

**October
2010**



NORTH CAROLINA TRUCKING ASSOCIATION MAINTENANCE COUNCIL

STEVE BOWMAN INDUCTED INTO TOWING HALL OF FAME

Eight outstanding industry leaders have been inducted into the International Towing and Recovery Hall of Fame as the Class of 2010. These were nominated for their many contributions to the towing and recovery industry, their families and their communities. Local business man **Steve M. Bowman**, with Battleground Tire & Wrecker Service was one of the individuals to receive international recognition at this years event.

Each year, the International Towing & Recovery Hall of Fame & Museum recognizes a prestigious group of individuals, represented from across the globe, who have made substantial and significant contributions to the towing and recovery industry. To honor those chosen few, an entire section of the museum's walls are dedicated for portraits of the inductees. This is the highest honor available to members of the towing industry.

Hall of Fame members were recognized at an induction ceremony held on September 18th, 2010 at the Chattanooga Choo Choo Hotel in Chattanooga, Tennessee. A full weekend of activities were held to celebrate the inductees, including a gala in their honor and the unveiling of their portraits, which will hang in the museum.

Steve is former owner and current General Manager of Battleground Tire & Wrecker Service of Burlington. He continues to be actively involved in various State and National organizations.

Some of his accomplishments recognized and recorded in the museum's book of Hall of Fame members include:
A founding member of the Towing & Recovery Professionals of North Carolina.
Extensive involvement to include Tow Trucks & Recovery vehicles in the State Move-Over Law.
Consulted and worked on the "Federal Motor Carrier Safety Program for New Entrants Safety Audit" video which is issued to any company across the nation that applies for a DOT number and/or is getting ready for a safety audit.
Advised and worked with the video "NC Highway Incident Safety – Proper Parking Guidelines at the Accident Scene".
This is distributed or available to all NC Fire Departments, EMS, Police, Sheriff, Rescue, and towing companies.

Some of the training and/or certifications he has received includes:
Wrecker Rescue & Recovery; Tow Truck Driver Training for Hazardous Material Accidents; Federal Motor Carrier Safety Regulations; Spill Contingency Training; Highway Watch from the American Trucking Association; Quick Clearance from I-95 Corridor Coalition.; Coordinated Incident Management Responder – I-95 Corridor Coalition.

He currently serves on the TRPNC Legislative Committee, TRPNC Board of Directors; State Director for NC to the TRAA (Towing and Recovery Association of America), and is a board member of the NC Executive Committee for Highway Safety.



(Submitted by Connie Bowman)

NHTSA Proposes New Truck Tire Standards

October 6, 2010

The National Highway Traffic Safety Administration (NHTSA) has proposed new truck tire standards for vehicles with gross vehicle weight rating (GVWR) of more than 10,000 pounds. The proposal from NHTSA would adopt more stringent endurance test requirements, a new high speed test for several heavy load range tires, and requirements that the tire sidewall be labeled with the tire's maximum speed rating. NHTSA announced their intention to upgrade Federal Motor Vehicle Safety Standard (FMVSS) No. 119, which specifies requirements for new truck tires, in a September 29, 2010 Federal Register announcement.

This proposal was required under the Transportation Recall Enhancement Accountability and Documentation (TREAD) Act of 2000. The last time new tire standards were proposed for heavy-duty trucks was 37 years ago. NHTSA Administrator David Strickland was quoted as saying, "FMVSS 119 went into effect in 1973 and has not been significantly updated since then. Heavy truck tires on the market today perform far and above the requirements of FMVSS 119. We've been conducting extensive testing to determine what the new performance requirements should be."

The rule would affect tire standards for commercial vehicles with a gross vehicle weight rating of at least 10,000 pounds. NHTSA is a DOT agency. For the past eight years, NHTSA has been studying truck tires while it decided what rules to propose. For example, the test speed for tires will be increased between 25% and 67%, depending on tires' maximum operating speed.

To view the proposal and/or submit a comment, visit www.regulations.gov and enter Docket No. 2010-24347. (U.S. government website.) Comments are due by Nov. 29.

(Submitted by Steve Blackburn)



Brown Trucking Acquires Schrader Trucking Company

September 13, 2010 - Atlanta, Georgia

James Brown Contracting, Inc. (Brown Trucking), a dedicated short-haul truckload carrier based just east of Atlanta, has acquired Schrader Trucking Company, Inc. (Schrader). Schrader, a Jefferson City, Tenn.-based dry van truckload carrier, will become a fully-integrated part of Brown Trucking.

"The Schrader name has a strong reputation in the marketplace for high service quality, making it an excellent fit with Brown Trucking," said John Richardson, board director of Brown Trucking and managing partner of Navigation Capital Partners (NCP). "Schrader's service area supplements Brown's geographic footprint, and the additional resources will strengthen and enhance the company as we build the leading provider in the Southeast."

Schrader, with 95 trucks and 201 trailers, operates across the Southeast as well as in the Midwest, Mid-Atlantic, Texas and Canada. The company's primary commodities are plastics, vinyl films, retail, building materials and industrial machinery parts. Current President Phil Schrader will exit the business, while Co-Owner and Vice-President Tom Hodge will remain and act as director of business development for Brown Trucking.

"Schrader and Brown Trucking share the same values of safety and dedicated customer service," said Brian Kinsey, CEO of Brown Trucking. "Combining forces enables us to diversify our service offerings and increase our market density while continuing to provide outstanding service to our customers."

"The employees and drivers of both companies will benefit from this affiliation," said Hodge. "Our similar cultures will be an advantage as we move forward and continue to focus on aggressive growth."

Wells Fargo Bank, N.A., acted as the primary lender for the transaction with Hancock Capital Management providing additional financing. Barnes and Thornburg LLP acted as legal advisor.

"Identifying the right strategic acquisition opportunities is a key part of our growth strategy for Brown Trucking," said David Panton, board chairman of Brown Trucking and NCP partner. "Schrader is a well-respected company, and there's a synergy with Brown on multiple levels. We are confident this move will make Brown Trucking a much stronger player in our target markets."

(Submitted by Randy Linhart)

B.R.A.K.E.S. busy during National Teen Driver Safety Week

Doug Herbert's safe-teen-driving foundation B.R.A.K.E.S. participated in several events last week in honor of National Teen Driver Safety Week (NTDSW), including a driving school for Coca-Cola Bottling Company Consolidated and a check presentation with local State Farm Insurance agents.

NTDSW, Oct. 17-23, was established in 2007 by Congress to focus attention on the nation's epidemic of teen car crashes and to find solutions to lower teen drivers' fatal-crash risk.



State Farm agents Kris Kozdras and Howard Culbreth presented a grant to B.R.A.K.E.S. founder Doug Herbert and Executive Director Matt Reilly.

"I think it is so important for B.R.A.K.E.S. to do our part to spread the word about National Teen Driver Safety Week," said NHRA veteran and B.R.A.K.E.S. founder Doug Herbert. "To have companies like State Farm and Coca-Cola jump onboard to help us is amazing. With continued support from the NHRA and companies like these, we hope to continue to grow the driving school until it is a nationwide program."

Coca-Cola Bottling Company Consolidated and its stewardship arm, Coke Cares, invited employees and their teenagers from their Charlotte campus as well as from surrounding areas such as Greensboro, N.C., and Columbia, S.C., to participate. The school was held Saturday, Oct. 23, at zMAX Dragway, home of the NHRA Four-Wide Nationals and the O'Reilly Auto Parts NHRA Nationals.

"I am continually amazed by Doug Herbert's story and his ability to turn his personal tragic loss into a positive campaign that can truly help save the lives of teenagers," said Coca-Cola Bottling Company Consolidated SVP Sales & Marketing Robert Chambless. "Our employee event with B.R.A.K.E.S. was a great success and one we will continue to promote. It gave the teenagers behind-the-wheel experience to react to potentially scary driving situations. You don't want your teenager to panic when something unexpected happens on the road, and B.R.A.K.E.S. teaches them the skills to react in the safest possible way. For our employee event, it was one afternoon in terms of hours, but it could mean the difference between your kid

making a safe driving move or a tragic one. It was well worth the time.”

Last Tuesday, State Farm awarded B.R.A.K.E.S. a \$10,000 grant to support its Teen Pro-Active Driving School. The grant was presented to Herbert and Executive Director Matt Reilly. Presenting the check were State Farm agents Kris Kozdras and Howard Culbreth, who operate agencies in Cornelius, N.C., the town where Herbert’s two sons were killed in a tragic car accident in 2008.

“State Farm takes its role as a good neighbor seriously when it comes to keeping teen drivers safe on the road. Our support of B.R.A.K.E.S. helps to educate teens on safe driving techniques in an effort to save lives,” said Kozdras.

Culbreth agreed. “We are committed to continuing outreach that can ultimately reduce the risk of crash injury for teen drivers and those who share the road with them,” he said.

Other initiatives around NTDSW included high-school speaking engagements and a fundraising campaign. Representatives from the organization conducted presentations to groups in Charlotte, including a local high school, about the importance of safe and responsible driving. The fundraising campaign is being conducted in partnership with students from Belmont Abbey College’s Motorsports Management Program. The first of its kind, the four-year-degree program was designed in 2006 with a specific focus on the business and management side of the racing industry. Students are conducting a point-of-purchase campaign that will raise funds to support the driving school.

The B.R.A.K.E.S. Teen Pro-Active Driving School gives young drivers the dynamic experience of handling a vehicle in adverse driving conditions in a controlled environment. Professional driving instructors educate students on the proper way to handle skids, panic stops, accident avoidance, and driving with distractions. Since the driving school began in 2008, B.R.A.K.E.S. has provided hands-on training to nearly 2,000 teens from 14 states.

NHRA is a dedicated supporter of B.R.A.K.E.S. The sanctioning body, with help from other companies such as K&N Filters, sponsored the foundation this year to take its driving school to Pomona and conduct 12 schools, training nearly 500 teenagers from the Southern California region. The two organizations hope to work together to conduct more schools in the area in 2011 and beyond.

Although the nonprofit foundation has not released its 2011 schedule of driving-school dates, interested parents can sign up for a notification list so that they receive an e-mail when the dates are announced. To sign up for that list, learn more about the school, or donate to support the foundation, log on to www.putonthebrakes.org.

(Written by Sara Fensterer and submitted by Gerry Beattie)

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If you have ever heard a lawyer talk about “spoliation” of evidence, you may have wondered whether the lawyer actually meant foliation, de-spoliation, or some such word. But actually, spoliation is a serious concept in legal disputes and you would be wise to understand the concept. What it boils down to is this: destroying relevant documents in anticipation of a lawsuit can really hurt your case. Be careful.

Where there has been improper destruction of documents, there can exist spoliation of evidence, particularly when the wholesale document destruction flies in the face of legal standards for document retention. The spoliation doctrine recognizes that where a party in a lawsuit fails to produce certain documentary evidence relevant to the litigation, the court may infer that the party destroyed the evidence because the evidence was harmful to its case. A party trying to prove its adversary committed spoliation of relevant documents need not show intentional misconduct. Rather, the courts evaluate the facts regarding spoliation on a continuum of fault. Whether the evidence was destroyed or lost accidentally or in bad faith is irrelevant, because the opposing party suffered the same prejudice. Having proven spoliation by an adversary, a party is entitled to an inference that the evidence destroyed would have assisted the adversary in its case. The inference may not be allowed if the evidence was equally accessible to both parties or there was a fair, frank, and satisfactory explanation for not being able to produce the document. But where the court finds spoliation to have occurred, the adversary may also be sanctioned by the court with penalties such as payment of attorneys fees or the striking of your defenses to the lawsuit.

In transportation litigation, such as a truck accident case or product liability case, spoliation is something to be ever conscious of. Here are some tips for you to consider.

To avoid being accused of spoliation, you should have a document management system in place which ensures that any potentially relevant documents are maintained for a reasonable period of time after an occurrence takes place which gives rise to a potential lawsuit. Those e-mails, electronic driver logs, or other electronic documents are all fair game for discovery in a lawsuit as well. When and if documents are destroyed, they should only be destroyed in accordance with a uniform, standard company policy. With a potential claim on the horizon, you should preserve the evidence such as the damaged tractor trailer for a reasonable period of time. Yes, that tractor is evidence. At a minimum, take good pictures of the damaged areas and give the other side the opportunity to inspect the evidence. The federal motor carrier safety regulations require motor carriers to maintain documents for specific periods of time. You should know those requirements, ... or be prepared to defend against allegations of spoliation of evidence.

In the end, be proactive in preserving evidence involved in a potential lawsuit. It is usually easier to defend a damaging document than it is to defend its wrongful destruction.

James W. Bryan is a member of the law firm Nexsen Pruet, P.L.L.C. in its Greensboro, North Carolina office. He focuses his practice on civil litigation, including truck accident defense, cargo loss claims and regulatory compliance for motor carriers. Mr. Bryan is a member of the North Carolina Trucking Association.

NCTA Maintenance Council, Report for October 12 Meeting

The Charlotte Chapter of the NCTA Maintenance Council met at Carolina Cat in Charlotte on October 12, 2010.

After an outstanding barbecue dinner provided by Carolina Cat, Vice Chair Dick Caudle called the meeting to order.

Major business for the evening was nomination of Charlotte Chapter Officers for the next term. Names placed in nomination were:

Chair – Jason Murphy

Vice Chair – Dick Caudle

Secretary – Bill Conrad

Treasurer – Mark Tilley

After the business meeting, Tracy Brown of Carolina Cat introduced Hank Wilson of Transcraft.

Carolina Cat is now a dealer for Transcraft and Hank briefly introduced the Transcraft product lines.

The main focus of Hank's presentation was the "state of the union" in the trailer business. As order rates have increased, inventories have been drawn down and suppliers have ramped up production. It is important to work closely with your supplier to ensure equipment meets your needs and specifications. Trailer sales people have a variety of tools available to help spec equipment precisely for the anticipated application. Careful attention in specification will ensure equipment will fit the required application and be delivered on time.



Thanks to Carolina Cat and to Transcraft for their hospitality and information.
(Submitted by Vic Lammi)

MONTHLY CHAPTER MEETINGS FOR NOVEMBER 2010

The November meeting of the **Charlotte Chapter** of the NCTA Maintenance Council will be on Tuesday, November 9 at 6:00 PM.in the Frame Shop at Rush International Truck Center, 3510 Jeff Adams Drive, in Charlotte, 704-596-3500.

Our program this month is being hosted by Rush International Truck Center . Our guest speaker will be Randy Ray with Navistar, Inc.. The topic will be **“EGR – JUST THE FACTS”**.

We will also conduct our election for the next term of Charlotte Chapter officers.

Supper will be served at 6:00 PM with meeting to follow. Please RSVP by phone to 704-483-9428, e-mail at vflammi@aol.com or send a fax to 704-483-0204.

The **Triad Chapter** meeting for November will be on the 15th and will be held at and hosted by Covington in Greensboro. Presentation will be on Webasto products.



**No information received from Eastern,
Cape Fear or Western Chapters.
Will send it out when it becomes available.**

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FOR MORE INFORMATION VISIT:

www.nctamaintenance.org

www.nctrucking.com

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The Triad Chapter of The North Carolina Trucking Association Maintenance Council is pleased to announce that our 3rd annual Christmas Party and Vendor Expo will be held on December 13th 2010.

Location: Carolina Diesel Repair

4620 Pleasant Garden Road

Pleasant Garden, NC 27313

Vendors are asked to make a donation to help cover the expense of the food.

Vendors will be provided a table and space for their displays and may set up beginning at 2:00PM. The Expo will begin at 5:30PM.

Please join us in making this year's event even more successful than last years.

Contact Terry Callaway @ trc010162@yahoo.com 336-399-0684 or

Mike Wall @ mike@carolindieselrepair.com and/or Jeff Trail at 336-674-2444 to reserve your space.

Thank you for your support!!!

