



NOT JUST A BIG CAR CRASH — YIN AND YANG TRUCKING TRENDS
Gregory L. Gowan & Marisa Ybarra-Williams

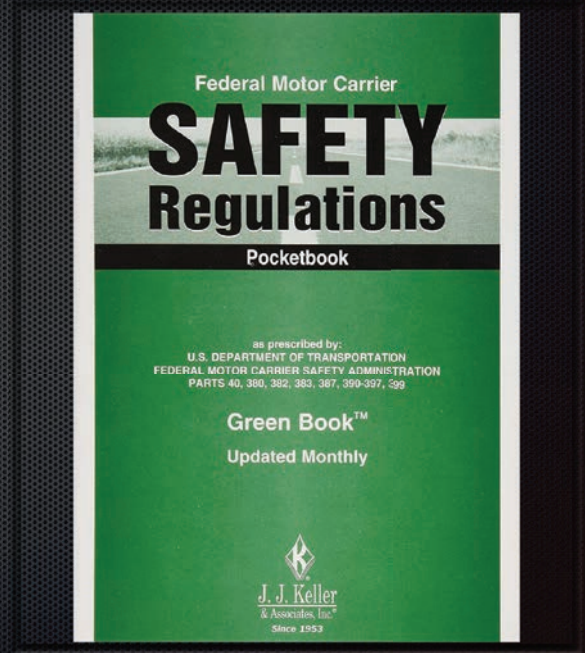
Spoliation Letters - Imposing a duty to preserve

Brookshire Bros., Ltd. v. Aldridge, 438 S.W.3d 9 (Tex. 2014)



Key FMCSRs

- Title 49 of the Code of Federal Regulations
 - Sections 40 and 382: Drug and Alcohol Use
 - Sections 383 and 391: Driver Qualifications and Licensing Standards
 - Section 387: Insurance Requirements
 - Section 392: Rules of Driving, Fatigue, Alcohol Use, Schedules, and Inspections
 - Section 395: Hours of Service Limitations
 - Section 396: Inspection, Repair, and Maintenance
 - Section 397: Hazardous Materials



FMCSRs and Discovery



- Driver's logs
- Driver inspections
- Driver qualification files
- Event tracking data
- Dash cam footage
- Dispatch records
- Safety and Training Manuals
- Alcohol and Drug Tests
- Telephone Records

Vicarious Liability Theories of Recovery

- Statutory Employer
- Respondeat Superior
- Negligent Entrustment



Statutory Employer

- 49 C.F.R. § 376.12(c)(1)
- Interstate motor carriers required to assume full direction and control of leased vehicles
- Full responsibility for:
 - Maintenance and operation of equipment
 - Borrowed drivers
- Vicarious liability as a matter of law
- Transaction-specific determination, general authorization to operate as motor carrier irrelevant



Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Not Just A Big Car Crash: Yin and Yang Trucking Trends

First appeared as part of the conference materials for the
2020 Car Crash Seminar session

"Not Just A Big Car Crash: Yin and Yang Trucking Tips and Pitfalls"