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August 1, 2008

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Craig Johnson
CEO
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Tulsa, OK. 741

Dear Mr. Johnson:

Summary

You have requested that I review your "IntelliApp" application to determine if it meets minimum Department of Transportation requirements under 49 C.F.R. §391.21 for employment applications for commercial motor vehicle drivers.

In my opinion, your IntelliApp meets or exceeds minimum requirements and indeed, will assist motor carriers in fulfilling their investigation duties required in §391.23.

Background

I have served as the counsel for a nationwide background screening company that has specialized in the motor carrier industry for over twenty (20) years. In the course of my work with them, I am familiar with the DOT driver qualification regulations and I am also familiar with driver qualification records and histories. In my experience, motor carriers are exposed to liability when they hire a driver who subsequently becomes involved in an accident and the plaintiff attorneys scrutinize the driver qualification file and find a gap in employment. Further if the investigation of this gap discloses a criminal offense/incarceration or employment where the driver exhibited unprofessional, dishonest or unsafe behavior the carrier will be facing a negligent hiring claim with near certain liability. However, if a driver intends to deceive there is little one can do to avoid that, but the use of a thorough application such as "IntelliApp" mitigates against any claim of negligent hiring. Your IntelliApp, which edits for gaps in employment, seems to me to be an excellent guard against inadvertent recruiter/driver omissions, and it is a reasonable procedure that can be used to defeat a negligent hiring claim.


In addition, I note that your IntelliApp contains a signed release for general employment information, as well as a specific written consent for each past employer to release the drug and alcohol information as required by 49 C.F.R. §391.23. By requiring a release for each past employer, you avoid a "blanket release," which is explicitly prohibited in 49 CFR Part 40.321.

Conclusion

Based on my reading of Federal Motor Carrier Regulations 49 C.F.R. §391.21, and my litigation experience for over twenty years in the realm of motor carrier safety and negligent hiring, it is my professional opinion that your "IntelliApp" fulfills regulatory requirements and further, will assist motor carrier recruiting and safety departments in their efforts to adequately and professionally solicit, screen and hire professional commercial motor vehicle drivers and will serve as a reasonable procedure in hiring truck drivers.

Please don't hesitate to call if you have questions or need additional guidance.

Very truly yours,


Larry D. Henry