

Appendix A

Trucking 30 (b)(6) Deposition Outline

Deposition outlines are just that, outlines. Obviously, each deposition is different, especially as it relates to the corporate representative deposition. Over the years, we have been asked for outlines of various types of depositions, but the most frequent request is always for the corporate representative. Here are outlines that you can use to help prepare for the deposition of the corporate representative in several types of cases. While these give you something to work with, they are not cookie cutter models to used as is. The facts and issues of each individual case may substantially change both the content and sequence of questions you will see below.

Here is a deposition outline for a 30.02(6) witness. Our objectives are to find out about the hiring and screening of the employees, more specifically the truck drivers they hire, how the company addresses safety, the process of supervising the truck drivers, and what the company does with the driver logs. As with any deposition, we have to get preliminary information, so that is why we start off the outline with those types of questions.

See the Video

- **30(b)(6) Most Knowledgeable**
- **30(b)(6) Witness Intro**

Preliminary Information about the Witness

Q What is your name?

Q What is your home address?

Q What is your phone number?

Q What is your age?

Q What is your date of birth?

Q What is your social security number?

Mark a copy of the signed deposition notice as Exhibit 1 and then go through the notice.

Q Can you identify this document [the deposition notice]?

Q Are you here on behalf of the corporation, not yourself as an individual?

Q Are you the person “with the most knowledge concerning the following designated matters and as to such information that is known or reasonably available to the organization?”

Q What is your current employment?

Q What is your job description?

Q What is your role in the company?

Q What are your job duties?

Q Are you the person who has been designated by Regency Transport to speak on its behalf with respect to:

(1) Hiring and screening of employees?

(2) Safety and accident prevention and reporting?

(3) Driver supervision/inspection of logs?

Q Who designated you to speak on behalf Regency Transport?

Q Why you?

Q Are you the person at Regency Transport who is the most knowledgeable with respect to:

(1) Hiring and screening of employees?

(2) Safety and accident prevention and reporting?

(3) Driver supervision and inspection of logs?

Q Are there areas regarding hiring/screening of employees that you are not knowledgeable?

Q Are there areas regarding safety/accident prevention and reporting that you are not knowledgeable?

Q Are there areas regarding driver supervision/inspection of logs that you are not knowledgeable?

Q Is there anyone else who has more knowledge about:

(1) Hiring and screening of employees?

(2) Safety and accident prevention and reporting?

(3) Driver supervision and inspection of logs?

Q Do you have full authority to speak on behalf of Regency Transport with respect to:

(1) Hiring and screening of employees?

(2) Safety and accident prevention and reporting?

(3) Driver supervision and inspection of logs?

Q Do you understand that the answers you will give to our questions will be on behalf of Regency Transport?

Q Do you understand that all of the answers you will give to our questions will represent all of the information available to Regency Transport?

Q Are you aware the answers you will give to our questions will be binding upon Regency Transport?

Q Do you agree the answers you will give to our questions will be binding upon Regency Transport?

Q Are you fully prepared to speak with respect to:

- (1) Hiring and screening of employees?
- (2) Safety and accident prevention and reporting?
- (3) Driver supervision and inspection of logs?

See the Video

- **30(b)(6) Most Knowledgeable**
- **30(b)(6) Witness Intro**

Deposition Basics

- Q Have you testified under oath before today?
- Q Have you given a deposition before?
- Q Do you understand the deposition rules?
- Q Are you a member of any professional organizations?
- Q Are you aware of the North American Transport Safety Institute?
- Q Is Regency a member of the ATA?
- Q Who is the certified Director of Safety/Certified Safety Supervisor?
- Q What is your prior work/education?
- Q Do you have experience as a driver?
- Q Do you have experience with the route from Illinois to Nashville?
- Q Do you have training in safety/certification in safety?
- Q Do you have training in accident prevention or reconstruction?
- Q Do you have familiarity with Federal Motor Carrier Safety Administration?
- Q Are you familiar with Safersys.org?
- Q Does Regency have a safety program?
- Q How many drivers does Regency have?

Q How many states does Regency operate in?

Q What are the number of employees working full-time in the areas of:

(1) Hiring and screening of employees?

(2) Safety and accident prevention and reporting?

(3) Driver supervision and inspection of logs?

Q Describe the organization of:

(1) Hiring and screening of employees?

(2) Safety and accident prevention and reporting?

(3) Driver supervision and inspection of logs?

Q Describe the supervision of:

(1) Hiring and screening of employees?

(2) Safety and accident prevention and reporting?

(3) Driver supervision and inspection of logs?

Q Who is in charge of:

(1) Hiring and screening of employees?

(2) Safety and accident prevention and reporting?

(3) Driver supervision and inspection of logs?

Preparation

Q What did you do to prepare for this deposition? How many hours did you spend?

Q Did anyone from Regency Transport help prepare you for this testimony?

Q Anyone else?

Q What directions did you receive?

Q From whom?

- Q When?
- Q Did you review documents in preparation for your testimony?
- Q Which documents?
- Q Where were the documents you located kept?
- Q How are they filed?
- Q How are they indexed?
- Q Are there any electronic versions of any of these documents?
- Q On what computers?
- Q Are there documents in other locations to which you did not have access?
- Q Where are those documents located?
- Q Did you look there?
- Q Is there anything else you could have done?
- Q Have you brought everything you reviewed?
- Q Who else reviewed what you assembled?
- Q Supervisors? Insurance adjusters? Lawyers? Anyone else?
- Q Was there any discussion about your testimony?
- Q What was that discussion?
- Q With whom did you discuss your testimony?
- Q When did you discuss your testimony?

Additional Searches

- Q Prior to gathering these documents for me, had you ever been asked to gather documents before?
- Q For this accident?

- Q For other lawsuits?
- Q Who asked you to gather these documents?
- Q When were you asked to gather these documents?
- Q What did you do with them?
- Q Were any documents sent without retaining copies?
- Q Were any documents destroyed after copies were sent?

Corporate Safety Policies

- Q Do you believe Regency Transport has a duty to operate its trucks safely?
- Q Is that important?
- Q Why is that important?
- Q What kinds of things go into “operating safely”?
- Q Do you believe Regency Transport has a duty to hire safe drivers?
- Q Is that important?
- Q Why is that important?
- Q What kind of driver would not be “safe”?
- Q Do you believe Regency Transport has a duty to provide the management and financial support necessary to operate safely?
- Q Is that important?
- Q Why is that important?
- Q Do you believe Regency Transport has a duty to counsel and correct drivers who may have unsafe driving habits or practices?
- Q Is that important?
- Q Why is that important?

- Q Do you believe Regency Transport has a duty to prevent accidents?
- Q Is that important?
- Q Why is that important?
- Q Do you believe Regency Transport has a duty to stop unsafe driving practices?
- Q Is that important?
- Q Why is that important?
- Q Should a good truck company learn from its mistakes?
- Q If unsafe practices result in the loss of property or life should a company learn from those mistakes?
- Q Should a company make changes to ensure those mistakes do not occur again?
- Q Would it be reckless for a company to experience loss of property or life and make no change?
- Q Would it be reckless for a trucking company to operate without making safety a priority?
- Q Would it be reckless for a trucking company to hire drivers with unsafe driving habits or practices?
- Q Would it be reckless for a trucking company to operate without counseling and correcting drivers who may have unsafe driving habits or practices?
- Q Does Regency accept responsibility for its drivers who are negligent and cause wrecks?
- Q Does Regency accept responsibility if its employees allow unsafe practices to continue?
- Q Is the safety department involved in supervising drivers who have safety violations?
- Q Is the safety department involved in supervising new drivers who have safety violations?
- Q Is the safety department involved in supervising drivers whose log books reflect unsafe practices?

Q Is the safety department involved in supervising new drivers whose log books reflect unsafe practices?

Q Does Regency use governors to control maximum speed?

Q What is a governor?

Q Are they important?

Q Why are they important?

Q Are they used on new or “at risk” drivers?

Hiring

Q Are these the employment qualifications required by Regency? (Exhibit)

No more than three moving violations in the past three years.

No more than one moving violation in the last year.

No DUI, reckless, or careless driving or implied consent convictions or suspensions in the last five years.

Q Do you have a role in the hiring decisions of the safety department?

Exhibits

In the process of preparing for this deposition, the following exhibits popped out as powerful and will be introduced sometime during the 30(b)(6) deposition. We know that using any of these exhibits is a potentially powerful way to control a witness’s testimony, and there is some great information that should have caused the employer to raise an eyebrow. The question is when and where you use each exhibit. What is the best sequence to help you move the witness and testimony in the direction you want?

1. Employee Questionnaire, January 9, 2009: Two speeding violations noted (within the last five years).
2. Employer Solicited Background Check, January 10, 2009: Shows four speeding violations within last five years.
3. February 6, 2009, State Motor Vehicle Record: Shows four speeding, one suspension, and one headlight violation within five years.
4. Employment Application with Trucking Company.
5. Certificate of Violations provided by driver (Says none, but what about headlights?)
6. References and return showing no connection, conversation, or feedback from prior employers of this driver.
7. Annual Review (language from document): “Must give great weight to speeding.”
8. Criminal Record (from plaintiff’s investigation): Driving under the Influence, April 23, 2010.
9. Driver Apprentice Employment Agreement and Authorization of Payroll Deduction

Safety Supervision/Management

- Q What is the purpose of logs?
- Q Are they important?
- Q Why are they important?
- Q Do you train your drivers to complete these accurately?
- Q Do you evaluate drivers based on their logs?
- Q Do you have software for monitoring or reviewing logs?
- Q What is your policy with regard to monitoring or reviewing logs?
- Q Who, when, where, why, how, and what is done?

- Q What is the policy with regard to reviewing logs with new drivers?
- Q Who, when, where, why, how, and what is done?
- Q What is the policy with regard to reviewing logs with new drivers who have safety violations?
- Q Who, when, where, why, how, and what is done?
- Q If a driver's logs indicated he drove at an average speed of seventy miles per hour, would you consider that too fast?
- Q Is that dangerous?
- Q Is that reckless?
- Q If a driver's logs indicated he drove at an average speed of seventy-five miles per hour, would you consider that too fast?
- Q Is that dangerous?
- Q Is that reckless?
- Q If a driver's logs indicated he drove at an average speed of eighty miles per hour, would you consider that too fast?
- Q Is that dangerous?
- Q Is that reckless?
- Q If a driver drove four hundred miles without stopping, would you consider that good or safe driving behavior?
- Q If a driver's logs were clearly wrong, would you consider that driver someone who needed further supervision or training?
- Q If a driver drove with his left leg up on the dashboard, leaning back into his seat, would you consider that dangerous?

See the Video

- **Mousetrap Logs**
- **Logs Show Speeding**

Exhibits

This particular trucking case had a number of documented driver safety issues (see below). The goal was to create a drum roll of answers showing inadequate, incomplete responses to what was a growing problem. We know that documents can be an excellent tool for control of a witness. Consider how you might use the following, then look at the example that follows the list of exhibits.

1. Employer Incident Report, February 23, 2010: “Tore off airlines.” The document says this infraction is chargeable to safety bonus, so very early in the year, this driver’s ability to earn a safety bonus is compromised.
2. Employer’s Final Verbal Warning, May 12, 2010: Late to Electrolux. (If the driver is subject to being fired for being late, what will he do to stay on time? When his logs show he speeds, are they really clerical errors?)
3. June 5, 2010, Maryland State Police: Failing to retain prior seven days of logs, failure to display registration card on demand. (This is a clear violation of safety rules. What does this mean in terms of his overall safety, hours of service, or speeding?)
4. June 16, 2010, Regency Final Written Warning and two-day suspension re: Maryland log violation. (Is a two-day suspension enough to bring this driver in line? What about training? What about firing him?)
5. July 22, 2010, Georgia State Police: Driving while overweight and no proof of liability insurance.

Here's an example of questions using just one of these documents.

- Q This driver was given a final written warning on June 17, 2010.
- Q Let me hand it to you. This is the warning?
- Q It clearly says "final written warning"? That's his signature at the bottom?
- Q Should employees take final written warnings like this seriously?
- Q Is that important?
- Q Why is that important?
- Q If an employee didn't take a final written warning seriously, what would that say about the employee?
- Q Would you agree that any employee who has received a final written warning should be watched closely—at least for some period of time—if he is driving tractor-trailers across the United States?
- Q Was there any change in the supervision provided to this driver after this?
- Q Was there any change in the way in which you reviewed his logs?
- Q Was there any audit of his logs after this?
- Q Was there any additional training offered to this driver after this?

[And of course, exhaust, restate, and summarize.]

In addition to the company documents showing safety violations, a review of the driver's logs showed more—things that the witness could not have anticipated. Again, we are using the document (log) to control the testimony.

- Q Let's look at this log from November 23, 2010: Log shows driving from Sparta to Cartersville, Georgia. It shows that this driver went more than four hundred miles without a stop, and that would be a violation of safety rules wouldn't it?

A Well it's more likely that he is just filling out the log after the fact and didn't put in his stops.

Q It's important that driver's complete their logs accurately isn't it?

A Yes.

Q In fact it's an absolute requirement that they do, correct?

A Yes, but this is a clerical error he didn't really drive nonstop like that.

Q That is what his log says though, correct?

A Yes.

Q So was any action taken when this log was turned in saying he had gone four hundred miles without a stop?

Q Any training?

Q Any counseling?

Q Any discipline?

Q On November 24, 2010, your driver's log says—Macon, Georgia to Lithia Springs (1.25 hours, 103 miles). Did I get that right?

Q ProMiles says this should be a two-hour trip. Does that sound correct to you?

Q So let me hand you a calculator. If he went 103 miles, and we divide it by 1.25 hours, how fast was he averaging?

A It looks like an average of eighty-two miles per hour.

Q Q. And if he were traveling at that speed that would clearly be reckless wouldn't you agree?

Q After, per his logs, he was traveling in excess of speed limits. What did you do?

Collision Facts or Investigation

You may want to use a portion of the deposition to nail down facts that you already know or that you are still looking for. The following is a set of bullet points that will allow you to walk through everything the witness knows about the collision, including the date and opinions about cause.

(DOA, December 15, 2010)

- Q Who was involved in investigating this collision?
- Q Who else? [Exhaust.]
- Q What did they do?
- Q What else? [Exhaust for each person identified.]
- Q When did their investigation take place?
- Q When else? [Exhaust for each person identified.]
- Q Where did they conduct this investigation?
- Q Where else? [Exhaust for each person identified.]
- Q How did they do their investigation?
- Q How else? [Exhaust for each person identified.]
- Q Why did they do those things?
- Q Any other reason? [Exhaust for each person identified.]
- Q What photos were taken?
- Q Who took them?
- Q When were they taken?
- Q Where were they taken?
- Q Why were they taken?

- Q How were they taken? [Potentially ask these questions for each case-critical photograph.]
- Q What reconstruction was done?
- Q Who did it?
- Q When was it done?
- Q Where was it done?
- Q Why was it done?
- Q How was it done?
- Q What measurements were done?
- Q Who made them?
- Q When were they made?
- Q Where were they made?
- Q Why were they made?
- Q How were they made?
- Q What do you believe was the cause of this?
- Q Anything else? [Exhaust.]
- Q Why do you believe that?
- Q Why else? [Exhaust.]

Regency's Safety History

Just as you may know facts about the collision, you probably also know facts about the safety history of the company involved. Here is a real example.

In the twenty-four months prior to December 12, 2010, there were six fatalities. (This does not include the wreck in the case.)

- Q There was a fatality on April 5, 2008?

- Q What changes were made to learn from any mistakes that may have contributed to causing this wreck?
- Q There was a fatality on May 29, 2008?
- Q What changes were made to learn from any mistakes that may have contributed to causing this wreck?
- Q There was a fatality on November 8, 2009?
- Q What changes were made to learn from any mistakes that may have contributed to causing this wreck?
- Q There was a fatality on November 27, 2009?
- Q What changes were made to learn from any mistakes that may have contributed to causing this wreck?
- Q There was a fatality on January 19, 2010?
- Q What changes were made to learn from any mistakes that may have contributed to causing this wreck?
- Q There was a fatality on February 26, 2010?
- Q What changes were made to learn from any mistakes that may have contributed to causing this wreck?