall mean (a) a written statement signed or otherwise adopted or approved by the person making it, and (b) stenographic, mechanical, electrical, or other type of recording, or any transcription, which is a substantial verbatim recital of a statement made by the person and contemporaneously recorded.

Possession/Custody/Control: The terms "Possession", "custody", or "control" shall include, constructive possession such that the person need not have actual possession. As long as the person has a superior right to compel the production from the third-party (including an agency, authority, or representative), the person has possession, custody, or control.

Persons with Relevant Knowledge: The term "Persons with relevant knowledge" shall include a person that has or may have knowledge of any discoverable matter. The information need not be admissible in order to satisfy the requirements of Rule 196 of the Texas Rules of Civil Procedure and personal knowledge is not required.

Settlement: The term "Settlement" shall mean any oral or written, disclosed or undisclosed, agreement, bargain, contract, settlement, partial settlement, limited settlement, "arrangement," "deal," "understanding," loan agreement, credit agreement, contingent settlement, limitation on the amount of liability or judgment, or promise by or between Plaintiff and any party or potential party where Plaintiff has in any way released or compromised in whole or in part, directly or indirectly, or agreed to do so in the future, any of the matters in controversy in this lawsuit whether before, after, or during trial before or after any jury verdict that is returned in this lawsuit or a judgment is entered or rendered in this lawsuit.

Discovery Request: The term "Discovery Request" includes, but is not limited to, an interrogatory, request for admission, and request for production of documents.

Representative: The term "representative" means any and all agents, employees, servants, officers, directors, or other natural persons or business or legal entities acting or purporting to act on behalf of the person in question, whether authorized to do so or not, with respect to the matter, subject matter, information, document, item, or tangible thing requested.

Counsel: The term "counsel" means the attorney(s) or law firm(s) retained to represent a party.

Person: The term "person" or "persons" means any natural individual in any capacity whatsoever or any entity or organization, including divisions, departments, and other

units therein, and shall include, but not being limited to, a public or private corporation, partnership, joint venture, voluntary or unincorporated association, organization, proprietorship, trust, state, governmental agency, commission/Department of Insurance, bureau, department or any other entity.

Document: the terms "document", "documents", "documentation" include, but are not limited to: papers; books; accounts; drawings; graphs; charts; photographs; electronic or videotape recordings; data; and data compilations; writings of every kind, source and authorship; correspondence, records; negotiable instruments; communications and depictions in words, symbols, pictures, sound recordings, films, tapes; information stored in, or accessible through, computer or other information storage or retrieval systems; discovery responses, depositions or other discovery materials produced, disclosed, or made regarding any legal proceeding; statements; pleadings; pleadings; reports; citations; or writings. The terms include originals, drafts and non-identical copies of such documents. Any copy of any "document", any alterations, notes, comments, or other material not included in the originals or copies referred to above shall be deemed a separate document.

Additionally, as to production of electronic data, of documents, of photographs, and of recordings:

- (i) Any and all *data or information which is in electronic or magnetic form* should be produced in the following form: (a) in written or printed form, and (b) in a finished useable form, which would include all necessary glossaries keys and indices for use and interpretation of the material.
- (ii) In connection with:
 - a. Production of *documents*, the Propounding Party requests that true and correct copies be provided in lieu of production of the originals, and in such event Propounding Party shall reimburse for the reasonable cost of copies;
 - b. Production of *photographs*, the Propounding Party requests that true and correct color copies be provided in lieu of production of the originals, and in such event Propounding Party shall reimburse for the reasonable cost of copies;
 - c. Production of recordings of any kind, whether they are oral, taped, or recorded statements, or recordings of an audio or visual nature, etc., Propounding Party requests that true and correct recording copies be provided in lieu of production of the originals, and in such event Propounding Party shall reimburse for the recognizable costs of copies.

Genuine: The term "genuine" means free of forgery or counterfeiting. [See Tex. Bus. & Com. Code Ann. Sec. 1.201(18) (Vernon 1968)] To admit that a document is "genuine" is to admit that it is the document it purports to be.

Authentic: The term "authentic" means with respect to a writing or document that it is a true and correct copy of the document or writing and that the writing or document is in fact what it purports to be.

Business Record: The term “business record” means business record as defined and stated in Tex. R. Evid. 803(6).

Communication: the term “communication” means any oral or written utterance, notation or statement of any nature whatsoever, by and to whomsoever made, including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and/or all other understandings between or among two or more persons.

Photograph: The terms “photograph” and “photographs” mean and include photographs, pictures, motion pictures, movies, films, videos, magnetically, electronically, digitally, as well as, chemically created or maintained images of any kind, as well as, photographic material of any kind.

Lost or Destroyed Documents: If it is claimed that any document, item or tangible thing has been lost, destroyed, or was once in your possession, custody or control but is no longer; then for each such documents, item or tangible thing, please so note in your response.

Privileged Information or Material: Unless specified, these discovery requests should not be read to request work product, privileged oral and written communications between the attorney and their client, or non-discoverable consulting experts (i.e. information or materials exempt from discovery via Tex. R. Civ. P. 192.3 (e), 192.5, Tex. R. Evid. 503.) The Propounding Party’s counsel in good faith invites Responding Party’s counsel to contact Propounding Party’s counsel should Responding Party’s counsel believe that a protective order is necessary regarding production or use of any of the information and/or documents, items or tangible things requested herein.

Withholding of Information, Documents, Items, or Tangible Things, and Claims of Privilege: If you claim or contend that you are entitled to withhold from production any or all information, documents, items or tangible things, identified herein on the basis of the attorney/client privilege, the work-product doctrine, or other ground, then with respect to information, documents, items or tangible things, please comply with Tex. R. Civ. P. 193.3(a), including but not limited to notice requirements, identification of the discovery request to which it relates, and the privilege(s) asserted.

The Word “Or”: As used herein, the word “or” appearing in a discovery request should not be read so as to eliminate any part of the request, but, whenever applicable, it should be interpreted as “and/or”. For example, an interrogatory stating “support or refer” should be read as “support and/or refer” if an answer that does both can be made.

Time Period: Unless a specific date or dates are set forth in any specific requests herein, you are directed that each discovery request shall be answered for the period of time up to and including the present date, through the date of the responses to discovery requests, and thereafter through trial. If after responding, responsive information or materials come into the possession of or within the possession, custody or control of the Responding

Party, they are under a duty to timely amend or supplement pursuant to Rule 193.5 of the Texas Rules of Civil Procedure.

Ambiguity: Propounding Party's counsel in good faith invites Responding Party's counsel to contact Propounding Party's counsel should they believe that any of the discovery requests are ambiguous or, in the pursuit of judicial economy, should be more narrowly tailored and still provide the salient information and/or items. Propounding Party's counsel asks that such request be made in good faith and not to engage in gamesmanship or to limit or secret the discovery of responsive information and/or items.

Requests for interrogatories: If the Responding Party or their counsel is of the opinion that the interrogatories exceed the allowed number (exclusive of identification and authenticity interrogatories), then you are required to answer the allowed number and note your objection to the remaining; and Propounding Party's counsel in good faith invites Responding Party's counsel to contact Propounding Party's counsel to discuss such issue in advance.

Unless otherwise indicated by the inquiry or request, as used herein:

Propounding Party(ies): As used herein, "Propounding Party" means the party(ies) who propounded the subject discovery.

Responding Party(ies): As used herein, "Responding Party" means the party(ies) objecting to and/or providing discovery responses to the subject discovery.

Plaintiffs: As used herein, the term "Plaintiffs" means, Elizabeth Land, Manuel Miranda, and Adam Miranda, Individually, as wrongful death beneficiaries of Debra Bell, and Ashley Gray, Individually, as wrongful death beneficiary and as representative of the Estate of Debra Bell, and includes, as applicable Plaintiffs' agents, employees, representatives and/or assigns.

Defendant / J.S. Helwig and Sons LLC: As used herein, the term "Defendant" refers to J.S. Helwig and Sons LLC, whom is a defendant party in this suit, and, as applicable, includes his agents, employees, representatives, assigns and affiliates.

Incident/Accident/Occurrence/Occurrence in Question: As used herein, the term "the incident", "the accident", "the occurrence", and "the occurrence in question" refer to the alleged event complained of in Plaintiffs' Petition.

Negligent / Negligence: As used herein, the term "negligent" and "negligence" mean the failure to use ordinary care, that is failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

Ordinary Care: As used herein, the term "ordinary care" means that degree of care that would be used by a person of ordinary prudence under the same or similar circumstances.

Proximately Caused / Proximate Cause: As used herein, the term "proximately caused" and "proximate cause" mean that cause which, in a natural and continuous sequence, produces an event, and without which cause such event would not have occurred; and, in order to be a proximate cause, the act or omission complained of must be such that a person using "ordinary care" would have foreseen that the event, or some similar event, might be a reasonable result therefrom.

REQUEST FOR INTERROGATORIES

INTERROGATORY NO. 1: With regard to the Defendant, please state:

- A. The proper business or corporate name, including all names, parents, subsidiaries, affiliates and d/b/a and f/k/a entities by which you have ever been known.
- B. All divisions and subdivisions of Defendant having responsibility or involvement in the employment of Thomas Bell, directing in whole or in part the details of his work, and directing his destination on the day in question and/or each division's or subsidiaries' role therein;
- C. The name, last known address and title of each officer of the Defendant on the date in question who had any duties, responsibilities or supervisory power with respect to the Defendant's truck operations; and
- D. The name, address and title of the individual currently overseeing the operations, management and/or resolution of debts and claims of the Defendant.

ANSWER:

INTERROGATORY NO. 2: Please identify all individuals of Defendant who have or may have knowledge relating to each of the following areas of inquiry:

- A. Hiring, training and supervision of Thomas Bell;

- B. Compliance with federal, state and local laws and regulations regarding hiring, training, supervision and operation of trucks/vehicles by individual drivers;
- C. Prior claims and lawsuits made against Defendant for personal injuries or property damage from 2003 – present;
- D. Designing and implementing Defendant's safety program;
- E. Defendant's chain of command; and
- F. The collision in question.

ANSWER:

INTERROGATORY NO. 3: Please state the purpose of Thomas Bell's travel at the time the collision in question occurred. Please include his point of origin, his intended destination, stops at any intermediate points prior to the collision in question, including the time that he left for his destination and the times of all intermediate stops.

ANSWER:

INTERROGATORY NO. 4: State whether or not Thomas Bell was acting within the course and scope of any agency, employment, or service with you at the time of the collision in question.

ANSWER:

INTERROGATORY NO. 5: Describe in your own words your understanding of how the collision in question occurred and state specifically what your claim or contention will be regarding any cause or contributing cause of the collision in question, including a statement of the facts or information upon which this contention is based.

ANSWER:

INTERROGATORY NO. 6: Please describe the damage sustained to the truck in question, and give the cost of repair and identity of any person making repairs, if any.

ANSWER:

INTERROGATORY NO. 7: Please describe all conversations which you have had with the Plaintiffs, or with Plaintiffs' representatives following the collision in question.

ANSWER:

INTERROGATORY NO. 8: Do you contend that the collision in question was caused by any defect or failure on the part of the subject tractor-trailer? If so, please set forth the facts supporting your contentions.

ANSWER:

INTERROGATORY NO. 9: Do you contend that the collision in question was caused by any defect or condition on the roadway? If so, please set forth the facts supporting your contentions.

ANSWER:

INTERROGATORY NO. 10: Please identify all investigations of the collision in question that you conducted or which have been conducted on your behalf. Please include the date the investigation began and the date that it ended, and state the name, address, and relationship to the Defendant of each individual who participated in any such investigation.

ANSWER:

INTERROGATORY NO. 11: Describe all promotions, demotions, change of title or position, and/or pay raises which Thomas Bell received from you (or any of your affiliates), including the dates of the change of title or position and the names of all personas responsible for said promotions, raises, and changes in title or position of Thomas Bell.

ANSWER:

INTERROGATORY NO. 12: If you requested that Thomas Bell submit to a test for alcohol and controlled substances following the collision in question, then answer the following. If you did not request such testing, please explain why?

A. The date and time such test was administered;

- B. The name, address and telephone number of the person or facility that administered such test;
- C. The person(s) who instructed Thomas Bell to submit to such testing; and
- D. The results of such tests.

ANSWER:

INTERROGATORY NO. 13: Please list all motor vehicle accidents and traffic violations/citations that Thomas Bell was involved in and/or received to your knowledge while he was employed by you.

ANSWER:

INTERROGATORY NO. 14: Did you ever take any disciplinary action against Thomas Bell during his employment with you? If so, please provide the dates of such action, and what action was taken and why.

ANSWER:

INTERROGATORY NO. 15: Please identify by name, address and telephone number of the following persons with your company:

- A. Person(s) responsible for hiring Thomas Bell;
- B. Person(s) responsible for supervising Thomas Bell;
- C. Person(s) responsible for safety at the time of the collision in question (i.e. Vice President of Safety, Safety Director, etc.); and
- D. Person(s) responsible for training Thomas Bell.

ANSWER:

INTERROGATORY NO. 16: Please list those expert witnesses (if any) identified by Plaintiffs whom you contend are not qualified to render opinions under the standards set forth in *Robinson v. E.I. DuPont Denemours*, or in any subsequent opinion by Supreme Court of Texas which you contend extends the holdings of *Robinson*.

ANSWER:

INTERROGATORY NO. 17: If you contend any opinion of Plaintiffs' experts is not "reliable" within the meaning of *Robinson v. E.I. DuPont Denemours*, or any subsequent opinion by the Supreme Court of Texas which you contend extends the holdings of *Robinson*, please state the substance of that opinion and describe the basis for your contention.

ANSWER:

INTERROGATORY NO. 18: If you plan to use any evidence of criminal arrest and/or conviction to impeach any Plaintiff or any witness at the time of trial, please identify the nature of the charge, disposition, date of disposition, and jurisdiction.

ANSWER:

INTERROGATORY NO. 19: Do you contend that Debra Bell did anything wrong which caused or contributed to cause the collision in question? If so, please describe what you contend she did wrong, and how such actions or inactions caused or contributed to cause the collision in question.

ANSWER:

INTERROGATORY NO. 20: Do you contend that the collision in question was caused, in whole or in part, by any acts and or omissions by a third party? If so, then please identify the name, address and telephone number of any such third party, and describe all such acts and/or inactions on their part that you contend caused or contributed to cause the collision in question.

ANSWER:

INTERROGATORY NO. 21: Do you contend that Thomas Bell did anything wrong that caused or contributed to cause the collision in question? If so, then please describe what you contend he did wrong, and how such actions caused or contributed to cause the collision in question.

ANSWER:

INTERROGATORY NO. 22: Please state the name, address, and telephone number of any witnesses you may call to testify at the trial of this case, including a brief description of such person's connection with the case.

ANSWER:

INTERROGATORY NO. 23: Did you determine the collision in question was "preventable?" If so, please state the name, address, telephone number, and position with your company of all persons who were involved in making such a determination, and provide a brief description of the factual basis for such determination.

ANSWER:

CAUSE NO. _____

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MIRANDA, and ADAM MIRANDA,	§
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ASHLEY GRAY individually, as	§
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IN THE _____

vs.

JUDICIAL DISTRICT COURT

**J.S. HELWIG AND SONS LLC, a
Texas Corporation.
Defendant**

KAUFMAN COUNTY, TEXAS

PLAINTIFFS' REQUEST FOR PRODUCTION TO DEFENDANT J.S. HELWIG AND SONS LLC

TO: J.S. Helwig and Sons LLC.

Pursuant to the 196 of the Texas Rules of Civil Procedure, you are requested to respond to the written discovery as set out below herein within fifty (50) days from the date of service.

Respectfully submitted,
GROSSMAN LAW OFFICES, P.C.

7-10-22

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Discovery Request: The term "Discovery Request" includes, but is not limited to an interrogatory, request for admission, and request for production of documents.

Representative: The term "representative" means any and all agents, employees, servants, officers, directors, or other natural persons or business or legal entities acting or purporting to act on behalf of the person in question, whether authorized to do so or not, with respect to the matter, subject matter, information, document, item, or tangible thing requested.

Counsel: The term "counsel" means the attorney(s) or law firm(s) retained to represent a party.

Person: The term "person" or "persons" means any natural individual in any capacity whatsoever or any entity or organization, including divisions, departments, and other units therein, and shall include, but not being limited to, a public or private corporation, partnership, joint venture, voluntary or unincorporated association, organization, proprietorship, trust, state, governmental agency, commission/Department of Insurance, bureau, department or any other entity.

Document: the terms "document", "documents", "documentation" include, but are not limited to: papers; books; accounts; drawings; graphs; charts; photographs; electronic or videotape recordings; data; and date compilations; writings of every kind, source and authorship; correspondence, records; negotiable instruments; communications and depictions in words, symbols, pictures, sound recordings, films, tapes; information stored in, or accessible through, computer or other information storage or retrieval systems; discovery responses, depositions or other discovery materials produced, disclosed, or made regarding any legal proceeding; statements; pleadings; pleadings; reports; citations; or writings. The terms include originals, drafts and non-identical copies of such documents. Any copy of any "document", any alterations, notes, comments, or other material not included in the originals or copies referred to above shall be deemed a separate document.

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- (iii) Any and all *data or information which is in electronic or magnetic form* should be produced in the following form: (a) in written or printed form, and (b) in a finished useable form, which would include all necessary glossaries keys and indices for use and interpretation of the material.
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 - a. Production of *documents*, the Propounding Party requests that true and correct copies be provided in lieu of production of the originals, and in such event Propounding Party shall reimburse for the reasonable cost of copies;
 - b. Production of *photographs*, the Propounding Party requests that true and correct color copies be provided in lieu of production of the originals, and in such event Propounding Party shall reimburse for the reasonable cost of copies;
 - c. Production of recordings of any kind, whether they are oral, taped, or recorded statements, or recordings of an audio or visual nature, etc., Propounding Party requests that true and correct recording copies be provided in lieu of production of the originals, and in such event Propounding Party shall reimburse for the recognizable costs of copies.

Genuine: The term "genuine" means free of forgery or counterfeiting. [See Tex. Bus. & Com. Code Ann. Sec. 1.201(18) (Vernon 1968)] To admit that a document is "genuine" is to admit that it is the document it purports to be.

Authentic: The term "authentic" means with respect to a writing or document that it is a true and correct copy of the document or writing and that the writing or document is in fact what it purports to be.

Business Record: The term "business record" means business record as defined and stated in Tex. R. Evid. 803(6).

Communication: the term "communication" means any oral or written utterance, notation or statement of any nature whatsoever, by and to whomsoever made, including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and/or all other understandings between or among two or more persons.

Photograph: The terms "photograph" and "photographs" mean and include photographs, pictures, motion pictures, movies, films, videos, magnetically, electronically, digitally, as well as, chemically created or maintained images of any kind, as well as, photographic material of any kind.

Lost or Destroyed Documents: If it is claimed that any document, item or tangible thing has been lost, destroyed, or was once in your possession, custody or control but is no longer; then for each such documents, item or tangible thing, please so note in your response.

Privileged Information or Material: Unless specified, these discovery requests should not be read to request work product, privileged oral and written communications between the attorney and their client, or non-discoverable consulting experts (i.e. information or materials exempt from discovery via Tex. R. Civ. P. 192.3 (e), 192.5, Tex. R. Evid. 503.) The Propounding Party's counsel in good faith invites Responding Party's counsel to contact Propounding Party's counsel should Responding Party's counsel believe that a protective order is necessary regarding production or use of any of the information and/or documents, items or tangible things requested herein.

Withholding of Information, Documents, Items, or Tangible Things, and Claims of Privilege: If you claim or contend that you are entitled to withhold from production any or all information, documents, items or tangible things, identified herein on the basis of the attorney/client privilege, the work-product doctrine, or other ground, then with respect to information, documents, items or tangible things, please comply with Tex. R. Civ. P. 193.3(a), including but not limited to notice requirements, identification of the discovery request to which it relates, and the privilege(s) asserted.

The Word "Or": As used herein, the word "or" appearing in a discovery request should not be read so as to eliminate any part of the request, but, whenever applicable, it should be interpreted as "and/or". For example, an interrogatory stating "support or refer" should be read as "support and/or refer" if an answer that does both can be made.

Time Period: Unless a specific date or dates are set forth in any specific requests herein, you are directed that each discovery request shall be answered for the period of time up to

and including the present date, through the date of the responses to discovery requests, and thereafter through trial. If after responding, responsive information or materials come into the possession of or within the possession, custody or control of the Responding Party, they are under a duty to timely amend or supplement pursuant to Rule 193.5 of the Texas Rules of Civil Procedure.

Ambiguity: Propounding Party's counsel in good faith invites Responding Party's counsel to contact Propounding Party's counsel should they believe that any of the discovery requests are ambiguous or, in the pursuit of judicial economy, should be more narrowly tailored and still provide the salient information and/or items. Propounding Party's counsel asks that such request be made in good faith and not to engage in gamesmanship or to limit or secret the discovery of responsive information and/or items.

Requests for Production: Per Tex. R. Civ. P. 196, you are required to give complete written responses to each production item request. You are to produce the requested documents, items and tangible things, in your actual or constructive possession, custody or control, and in the actual or constructive possession, custody or control of your agents, counsel, representatives, and/or insurer. As to each request item number, you are also instructed and request is made that you organize and label each document, item and tangible thing to correspond with each category of the request for production and each production item request number. If a response and the accompanying production of documents, items and tangible things, given by the responding party is also fully responsive to and gives full production as to a subsequent request for production, then the responding party need only refer to the prior response when responding and producing as to the subsequent request for production. You are to produce the requested documents, items and tangible things, at the offices of the Propounding Party's counsel.

Unless otherwise indicated by the inquiry or request, as used herein:

Propounding Party(ies): As used herein, "Propounding Party" means the party(ies) who propounded the subject discovery.

Responding Party(ies): As used herein, "Responding Party" means the party(ies) objecting to and/or providing discovery responses to the subject discovery.

Plaintiffs: As used herein, the term "Plaintiffs" means, Elizabeth Land, Manuel Miranda, and Adam Miranda, Individually, as wrongful death beneficiaries of Debra Bell, and Ashley Gray, Individually, as wrongful death beneficiary and as representative of the Estate of Debra Bell, and includes, as applicable Plaintiffs' agents, employees, representatives and/or assigns.

Defendant / J.S. Helwig and Sons LLC: As used herein, the term "Defendant" refers to J.S. Helwig and Sons LLC, whom is a defendant party in this suit, and, as applicable, includes his agents, employees, representatives, assigns and affiliates.

Incident/Accident/Occurrence/Occurrence in Question: As used herein, the term "the incident", "the accident", "the occurrence", and "the occurrence in question" refer to the alleged event complained of in Plaintiffs' Petition.

Negligent / Negligence: As used herein, the term "negligent" and "negligence" mean the failure to use ordinary care, that is failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

Ordinary Care: As used herein, the term "ordinary care" means that degree of care that would be used by a person of ordinary prudence under the same or similar circumstances.

Proximately Caused / Proximate Cause: As used herein, the term "proximately caused" and "proximate cause" mean that cause which, in a natural and continuous sequence, produces an event, and without which cause such event would not have occurred; and, in order to be a proximate cause, the act or omission complained of must be such that a person using "ordinary care" would have foreseen that the event, or some similar event, might be a reasonable result therefrom.

REQUEST FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: A copy of the title to the tractor trailer in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2: A Copy of all maintenance records, repair orders, warranty work orders and service records pertaining to the subject tractor for the 12 month period preceding the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3: A copy of all damage appraisals, repair estimates and repair orders/invoices regarding the damage done to the subject tractor-trailer as a result of the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4: A copy of all documents referred to in answering Plaintiffs' First set of Interrogatories to you, identifying which documents were used to answer each respective interrogatory.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5: A copy of all drawings, maps or sketches of the scene of the collision in question that you may use at the trial of this case.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6: A color copy of all exhibits you intend to offer at trial.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7: A copy of all checklists, logs or other written documents evidencing all pre-trip inspections of the subject tractor-trailer for the 90 day period preceding the collection in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8: A color copy of all written policies and procedures, employment handbooks and/or employment manuals including, but not limited to, any terms, conditions and procedures involving the employer/employee relationship; recruiting and hiring of new employees; promotions, demotions and discipline.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9: All time sheets for Thomas Bell for the 90 day period preceding the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10: All documents showing the purpose of Thomas Bell's travel on September 15, 2010, including, but not limited to, memos, work orders, bills of lading and expense reimbursements.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11: All pay stubs, federal w-2 forms, expense reimbursements, commissions, bonuses, and any other documents or tangible evidence reflecting payment of money or benefits for any reason from you to Thomas Bell for the 6 months period preceding the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 12: The complete payroll file, personnel file, Driver's Qualification file and any other state or federal Department of Transportation required file for commercial motor vehicle drivers for Thomas Bell compiled by you, from and including his first date of employment through and including the last date of employment with you including, but not limited to, references employment application, driving tests, scores, evaluations, job description, performance reports, driver daily logs, physical examinations, traffic citations, driving histories, moving violations records, criminal records, drug test, alcohol tests, worker's compensation and health insurance claims.

RESPONSE:

REQUEST FOR PRODUCTION NO. 13: Your complete investigative file compiled prior to the time that you "anticipated litigation" concerning the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 14: A copy of all leases, understandings, memoranda and other documents relating to the use and possession of the tractor-trailer in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 15: Copies of the complete employee manual, instruction manual, policy and procedure manual and other materials issued to Thomas Bell containing instructions, directions, suggestions or recommendations for proper and safe driving and operations.

RESPONSE:

REQUEST FOR PRODUCTION NO. 16: The complete in-house investigation conducted by or on your behalf in the ordinary course of business relative to all citations from OSHA, DOT, ICC or any federal or state agencies or inquires relevant to the collision in question, including, but not limited to all things prepared for, and/or presented in, any informal conference or closing conference between you and any governmental representatives (this request specifically included, but is not limited to all photographs, movies, videotapes, audiotapes, reports, memoranda, correspondence, written statements, and all correspondence between you and any such agencies.)

RESPONSE:

REQUEST FOR PRODUCTION NO. 17: All letters, reports, memoranda, instructions, evaluations, correspondence and citations from and/or sent to OSHA, DOT, ICC, DPS or any other federal or state agencies received by and/or sent by you in the three-year period preceding and including the date in question and in the period of time since the date in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 18: All organizational charts of your company showing the structure of your company, including the various departments, sections and divisions of your operations for the 3 year period preceding the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 19: True and complete copies of all surveillance reports, investigate notes, photographs, movies and/or videotapes taken during any investigation, or surveillance of Plaintiffs at any time prior to the trial of this case.

RESPONSE:

REQUEST FOR PRODUCTION NO. 20: All incident/accident reports for any accident Thomas Bell was involved in for the 5 year period preceding the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 21: Any and all notes, memoranda, correspondence and/or other documents generated in the period of time five (5) years prior to the date in question and through the present which relate to state and/or federal agencies' safety audits, safety reviews, inspections, findings, and/or analysis of your business operations.

RESPONSE:

REQUEST FOR PRODUCTION NO. 22: Any and all documents generated and/or distributed by you to your employees regarding the recordation of truck drivers' hours of operation and/or the maximum number of hours of operation by truck drivers for the year period preceding the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 23: Any and all documents generated and/or distributed by you to your employees regarding corrective actions to be taken in response to any state and/or federal agencies' findings concerning your business operations for the 5 year period prior to the collision in question through the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 24: Any and all documents and/or correspondence to and from you and state or federal agencies regarding corrective actions taken or to be taken by you in response to the agencies' safety audits, safety reviews, inspections, findings and/or safety investigations regarding your business operations, for the 5 year period preceding the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 25: Please produce a copy of any alcohol and/or controlled substance test(s) that Thomas Bell submitted to as a result of the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 26: Please produce all documents that consist of your employment policies and procedures and which discuss or describe your policies with respect to policies for recruiting, criminal background checks, examination of driving records, drug screens, references from prior employment, promotions, operations of equipment, use of company vehicles, training, supervision, safety instruction, and/or discipline for employees such as Thomas Bell that were in existence during the time period that Thomas Bell was employed by you.

RESPONSE:

REQUEST FOR PRODUCTION NO. 27: Please produce all documents relating to, pertaining to, referencing or documenting any review of the collision in question by you pertaining to any preventability determination.

RESPONSE:

REQUEST FOR PRODUCTION NO. 28: Please produce the printout of the Electronic Control Module from the tractor-trailer in question that documents the various actions of the subject tractor in the minutes or so leading up to the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 29: Please produce a color copy of all post-accident photographs and videotapes of the tractor and trailer in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 30: Produce for inspecting and photographing the subject tractor and trailer.

RESPONSE:

REQUEST FOR PRODUCTION NO. 31: Please produce a color copy of all post-accident photographs and videotapes of the area and scene of the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 32: Please produce for copying, photographing, and/or inspection all physical evidence that you have preserved arising from the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 33: Please produce a color copy of all news articles that you obtained regarding the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 34: Please produce a copy of all 911 tapes, transcripts, and/or call logs pertaining to the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 35: Please produce a copy of all your Document Retention Policies that were in existence as of September 15, 2010, to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 36: Please produce a copy of all ISO (International Standards Organization) standards, policies and procedures that your drivers were following for the 3 year period preceding the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 37: Please produce a copy of all documents contained in your claim file that were reviewed by anyone with your company in making the determination whether the subject accident was "preventable."

RESPONSE:

REQUEST FOR PRODUCTION NO. 38: Please produce a copy of all policies and procedures of your Recruiting and Hiring Department, Safety Department and Compliance Department pertaining to the recruitment of new drivers, the screening process and criteria of new driver applicants, the hiring process and criteria for new drivers that were in existence at the time Thomas Bell first came to work for you.

RESPONSE:

REQUEST FOR PRODUCTION NO. 39: Please produce a copy of any written documents or printouts from any computer screen pertaining to any action taken by you to demote, suspend, remove, or prohibit Thomas Bell from continuing to work as a driver following the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 40: A list of all videotapes used by you to train employees, like Thomas Bell, for the 3 year period preceding the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 41: A copy of the Driver's Daily Logs for Thomas Bell from September 1, 2010, through and including September 15, 2010.

RESPONSE:

REQUEST FOR PRODUCTION NO. 42: A copy of all sign-in sheets for any safety meetings or training sessions attended by Thomas Bell for the 3 year period preceding the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 43: A copy of all handouts, overhead slides, power point presentations or other written or visual materials that were given to drivers or presented to them at any safety meeting or training sessions for the 3 year period preceding the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 44: All audits or compliance reviews by the Federal Motor Carrier Safety Administration ("FMCSA") for years 2003, to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 45: All findings, recommendations and safety ratings by the FMCSA with respect to any audits or compliance reviews for years 2003 to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 46: Documents reflecting the monthly statistics of accidents involving your drivers that resulted in injury or death, for years 2003 to present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 47: Defendant's Accident Register for years 2003 to present.

RESPONSE: