

CAUSE NO. DC-12-14296

**HAK SOO KIM and MUN
HEE PARK, Individually, as
wrongful death beneficiaries,
and on behalf of the Estate of
DONGHYUN KIM
Plaintiffs**

IN THE K-192ND

vs.

JUDICIAL DISTRICT COURT

**ADRIAN MARTIN, TEXAS
MAIL SERVICE, AND
YOHL CORPORATION
d/b/a KTX KARAOKE
RESTAURANT**

Defendants

DALLAS COUNTY, TEXAS

**PLAINTIFFS' ORIGINAL PETITION
AND REQUESTS FOR DISCOVERY**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Hak Soo Kim and Mun Hee Park, hereinafter referred to as Plaintiffs, complaining of Adrian Martin, Texas Mail Service, and Yohl Corporation d/b/a KTX Karaoke Restaurant, hereinafter referred to as Defendants, and would respectfully show this Honorable Court as follows:

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 Plaintiffs are individuals and residents of Texas.

2.02 Defendant Adrian Martin is a resident of Texas and can be served with process at 2046 Moonlight Tr., Forney, Texas 75128, or wherever he may be found.

2.03 Defendant Texas Mail Service is a Texas corporation. Defendant may be served with process by serving its registered agent, Russ Thomsen at 1926 W. Commerce St., Dallas, Texas 75208, or wherever he may be found.

2.04 Defendant Yohl Corporation d/b/a KTX Karaoke Restaurant (hereinafter referred to as KTX Karaoke) is a Texas corporation. Defendant may be served with process by serving its registered agent, Hee D. Lee, 12131 Madeleine Circle, Dallas, Texas 75230, or wherever he may be found.

3.00 JURISDICTION & VENUE

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

3.02 Dallas County is the proper venue for this action pursuant to the Texas Civil Practice and Remedies Code, Section 15.002(a)(3), *et seq.*, because the defendant's principal office is in Dallas county.

4.00 FACTUAL STATEMENT

4.01 Defendant KTX Karaoke is an establishment located at 2625 Old Denton Road, Suite 526 Carrollton, Texas, at which alcoholic beverages are sold to the general public under license or permit of the Alcoholic Beverage Commission.

4.02 On or about evening of December 18, 2011 and into the morning of December 19, 2011, Defendant sold, served, and/or provided alcoholic beverages to Donghyun Kim even though it was apparent to the Defendant that Donghyun Kim was obviously intoxicated to the extent that he presented a clear danger to himself and to other persons.

4.03 While in a state of obvious intoxication, Donghyun Kim left KTX Karaoke's premises. On his way home, Donghyun Kim was involved in a single vehicle accident with the retaining wall along Sam Rayburn Tollway. The incident disabled Donghyun Kim's vehicle.

4.04 While disabled, Mr. Kim was subsequently struck by a tractor-trailer, driven by Defendant Adrian Martin. Donghyun Kim sustained fatal injuries as a result of the collision.

5.00 DRAM SHOP

Plaintiffs bring suit against Defendant KTX Karaoke pursuant to Tex. Alco. Bev. Code Ann. § 2.02(b). Defendant KTX Karaoke and its employees were "providers" as defined by Tex. Alco. Bev. Code Ann. § 2.01(1). Defendant KTX Karaoke was negligent in allowing Donghyun Kim to consume alcohol to the point of intoxication. Defendant KTX Karaoke was negligent in continuing to serve alcohol to Donghyun Kim after he reached the point of intoxication. Defendant KTX Karaoke was negligent in continuing to serve Donghyun Kim even after he was obviously intoxicated to the extent that he presented a clear danger to himself and others. This conduct by Defendant KTX Karaoke contributed to Donghyun Kim's state of intoxication and thus was a proximate cause of Plaintiffs' injuries.

6.00 VICARIOUS LIABILITY

The individuals, who provided Donghyun Kim alcohol when he was obviously intoxicated to the extent that he presented a clear danger to himself and to others, were acting within the course and scope of their employment with Defendant KTX Karaoke. These individuals include, but are not limited to, the managers, assistant managers, bar managers, floor managers, bartenders, bar-backs, waiters and/or waitresses. Because said

employees were acting within the course and scope of their employment with Defendant KTX Karaoke, Plaintiffs hereby invoke the common law doctrine of vicarious liability, and seek to hold the master/employer liable for the acts and/or omissions of their servants/employees.

7.00 NEGLIGENCE: ADRIAN MARTIN

7.01 At all times relevant to the occurrence in question, Defendant Martin had a duty to act as a reasonable and prudent motorist would have acted under the same or similar circumstances. Defendant Martin breached this duty in one or more respects including, but not limited to:

- a. failing to maintain a proper lookout, failing to keep his vehicle under control;
- c. failing to apply his brakes in a manner sufficient to avoid the incident;
- d. failing to take proper evasive maneuvers sufficient to avoid the incident;
- and
- e. failing to control the speed of his vehicle.

7.02 The above acts and/or omissions were a proximate cause of the collision in question and the resulting injuries and damages sustained by Donghyun Kim and Plaintiffs.

8.00 RESPONDEAT SUPERIOR: TEXAS MAIL SERVICE

8.01 Defendant Texas Mail Service, is vicariously liable for the damages proximately caused to Donghyun Kim, his estate, and his wrongful death beneficiaries by virtue of the negligent conduct of their driver/employee/agent, Defendant Martin.

8.02 At the time of the subject collision, Defendant Martin was an employee and/or agent of Defendant Texas Mail Service. Further, Defendant Martin was acting

within the course and scope of his employment and/or agency relationship on behalf of Defendant Texas Mail Service at the time of the subject incident. That is, Defendant Martin was acting in furtherance of the business of his employer and/or master. Therefore, Defendant Texas Mail Service is vicariously liable to Donghyun Kim, his estate, and his wrongful death beneficiaries for the negligent acts and/or omissions of its employee/agent, Defendant Martin, on the basis of *respondeat superior* and/or agency law.

9.00 NEGLIGENCE: TEXAS MAIL SERVICE

9.01 At all time relevant to the occurrence in question, Defendant Texas Mail Service, had a duty to use ordinary care in hiring, supervising and retaining its employees. Defendant Texas Mail Service, breached this duty in one or more respects including, but not limited to:

- a. failing to use ordinary care in hiring Defendant Martin;
- b. failing to properly supervise Defendant Martin.

9.02 The above acts and/or omissions of Defendant Texas Mail Service were a proximate cause of the collision in question and the resulting injuries and damages sustained by Donghyun Kim and Plaintiffs.

10.00 WRONGFUL DEATH

10.01 Plaintiffs Hak Soo Kim and Mun Hee Park are the statutory beneficiaries of Donghyun Kim. KTX Karaoke and Texas Mail Service are corporations. Had Donghyun Kim lived, he would have been entitled to bring a cause of action against KTX Karaoke pursuant to the Dram Shop Act and Texas Mail Service under common law claims of negligence and vicarious liability. Plaintiffs have suffered injury as a result of Donghyun Kim's death.

8.00 DAMAGES: HAK SOO KIM AND MUN HEE PARK

8.01 Plaintiffs Hak Soo Kim and Mun Hee Park bring this action for the benefit of all beneficiaries of the Estate of Donghyun Kim, Deceased, for all benefits and damages due pursuant to the Wrongful Death Act contained in §71.001 through §71.011, Texas Civil Practice and Remedies Code. Plaintiffs also bring this action as heirs and for the benefit of all beneficiaries of the Estate of Donghyun Kim, Deceased, pursuant to §71.021 Texas Civil Practice and Remedies Code, along with all other damages they may claim at common law.

8.02 Plaintiffs Hak Soo Kim and Mun Hee Park, as the surviving natural parents of Donghyun Kim, as a direct, proximate and foreseeable result of the above referenced acts and/or omissions of Defendants, taken singularly or in conjunction with each other, sustained damages in her rights, and pursuant to Chapter 71 of the Texas Civil Practice and Remedies Code, hereby seek damages in the amount the jury determines reasonable for the following elements of damage, both in the past and in the future:

- a. Pecuniary loss;
- b. Loss of companionship and society; and
- c. Mental anguish.

8.03 As a direct and proximate result of Defendant's negligent acts complained of herein, Donghyun Kim received injuries, which caused his death, shortly following the accident. However, Donghyun Kim, during the last moments of his life, suffered horrible physical pain, suffering, and mental anguish for which Hak Soo Kim and Mun Hee Park, on behalf of the Estate of Donghyun Kim, now bring suit.

8.04 In addition, reasonable and necessary medical, funeral, and burial expenses were incurred in the treatment of Donghyun Kim, Deceased, along with his

injuries, pain and suffering, for which Hak Soo Kim and Mun Hee Park on behalf of the Estate of Donghyun Kim, now bring suit.

8.05 These damages have been suffered in the past, and in reasonable probability, will continue to be suffered in the future.

9.00 PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully request that Defendants be cited to appear and answer herein and that upon full and final hearing of this cause, Plaintiffs have judgment of and from Defendants as follows:

- 1) for actual damages, both past and future, as prayed for herein in an amount the jury determines to be reasonable;
- 2) for all of Plaintiffs' costs of court;
- 3) for pre-judgment interest at the highest legal rate and for the longest period of time allowed by law on all elements of damages claimed herein;
- 4) for post-judgment interest at the highest legal rate allowed by law on the amount of the judgment entered by the Court from the date of judgment until collected; and
- 5) for such other and further relief, both general and specific, at law or in equity, to which this Honorable Court should find Plaintiffs to be 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. _____

**HAK SOO KIM and MUN
HEE PARK, Individually, as
wrongful death beneficiaries,
and on behalf of the Estate of
DONGHYUN KIM
Plaintiffs**

vs.

**ADRIAN MARTIN, TEXAS
MAIL SERVICE, AND
YOHL CORPORATION
d/b/a KTX KARAOKE
RESTAURANT**

Defendants

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IN THE _____

JUDICIAL DISTRICT COURT

DALLAS COUNTY, TEXAS

PLAINTIFFS’ REQUEST FOR DISCLOSURE

TO: Yohl Corporation d/b/a KTX Karaoke Restaurant.

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

Respectfully submitted,
GROSSMAN LAW OFFICES, P.C.

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Defendants

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IN THE _____

JUDICIAL DISTRICT COURT

DALLAS COUNTY, TEXAS

**PLAINTIFF HAK SOO KIM'S
REQUEST FOR INTERROGATORIES**

TO: Yohl Corporation d/b/a KTX Karaoke Restaurant.

Pursuant to rule 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.



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ATTORNEYS FOR PLAINTIFFS

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, Hak Soo Kim and Mun Hee Park, Individually, as wrongful death beneficiaries, and on behalf of the Estate of Donghyun Kim and includes, as applicable Plaintiffs' agents, employees, representatives and/or assigns.

Defendant: As used herein, the term "Defendant" refers to Yohl Corporation d/b/a KTX Karaoke Restaurant., who is a defendant party in this suit, and, as applicable, includes its agents, employees, representatives, assigns and affiliates.

KTX Karaoke: As used herein, the term "KTX Karaoke" refers to KTX Karaoke located at 2625 Old Denton Rd. Suite 526 Carrollton, Texas, and, as applicable, includes its 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, “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

INTERROGATORIES:

1. Please identify yourself and all persons who assisted or provided information in answering these interrogatories by providing full names, dates of birth, drivers’ license numbers, addresses, telephone numbers, employers and occupation.

RESPONSE:

2. If you contend that any other person or entity may be liable for all or part of Plaintiffs’ claims, please identify each such person or entity by name, employer, address, phone number, and title, and please describe the facts supporting your contention.

RESPONSE:

3. Please provide with respect to any communication and conversation you have had with Plaintiffs or Plaintiffs’ representatives following the incident made the basis of this suit, the date(s) of the communication(s) and the names, address and telephone number of any witness to the communication(s).

RESPONSE:

4. Please explain in detail your contentions as to the facts surrounding the incident made the basis of this suit, including, but not limited to, the following:
 - (a) The date and time that Donghyun Kim entered KTX Karaoke;
 - (b) The date, time and person that sold Donghyun Kim alcoholic beverages at KTX Karaoke;
 - (c) The quantity of alcoholic beverages sold/served/provided to Donghyun Kim at KTX Karaoke;
 - (d) The time that Donghyun Kim departed from KTX Karaoke on the date of the incident made the basis of this suit.

RESPONSE:

5. Please identify any and all instructions given by persons in your offices, including but not limited to, clerks, security personnel, managers, assistant managers and/or other employees to Donghyun Kim on the date of the incident made the basis of this suit, (including the name and title of all persons identified and the time the instructions were given).

RESPONSE:

6. Identify every person employed at KTX Karaoke on the evening of December 18, 2011 through the early morning of December 19, 2011. With respect to each person identified, state the date that each person was employed at KTX Karaoke, the date that that person was terminated, and include each person's job title and job description. In responding to this question, please identify any and all persons that had supervisory or managerial responsibility for KTX Karaoke.

RESPONSE:

7. Identify all persons (including but not limited to, police and other federal, state, and local governmental agencies, private investigators, and insurance representatives) who investigated the incident made the basis of this suit stating the date of each investigation, describe each document and/or tangible thing that refers or relates to any such investigation.

RESPONSE:

8. Identify all persons having knowledge of the record keeping practices of your company with respect to the following:
- (a) The KTX Karaoke Alcohol Safety Guidelines, policies, and related records, including disciplinary actions against persons working for you at the KTX Karaoke.
 - (b) The KTX Karaoke alcohol safety guidelines provided to any persons working for you or customers entering the KTX Karaoke;
 - (c) Bills of lading related to alcohol or alcoholic beverages at KTX Karaoke;
 - (d) Attendance at and content of company sponsored and/or sanctioned safety meetings for persons working for you at the KTX Karaoke. This specifically includes safety meetings regarding the sale of alcoholic beverages at the KTX Karaoke;
 - (e) Incidents similar to the incident made the basis of this suit at the KTX Karaoke;
 - (f) The KTX Karaoke financial records, cash register, sales and tax records.

RESPONSE:

9. State in detail what intoxicating beverages you contend that Donghyun Kim consumed during at KTX Karaoke on or about the evening of December 18, 2011 through the early morning of December 19, 2011.

RESPONSE:

10. Identify each current and former employee(s) of KTX Karaoke who worked or were scheduled to work on or about the evening of December 18, 2011 through the early morning of December 19, 2011. Including in your answer the individual's full name, address and last-known phone number.

RESPONSE:

11. Identify every lawsuit and/or claim which has ever been brought against KTX Karaoke within the past 10 years, wherein Dram Shop allegations were made ("identify" in this context means to provide the cause number, case style, county of litigation, and court number involved in each). For each claim not resulting in a lawsuit, please identify by name of claimant, date the claim was received by you, and the ultimate outcome of each.

RESPONSE:

12. Identify each and every corporate, partnership, or other business entity, and individual(s) and individual investor(s) who own(ed) and/or possess(ed) any interest in the business entity operating as KTX Karaoke on or about the evening of December 18, 2011 through the early morning of December 19, 2011.

RESPONSE:

13. Identify all other businesses owned, managed, operated, invested in, or with which any financial interest exists by you by identifying the name of the business, the owner's name, location, when purchased, whether there is alcohol served on the premises, and, if so, whether any of said locations have ever been investigated or cited by any alcohol control agency.

RESPONSE:

14. Please describe the steps taken by you to ensure that Donghyun Kim was not intoxicated at the time that he was provided alcoholic beverages on or about the evening of December 18, 2011 through the early morning of December 19, 2011.

RESPONSE:

15. If you claim that any other person or entity (whether a party to this lawsuit or not) was negligent, causing the injuries or damages made the basis of this suit, identify each such person or entity and describe the act and effect of each such act of negligence, and identify all persons with knowledge of facts supporting such claim.

RESPONSE:

16. Please identify by naming the time, date, location, and subject matter of any safety meetings and/or training sessions that employees serving alcoholic beverages attended regarding the sale of alcoholic beverages within the last 2 years. In answering this interrogatory, please include any meetings and/or training sessions conducted by you, any state or federal agency, or any other third party.

RESPONSE:

17. Please describe in detail any ways in which persons at KTX Karaoke serving alcoholic beverages exceeded the scope of the authorization vested in him or her.

RESPONSE:

18. For all documents produced by your company or requested of your company through this discovery to the undersigned counsel, please list all such documents which were redacted, destroyed and/or obliterated, in whole and/or in part, by your company and/or persons and/or entities on behalf of your company, since December 19, 2011 and prior to the production to the undersigned counsel.

RESPONSE:

19. Please specifically describe each policy that you implemented to affirmatively discourage violations of the Texas Alcoholic Beverage Code including but not limited to sales of alcoholic beverages to intoxicated persons at KTX Karaoke, during the years of 2000-2011.

RESPONSE:

CAUSE NO. _____

**HAK SOO KIM and MUN
HEE PARK, Individually, as
wrongful death beneficiaries,
and on behalf of the Estate of
DONGHYUN KIM
Plaintiffs**

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JUDICIAL DISTRICT COURT

**ADRIAN MARTIN, TEXAS
MAIL SERVICE, AND
YOHL CORPORATION
d/b/a KTX KARAOKE
RESTAURANT**

Defendants

DALLAS COUNTY, TEXAS

PLAINTIFFS' REQUEST FOR PRODUCTION

TO: Yohl Corporation d/b/a KTX Karaoke Restaurant.

Plaintiffs in this lawsuit, move Defendant in this lawsuit, to answer the following Request for Production under the provisions of Rule 196 of the Texas Rules of Civil Procedure. Plaintiffs require that the answers to these requests be filed no later than fifty (50) days after the date of service.

Respectfully submitted,
GROSSMAN LAW OFFICES, P.C.

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ATTORNEYS FOR PLAINTIFFS

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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 make 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 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, Hak Soo Kim and Mun Hee Park, Individually, as wrongful death beneficiaries, and on behalf of the Estate of Donghyun Kim and includes, as applicable Plaintiffs' agents, employees, representatives and/or assigns.

Defendant: As used herein, the term "Defendant" refers to Yohl Corporation d/b/a KTX Karaoke Restaurant, who is a defendant party in this suit, and, as applicable, includes its agents, employees, representatives, assigns and affiliates.

KTX Karaoke: As used herein, the term "KTX Karaoke" refers to KTX Karaoke located at 2625 Old Denton Rd. Suite 526 Carrollton, Texas 75007, and, as applicable, includes its 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, “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:

1. All photographs taken in connection with Plaintiffs’ cause of action in the possession, constructive possession, custody or control of KTX Karaoke, KTX Karaoke’s attorney or anyone acting on KTX Karaoke’s behalf.

RESPONSE:

2. All photographs taken of Donghyun Kim, which may be in the possession, constructive possession, custody or control of KTX Karaoke, KTX Karaoke’s attorney or anyone acting on KTX Karaoke’s behalf.

RESPONSE:

3. All pictures, motion pictures, movies, films, or photographic material of any kind taken of Donghyun Kim , which are in the possession, constructive possession, custody or control of KTX Karaoke, KTX Karaoke’s attorney or anyone acting on KTX Karaoke’s behalf.

RESPONSE:

4. All pictures, motion pictures, movies, films, surveillance camera images or data, or photographic material of any kind concerning KTX Karaoke on or about the night of the Incident, including the inside of KTX Karaoke, the outside surrounding area, the parking lot or the events and happenings made the basis of the lawsuit taken before, during or after the incident which are in the possession, constructive possession, custody or control of KTX Karaoke, KTX Karaoke's attorney or anyone acting on KTX Karaoke's behalf.

RESPONSE:

5. A copy of all documents filed with any state, county, city, federal or governmental agency, institution or department containing information about Donghyun Kim which are in the possession, constructive possession, custody or control of KTX Karaoke, KTX Karaoke's attorney or anyone acting on KTX Karaoke's behalf.

RESPONSE:

6. All written reports of inspection, tests, writings, drawings, graphs, charts, recordings or opinions of any expert who has been used for consultation and whose work product forms a basis either in whole or in part of the opinions of an expert who is to be called as a witness. (If the discoverable factual materials have not been received or reduced to a tangible form, request is hereby made that Defendants advise Plaintiffs' counsel accordingly and reduce such material to tangible form).

RESPONSE:

7. A curriculum vitae or resume for any consulting expert whose mental impressions or opinions have been reviewed by a testifying expert.

RESPONSE:

8. Any and all copies of investigation documentation, reports and/or memoranda made by or submitted to KTX Karaoke as a result of the incident which has been made the basis of Plaintiffs' lawsuit.

RESPONSE:

9. Any and all written communications including but not limited to letters and/or memorandums, between agents, employees and/or representative of KTX Karaoke that were prepared as a result of the incident made the basis of Plaintiffs' lawsuit. This request does not include communications made only between you and your attorneys or your attorney's work product.

RESPONSE:

10. Copies of any contracts or agreements between KTX Karaoke and any organization, entity or person for security services in effect on the evening of December 18, 2011 through the early morning of December 19, 2011.

RESPONSE:

11. Copies of any and all books, documents or other tangible things which may or may not be introduced at trial, but which may be used by KTX Karaoke as demonstrative evidence at trial.

RESPONSE:

12. Copies of any and all financial documentation provided to shareholders, partners or owners of KTX Karaoke for the past five (5) years.

RESPONSE:

13. Copies of any and all annual reports provided to shareholders of KTX Karaoke for the past five (5) years.

RESPONSE:

14. Copies of all advertisements, including but not limited to, television ads, radio ads, yellow page advertising, newspaper advertising, Internet advertising, leaflets, handouts, sandwich signs, skywriting and other promotional materials that were in use at any time during the six month period prior to the incident.

RESPONSE:

15. All rules, management guidelines, operating guidelines, employee handbooks or other similar documents that purport to show operating procedures regarding the service of alcohol to patrons at KTX Karaoke, from the evening of December 18, 2011 through the early morning of December 19, 2011 to the present.

RESPONSE:

16. All corporate charters, bylaws, joint venture agreements and/or partnership agreements reflecting ownership of KTX Karaoke from the evening of December 18, 2011 through the early morning of December 19, 2011 to the present.

RESPONSE:

17. Records showing the identity of all employees of KTX Karaoke at the time of the incident, regardless of whether those employees were on duty at the time or not, including name, last known address, last known telephone number, title and job description.

RESPONSE:

18. Records pertaining to TABC training courses attended or taken by all employees of KTX Karaoke working on the day of the incident.

RESPONSE:

19. All TABC certificates for all employees working on the day of the incident.

RESPONSE:

20. All documents identifying any independent contractors or outside persons or entities, including but not limited to, those distributing, handing out, or giving away promotional alcoholic beverages, or other items on the evening of December 18, 2011 through the early morning of December 19, 2011.

RESPONSE:

21. All documents reflecting the enforcement of TABC rules and regulations and/or disciplinary actions involving employees of KTX Karaoke for violations of TABC regulations from January 1, 2003 to the present.

RESPONSE:

22. All correspondence between KTX Karaoke and TABC from January 1, 2003 through the present.

RESPONSE:

23. Copies of any settlement and/or indemnification agreements between you and any other person or entity, whether a party to this lawsuit or not, relating, pertaining or regarding the incident made the basis of this lawsuit or any damages resulting there from.

RESPONSE:

24. Copies of all complaints, notices, warnings, letters, notices and lawsuit petitions regarding claims from other persons or entities alleging property damage, injury and/or death pertaining to the service, sale or consumption of alcoholic beverages at KTX Karaoke from January 1, 2003 to the present.

RESPONSE:

25. All reference materials, treatises, informational materials, including but not limited to, documents, textbooks, manuals, guidelines, videotapes, DVDs, CDs, audiotapes, describing required and/or proper procedures for the sale or service or consumption of alcoholic beverages, present at the premises of KTX Karaoke on the date of the incident.

RESPONSE:

26. Documents showing the correct ownership identity for KTX Karaoke at the time of the incident, through the present.

RESPONSE:

27. The TABC (liquor) license for KTX Karaoke at the time of the incident.

RESPONSE:

28. All other licenses issued by any governmental or regulatory agency that were in effect for KTX Karaoke on the evening of December 18, 2011 through the early morning of December 19, 2011.

RESPONSE:

29. All documents pertaining to sales receipts, sales records, cash register records, charge slips, bank deposit slips for KTX Karaoke on the evening of December 18, 2011 through the early morning of December 19, 2011.

RESPONSE:

30. All documents, receipts, checks and other records pertaining to drinks and/or food served to Donghyun Kim on the evening of December 18, 2011 through the early morning of December 19, 2011.

RESPONSE:

31. All documents, receipts, checks and other records pertaining to drinks and/or food served to Donghyun Kim on *any* date from January 1, 2003 through the date of the incident.

RESPONSE:

32. Please produce any and all documents which evidence the managerial hierarchy and/or managerial and supervisory chain of command for KTX Karaoke for the evening of December 18, 2011 through the early morning of December 19, 2011.

RESPONSE:

33. Please produce any and all time cards and/or time sheets for the persons who were working for you and on duty the evening of December 18, 2011 through the early morning of December 19, 2011 at KTX Karaoke.

RESPONSE:

34. Please produce the entire and complete employee file and/or files for persons at KTX Karaoke serving alcoholic beverages, and any manager that had any supervisory responsibility or authority over persons at KTX Karaoke serving alcoholic beverages on the evening of December 18, 2011 through the early morning of December 19, 2011.

RESPONSE:

35. Please produce all documents reflecting any occasion where a person working for you was noted, counseled or reprimanded for selling alcohol to an intoxicated person during the years of 2003-2011.

RESPONSE:

36. Please produce true copies of any documents which constitute any official company policy or procedure for determining when and under what circumstances or conditions anyone working for you would be disciplined and/or fired for failing to comply with KTX Karaoke's guidelines regarding the safe sale of alcoholic beverages.

RESPONSE:

37. Please produce true and correct copies of all documents or tangible things regarding any and all training programs provided by KTX Karaoke before the incident made the basis of this suit (including but not limited to all safety manuals, booklets or notices) that are/were aimed to educate employees of KTX Karaoke regarding the safe sale of alcoholic beverages.

RESPONSE:

38. Please attach to your responses to this request true and correct copies of the following:

- (a) Any and all documents filed with and/or produced to state, federal or regulatory authorities concerning the incident made the basis of this suit;
- (b) Any and all documents filed with and/or produced to state, federal or regulatory authorities concerning other incidents similar to the incident made the basis of this suit at KTX Karaoke within the past ten (10) years.

RESPONSE:

39. Documents relating to Defendants' assertion that employees of KTX Karaoke were serving in accordance with the Texas Alcoholic Beverages Commission regulations at the time the subject incident occurred.

RESPONSE:

40. All documents that show or evince that employees of KTX Karaoke who were responsible for serving alcohol on the evening of December 18, 2011 through the early morning of December 19, 2011 are/were required to attend a TABC Commission-approved seller training program.

RESPONSE:

41. All documents that show or evince that employees of KTX Karaoke referred to in Request for Production No. 40 actually attended a TABC Commission-approved seller training program

RESPONSE:

42. Please produce any and all "bartender manuals," "alcoholic beverage guide books" and/or "alcoholic beverage recipe books" used by people working at KTX Karaoke from January 1, 2003 through December 19, 2011.

RESPONSE:

43. Please produce complete and clearly readable copies of any and all other accident or incident files and records maintained by you in reference to any other accident or incident at KTX Karaoke prior to the occurrence of the incident in question.

RESPONSE:

44. All documents reflecting Defendants' ownership, management, operation or financial interest in other establishments licensed by TABC to sell alcoholic beverages.

RESPONSE:

45. If you have any written agreements or understandings with any other entity which limit or relieve your obligation to satisfy all or any part of any judgment which may be rendered against you in this case, produce a true and correct copy of such agreement and/or understanding and specifically indicate what portion of such agreement and/or understanding limits and/or relieves your obligation to pay any judgment which may be rendered against you in this case.

RESPONSE:

46. Please produce any and all contracts or agreements between Defendants and any provider or producer of alcoholic beverages in effect on the evening of December 18, 2011 through the early morning of December 19, 2011.

RESPONSE:

47. Please produce any correspondence/memos reprimanding or terminating employment of any KTX Karaoke employee as a result of the incident.

RESPONSE:

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 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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- (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;
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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.

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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 Admission: Per Tex. R. Civ. P. 198.2, you are required to admit or deny each request. 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. 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.

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, Hak Soo Kim and Mun Hee Park, Individually, as wrongful death beneficiaries, and on behalf of the Estate of Donghyun Kim and includes, as applicable Plaintiffs' agents, employees, representatives and/or assigns.

Defendant: As used herein, the term "Defendant" refers to Yohl Corporation d/b/a KTX Karaoke Restaurant, who is a defendant party in this suit, and, as applicable, includes its agents, employees, representatives, assigns and affiliates.

KTX Karaoke: As used herein, the term "KTX Karaoke" refers to KTX Karaoke located at 2625 Old Denton Rd. Suite 526 Carrollton, Texas 75007, and, as applicable, includes its 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, “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 ADMISSIONS

1. On the evening of December 18, 2011 through the early morning of December 19, 2011, Donghyun Kim was sold alcoholic beverages by a KTX Karaoke employee.

RESPONSE:

2. On the evening of December 18, 2011 through the early morning of December 19, 2011 Donghyun Kim was served alcoholic beverages by a KTX Karaoke employee.

RESPONSE:

3. On the evening of December 18, 2011 through the early morning of December 19, 2011 Donghyun Kim was sold alcoholic beverages while intoxicated.

RESPONSE:

4. On the evening of December 18, 2011 through the early morning of December 19, 2011, Donghyun Kim was sold alcoholic beverages while it was apparent that he was intoxicated to the extent that he presented a clear danger to himself or others.

RESPONSE:

5. On December 19, 2011, Donghyun Kim left KTX Karaoke in an intoxicated state.

RESPONSE:

6. On December 19, 2011, Donghyun Kim’s intoxication was a proximate cause of his injuries.

RESPONSE:

7. On the evening of December 18, 2011 through the early morning of December 19, 2011, KTX Karaoke did not require its employees to be TABC certified.

RESPONSE:

8. On the evening of December 18, 2011 through the early morning of December 19, 2011, all of the employees serving alcohol at KTX Karaoke were not TABC certified.

RESPONSE:

9. On the evening of December 18, 2011 through the early morning of December 19, 2011, KTX Karaoke had video surveillance installed on the inside of the restaurant.

RESPONSE:

10. On the evening of December 18, 2011 through the early morning of December 19, 2011, the video surveillance system at KTX Karaoke was operating.

RESPONSE:

11. On the evening of December 18, 2011 through the early morning of December 19, 2011, the video surveillance system captured images of Donghyun Kim.

RESPONSE:

12. Following the incident, management reviewed video containing images of Donghyun Kim on the evening of December 18, 2011 through the early morning of December 19, 2011.

RESPONSE:

13. Video images of Donghyun Kim on the evening of December 18, 2011 through the early morning of December 19, 2011 showed him to be obviously intoxicated when he was served alcoholic beverages by employees of KTX Karaoke.

RESPONSE:

14. KTX Karaoke retains copies credit card receipts from customers in the normal course of business.

RESPONSE:

15. KTX Karaoke retained copies of credit card receipts from customers on the evening of December 18, 2011 through the early morning of December 19, 2011.

RESPONSE:

16. Credit card receipts in possession of Defendant show that Donghyun Kim purchased alcoholic beverages at KTX Karaoke on the evening of December 18, 2011 through the early morning of December 19, 2011.

RESPONSE:

17. On December 18, 2011, Donghyun Kim was under the age of 21.

RESPONSE:

18. On December 18, 2011, Defendant KTX Karaoke served alcohol to Donghyun Kim even though Donghyun Kim was under the age of 21.

RESPONSE:

CAUSE NO. _____

**HAK SOO KIM and MUN
HEE PARK, Individually, as
wrongful death beneficiaries,
and on behalf of the Estate of
DONGHYUN KIM**
Plaintiffs

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IN THE _____

vs.

JUDICIAL DISTRICT COURT

**ADRIAN MARTIN, TEXAS
MAIL SERVICE, AND
YOHL CORPORATION
d/b/a KTX KARAOKE
RESTAURANT**

Defendants

DALLAS COUNTY, TEXAS

**PLAINTIFF HAK SOO KIM'S REQUEST FOR
INTERROGATORIES TO DEFENDANT ADRIAN MARTIN**

TO: Adrian Martin

Pursuant to Rule 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.

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

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 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.

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

- (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.
- (iv) 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, "Plaintiffs" means Hak Soo Kim and Mun Hee Park, Individually, as wrongful death beneficiaries, and on behalf of the Estate of Donghyun Kim and includes, as applicable Plaintiff's agents, employees, representatives and/or assigns.

Defendant / Adrian Martin: As used herein, the term "Defendant" refers to Adrian Martin, 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, “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: Please state the following:

- A. Your name (including all names or aliases by which you have ever been known), address, date of birth, social security number, driver’s license number and the name and addresses of your spouse and all ex-spouses;
- B. List the state(s) and all driver’s license numbers for all licenses issued to you for the five (5) year period preceding the collision in question;
- C. The name and address of your employer at the time of the collision in question;
- D. Your job description and position with Texas Mail Service on the date in question; and
- E. The individual(s) for Texas Mail Service who supervised or had authority to supervise the details of how you performed your work.

ANSWER:

INTERROGATORY NO. 2: With regard to the purpose of your travels on the date in question, please state the following:

- A. The point and time of the origination of your travel;
- B. Please state every place you stopped from the time your trip originated and why;
- C. Describe your route of travel;
- D. Describe all facts that you can recall leading up to the point of the collision in question, relative to the last ten (10) miles traveled by you before the collision in question.

ANSWER:

INTERROGATORY NO. 3: Were you acting within the course and scope of your employment with Texas Mail Service at the time of the collision in question? That is, were you acting in the furtherance of the business of Texas Mail Service at the time of the collision in question.

ANSWER:

INTERROGATORY NO. 4: Describe in your own words how the collision in question occurred and state specifically what you claim or contend was the cause or contributing cause of the collision in question, including a brief statement of the facts or information upon which such contention is based.

ANSWER:

INTERROGATORY NO. 5: Please state the sequence of events leading up to the collision in question, including, but not limited to, the speed of your truck in the 1-2 minutes preceding the collision, the speed of your truck at the time of the collision, the location of your truck at the time of the collision and whether you applied your brakes prior to the collision.

ANSWER:

INTERROGATORY NO. 6: Please identify all intoxicating beverages you consumed and all drugs and medications you took or which had been administered to you for the 2 week period preceding the collision in question.

ANSWER:

INTERROGATORY NO. 7: Please identify all lawsuits or any other legal proceedings in which you have been a party or witness (civil or criminal) by stating the name and style of each case, the case number, and identify the party or parties involved, the date of the filings of the case or claim, the name and address of the attorney for the opposing party or parties, and the nature and result of each charge, suit or claim, including the dollar amount of any payment, judgment, settlement, fine or penalty.

ANSWER:

INTERROGATORY NO. 8: With regard to the tractor-trailer in question, please state:

- A. The name, address and telephone numbers of all passengers, specifying who was driving, and where the passengers were seated and what they were doing in the minutes leading up to the collision in question;
- B. The name and address of the owner;
- C. The date and place the vehicle was last services, inspected and/or repaired by anyone before the collision in question; and
- D. All conditions of the vehicle (mechanical, electrical, hydraulic, structural, brakes and/or design), if any, which you contend caused or contributed to cause the collision in question and the factual basis for any such contention.

ANSWER:

INTERROGATORY NO. 9: Do you contend that there was any defect in the roadway that caused or contributed to the cause of the collision in question? If so, please set forth all facts that support such a contention.

ANSWER:

INTERROGATORY NO. 10: Do you contend that any weather conditions caused or contributed to the cause of the collision in question? If so please set forth all facts that support such a contention.

ANSWER:

INTERROGATORY NO. 11: Did you have a valid commercial driver's license (CDL) to operate the tractor-trailer in question at the time of the collision in question? If so, please describe it as to type, license number, state of issuance, and any restrictions thereon, and if the license has ever been suspended, modified or revoked, give the detail of such. If you did not have a commercial driver's license (CDL), please explain why.

ANSWER:

INTERROGATORY NO. 12: Do you allege that someone else's conduct or some other condition or event caused or contributed to cause the collision in question? If so, please describe the identity of such other person, event or condition, and state all facts that support such a contention.

ANSWER:

INTERROGATORY NO. 13: Please describe all conversations you had with any of the occupant(s) of the vehicle(s) you collided with in the collision in question, or with their representatives following the collision in question.

ANSWER:

INTERROGATORY NO. 14: Have you ever been arrested? If so, please state when each arrest occurred, what county and state it occurred in, the reason for the arrest, the charges, the disposition (i.e. dismissed, convicted, plea bargain), and any fines or jail sentence received.

ANSWER:

INTERROGATORY NO. 15: Please state the name and address of each employer for whom you have worked for ten (10) years preceding the collision in question to the present, including the dates of employment, the reason for leaving any listed employment, your job duties, your rate of pay and your supervisor.

ANSWER:

INTERROGATORY NO. 16: Describe all evaluations, promotions, demotions, change of title or position, pay raises and/or disciplinary actions that you received from your employer at the time of the collision in question, including the dates of the change of title or position and the names of all persons responsible for said evaluations, promotions, demotions, raises, changes in title or position, and/or disciplinary actions, from the time you began employment through the present.

ANSWER:

INTERROGATORY NO. 17: Please identify all accidents in which you have been involved in and all citations and/or moving violations which you have received for the ten (10) years prior to the collision in question through the present.

For purposes of this interrogatory, identify means: (a) the dates of the accidents/citations; (b) the nature of the accidents/citations; (c) the disposition of the citations; (d) the location of the accidents; (e) the parties involved in the accidents; and (f) the identity of any police officers who arrived at the scene and/or wrote the police report.

ANSWER:

INTERROGATORY NO. 18: If you submitted to a test for alcohol and controlled substances following the collision in question, then please state the following. If you did not submit to 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 you to submit to such testing; and
- D. The results of such tests.

ANSWER:

INTERROGATORY NO. 19: Do you contend that Donghyun Kim did anything wrong or improper that caused or contributed to the cause of the collision in question? If so, the please describe what you contend he did wrong or improper, and how any such actions and/or inactions caused or contributed to the cause of the collision in question.

ANSWER:

INTERROGATORY NO. 20: Do you contend that the collision in question was caused, in whole or in part, by 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 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 you did anything wrong or improper that caused or contributed to cause the collision in question? If so, then please describe what you contend you did wrong or improper, and how any such actions and/or inactions caused or contributed to cause the collision in question.

ANSWER:

INTERROGATORY NO. 22: Did Texas Mail Service determine or inform you that the collision in question was deemed “preventable”? If so, then please state the name, address, telephone number and position with Texas Mail Service of the person(s) who informed you of such determination and what they told you.

ANSWER:

INTERROGATORY NO. 23: Were you terminated, fired, let go, asked to leave or anything else that led to your leaving the employment of Texas Mail Service after the collision in question? If so, who informed you of such event and what reasons were you given?

ANSWER:

INTERROGATORY NO. 24: Please describe all health conditions you had at the time of the collision in question and for the six (6) months prior, including, the condition you had, whether you took any medication for it and what you took, and the name, address and telephone numbers of all doctors, clinics, hospitals or healthcare providers you saw for any such condition.

ANSWER:

CAUSE NO. _____

**HAK SOO KIM and MUN
HEE PARK, Individually, as
wrongful death beneficiaries,
and on behalf of the Estate of
DONGHYUN KIM
Plaintiffs**

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IN THE _____

vs.

JUDICIAL DISTRICT COURT

**ADRIAN MARTIN, TEXAS
MAIL SERVICE, AND
YOHL CORPORATION
d/b/a KTX KARAOKE
RESTAURANT**

Defendants

DALLAS COUNTY, TEXAS

**PLAINTIFFS' REQUEST FOR PRODUCTION
TO DEFENDANT ADRIAN MARTIN**

TO: Adrian Martin

Pursuant to Rule 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.



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

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

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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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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, "Plaintiffs" means, Hak Soo Kim and Mun Hee Park, Individually, as wrongful death beneficiaries, and on behalf of the Estate of Donghyun Kim and includes, as applicable Plaintiff's agents, employees, representatives and/or assigns.

Defendant / Adrian Martin: As used herein, the term "Defendant" refers to Adrian Martin, 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 Plaintiff's 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, “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 front and back of all driver’s licenses held by you, including all commercial driver’s licenses.

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-trailer for the 6 month period preceding the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3: A copy of all documents referred to in answering Plaintiff’s First Set of Interrogatories to you, identifying which documents were used to answer each respective interrogatory.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4: 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. 5: A color copy of all exhibits you intend to offer at trial.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6: 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. 7: A color copy of all written policies and procedures, employment handbooks and/or employment manuals that you received when you first hired on with Texas Mail Service and which you received during your employment with them.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9: A color copy of all training manuals or other written training materials that you received while employed with Texas Mail Service.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10: True and complete copies of all surveillance reports, investigative 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. 11: All incident/accident reports for any accident you were involved in for the 5 year period preceding the collision in question

RESPONSE:

REQUEST FOR PRODUCTION NO. 12: All documents given to you during your employment with Texas Mail Service regarding any corrective actions to be taken in response to any state and/or federal agencies' findings concerning Texas Mail Service's business operations for the 5 year period preceding the collision in question through the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 13: A copy of any alcohol and/or controlled substance test that you submitted to as a result of the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 14: All documents relating to, pertaining to, referencing or documenting any review of the collision in question by your employer to determine whether the accident was preventable.

RESPONSE:

REQUEST FOR PRODUCTION NO. 15: Please produce all printouts of the Electronic Control Module from the tractor-trailer in questions following the subject collision.

RESPONSE:

REQUEST FOR PRODUCTION NO. 16: Please produce a color copy of all post-accident photographs and videotapes of the tractor and trailer in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 17: Please produce a color copy of all post-accident photographs and videotapes of the vehicles that were involved in the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 18: 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. 19: 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. 20: Please produce a color copy of all news articles that you obtained regarding the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 21: Please produce a copy of all 911 tapes, transcripts or call logs pertaining to the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 22: A copy of all ISO (International Standards Organization) standards, policies and procedures that you were given during your employment with Texas Mail Service.

RESPONSE:

REQUEST FOR PRODUCTION NO. 23: All documents pertaining to, referencing or relating to any determination by Texas Mail Service or any of its employees or representatives, that the collision in question was “preventable”.

RESPONSE:

REQUEST FOR PRODUCTION NO. 24: All documents pertaining to any reprimands, corrective actions, counseling or termination you received during your employment with Texas Mail Service.

RESPONSE:

REQUEST FOR PRODUCTION NO. 25: A copy of your Driver’s Daily Logs from January 1, 2011, through and including December 31, 2011.

RESPONSE:

REQUEST FOR PRODUCTION NO. 26: A copy of all sign-in sheets for any safety meetings or training sessions attended by you for the 3 year period preceding the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 27: A copy of all handouts, overhead slides, power point presentations or other written or visual materials that were given to you or presented to you at any safety meeting or training sessions you attended for the 3 year period preceding the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 28: Please produce for inspection and copying the original of all Federal Motor Carrier Safety Regulations books and pocketbooks you have.

RESPONSE:

REQUEST FOR PRODUCTION NO. 29: A copy of all notes, memos, correspondence, e-mails, Qualcomm messages, diaries or other documents relating or pertaining to the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 30: A copy of all awards, certificates or other written materials regarding your driving qualifications/experience/training/performance for the past 10 years.

RESPONSE:

CAUSE NO. _____

**HAK SOO KIM and MUN
HEE PARK, Individually, as
wrongful death beneficiaries,
and on behalf of the Estate of
DONGHYUN KIM
Plaintiffs**

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IN THE _____

vs.

JUDICIAL DISTRICT COURT

**ADRIAN MARTIN, TEXAS
MAIL SERVICE, AND
YOHL CORPORATION
d/b/a KTX KARAOKE
RESTAURANT**

Defendants

DALLAS COUNTY, TEXAS

**PLAINTIFF HAK SOO KIM’S REQUESTS FOR
INTERROGATORIES TO DEFENDANT TEXAS MAIL
SERVICE**

TO: Texas Mail Service

Pursuant to Rule 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.



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

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:

- (vii) 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.
- (viii) 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, "Plaintiffs" means, Hak Soo Kim and Mun Hee Park, Individually, as wrongful death beneficiaries, and on behalf of the Estate of Donghyun Kim and includes, as applicable Plaintiff's agents, employees, representatives and/or assigns.

Defendant / Texas Mail Service: As used herein, the term "Defendant" refers to Texas Mail Service, whom is a defendant party in this suit, and, as applicable, includes its 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 Plaintiff's 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, “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 Adrian Martin, 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 Adrian Martin;
- 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 Adrian Martin’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 Adrian Martin 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 done 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 Adrian Martin 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 Adrian Martin.

ANSWER:

INTERROGATORY NO. 12: If you requested that Adrian Martin 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 Adrian Martin 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 Adrian Martin 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 Adrian Martin 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 Adrian Martin;
- B. Person(s) responsible for supervising Adrian Martin;
- 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 Adrian Martin.

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 Donghyun Kim did anything wrong which caused or contributed to cause the collision in question? If so, then please describe what you contend he 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 Adrian Martin 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:

INTERROGATORY NO. 24: Please state the name, address, and telephone number of any passengers who were with Adrian Martin at the time of the collision in question and what connection, if any, they had with your company.

ANSWER:

CAUSE NO. _____

**HAK SOO KIM and MUN
HEE PARK, Individually, as
wrongful death beneficiaries,
and on behalf of the Estate of
DONGHYUN KIM
Plaintiffs**

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IN THE _____

vs.

JUDICIAL DISTRICT COURT

**ADRIAN MARTIN, TEXAS
MAIL SERVICE, AND
YOHL CORPORATION
d/b/a KTX KARAOKE
RESTAURANT**

Defendants


DALLAS COUNTY, TEXAS

**PLAINTIFFS' REQUEST FOR PRODUCTION
TO DEFENDANT TEXAS MAIL SERVICE**

TO: Texas Mail Service

Pursuant to Rule 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.



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

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 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.

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

- (ix) 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.
- (x) 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 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, "Plaintiffs" means, Hak Soo Kim and Mun Hee Park, Individually, as wrongful death beneficiaries, and on behalf of the Estate of Donghyun Kim and includes, as applicable Plaintiff's agents, employees, representatives and/or assigns.

Defendant / Texas Mail Service: As used herein, the term "Defendant" refers to Texas Mail Service, whom is a defendant party in this suit, and, as applicable, includes its 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 Plaintiff's 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, “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 truck 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 Plaintiff’s 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 Adrian Martin for the 90 day period preceding the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10: All documents showing the purpose of Adrian Martin's travel on December 19, 2011, 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 Adrian Martin 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 Adrian Martin 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 Adrian Martin 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, memorandum, 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 Adrian Martin was involved in for the past 5 year period preceding the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 21: Any and all notes, memos, 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 preceding 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 that Adrian Martin 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 of 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 Adrian Martin that were in existence during the time period that Adrian Martin 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: Please produce a color copy of all post-accident photographs and videotapes of the vehicles that were involved in the collision in question.

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 or call logs pertaining to the collision in question.

RESPONSE:

REQUEST FOR PRODUCTION NO. 35: A copy of all your Document Retention Policies that were in existence as of December 19, 2011, to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 36: 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: 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: 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 Adrian Martin first came to work for you.

RESPONSE:

REQUEST FOR PRODUCTION NO. 39: 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 Adrian Martin 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 your drivers, like Adrian Martin, 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 Adrian Martin from January 1, 2011, through and including December 31, 2011.

RESPONSE:

REQUEST FOR PRODUCTION NO. 42: A copy of all sign-in sheets for any safety meetings or training sessions attended by Adrian Martin 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: Your Accident Register for years 2003 to present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 48: Produce for inspecting and photographing the subject tractor and trailer.

RESPONSE:

GROSSMAN LAW OFFICES
A PROFESSIONAL CORPORATION

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*E. Michael Grossman, Esq.
Keith Purdue, Esq.
G. Jerrell Wise, Esq.*

December 7, 2012

Via E-filing

Dallas County District Clerk
Attn: District Clerk
600 Commerce Street, Ste. 103
Dallas, TX 75202

Re: Hak Soo Kim and Mun Hee Park, Individually, as wrongful death beneficiaries, and on behalf of the Estate of Donghyun Kim vs. Adrian Martin, Texas Mail Service, and Yohl Corporation d/b/a KTX Karaoke Restaurant.

Dear Clerk,

In reference to the above-mentioned matter, please find enclosed the original copy of Plaintiffs' Original Petition and Requests for Discovery.

Thank you for your attention to this matter.

Sincerely,



Keith C. Purdue
Attorney at Law