

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

MDB TRUCKING, LLC,

Appellant/Cross-Respondent,

vs.

VERSA PRODUCTS COMPANY,  
INC.,

Respondent/Cross-Appellant.

Supreme Court Case No. 75022

Consolidated with Case Nos. 75319,  
75321, 76395, 76396 and 76397.  
Electronically Filed  
Jan 18 2019 08:44 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

[District Court Case Nos.:  
CV15-02349, CV16-00976 and  
CV16-01914]

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**JOINT APPENDIX VOLUME 7 OF 18**

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Consolidated Appeals from the Second Judicial District Court,  
Orders Granting Motion to Strike Cross-Claim and Orders  
Denying Attorneys' Fees and Granting Reduced Costs,  
The Honorable Judge Elliott A. Sattler, District Court Judge

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE

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9 ERNEST BRUCE FITZSIMMONS and  
10 CAROL FITZSIMMONS, husband and  
11 wife,

Case No. CV15-02349

Department No. 10

Plaintiffs,

11

vs.

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MDB TRUCKING, LLC; et al.,

13

Defendants.

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15 AND RELATED THIRD-PARTY MATTERS  
16 AND CONSOLIDATED CASE.

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18 DEPOSITION OF PMK OF MDB TRUCKING

19 SCOTT ALEN PALMER

20 March 6, 2017

21 Reno, Nevada

22 Volume I

23

24 REPORTED BY: CONSTANCE S. EISENBERG, CCR #142, RMR, CRR

25 Job No. 378331

<p>Page 2</p> <p>1 A P P E A R A N C E S</p> <p>2 For the Plaintiff:</p> <p>3 (Appearing Telephonically)</p> <p>4 BRADLEY, DRENDEL &amp; JEANNEY</p> <p>5 BY: SARAH MARIE QUIGLEY, ESQ.</p> <p>6 6900 S. McCarran Blvd, Ste. 2000</p> <p>7 Reno, Nevada 89509</p> <p>8 775-335-9999</p> <p>9 Fax 775-335-9993</p> <p>10 Sarahquigley@bdjlaw.com</p> <p>11 For MDB TRUCKING, LLC, &amp; DANIEL KOSKI:</p> <p>12 THORNDAL, ARMSTRONG, DELK, BALKENBUSH &amp; EISINGER</p> <p>13 BY: BRIAN M. BROWN, ESQ.</p> <p>14 AND THIERRY V. BARKLEY, ESQ.</p> <p>15 6590 S. McCarran Blvd., Suite B</p> <p>16 Reno, Nevada 89509-6112</p> <p>17 775-786-2882</p> <p>18 Fax 775-786-8004</p> <p>19 Bbrown@thorndal.com</p> <p>20 For RMC LAMAR HOLDINGS, INC.:</p> <p>21 MCDONALD CARANO WILSON LLP</p> <p>22 BY: JESSICA L. WOELFEL, ESQ.</p> <p>23 100 W. Liberty Street, Tenth Floor</p> <p>24 Reno, Nevada 89501</p> <p>25 775-788-2000</p> <p>775-788-2020</p> <p>Jwoelfel@mcwlaw.com</p> <p>For VERSA PRODUCTS COMPANY, INC.:</p> <p>LEWIS, BRISBOIS, BISGAARD &amp; SMITH, LLP</p> <p>BY: PAIGE S. SHREVE, ESQ.</p> <p>6385 South Rainbow Blvd., Suite 600</p> <p>Las Vegas, Nevada 89118</p> <p>702-898-3383</p> <p>Fax 702-893-3789</p> <p>Paige.Shreve@lewisbrisbois.com</p>	<p>Page 4</p> <p>INDEX</p> <p>EXAMINATION</p> <p>SCOTT ALLEN PALMER</p> <p>EXAMINATION BY MS. SHREVE</p> <p>EXHIBITS</p> <table border="1"> <thead> <tr> <th>NUMBER</th> <th>DESCRIPTION</th> <th>PAGE</th> </tr> </thead> <tbody> <tr> <td>EXHIBIT 1</td> <td>Amended Notice of Depo, PMK MDB Trucking</td> <td>24</td> </tr> <tr> <td>EXHIBIT 2</td> <td>Driver's daily timesheets and logs</td> <td>49</td> </tr> <tr> <td>EXHIBIT 3</td> <td>Color photos, MDB 001 - 006</td> <td>59</td> </tr> <tr> <td>EXHIBIT 4</td> <td>Work orders, Equipment No. 5694</td> <td>83</td> </tr> <tr> <td>EXHIBIT 5</td> <td>Work orders, Equipment No. 6773</td> <td>97</td> </tr> <tr> <td>EXHIBIT 6</td> <td>Work orders, Equipment No. 6774</td> <td>107</td> </tr> <tr> <td>EXHIBIT 7</td> <td>Work orders, Equipment No. 6775</td> <td>109</td> </tr> </tbody> </table> <p>Note: Original Exhibits retained in binder at Sunshine Litigation Services.</p>	NUMBER	DESCRIPTION	PAGE	EXHIBIT 1	Amended Notice of Depo, PMK MDB Trucking	24	EXHIBIT 2	Driver's daily timesheets and logs	49	EXHIBIT 3	Color photos, MDB 001 - 006	59	EXHIBIT 4	Work orders, Equipment No. 5694	83	EXHIBIT 5	Work orders, Equipment No. 6773	97	EXHIBIT 6	Work orders, Equipment No. 6774	107	EXHIBIT 7	Work orders, Equipment No. 6775	109
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<p>Page 3</p> <p>1 For THE MODERN GROUP AND DRAGON ESP, LTD.:</p> <p>2 (Appearing Telephonically)</p> <p>3 GREENBERG TRAUERIG, LLP</p> <p>4 BY: JACOB D. BUNDICK, ESQ.</p> <p>5 3373 Howard Hughes Parkway, Ste. 400 N</p> <p>6 Las Vegas, Nevada 89169</p> <p>7 702-792-9002</p> <p>8 Bundickj@gtlaw.com</p> <p>9 Also present:</p> <p>10 DANIEL KOSKI</p> <p>11 BILL CARTER</p>	<p>Page 5</p> <p>1 BE IT REMEMBERED that on Monday, March 6, 2017, at the</p> <p>2 hour of 1:39 p.m. of said day, at the offices of McDonald Carano</p> <p>3 Wilson, 100 W. Liberty St., 10th Floor, Reno, Nevada, before me,</p> <p>4 CONSTANCE S. EISENBERG, a Nevada Certified Court Reporter,</p> <p>5 personally appeared SCOTT ALLEN PALMER, who was by me first duly</p> <p>6 sworn, and was examined as a witness in said cause.</p> <p>7 -o0o-</p> <p>8</p> <p>9 SCOTT ALLEN PALMER</p> <p>10 called as a witness, having been duly sworn,</p> <p>11 testified as follows:</p> <p>12</p> <p>13 EXAMINATION</p> <p>14 BY MS. SHREVE:</p> <p>15 Q Good afternoon. My name is Paige Shreve, and I</p> <p>16 represent defendant Versa Product Company in this suit.</p> <p>17 Would you please say your name and spell it for the</p> <p>18 record.</p> <p>19 A Scott Palmer, S-c-o-t-t, P-a-l-m-e-r.</p> <p>20 Q Okay. Mr. Palmer, you understand the oath that you just</p> <p>21 took is the same oath that you would take in a court of law and</p> <p>22 you are subject to the same penalty of perjury?</p> <p>23 A Yes.</p> <p>24 Q Okay. Have you ever been deposed before?</p> <p>25 A I don't think so.</p>																								

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1 Q So we're going to go over a couple of ground rules for  
 2 the deposition just so you understand how this goes. You might  
 3 have already spoke to your counsel about it, but I'm just going to  
 4 reiterate.  
 5 First of all, to my right is a court reporter. She is  
 6 taking down everything that we say. So if you could please make  
 7 sure your responses are all verbal responses, she doesn't -- she  
 8 can't take down "uh-huh" or "yeah," just like "yes," "no."  
 9 Just make sure they are verbal, please. Or, shaking  
 10 your head, she can't type that down.  
 11 Another thing is, it's really hard for the court  
 12 reporter to get down what we're saying if we talk over each other.  
 13 So I would request that you let me finish my question, and I will  
 14 give you the same courtesy and let you finish your answer.  
 15 I know, sometimes, you can anticipate what the question  
 16 is going to be and so you start to answer. So if you could just  
 17 wait until the question is complete before you answer, I would  
 18 appreciate that.  
 19 Also, at any time, your attorney or another attorney in  
 20 the room may make an objection. That's okay. You can let them  
 21 make an objection, and then you can go ahead and answer the  
 22 question, unless your attorney instructs you otherwise.  
 23 I'll be asking you questions. And if, for some reason,  
 24 you do not understand any question I ask, please let me know.  
 25 If you answer the question, I'm going to assume that you

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1 understood the question.  
 2 Sometimes I can ask bad questions. So just say, "Hey,  
 3 can you please rephrase that," or, "I don't understand." That's  
 4 okay to let me know, and I'll gladly rephrase the question.  
 5 A Okay.  
 6 Q Another thing is, sometimes, you might be unsure of  
 7 something and I may ask for you to give your best estimate.  
 8 Do you understand the difference between an estimate and  
 9 a guess?  
 10 A Yes.  
 11 Q Okay. So I'll give you an example.  
 12 I can ask you to estimate, you know, the length of this  
 13 table. You, obviously, can see the table and can estimate it.  
 14 But if I ask you to estimate the table in my house, that would be  
 15 a guess because you've never seen it before.  
 16 A Yes.  
 17 Q So I may ask you to give your best estimate. If you  
 18 don't know, it's okay to not know, just let me know, you know, you  
 19 don't know and you are unable to.  
 20 Additionally, a transcript will be prepared at the end  
 21 of this deposition. You will have a chance to look over it and  
 22 make any changes you want.  
 23 There are two type of changes. There's grammatical  
 24 changes, small changes, and then there's substantive changes.  
 25 It's okay to make grammatical changes or something. The spelling

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1 of your name may be incorrect.  
 2 However, significant changes, which would be something  
 3 like, you know, there was a red light and you then later say no,  
 4 the light was green, not red, that's a substantial change. And  
 5 then you would be subject at trial for me to comment on your  
 6 change.  
 7 Additionally, if you need any breaks at all during the  
 8 deposition, just let me know and we can take a break at any time.  
 9 I just request that you answer the question that I had  
 10 asked before we do take the break.  
 11 A Okay.  
 12 Q Now, is there any reason why you are unable to give your  
 13 best testimony today?  
 14 A No.  
 15 Q Have you taken any medication in the last 24 hours?  
 16 A No.  
 17 Q Do you understand that you are being deposed today as  
 18 the person most knowledgeable for MDB Trucking?  
 19 A Yes.  
 20 Q I know earlier, you testified that you don't recall ever  
 21 being deposed before, so I'm guassing this answer is going to be  
 22 no. But have you ever been a deponent and been the person most  
 23 knowledgeable for something before?  
 24 A Yes.  
 25 Q You have?

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1 A Yes. I'm not sure -- yeah, I'm not sure I understand  
 2 the question.  
 3 Q Have you ever been asked to be the person most  
 4 knowledgeable and been subject to a deposition, like you are here  
 5 today, before?  
 6 A Oh. No.  
 7 Q Do you understand what is meant by "the person most  
 8 knowledgeable"?  
 9 A Yes.  
 10 Q I'm going to just reiterate to make sure we have the  
 11 same understanding.  
 12 Basically, it means you are here to testify on behalf of  
 13 the company. So you are not here to testify in your own personal  
 14 capacity, it's for the company.  
 15 I will ask you a couple of questions in the beginning to  
 16 get some just background about yourself before I go into questions  
 17 about the company. Okay?  
 18 A Okay.  
 19 MR. BROWN: Can I just say one thing?  
 20 As you are aware, Mr. Palmer was also the driver of the  
 21 sand truck.  
 22 MS. SHREVE: Yes.  
 23 MR. BROWN: So to the extent that you want to ask him  
 24 questions about that as the driver of the sand truck, I would  
 25 appreciate it if you do it sometime over the next few days so he

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1 doesn't have to come back as a fact witness. I know he wasn't  
 2 noticed for that.  
 3 MS. SHREVE: Yeah.  
 4 MR. BROWN: But I think it would be economically  
 5 feasible for everybody.  
 6 MS. SHREVE: We were going to ask you that as well.  
 7 MR. BROWN: So I don't have an objection to that, if you  
 8 want to ask him factual questions as to his knowledge of that from  
 9 a factual standpoint.  
 10 MS. SHREVE: Perfect. Thank you.  
 11 MS. WOELFEL: I would just comment, I think that that  
 12 makes a lot of economical sense, as long as we don't get an  
 13 objection saying, you know, we have seven hours with him or we're  
 14 running out of time with him.  
 15 MR. BROWN: Sorry, I'm eating candy.  
 16 As long as we finish and everybody is moving along  
 17 reasonably, I'm not going to throw a fit about the times in any  
 18 regard.  
 19 MS. WOELFEL: Okay.  
 20 MR. BROWN: But, you know, I don't anticipate everybody  
 21 asking the same questions over and over again, so as long as  
 22 that's not the case.  
 23 MS. SHREVE: All right. Okay. So we will begin.  
 24 BY MS. SHREVE:  
 25 Q Can you give me your full name, please. I know earlier,

Page 11

1 you said Scott Palmer, but first, middle and last name.  
 2 A Scott Alen Palmer.  
 3 Q What's your date of birth?  
 4 A 11/2/1960.  
 5 Q Where were you born?  
 6 A California.  
 7 Q What city?  
 8 A Vallejo.  
 9 Q How long did you live there?  
 10 A Three years, four years.  
 11 Q Where did you go after that?  
 12 A Napa.  
 13 Q How long were you in Napa?  
 14 A Until 1971.  
 15 Q Where did you go after Napa?  
 16 A Northford, Connecticut.  
 17 Q How long were you in Northward, Connecticut, for?  
 18 A Northford, Connecticut, until 1975.  
 19 Q Where did you go after that?  
 20 A Reno.  
 21 Q So have you been in Reno, Nevada, ever since?  
 22 A Reno, Sparks, state of Nevada, since 1975, yes.  
 23 Q What's your current address?  
 24 A 6717 Rolling Meadows Drive, Apartment 721, Sparks,  
 25 Nevada 89436.

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1 Q Okay. And where did you go to high school?  
 2 A I went to North Branford High School in North Branford,  
 3 Connecticut. And Reno High School is where I graduated, in Reno,  
 4 Nevada.  
 5 Q And after graduation from high school, did you attend  
 6 any other secondary school?  
 7 A No.  
 8 Q What's your current occupation?  
 9 A Manager.  
 10 Q Manager for where?  
 11 A MDB Trucking, LLC.  
 12 Q How long have you been in that position as the manager  
 13 of MDB?  
 14 A About 14 months.  
 15 Q And what was your title before then?  
 16 A Maintenance manager.  
 17 Q How long have you been with MDB Trucking?  
 18 A Since August of 2014.  
 19 Q So would you briefly take me through the job duties that  
 20 you perform on a daily basis as the manager of MDB.  
 21 A I do paperwork in the morning, the prior day's  
 22 paperwork. I dispatch trucks. I oversee the maintenance of the  
 23 vehicles. I actually perform some of the maintenance on the  
 24 vehicles on occasion.  
 25 On a rare occasion, I drive.

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1 Q Okay. And you said paperwork. What kind of paperwork?  
 2 A The drivers' daily paperwork, invoicing, truck reports,  
 3 you have IFTA reports, that kind of stuff, mileage.  
 4 Q What sort of maintenance do you perform?  
 5 A Personally?  
 6 Q Yes.  
 7 A I go out and work on electrical problems, ABS problems,  
 8 stuff that takes a little bit more of a technical background.  
 9 Q Okay. And do you have any certifications for performing  
 10 any maintenance work?  
 11 A I've got -- yes, I have a few certifications.  
 12 Q Okay. And what are those certifications?  
 13 A Air-conditioning, tire and brake repair. I'm certified  
 14 to do annual inspections of vehicles.  
 15 Q Where did you receive these certifications from?  
 16 A Different places I worked, employers, previous employers  
 17 and current employers, and also from taking classes.  
 18 Q Did you receive any of these certifications from your  
 19 time employed at MDB?  
 20 A Yeah. Yes.  
 21 Q And which certification was that?  
 22 A In order to do annual inspections or brake specs at a  
 23 company, you have to be certified by their management.  
 24 Q And what did that entail for you to get your  
 25 certification from the management?

<p style="text-align: right;">Page 14</p> <p>1 A You have to fill out a form provided by the Federal 2 Motor Carrier Safety Administration that proves you have the 3 knowledge and the experience to do it, and then it's signed off by 4 the current manager. 5 Q Is there a certain amount of hours in maintenance that 6 you are required to do in order to receive these certifications? 7 A I'm not sure. I don't know the answer to that. I don't 8 think so. 9 Q Prior to starting at MDB in August 2014, what was 10 your -- where did you work? 11 A K &amp; B Transportation. 12 Q And what -- how long were you there? 13 A One year. 14 Q And what did you do there? 15 A I drove a truck and worked in a shop, as a mechanic. 16 Q Okay. And then prior to working at K &amp; B, where were 17 you? 18 A At Northern Nevada Excavating. 19 Q And how long were you there? 20 A Five years. 21 Q And what did you do there? 22 A I was truck driver, oversaw the shop. And towards the 23 end, I was actually the administrator. 24 Q And then prior to that, did you have any other 25 experience in driving trucks or shop maintenance?</p>	<p style="text-align: right;">Page 16</p> <p>1 A Truck driver and mechanic. 2 Q Okay. And then when did you become an owner? 3 A 19- -- probably, I would say five years after I started 4 there, I was a partner, and then I bought my partner out. 5 Q So the last 15 years, roughly -- 6 A Yes. 7 Q -- you were an owner? 8 And were you the sole owner of the company? 9 A At the end, I was, yes. 10 Q Are you aware that your testimony today is about the 11 lawsuit brought by Fitzsimmons, MDB, and other defendants in 12 similarly related cases? 13 A Yes. 14 Q Did you do anything to prepare for your deposition 15 today? 16 A I met with my attorneys, Brian and Thierry, Saturday to 17 go over what the procedures were going to be of the deposition and 18 how -- 19 MR. BROWN: You don't need to tell her what we did or 20 talked about, just that you met with us. 21 THE WITNESS: Yes. 22 BY MS. SHREVE: 23 Q Did you look over any documents to prepare for your 24 deposition today? 25 Again, I don't want to know any conversation you had</p>
<p style="text-align: right;">Page 15</p> <p>1 A Yes. 2 Q Okay. Can you tell me what those were and your time at 3 those jobs. 4 A Prior to that, I was at Harco company for 20 years 5 and -- 6 Q Was that -- 7 A Pardon? 8 Q Was there anything else prior to that with doing any 9 truck driving and maintenance? 10 A Yes. Before that, I was with a company called 11 Silver Bears, Incorporated, for five years. And I did maintenance 12 and truck driving at that place, too. 13 Q And then prior to that? 14 A That was it. 15 Q That was it. Okay. 16 A Well, pretty much, that was it. 17 Q Okay. 18 A So at Harco Company, I was actually the owner at the end 19 of the 20 years. I sold it. 20 Q So you started off doing -- what did you start off doing 21 at Harco? 22 A "Harco," H-a-r-c-o. 23 Q At Harco. 24 A Harco Company, yes. 25 Q So what did you start off doing there?</p>	<p style="text-align: right;">Page 17</p> <p>1 with your counsel. 2 A Yes, just the questions that are posed in a deposition. 3 I'm not sure what you call that. 4 Q In the notice of deposition? 5 A In the notice, yes. 6 Q So you only looked at the notice of deposition? 7 A Yes. 8 Q You didn't look at any other documents? 9 A I don't think so. 10 Q Okay. Did you speak with anyone other than your 11 attorneys in preparation for the deposition today? 12 A No. 13 Q What is the legal name of MDB Trucking? 14 A MDB Trucking, LLC. 15 Q And where was it incorporated? 16 A Reno. I believe it was Reno. To the best of my 17 knowledge, I think it -- I'm fairly sure it was Reno. 18 Q And do you know when it was incorporated? 19 A Between -- it's actually not a corporation, it's a 20 limited liability corporation, but I look at it slightly 21 differently. 22 Q Yes. I appreciate that. 23 Do you have the -- or, do you know the business address 24 of MDB? 25 A The mailing address is P.O. Box 61806, Reno, Nevada</p>

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1 89506.  
 2 Q What about the physical address?  
 3 A The physical address of the yard I manage is 905 East  
 4 Mustang Road.  
 5 Q Are there more than one locations of MDB?  
 6 A Yes.  
 7 Q How many locations are there?  
 8 A We have two yards, two operations, one in Dixon,  
 9 California, and one in Sparks, Nevada; Reno, Nevada.  
 10 Q And what's the address for the one in California?  
 11 A 7059 Tremont Road, Dixon, California.  
 12 Q And do you have any interaction with the yard in  
 13 California?  
 14 A Not over the last six months. They pretty much run on  
 15 their own. But before that, I have knowledge of it, yes.  
 16 Q Who owns MDB?  
 17 A The partners are -- or the members -- I'm not sure how  
 18 you would say that -- are Travis Bonanno and Kari Bonanno.  
 19 Q And they both -- they own both locations in Nevada and  
 20 California?  
 21 A Yes.  
 22 Q How many employees does MDB have?  
 23 MR. BROWN: Are you talking total or just in --  
 24 MS. SHREVE: We'll do in Nevada and then we'll do in  
 25 California.

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1 THE WITNESS: Twenty-two.  
 2 BY MS. SHREVE:  
 3 Q In Nevada?  
 4 A No, total. I'm sorry. I missed --  
 5 Q No.  
 6 A I'm sorry.  
 7 Q So how many would you say are in Nevada?  
 8 A Twelve.  
 9 Q So, roughly, ten in California --  
 10 A Yes.  
 11 Q -- if my math is correct?  
 12 A Yes.  
 13 Q And what are the different jobs entailed of the  
 14 employees? We'll start with Nevada. Like, are they drivers,  
 15 maintenance? What are the positions that you have in Nevada?  
 16 A Okay. Myself as the manager, then we have one mechanic,  
 17 one mechanic's helper, and the rest are truck drivers.  
 18 Q And what about in California?  
 19 A We have a manager that works down there that is also a  
 20 driver. And then we have one mechanic and eight drivers, eight  
 21 additional drivers.  
 22 Q And I know you've briefly talked about it, but can you  
 23 explain the managerial structure? So in regards to -- is there  
 24 the owner, and then does the owner go to the manager, which would  
 25 be you? Do you report to the owner? How does that work?

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1 A I don't report directly to the owner very much right  
 2 now. I report to a gentleman named Terry Davis, who works for the  
 3 owner.  
 4 Q And what is Terry Davis' job title?  
 5 A I'm not sure.  
 6 Q Is he an employee of the company?  
 7 A I'm not sure.  
 8 Q How often do you speak with Terry Davis?  
 9 A Probably daily, at least a couple -- a few times a week.  
 10 Q What are the things that you discuss with him?  
 11 A Mostly, just general administrative issues, maybe, that  
 12 the office might have, or whether or not we might be purchasing  
 13 something that's going to cost a significant amount of money.  
 14 Like, I'll run that by him and he can run that by the owner.  
 15 Q Do the drivers and maintenance employees report to you?  
 16 A Yes, the ones in Reno, yes.  
 17 Q Right. Exactly.  
 18 How many -- let me -- strike that.  
 19 Do you make the decisions to purchase or lease any truck  
 20 or trailer in Nevada?  
 21 A Yes.  
 22 Q Do you have to ask anyone above you to purchase or lease  
 23 a truck or trailer --  
 24 A Yes.  
 25 Q -- in Nevada?

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1 Is that person Terry Davis?  
 2 A Yes, currently, yes.  
 3 Q Currently.  
 4 How many trucks does MDB own and/or lease in Nevada?  
 5 A Eleven -- twelve.  
 6 MR. BROWN: Are you specifically talking about trucks  
 7 that will tow trailers?  
 8 THE WITNESS: I was just going to --  
 9 BY MS. SHREVE:  
 10 Q I'm going to go into what those trucks entail, so --  
 11 but, yes.  
 12 A Yeah, if you are speaking of pickups, I mean, I guess  
 13 you could make it 13, but 13 total vehicles.  
 14 Q So for the different trucks, how many does MDB actually  
 15 own?  
 16 A To my knowledge, none.  
 17 Q Okay. So of the 12 trucks or possibly 13 trucks, what  
 18 are the different trucks? Are they all the same, or are they  
 19 different?  
 20 A Are you talking about make or model or type of vehicle?  
 21 Q The type of vehicle, whether it tows, dump trucks, or a  
 22 pickup truck.  
 23 A Oh, we have -- well, we would have one pickup truck, one  
 24 mechanic service truck, and the rest are heavy-duty tractor  
 25 trailers or truck trailers.

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1 I can go into more detail on that, whether they are a  
 2 tractor that pulls bottom dumps or a truck that has the transfers  
 3 behind it, but I'm not sure if that's what you are looking for.  
 4 **Q Yes. So how many pull belly dumps?**  
 5 A We have four. We have six power units that can pull  
 6 bottom dumps.  
 7 **Q Are all six in service daily?**  
 8 A No.  
 9 Well, yes, they could be, yes, not pulling bottom dumps,  
 10 though, if that's what you meant.  
 11 **Q What would they pull if they are not pulling the bottom**  
 12 **dumps?**  
 13 A They would pull pneumatic trailers that haul cement.  
 14 They could be hauling a transport trailer. They could be hauling  
 15 equipment.  
 16 **Q And then how many trailers does MDB own or lease in**  
 17 **Nevada?**  
 18 A I'm completely guessing on this because it's not  
 19 something I keep count of. It's probably close to 40.  
 20 **Q And are the, roughly, 40 trailers -- are any of them**  
 21 **owned by MDB?**  
 22 A I do not think so.  
 23 **Q And of the approximately 40 trailers, how many are used**  
 24 **daily?**  
 25 A I would say 70 percent of them would be used daily in

Page 23

1 possible different combinations.  
 2 **Q And of those trailers, how many are the belly dump**  
 3 **trailers?**  
 4 A Nine.  
 5 **Q What other -- what services does MDB provide for its**  
 6 **trucks or trailers?**  
 7 A Services?  
 8 **Q Yes. Do you do all of your repairs in-house?**  
 9 A Yes.  
 10 **Q And what sort of repairs do you do to the trucks or**  
 11 **trailers?**  
 12 A We do every bit of maintenance, preventive maintenance,  
 13 routine maintenance and general repairs.  
 14 **Q Do you ever have to send a truck or trailer to another**  
 15 **company for any repairs or maintenance?**  
 16 A Very seldom. That would only be in case of, like,  
 17 alignment. Mostly, we do everything in-house.  
 18 **Q So is alignment the only thing you would send a truck or**  
 19 **trailer to a company to for maintenance or repair?**  
 20 A I mean, it's not the only thing that we've ever sent it  
 21 out for, but that's generally -- yes, other than tires. We have a  
 22 tire service that comes and does our tire work for us.  
 23 **Q What are other things that you've had to send out the**  
 24 **truck or trailer for?**  
 25 A Maybe we didn't have enough time to replace a

Page 24

1 transmission or rebuild a transmission, so we sent it to somebody  
 2 that could have the time to do it.  
 3 MS. SHREVE: All right. So I'm going to hand out the  
 4 first exhibit. So I would like to mark this as Exhibit 1. This  
 5 is going to be the amended notice of the deposition for today.  
 6 (Exhibit 1 marked for identification.)  
 7 BY MS. SHREVE:  
 8 **Q I'll give you a second to look over this document.**  
 9 **Have you seen this document before?**  
 10 A I think so, yes.  
 11 **Q What is your understanding of what this document is?**  
 12 A What you are going to be asking me today, what I'm going  
 13 to be responsible for answering.  
 14 **Q And, again, you understand that this requires MDB to**  
 15 **produce the person that is most knowledgeable on all the topics**  
 16 **that are listed in this notice?**  
 17 MR. BROWN: Objection. He can give his notice of -- his  
 18 understanding of what he'll testify, not legal implications.  
 19 You can answer, if you can.  
 20 THE WITNESS: Do I need to answer? I'm sorry.  
 21 BY MS. SHREVE:  
 22 **Q Yes. Do you need me to --**  
 23 A Yes, please, repeat the question.  
 24 **Q I'll try and repeat it.**  
 25 **Do you understand that this notice of deposition**

Page 25

1 **requires MDB to designate a person to testify on its behalf in the**  
 2 **case?**  
 3 A Yes, I do.  
 4 **Q Do you understand that MDB is required to prepare that**  
 5 **person to provide all information known or reasonably available to**  
 6 **them based on all 47 topics listed?**  
 7 MR. BROWN: Same objection.  
 8 Go ahead.  
 9 THE WITNESS: Yes.  
 10 BY MS. SHREVE:  
 11 **Q You are testifying on behalf of MDB as their person most**  
 12 **knowledgeable, correct?**  
 13 A Yes.  
 14 **Q When did you become aware that you would be the person**  
 15 **most knowledgeable for MDB in this deposition?**  
 16 A When I received the notice of the deposition.  
 17 **Q Do you recall when that was?**  
 18 A I think it was maybe a month ago, a few weeks ago. I  
 19 don't exactly remember.  
 20 MR. BROWN: The day after it was sent?  
 21 MR. BARKLEY: I don't think you are testifying, Counsel.  
 22 BY MS. SHREVE:  
 23 **Q And besides looking at this notice of deposition, as you**  
 24 **said earlier, is there anything else that you did or discussed**  
 25 **with anyone to ensure that you were prepared as the person most**

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

-o0o-

ERNEST BRUCE FITZSIMMONS and  
CAROL FITZSIMMONS, husband and  
wife,  
Plaintiffs,

Case No. CV15-02349  
Department No. 10

vs.

MDB TRUCKING, LLC; et al.,  
Defendants.

\_\_\_\_\_  
AND RELATED THIRD-PARTY MATTERS  
AND CONSOLIDATED CASE.  
\_\_\_\_\_

DEPOSITION OF PMK OF MDB TRUCKING

SCOTT ALEN PALMER

March 6, 2017

Reno, Nevada

Volume I

REPORTED BY: CONSTANCE S. EISENBERG, CCR #142, RMR, CRR

Job No. 378331

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<p>1 For THE MODERN GROUP AND DRAGON ESP, LTD.: (Appearing Telephonically)</p> <p>2 3 GREENBERG TRAUURIG, LLP BY: JACOB D. BUNDICK, ESQ. 3373 Howard Hughes Parkway, Ste. 400 N 4 Las Vegas, Nevada 89169 702-792-9002 5 Bundickj@gtlaw.com</p> <p>6 7 Also present: 8 DANIEL KOSKI 9 BILL CARTER 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>Page 3</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

Page 6

1 Q So we're going to go over a couple of ground rules for  
 2 the deposition just so you understand how this goes. You might  
 3 have already spoke to your counsel about it, but I'm just going to  
 4 reiterate.  
 5 First of all, to my right is a court reporter. She is  
 6 taking down everything that we say. So if you could please make  
 7 sure your responses are all verbal responses, she doesn't -- she  
 8 can't take down "uh-huh" or "yeah," just like "yes," "no."  
 9 Just make sure they are verbal, please. Or, shaking  
 10 your head, she can't type that down.  
 11 Another thing is, it's really hard for the court  
 12 reporter to get down what we're saying if we talk over each other.  
 13 So I would request that you let me finish my question, and I will  
 14 give you the same courtesy and let you finish your answer.  
 15 I know, sometimes, you can anticipate what the question  
 16 is going to be and so you start to answer. So if you could just  
 17 wait until the question is complete before you answer, I would  
 18 appreciate that.  
 19 Also, at any time, your attorney or another attorney in  
 20 the room may make an objection. That's okay. You can let them  
 21 make an objection, and then you can go ahead and answer the  
 22 question, unless your attorney instructs you otherwise.  
 23 I'll be asking you questions. And if, for some reason,  
 24 you do not understand any question I ask, please let me know.  
 25 If you answer the question, I'm going to assume that you

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1 understood the question.  
 2 Sometimes I can ask bad questions. So just say, "Hey,  
 3 can you please rephrase that," or, "I don't understand." That's  
 4 okay to let me know, and I'll gladly rephrase the question.  
 5 A Okay.  
 6 Q Another thing is, sometimes, you might be unsure of  
 7 something and I may ask for you to give your best estimate.  
 8 Do you understand the difference between an estimate and  
 9 a guess?  
 10 A Yes.  
 11 Q Okay. So I'll give you an example.  
 12 I can ask you to estimate, you know, the length of this  
 13 table. You, obviously, can see the table and can estimate it.  
 14 But if I ask you to estimate the table in my house, that would be  
 15 a guess because you've never seen it before.  
 16 A Yes.  
 17 Q So I may ask you to give your best estimate. If you  
 18 don't know, it's okay to not know, just let me know, you know, you  
 19 don't know and you are unable to.  
 20 Additionally, a transcript will be prepared at the end  
 21 of this deposition. You will have a chance to look over it and  
 22 make any changes you want.  
 23 There are two type of changes. There's grammatical  
 24 changes, small changes, and then there's substantive changes.  
 25 It's okay to make grammatical changes or something. The spelling

Page 8

1 of your name may be incorrect.  
 2 However, significant changes, which would be something  
 3 like, you know, there was a red light and you then later say no,  
 4 the light was green, not red, that's a substantial change. And  
 5 then you would be subject at trial for me to comment on your  
 6 change.  
 7 Additionally, if you need any breaks at all during the  
 8 deposition, just let me know and we can take a break at any time.  
 9 I just request that you answer the question that I had  
 10 asked before we do take the break.  
 11 A Okay.  
 12 Q Now, is there any reason why you are unable to give your  
 13 best testimony today?  
 14 A No.  
 15 Q Have you taken any medication in the last 24 hours?  
 16 A No.  
 17 Q Do you understand that you are being deposed today as  
 18 the person most knowledgeable for MDB Trucking?  
 19 A Yes.  
 20 Q I know earlier, you testified that you don't recall ever  
 21 being deposed before, so I'm guessing this answer is going to be  
 22 no. But have you ever been a deponent and been the person most  
 23 knowledgeable for something before?  
 24 A Yes.  
 25 Q You have?

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1 A Yes. I'm not sure -- yeah, I'm not sure I understand  
 2 the question.  
 3 Q Have you ever been asked to be the person most  
 4 knowledgeable and been subject to a deposition, like you are here  
 5 today, before?  
 6 A Oh. No.  
 7 Q Do you understand what is meant by "the person most  
 8 knowledgeable"?  
 9 A Yes.  
 10 Q I'm going to just reiterate to make sure we have the  
 11 same understanding.  
 12 Basically, it means you are here to testify on behalf of  
 13 the company. So you are not here to testify in your own personal  
 14 capacity, it's for the company.  
 15 I will ask you a couple of questions in the beginning to  
 16 get some just background about yourself before I go into questions  
 17 about the company. Okay?  
 18 A Okay.  
 19 MR. BROWN: Can I just say one thing?  
 20 As you are aware, Mr. Palmer was also the driver of the  
 21 sand truck.  
 22 MS. SHREVE: Yes.  
 23 MR. BROWN: So to the extent that you want to ask him  
 24 questions about that as the driver of the sand truck, I would  
 25 appreciate it if you do it sometime over the next few days so he

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1 doesn't have to come back as a fact witness. I know he wasn't  
 2 noticed for that.  
 3 MS. SHREVE: Yeah.  
 4 MR. BROWN: But I think it would be economically  
 5 feasible for everybody.  
 6 MS. SHREVE: We were going to ask you that as well.  
 7 MR. BROWN: So I don't have an objection to that, if you  
 8 want to ask him factual questions as to his knowledge of that from  
 9 a factual standpoint.  
 10 MS. SHREVE: Perfect. Thank you.  
 11 MS. WOELFEL: I would just comment, I think that that  
 12 makes a lot of economical sense, as long as we don't get an  
 13 objection saying, you know, we have seven hours with him or we're  
 14 running out of time with him.  
 15 MR. BROWN: Sorry, I'm eating candy.  
 16 As long as we finish and everybody is moving along  
 17 reasonably, I'm not going to throw a fit about the times in any  
 18 regard.  
 19 MS. WOELFEL: Okay.  
 20 MR. BROWN: But, you know, I don't anticipate everybody  
 21 asking the same questions over and over again, so as long as  
 22 that's not the case.  
 23 MS. SHREVE: All right. Okay. So we will begin.  
 24 BY MS. SHREVE:  
 25 Q Can you give me your full name, please. I know earlier,

Page 11

1 you said Scott Palmer, but first, middle and last name.  
 2 A Scott Allen Palmer.  
 3 Q What's your date of birth?  
 4 A 11/2/1960.  
 5 Q Where were you born?  
 6 A California.  
 7 Q What city?  
 8 A Vallejo.  
 9 Q How long did you live there?  
 10 A Three years, four years.  
 11 Q Where did you go after that?  
 12 A Napa.  
 13 Q How long were you in Napa?  
 14 A Until 1971.  
 15 Q Where did you go after Napa?  
 16 A Northford, Connecticut.  
 17 Q How long were you in Northward, Connecticut, for?  
 18 A Northford, Connecticut, until 1975.  
 19 Q Where did you go after that?  
 20 A Reno.  
 21 Q So have you been in Reno, Nevada, ever since?  
 22 A Reno, Sparks, state of Nevada, since 1975, yes.  
 23 Q What's your current address?  
 24 A 6717 Rolling Meadows Drive, Apartment 721, Sparks,  
 25 Nevada 89436.

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1 Q Okay. And where did you go to high school?  
 2 A I went to North Branford High School in North Branford,  
 3 Connecticut. And Reno High School is where I graduated, in Reno,  
 4 Nevada.  
 5 Q And after graduation from high school, did you attend  
 6 any other secondary school?  
 7 A No.  
 8 Q What's your current occupation?  
 9 A Manager.  
 10 Q Manager for where?  
 11 A MDB Trucking, LLC.  
 12 Q How long have you been in that position as the manager  
 13 of MDB?  
 14 A About 14 months.  
 15 Q And what was your title before then?  
 16 A Maintenance manager.  
 17 Q How long have you been with MDB Trucking?  
 18 A Since August of 2014.  
 19 Q So would you briefly take me through the job duties that  
 20 you perform on a daily basis as the manager of MDB.  
 21 A I do paperwork in the morning, the prior day's  
 22 paperwork. I dispatch trucks. I oversee the maintenance of the  
 23 vehicles. I actually perform some of the maintenance on the  
 24 vehicles on occasion.  
 25 On a rare occasion, I drive.

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1 Q Okay. And you said paperwork. What kind of paperwork?  
 2 A The drivers' daily paperwork, invoicing, truck reports,  
 3 you have IFTA reports, that kind of stuff, mileage.  
 4 Q What sort of maintenance do you perform?  
 5 A Personally?  
 6 Q Yes.  
 7 A I go out and work on electrical problems, ABS problems,  
 8 stuff that takes a little bit more of a technical background.  
 9 Q Okay. And do you have any certifications for performing  
 10 any maintenance work?  
 11 A I've got -- yes, I have a few certifications.  
 12 Q Okay. And what are those certifications?  
 13 A Air-conditioning, tire and brake repair. I'm certified  
 14 to do annual inspections of vehicles.  
 15 Q Where did you receive these certifications from?  
 16 A Different places I worked, employers, previous employers  
 17 and current employers, and also from taking classes.  
 18 Q Did you receive any of these certifications from your  
 19 time employed at MDB?  
 20 A Yeah. Yes.  
 21 Q And which certification was that?  
 22 A In order to do annual inspections or brake specs at a  
 23 company, you have to be certified by their management.  
 24 Q And what did that entail for you to get your  
 25 certification from the management?

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1 A You have to fill out a form provided by the Federal  
 2 Motor Carrier Safety Administration that proves you have the  
 3 knowledge and the experience to do it, and then it's signed off by  
 4 the current manager.  
 5 Q Is there a certain amount of hours in maintenance that  
 6 you are required to do in order to receive these certifications?  
 7 A I'm not sure. I don't know the answer to that. I don't  
 8 think so.  
 9 Q Prior to starting at MDB in August 2014, what was  
 10 your -- where did you work?  
 11 A K & B Transportation.  
 12 Q And what -- how long were you there?  
 13 A One year.  
 14 Q And what did you do there?  
 15 A I drove a truck and worked in a shop, as a mechanic.  
 16 Q Okay. And then prior to working at K & B, where were  
 17 you?  
 18 A At Northern Nevada Excavating.  
 19 Q And how long were you there?  
 20 A Five years.  
 21 Q And what did you do there?  
 22 A I was truck driver, oversaw the shop. And towards the  
 23 end, I was actually the administrator.  
 24 Q And then prior to that, did you have any other  
 25 experience in driving trucks or shop maintenance?

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1 A Yes.  
 2 Q Okay. Can you tell me what those were and your time at  
 3 those jobs.  
 4 A Prior to that, I was at Harco company for 20 years  
 5 and --  
 6 Q Was that --  
 7 A Pardon?  
 8 Q Was there anything else prior to that with doing any  
 9 truck driving and maintenance?  
 10 A Yes. Before that, I was with a company called  
 11 Silver Bears, Incorporated, for five years. And I did maintenance  
 12 and truck driving at that place, too.  
 13 Q And then prior to that?  
 14 A That was it.  
 15 Q That was it. Okay.  
 16 A Well, pretty much, that was it.  
 17 Q Okay.  
 18 A So at Harco Company, I was actually the owner at the end  
 19 of the 20 years. I sold it.  
 20 Q So you started off doing -- what did you start off doing  
 21 at Harco?  
 22 A "Harco," H-a-r-c-o.  
 23 Q At Harco.  
 24 A Harco Company, yes.  
 25 Q So what did you start off doing there?

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1 A Truck driver and mechanic.  
 2 Q Okay. And then when did you become an owner?  
 3 A 19- -- probably, I would say five years after I started  
 4 there, I was a partner, and then I bought my partner out.  
 5 Q So the last 15 years, roughly --  
 6 A Yes.  
 7 Q -- you were an owner?  
 8 And were you the sole owner of the company?  
 9 A At the end, I was, yes.  
 10 Q Are you aware that your testimony today is about the  
 11 lawsuit brought by Fitzsimmons, MDB, and other defendants in  
 12 similarly related cases?  
 13 A Yes.  
 14 Q Did you do anything to prepare for your deposition  
 15 today?  
 16 A I met with my attorneys, Brian and Thierry, Saturday to  
 17 go over what the procedures were going to be of the deposition and  
 18 how --  
 19 MR. BROWN: You don't need to tell her what we did or  
 20 talked about, just that you met with us.  
 21 THE WITNESS: Yes.  
 22 BY MS. SHREVE:  
 23 Q Did you look over any documents to prepare for your  
 24 deposition today?  
 25 Again, I don't want to know any conversation you had

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1 with your counsel.  
 2 A Yes, just the questions that are posed in a deposition.  
 3 I'm not sure what you call that.  
 4 Q In the notice of deposition?  
 5 A In the notice, yes.  
 6 Q So you only looked at the notice of deposition?  
 7 A Yes.  
 8 Q You didn't look at any other documents?  
 9 A I don't think so.  
 10 Q Okay. Did you speak with anyone other than your  
 11 attorneys in preparation for the deposition today?  
 12 A No.  
 13 Q What is the legal name of MDB Trucking?  
 14 A MDB Trucking, LLC.  
 15 Q And where was it incorporated?  
 16 A Reno. I believe it was Reno. To the best of my  
 17 knowledge, I think it -- I'm fairly sure it was Reno.  
 18 Q And do you know when it was incorporated?  
 19 A Between -- it's actually not a corporation, it's a  
 20 limited liability corporation, but I look at it slightly  
 21 differently.  
 22 Q Yes. I appreciate that.  
 23 Do you have the -- or, do you know the business address  
 24 of MDB?  
 25 A The mailing address is P.O. Box 61806, Reno, Nevada

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1 89506.  
 2 Q What about the physical address?  
 3 A The physical address of the yard I manage is 905 East  
 4 Mustang Road.  
 5 Q Are there more than one locations of MDB?  
 6 A Yes.  
 7 Q How many locations are there?  
 8 A We have two yards, two operations, one in Dixon,  
 9 California, and one in Sparks, Nevada; Reno, Nevada.  
 10 Q And what's the address for the one in California?  
 11 A 7059 Tremont Road, Dixon, California.  
 12 Q And do you have any interaction with the yard in  
 13 California?  
 14 A Not over the last six months. They pretty much run on  
 15 their own. But before that, I have knowledge of it, yes.  
 16 Q Who owns MDB?  
 17 A The partners are -- or the members -- I'm not sure how  
 18 you would say that -- are Travis Bonanno and Kari Bonanno.  
 19 Q And they both -- they own both locations in Nevada and  
 20 California?  
 21 A Yes.  
 22 Q How many employees does MDB have?  
 23 MR. BROWN: Are you talking total or just in --  
 24 MS. SHREVE: We'll do in Nevada and then we'll do in  
 25 California.

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1 THE WITNESS: Twenty-two.  
 2 BY MS. SHREVE:  
 3 Q In Nevada?  
 4 A No, total. I'm sorry. I missed --  
 5 Q No.  
 6 A I'm sorry.  
 7 Q So how many would you say are in Nevada?  
 8 A Twelve.  
 9 Q So, roughly, ten in California --  
 10 A Yes.  
 11 Q -- if my math is correct?  
 12 A Yes.  
 13 Q And what are the different jobs entailed of the  
 14 employees? We'll start with Nevada. Like, are they drivers,  
 15 maintenance? What are the positions that you have in Nevada?  
 16 A Okay. Myself as the manager, then we have one mechanic,  
 17 one mechanic's helper, and the rest are truck drivers.  
 18 Q And what about in California?  
 19 A We have a manager that works down there that is also a  
 20 driver. And then we have one mechanic and eight drivers, eight  
 21 additional drivers.  
 22 Q And I know you've briefly talked about it, but can you  
 23 explain the managerial structure? So in regards to -- is there  
 24 the owner, and then does the owner go to the manager, which would  
 25 be you? Do you report to the owner? How does that work?

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1 A I don't report directly to the owner very much right  
 2 now. I report to a gentleman named Terry Davis, who works for the  
 3 owner.  
 4 Q And what is Terry Davis' job title?  
 5 A I'm not sure.  
 6 Q Is he an employee of the company?  
 7 A I'm not sure.  
 8 Q How often do you speak with Terry Davis?  
 9 A Probably daily, at least a couple -- a few times a week.  
 10 Q What are the things that you discuss with him?  
 11 A Mostly, just general administrative issues, maybe, that  
 12 the office might have, or whether or not we might be purchasing  
 13 something that's going to cost a significant amount of money.  
 14 Like, I'll run that by him and he can run that by the owner.  
 15 Q Do the drivers and maintenance employees report to you?  
 16 A Yes, the ones in Reno, yes.  
 17 Q Right. Exactly.  
 18 How many -- let me -- strike that.  
 19 Do you make the decisions to purchase or lease any truck  
 20 or trailer in Nevada?  
 21 A Yes.  
 22 Q Do you have to ask anyone above you to purchase or lease  
 23 a truck or trailer --  
 24 A Yes.  
 25 Q -- in Nevada?

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1 Is that person Terry Davis?  
 2 A Yes, currently, yes.  
 3 Q Currently.  
 4 How many trucks does MDB own and/or lease in Nevada?  
 5 A Eleven -- twelve.  
 6 MR. BROWN: Are you specifically talking about trucks  
 7 that will tow trailers?  
 8 THE WITNESS: I was just going to --  
 9 BY MS. SHREVE:  
 10 Q I'm going to go into what those trucks entail, so --  
 11 but, yes.  
 12 A Yeah, if you are speaking of pickups, I mean, I guess  
 13 you could make it 13, but 13 total vehicles.  
 14 Q So for the different trucks, how many does MDB actually  
 15 own?  
 16 A To my knowledge, none.  
 17 Q Okay. So of the 12 trucks or possibly 13 trucks, what  
 18 are the different trucks? Are they all the same, or are they  
 19 different?  
 20 A Are you talking about make or model or type of vehicle?  
 21 Q The type of vehicle, whether it tows, dump trucks, or a  
 22 pickup truck.  
 23 A Oh, we have -- well, we would have one pickup truck, one  
 24 mechanic service truck, and the rest are heavy-duty tractor  
 25 trailers or truck trailers.

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1 I can go into more detail on that, whether they are a  
 2 tractor that pulls bottom dumps or a truck that has the transfers  
 3 behind it, but I'm not sure if that's what you are looking for.  
 4 **Q Yes. So how many pull belly dumps?**  
 5 A We have four. We have six power units that can pull  
 6 bottom dumps.  
 7 **Q Are all six in service daily?**  
 8 A No.  
 9 Well, yes, they could be, yes, not pulling bottom dumps,  
 10 though, if that's what you meant.  
 11 **Q What would they pull if they are not pulling the bottom**  
 12 **dumps?**  
 13 A They would pull pneumatic trailers that haul cement.  
 14 They could be hauling a transport trailer. They could be hauling  
 15 equipment.  
 16 **Q And then how many trailers does MDB own or lease in**  
 17 **Nevada?**  
 18 A I'm completely guessing on this because it's not  
 19 something I keep count of. It's probably close to 40.  
 20 **Q And are the, roughly, 40 trailers -- are any of them**  
 21 **owned by MDB?**  
 22 A I do not think so.  
 23 **Q And of the approximately 40 trailers, how many are used**  
 24 **daily?**  
 25 A I would say 70 percent of them would be used daily in

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1 possible different combinations.  
 2 **Q And of those trailers, how many are the belly dump**  
 3 **trailers?**  
 4 A Nine.  
 5 **Q What other -- what services does MDB provide for its**  
 6 **trucks or trailers?**  
 7 A Services?  
 8 **Q Yes. Do you do all of your repairs in-house?**  
 9 A Yes.  
 10 **Q And what sort of repairs do you do to the trucks or**  
 11 **trailers?**  
 12 A We do every bit of maintenance, preventive maintenance,  
 13 routine maintenance and general repairs.  
 14 **Q Do you ever have to send a truck or trailer to another**  
 15 **company for any repairs or maintenance?**  
 16 A Very seldom. That would only be in case of, like,  
 17 alignment. Mostly, we do everything in-house.  
 18 **Q So is alignment the only thing you would send a truck or**  
 19 **trailer to a company to for maintenance or repair?**  
 20 A I mean, it's not the only thing that we've ever sent it  
 21 out for, but that's generally -- yes, other than tires. We have a  
 22 tire service that comes and does our tire work for us.  
 23 **Q What are other things that you've had to send out the**  
 24 **truck or trailer for?**  
 25 A Maybe we didn't have enough time to replace a

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1 transmission or rebuild a transmission, so we sent it to somebody  
 2 that could have the time to do it.  
 3 MS. SHREVE: All right. So I'm going to hand out the  
 4 first exhibit. So I would like to mark this as Exhibit 1. This  
 5 is going to be the amended notice of the deposition for today.  
 6 (Exhibit 1 marked for identification.)  
 7 BY MS. SHREVE:  
 8 **Q I'll give you a second to look over this document.**  
 9 **Have you seen this document before?**  
 10 A I think so, yes.  
 11 **Q What is your understanding of what this document is?**  
 12 A What you are going to be asking me today, what I'm going  
 13 to be responsible for answering.  
 14 **Q And, again, you understand that this requires MDB to**  
 15 **produce the person that is most knowledgeable on all the topics**  
 16 **that are listed in this notice?**  
 17 MR. BROWN: Objection. He can give his notice of -- his  
 18 understanding of what he'll testify, not legal implications.  
 19 You can answer, if you can.  
 20 THE WITNESS: Do I need to answer? I'm sorry.  
 21 BY MS. SHREVE:  
 22 **Q Yes. Do you need me to --**  
 23 A Yes, please, repeat the question.  
 24 **Q I'll try and repeat it.**  
 25 **Do you understand that this notice of deposition**

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1 **requires MDB to designate a person to testify on its behalf in the**  
 2 **case?**  
 3 A Yes, I do.  
 4 **Q Do you understand that MDB is required to prepare that**  
 5 **person to provide all information known or reasonably available to**  
 6 **them based on all 47 topics listed?**  
 7 MR. BROWN: Same objection.  
 8 Go ahead.  
 9 THE WITNESS: Yes.  
 10 BY MS. SHREVE:  
 11 **Q You are testifying on behalf of MDB as their person most**  
 12 **knowledgeable, correct?**  
 13 A Yes.  
 14 **Q When did you become aware that you would be the person**  
 15 **most knowledgeable for MDB in this deposition?**  
 16 A When I received the notice of the deposition.  
 17 **Q Do you recall when that was?**  
 18 A I think it was maybe a month ago, a few weeks ago. I  
 19 don't exactly remember.  
 20 MR. BROWN: The day after it was sent?  
 21 MR. BARKLEY: I don't think you are testifying, Counsel.  
 22 BY MS. SHREVE:  
 23 **Q And besides looking at this notice of deposition, as you**  
 24 **said earlier, is there anything else that you did or discussed**  
 25 **with anyone to ensure that you were prepared as the person most**

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1 knowledgeable for the 47 topics?  
 2 A No.  
 3 Q Do you think there is any other person that would be  
 4 knowledgeable -- more knowledgeable than you for any of the topics  
 5 listed in this notice of deposition?  
 6 MR. BROWN: Objection to the extent it calls for  
 7 speculation.  
 8 MR. BARKLEY: I'm going to ask for a clarification. Are  
 9 you asking for actual personal knowledge versus preparation for  
 10 the 30(b)(6) topics?  
 11 MS. SHREVE: I'm asking for the person most -- is there  
 12 anyone else that would be a person more knowledgeable on topic.  
 13 MR. BARKLEY: On any topic?  
 14 MS. SHREVE: Of the 47.  
 15 THE WITNESS: My question would be, is this somebody  
 16 that would be currently employed at MDB Trucking?  
 17 BY MS. SHREVE:  
 18 Q No. If there's anyone that's more knowledgeable than  
 19 you in any of the topics listed -- and if you want, we can go  
 20 through each one and I'll ask it. It might be easier.  
 21 So we'll go through each topic.  
 22 A Could you clarify that.  
 23 MR. BROWN: I think what he's trying to tell you is,  
 24 he's the person most knowledgeable on all the topics that's  
 25 currently employed there.

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1 THE WITNESS: Yes.  
 2 MR. BROWN: There may be somebody that has more  
 3 knowledge that no longer works for us, but otherwise, he's --  
 4 THE WITNESS: Yeah, I'm it, yeah.  
 5 BY MS. SHREVE:  
 6 Q Okay. Perfect.  
 7 So I'm going to go through each topic listed, and I'm  
 8 just going to ask if you are the person most knowledgeable  
 9 currently employed --  
 10 A Okay.  
 11 Q -- at MDB.  
 12 A All right.  
 13 Q So the first topic is the purchase, lease or sale of  
 14 vehicles owned or leased by MDB. Are you the person most  
 15 knowledgeable employed by MDB?  
 16 A Yes.  
 17 Q Number 2 is in regards to the maintenance and equipment  
 18 policy and procedures for MDB vehicles. Are you the person most  
 19 knowledgeable currently employed at MDB regarding this topic?  
 20 A Yes.  
 21 Do you have to go through all 47 that way, or can I  
 22 just --  
 23 Q Yes. If you want, I can just read it and then you can  
 24 just say "yes," and I'll have the standing question of are you the  
 25 most knowledgeable from --

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1 MR. BROWN: How about you say Number 3 and let him read  
 2 it and then have him answer "yes" or "no." It might speed it up.  
 3 THE WITNESS: I have already read these and I'm ready to  
 4 answer.  
 5 BY MS. SHREVE:  
 6 Q Okay. Then I'll just stay the number and we can go  
 7 through.  
 8 Are you the person most knowledgeable in regards to  
 9 Topic Number 3?  
 10 A Yes.  
 11 Q Are you the person most knowledgeable currently employed  
 12 in regards to Topic Number 4?  
 13 A Yes.  
 14 Q Are you the person most knowledgeable in regards to  
 15 Topic Number 5?  
 16 A Yes.  
 17 Q Are you the person most knowledgeable in Topic Number 6?  
 18 A Yes.  
 19 Q In Topic Number 7?  
 20 A Yes.  
 21 Q Topic Number 8?  
 22 A Yes.  
 23 Q Topic Number 9?  
 24 A Yes.  
 25 Q Topic Number 10?

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1 A Yes.  
 2 Q Topic Number 11?  
 3 A Yes.  
 4 Q Topic Number 12?  
 5 A Yes.  
 6 Q Topic Number 13?  
 7 A Yes.  
 8 Q Topic Number 14?  
 9 A Yes.  
 10 Q Topic Number 15?  
 11 A Yes.  
 12 Q Topic Number 16?  
 13 A Yes.  
 14 Q Topic Number 17?  
 15 A Yes.  
 16 Q Topic Number 18?  
 17 A Yes.  
 18 Q Topic Number 19?  
 19 A Yes.  
 20 Q Topic Number 20?  
 21 A Yes.  
 22 Q Topic Number 21?  
 23 A Yes.  
 24 Q Topic Number 22?  
 25 A Yes.

<p style="text-align: right;">Page 30</p> <p>1 Q Topic Number 23?</p> <p>2 A Yes.</p> <p>3 Q Topic Number 24?</p> <p>4 A Yes.</p> <p>5 Q Topic Number 25?</p> <p>6 A Yes.</p> <p>7 Q Topic Number 26?</p> <p>8 A Yes.</p> <p>9 Q Topic Number 27?</p> <p>10 A Yes.</p> <p>11 Q Topic Number 28?</p> <p>12 A Yes.</p> <p>13 Q Topic Number 29?</p> <p>14 A Yes.</p> <p>15 Q Topic Number 30?</p> <p>16 A Yes.</p> <p>17 Q Topic Number 31?</p> <p>18 A Yes.</p> <p>19 Q Topic Number 32?</p> <p>20 A Yes.</p> <p>21 Q Topic Number 33?</p> <p>22 A Yes.</p> <p>23 Q Topic Number 34?</p> <p>24 A Yes.</p> <p>25 Q Topic Number 35?</p>	<p style="text-align: right;">Page 32</p> <p>1 Q Is Patrick Bigley currently employed by MDB?</p> <p>2 A Patrick Bigby?</p> <p>3 Q Bigby.</p> <p>4 A Yes.</p> <p>5 Q In MDB's response to Versa's interrogatories, Number 21,</p> <p>6 MDB indicated that Patrick Bigby was the person most knowledgeable</p> <p>7 in regards to maintenance.</p> <p>8 Is that a correct understanding, or has that changed?</p> <p>9 A When was that stated?</p> <p>10 Q Let me pull out the --</p> <p>11 A Actually, I'm not sure it really matters.</p> <p>12 MR. BROWN: Let's take a look at it first.</p> <p>13 MS. SHREVE: Okay.</p> <p>14 MR. BARKLEY: Which set are we talking about, Counsel,</p> <p>15 the original answers?</p> <p>16 MS. SHREVE: Yes. I don't think that one was separated,</p> <p>17 if I recall.</p> <p>18 MR. BARKLEY: You are talking about answer to</p> <p>19 Interrogatory Number 8?</p> <p>20 MS. SHREVE: Number 21.</p> <p>21 MR. BARKLEY: Here you are, Mr. Palmer.</p> <p>22 THE WITNESS: I wouldn't say anything has changed.</p> <p>23 I just have equal knowledge of the -- as Patrick Bigby.</p> <p>24 BY MS. SHREVE:</p> <p>25 Q Did you speak with Patrick Bigby at all prior to the</p>
<p style="text-align: right;">Page 31</p> <p>1 A Yes.</p> <p>2 Q Topic Number 36?</p> <p>3 A Yes.</p> <p>4 Q Topic Number 37?</p> <p>5 A Yes.</p> <p>6 Q Topic Number 38?</p> <p>7 A Yes.</p> <p>8 Q Topic Number 39?</p> <p>9 A Yes.</p> <p>10 Q Topic Number 40?</p> <p>11 A Yes.</p> <p>12 Q Topic Number 41?</p> <p>13 A Yes.</p> <p>14 Q Topic Number 42?</p> <p>15 A Yes.</p> <p>16 Q Topic Number 43?</p> <p>17 A Yes.</p> <p>18 Q Topic Number 44?</p> <p>19 A Yes.</p> <p>20 Q Topic Number 45?</p> <p>21 A Yes.</p> <p>22 Q Topic Number 46?</p> <p>23 A Yes.</p> <p>24 Q Topic Number 47?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 33</p> <p>1 deposition today to obtain any information that he would know that</p> <p>2 you might not be aware of?</p> <p>3 A No.</p> <p>4 Q Are you aware of the subject incident, which is in</p> <p>5 regards to this lawsuit, which occurred on July 7th, 2014?</p> <p>6 A Yes.</p> <p>7 Q What do you -- what's your understanding of what</p> <p>8 occurred on that day?</p> <p>9 A Mr. Koski was hauling a load of concrete rock in bottom</p> <p>10 dumps from Wadsworth, Nevada, in to Reno, Nevada. And somewhere</p> <p>11 around Painted Rock, the rear trailer opened, spilling his load of</p> <p>12 aggregate on to the highway, and that caused cars to lose control.</p> <p>13 Q Do you know what truck and trailer was involved? You</p> <p>14 can use the -- I guess, is it product number? Is that what you</p> <p>15 use or --</p> <p>16 A Equipment Number?</p> <p>17 Q Equipment number, yes.</p> <p>18 A Yes, I do.</p> <p>19 Q And what is the equipment number for the truck that was</p> <p>20 involved?</p> <p>21 A 5694.</p> <p>22 Q Okay. And how many trailers was Truck 5694 carrying?</p> <p>23 A He was pulling three trailers.</p> <p>24 Q And what were those equipment numbers?</p> <p>25 A 6773, 6774, and 6775.</p>

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1 Q And was that the order in which the truck pulled the  
 2 trailers?  
 3 A Yes.  
 4 Q So Trailer 6775 was the last trailer?  
 5 A That's correct.  
 6 Q Okay. And what was the trailer that allegedly dumped  
 7 the gravel, the belly opened?  
 8 A What trailer number?  
 9 Q Yes.  
 10 A 6775.  
 11 Q And is that trailer owned by MDB?  
 12 A No.  
 13 Q Who is that -- who is Trailer 6775 owned by?  
 14 A It's owned by SKS Corporation.  
 15 Q How about -- are the other trailers, 6773 and 6774,  
 16 owned by the same company?  
 17 A Yes.  
 18 Q Does SKS Corp. also own Truck 5964?  
 19 A Yes, to my knowledge, yes.  
 20 Q Does MDB lease those trucks and trailers from SKS?  
 21 A Yes.  
 22 Q How long has MDB leased those trucks and trailers?  
 23 A Since they were purchased.  
 24 Q Since they were purchased by who?  
 25 A SKS Corporation.

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1 Q And do you know when SKS Corporation purchased the truck  
 2 and trailers?  
 3 A I would have to look at the -- to refresh my memory. I  
 4 have a general idea when they were purchased, but without looking  
 5 at the documents, I wouldn't know exactly.  
 6 It would have been 2012, I believe, for 5694 and  
 7 probably early 2013 or late 2012 for the three bottom dump  
 8 trailers.  
 9 Q What document would you need to look at to refresh your  
 10 memory?  
 11 A Just bill of sale or the --  
 12 Q Did SKS Corp. provide you a bill of sale for the truck  
 13 and trailers?  
 14 A Provide me personally?  
 15 Q Provide MDB.  
 16 A Oh, no.  
 17 Q Does MDB have copies of the purchase of the truck and  
 18 trailer by SKS Corp.?  
 19 A Yes.  
 20 I have them.  
 21 Q And who owned -- who did SKS Corp. purchase the truck  
 22 and trailer from?  
 23 A The truck was purchased from Davis Company.  
 24 Q Okay.  
 25 A And the three trailers were purchased from Western

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1 Nevada Transport.  
 2 Q And did you lease the truck from Davis Corporation  
 3 before?  
 4 A No.  
 5 Q Did you lease the trailers from -- Western?  
 6 A Western Nevada Transport?  
 7 Q Did you lease the trailers from them prior to them  
 8 selling them to SKS Corp.?  
 9 A Yes.  
 10 Q And how long did you lease from them for?  
 11 A I believe it was a year and a half. I mean, that's a  
 12 guesstimate, a year, year and a half.  
 13 Q And did someone own the trailers prior to West States  
 14 Nevada?  
 15 A Western Nevada?  
 16 Q Western Nevada.  
 17 A I don't have any knowledge of that. I don't know where  
 18 they got them from. I think they probably purchased them new, but  
 19 I don't know.  
 20 Q So you did not lease them from anyone else prior?  
 21 A Oh, no.  
 22 Q Okay. To your knowledge, is SKS Corp. owned by Versa,  
 23 Versa Products?  
 24 A No.  
 25 Q To your knowledge, did Versa have any control over the

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1 subject truck on the day of the subject incident of July 7th,  
 2 2014?  
 3 MR. BROWN: Objection to the extent that it calls for  
 4 legal conclusion.  
 5 THE WITNESS: Can you repeat the first part of the  
 6 question.  
 7 BY MS. SHREVE:  
 8 Q Sure. Let me try to rephrase that.  
 9 I guess, who was -- who was driving the truck on the day  
 10 of the incident?  
 11 A Daniel Koski.  
 12 Q Who was Daniel Koski employed by?  
 13 A MDB Trucking.  
 14 Q To your knowledge, does Versa Products Company own  
 15 MDB Trucking?  
 16 A No, it does not.  
 17 Q On the day of the subject incident, were you working  
 18 that day?  
 19 A Yes, I was.  
 20 Q What time did you arrive at work?  
 21 A I believe I arrived at work at 4:45 a.m.  
 22 Q Is that a typical time you arrived at work?  
 23 A When I'm driving, yes.  
 24 Q How often do you drive?  
 25 A Well, back then, I was driving more than I'm driving

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1 now. So back then, I would have been -- I might have been working  
 2 most every day -- driving, I'm sorry, driving most every day.  
 3 **Q Now, when you get to work, are you arriving to which**  
 4 **location?**  
 5 A Sparks, Nevada.  
 6 **Q Okay. And is it the yard? Is that what you --**  
 7 A I call it -- Mustang yard we call it.  
 8 **Q So in a typical day, when you arrive, like, the day of**  
 9 **the subject incident, what's the first thing you do?**  
 10 **Do you have to clock in? Do you pick up a report that**  
 11 **you have to drive a truck? What do you do in a typical day?**  
 12 A Just walk over to the truck, put my stuff in the truck  
 13 and do my pre-trip inspection of the vehicles that I'm pulling. I  
 14 mean, it's possible that I -- yes, that's what I do.  
 15 If you have to hook the truck up, if it's not hooked up  
 16 already, then you have to arrive earlier than that to make sure  
 17 it's hooked up, but yes.  
 18 **Q How do you know which truck you were driving that day?**  
 19 A You get a dispatch, text dispatch the night before. And  
 20 generally, you drive the same truck every day.  
 21 **Q You said "a text dispatch"; is that correct?**  
 22 A Yes, text message with your dispatch of what you are  
 23 doing, where you are going, what time.  
 24 **Q And who sends that text dispatch? Where does it come**  
 25 **from?**

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1 A Currently, it comes from me. I send it out. Then, it  
 2 was Tracy Shane sent it out. He was the dispatcher then.  
 3 **Q And then how do you decide, since you now are in that**  
 4 **position to send it out, who drives which truck?**  
 5 A Well, they -- every driver is pretty much assigned a  
 6 truck, and their truck is capable of hauling certain types of  
 7 material to certain plants. And that's how you decide.  
 8 If it's a transfer, the transfer drivers go here. The  
 9 bottom dump drivers go here.  
 10 And so, basically, you just dispatch the trucks that are  
 11 capable of doing the job to the correct locations that the  
 12 customer wants.  
 13 **Q Okay. And do the trucks usually carry the same trailer**  
 14 **with it on a daily basis?**  
 15 A For the most part, yes, but it's not a rule.  
 16 **Q How often does the truck carry a different trailer?**  
 17 A It could be -- some trucks, hardly ever. Some trucks  
 18 might switch every day, every other day.  
 19 **Q Okay. So you get this dispatch text the night before?**  
 20 A Yes.  
 21 **Q So when you -- will it tell you the time you have to**  
 22 **pick up your load and where?**  
 23 A Yes. It tells you what you are picking -- where you are  
 24 loading, what you are picking up, what time to be there and where  
 25 you are going to.

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1 **Q Okay. Does it give you information as to how much the**  
 2 **load is going to weigh?**  
 3 A No.  
 4 **Q Okay. And this is going to test your memory.**  
 5 **That day, do you recall what time you had to pick up**  
 6 **your load?**  
 7 A Yes, I was scheduled to be at the pit, which is in  
 8 Wadsworth, Nevada, at 5:30 a.m. Actually, it was 5:31 a.m. I do  
 9 specifically remember that.  
 10 **Q Okay. And what happens if you are late for picking up**  
 11 **your load?**  
 12 A Then you -- I guess you get yelled at. But other than  
 13 that, nothing. I mean, you just -- you are a few minutes late and  
 14 you just get in line and you are behind schedule.  
 15 **Q Okay. And are there any repercussions if you are behind**  
 16 **schedule and you are late in your drop-off of the product?**  
 17 A I'm not sure. That's somewhat of a broad question.  
 18 I mean, if you are really late, the customer might be  
 19 really upset if they are running out of material because you  
 20 didn't show up. But, generally, if you are just a few minutes  
 21 late, nobody knows the difference.  
 22 **Q Okay. Do you recall seeing Mr. Koski that morning?**  
 23 A Yes.  
 24 **Q And do you recall, did he arrive at the same time as you**  
 25 **that day?**

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1 A I don't recall. I would have to look at his actual  
 2 truck report or a bill of lading. But I believe he loaded  
 3 probably earlier than I did by just a few minutes, maybe  
 4 15 minutes.  
 5 **Q And did you see him at the yard?**  
 6 A Oh, yeah, I would have saw him at the yard in the  
 7 morning. I would have saw him at the pit. We were both hauling  
 8 to the same place.  
 9 **Q Okay. Earlier, you were talking about when you first**  
 10 **get there, you do your inspection of your truck that you are**  
 11 **assigned.**  
 12 A Yes.  
 13 **Q Can you go through with me your inspection that you do.**  
 14 A Step by step?  
 15 **Q Yes, please.**  
 16 A I get there. You -- I mean, according to the DOT rules,  
 17 you have to do your walk-around. They call it walk-around,  
 18 pre-trip inspection.  
 19 So the first thing you do is observe is there anything  
 20 wrong with the truck when you are walking up to it, any oil under  
 21 the truck, that stuff.  
 22 Then you tilt the hood, check your fluids, check your  
 23 belts, check all the mechanical things under the hood.  
 24 If those are good, you start the truck up so it can warm  
 25 up and build air pressure while you are checking your tires,

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1 lights, brakes, springs, whatnot on the truck and trailer.  
 2 You are checking that out as you are walking around the  
 3 trailers.  
 4 And after it builds up air pressure, then you do your  
 5 air pressure leakdown test according to the DOT rules, make sure  
 6 you don't have any air leaks and you don't have anything obviously  
 7 wrong.  
 8 **Q Okay. And during this inspection, do you -- is part of**  
 9 **it to put the switch on to see if the belly dump opens?**  
 10 A No.  
 11 **Q Do you -- in part of your inspection, do you have to --**  
 12 A Are you talking about -- I'm sorry, can I? Are you  
 13 talking about me personally, or are you talking about any of the  
 14 drivers in general?  
 15 **Q We'll start with -- well, any of the drivers in general**  
 16 **as to what they are required to do for their inspection.**  
 17 MR. BROWN: I'm just going to object as to foundation.  
 18 I know you are trying to get to it, but when you said  
 19 "the switch," I believe the facts show that there's a little  
 20 different configuration in different trucks.  
 21 And so it just -- there's a foundational issue when you  
 22 are talking in general on "the switch." And so I just want to  
 23 make that objection.  
 24 BY MS. SHREVE:  
 25 **Q We'll come back to this. So I'll get more detail and**

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1 **get some more information from you first, and then I'll go back to**  
 2 **that.**  
 3 MR. BARKLEY: The objection was lack of foundation, but  
 4 that's okay.  
 5 MS. SHREVE: No, I understand.  
 6 BY MS. SHREVE:  
 7 **Q So on July 7th, 2014, you did your inspection --**  
 8 A Uh-huh.  
 9 **Q -- of the truck?**  
 10 **And then you left and went to pick up your load?**  
 11 A Yes.  
 12 **Q Did you see whether or not Mr. Koski did his inspection**  
 13 **of the truck and trailers that day?**  
 14 A I don't recall. There's a lot of drivers all leaving  
 15 the yard at the same time. I'm assuming I seen him. I always see  
 16 him doing it. I almost always see him doing it, if I'm -- if I  
 17 pay any attention.  
 18 On those particular days, yeah, I'm looking at my  
 19 vehicle, so I wouldn't know for sure.  
 20 **Q Okay. Does MDB require their drivers to fill out any**  
 21 **paperwork in the morning when they do their inspection?**  
 22 A If there's defects noted, yes, they have to fill out a  
 23 DWIR, which is Driver's Vehicle Inspection Report.  
 24 **Q And who determines if there's a defect noted?**  
 25 A The driver.

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1 **Q Is that during their inspection?**  
 2 A Uh-huh.  
 3 MR. BROWN: Is that a "yes"? You have to say "yes."  
 4 THE WITNESS: Oh. Yes. Sorry.  
 5 BY MS. SHREVE:  
 6 **Q If the driver is doing their inspection, they notice**  
 7 **some sort of defect, then they have a report of some sort that**  
 8 **they give to MDB?**  
 9 A Yes.  
 10 **Q And what kind of writing do they do in regards to this**  
 11 **defect?**  
 12 A It's -- a Driver's Vehicle Inspection Report is like a  
 13 book with copies in them, and you fill it out. In other words,  
 14 you write down "left turn signal not working."  
 15 But that's kind of a bad example because the left turn  
 16 signal not working, you wouldn't leave the yard until it's fixed.  
 17 So if there's a defect that would keep him from leaving  
 18 the yard, such as a safety issue, then he wouldn't leave the yard.  
 19 But if the clutch needs to be adjusted, something, he  
 20 would write that on there and then turn it in at the end of the  
 21 day.  
 22 **Q And then does MDB keep those records?**  
 23 A Yes, for the required amount of time, which is not very  
 24 long. I think it's 90 days or six months. I'm not sure exactly.  
 25 We don't keep them that long.

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1 We keep the maintenance records, but not the actual  
 2 DWIRs.  
 3 **Q Is there a reason that MDB does not keep those as long**  
 4 **as they do their maintenance records?**  
 5 A At that point, they become redundant, in my opinion.  
 6 **Q Okay. So does it say the same thing that the**  
 7 **maintenance report would say?**  
 8 A Yes.  
 9 **Q On the day of the subject incident, so July 7th, 2014,**  
 10 **the route that Mr. Koski was doing, the load that he had to pick**  
 11 **up and where he had to deliver, is that a typical route that**  
 12 **Mr. Koski does?**  
 13 A Yes.  
 14 **Q How often would you say he, at that -- going back to**  
 15 **2014, he would do that route?**  
 16 A During the summertime, which is when this happened, he  
 17 might be doing it five days a week, doing the same thing every  
 18 day, five days a week.  
 19 **Q And would he be picking up the same load of materials?**  
 20 A He would be -- in 2014, we were hauling all of our  
 21 concrete rock and concrete sand out of the same location. So,  
 22 yes, he would be either hauling concrete rock or sand, or you  
 23 consider it concrete aggregates.  
 24 **Q And how did you come to know of the subject incident, of**  
 25 **the gravel being dumped on the highway?**

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1 A I received a phone call.  
 2 Q Who did you receive a phone call from?  
 3 A Tracy Shane.  
 4 Q Is Tracy still employed by MDB?  
 5 A No.  
 6 Q When did she leave the company?  
 7 A He.  
 8 Q He. Sorry.  
 9 A That's all right.  
 10 Q Sorry. When did he leave the company?  
 11 A December 2015.  
 12 Q Do you know where he went?  
 13 A Where he is currently working?  
 14 Q Yes.  
 15 A Yes.  
 16 Q Where is he currently working?  
 17 A Cyclone, Cyclone Transport or Cyclone Transportation --  
 18 I'm not sure which it is -- in Fernley, Nevada.  
 19 Q In where? I'm sorry.  
 20 A Fernley, Nevada.  
 21 Q Okay. And so what did Tracy say to you when he called  
 22 you?  
 23 A He said that Danny's back trailer came open on the  
 24 highway and spilled rock, and there's an accident.  
 25 Q Okay. Did he ask you to contact anybody regarding the

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1 incident?  
 2 A No.  
 3 Q Did he ask you to go to the scene?  
 4 A No.  
 5 Q Did he go to the scene?  
 6 A I do not believe so, because you couldn't get to the  
 7 scene, from -- to my knowledge, you really couldn't get there --  
 8 Q Okay.  
 9 A -- without -- yeah, you couldn't get there because the  
 10 traffic was backed up.  
 11 Q Was there any written communication to anyone from Tracy  
 12 to you or anyone else within the company regarding the incident?  
 13 A I do not believe so.  
 14 Q Did you ever speak with Mr. Koski after the incident,  
 15 regarding the incident?  
 16 A Yeah. I don't think so. Not specifically, no.  
 17 Q Did you speak with anyone else other than Tracy about  
 18 the subject incident?  
 19 A Yes.  
 20 Q Who else did you speak with?  
 21 A I spoke with part of the drivers, but mostly, Pat Bigby.  
 22 Q What was the conversation you had with Pat Bigby?  
 23 A That Danny's back trailer came open. And that was  
 24 basically the extent of the conversation.  
 25 Q Did you perform any type of inspection regarding the

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1 trailer coming open?  
 2 A Are you talking about after it came back to our  
 3 location?  
 4 Q Yes.  
 5 A No, I do not believe so.  
 6 Are you talking about me personally, or are you talking  
 7 about did MDB perform?  
 8 Q MDB. We're talking about MDB.  
 9 A Yes. No, did not do any inspection at that --  
 10 immediately following, no.  
 11 Q When did they -- when did MDB do an inspection regarding  
 12 the opening of Trailer 6775?  
 13 A I'm not really sure how to answer that. It was sort of  
 14 a moot point at that particular time because we put lockout  
 15 devices on the trailers. So there really wasn't anything to  
 16 inspect.  
 17 I don't know if that's an answer that you --  
 18 Q Okay.  
 19 A Let me rephrase it.  
 20 We did do a visual inspection of the mechanics of the  
 21 trailer to make sure the valve wasn't falling off and we found  
 22 nothing.  
 23 Q So -- but you just did a visual inspection?  
 24 A Yeah. We didn't do an intense accident investigation  
 25 type inspection. We just --

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1 Q So did you test the electrical part of the truck at all?  
 2 MR. BROWN: Objection, vague as to "test."  
 3 THE WITNESS: Did we test the electrical of the truck?  
 4 BY MS. SHREVE:  
 5 Q Yes.  
 6 A No.  
 7 Q What happened to this Truck 5694 and the trailers after  
 8 the subject incident? Did it -- did he continue to take the rest  
 9 of his load to where he was required to dump it?  
 10 A Yes. After stopping for the accident, even though he  
 11 was beyond the accident scene, after he was released by the  
 12 Highway Patrol, he continued on to the location he was going to  
 13 dump, which is Reno, Cemex Reno, and dumped his front two trailers  
 14 and proceeded back to our yard.  
 15 Q So after he dumped the first two, he brought the truck  
 16 and trailers back to the yard?  
 17 A Yes.  
 18 MS. SHREVE: I'm going to do the next exhibit. This  
 19 will be Exhibit Number 2.  
 20 Just so you know, I made stacks of things related for  
 21 exhibits. We don't have to do every single page, to make it  
 22 easier. So these are the driver's daily timesheet and logs.  
 23 THE WITNESS: Uh-huh, yes.  
 24 MS. SHREVE: It's not all of them.  
 25 (Exhibit 2 marked for identification.)

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1 BY MS. SHREVE:  
 2 Q So I'll give you a second to look over those.  
 3 So right now, to make it easier for you, I'm going to  
 4 specifically talk about Bates stamp number MDB 677 and MDB 680.  
 5 A 680 and --  
 6 Q 677. It's right there. So we'll talk about it.  
 7 A Okay.  
 8 Q So we'll start with MDB 680.  
 9 Can you explain to me what this document is.  
 10 A This is what we refer to as a truck tag, which is  
 11 actually a bill of lading that we fill out.  
 12 And in some cases, we use this to actually bill the  
 13 customer. In this particular case, we don't use it to bill the  
 14 customer because the customer pays us on contract.  
 15 And it keeps track of all the information that we need  
 16 to track the loads and the customer can see what we're doing.  
 17 Q Okay. And who fills this form out?  
 18 A The driver.  
 19 Q Okay. Where does the driver get the tag number from?  
 20 A I'm sorry, the tag number or the tag -- tags?  
 21 Q On this document, it says "Tag Number."  
 22 A Oh, I'm sorry, these tag numbers.  
 23 Q Yeah.  
 24 A Okay. Those numbers are the weight slips that we  
 25 receive from the quarry after we receive each load.

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1 Q Do you keep the weight slips?  
 2 A We keep -- yes, we keep one copy, and we give one copy  
 3 to the customer.  
 4 Q Okay. The weight slips, I'm going to assume they have  
 5 the weight on them as well?  
 6 A Yes.  
 7 Q That's where you get the weight from?  
 8 A Uh-huh, they have all the -- gross weight, net weight,  
 9 tare weight, yes.  
 10 Q Thank you.  
 11 Can you please tell me the date that this bill of  
 12 landing is from.  
 13 A Bill of lading?  
 14 Q Yes. Sorry.  
 15 A 7/7, 2014.  
 16 Q So this is the bill of lading from the day of the  
 17 subject incident?  
 18 A Yes.  
 19 Q Okay. And can you please tell me what truck and trailer  
 20 this is for.  
 21 A Truck Number 5694, and then a set of trailers starting  
 22 with 6773, 6774, and 6775.  
 23 Q Okay. So is this the truck and trailer that lost gravel  
 24 on the road for the subject incident?  
 25 A Yes.

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1 Q Now, on line 4, it said -- there's another line that  
 2 says the weight, 28, and lost load replacement.  
 3 Do you see that?  
 4 A Uh-huh. I do, yes.  
 5 Q Can you explain to me what that means or what that's  
 6 for.  
 7 A What that means is the -- when he left the pit, the pit  
 8 issued the weight slip for the original load, which was  
 9 approximately 41.6 tons.  
 10 And because we lost, for what Tracy Shane would have  
 11 estimated to be 13 tons on the highway, he called the pit and had  
 12 them change the ticket to reference 28 tons, because that's how we  
 13 get paid.  
 14 So it would not have been fair for Cemex to pay us for a  
 15 load that we didn't actually haul for them, so, you know, for  
 16 tonnage that we didn't actually haul.  
 17 So that would be a replacement ticket.  
 18 Q So that would indicate that there was still gravel in  
 19 the Trailer 6775?  
 20 A No. That would indicate that after the 6775 spilled the  
 21 load on the highway, the remaining tonnage in 6773 and 6774 was  
 22 estimated to be approximately 28 tons.  
 23 Q Okay.  
 24 A So we had the weight slip changed to reflect that.  
 25 Q Okay. So this doesn't indicate how much weight was in

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1 each trailer?  
 2 A No.  
 3 Q Okay. So this is for the total trailers?  
 4 A Yes.  
 5 Q Okay. So after the subject incident, when Mr. Koski  
 6 brought the truck and trailer back to the yard, what did you --  
 7 what did MDB do with the truck and trailer?  
 8 A We immediately put the truck -- immediately put the  
 9 trailers out of service until such time as we could fabricate a  
 10 lockout device for the Versa valves.  
 11 Q Okay. And who suggested fabricating a lockout device  
 12 for the Versa valves?  
 13 A I did.  
 14 Q And how did you come up with this idea?  
 15 A From 35 years of dealing with Versa valves and bottom  
 16 dumps. And that was -- that was the only sure way to keep -- keep  
 17 them from accidentally energizing electrically.  
 18 Q Had you seen a Versa valve accidentally energize  
 19 inadvertently before?  
 20 A Yes.  
 21 Q How many times?  
 22 A Can you clarify the question. Are you talking -- can  
 23 I -- you mean, personally, actually saw it happen?  
 24 Q Have knowledge of it happening.  
 25 A Have knowledge of it happening.

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1           Probably at least -- a dozen times.

2       **Q** Was this all at your time at MDB?

3       A No, over the course of 30 years of being in the

4 industry.

5       **Q** Okay. And at any of those times, was a pin installed

6 after those incidents?

7       A No.

8       **Q** Do you know why a pin was not installed after those

9 incidents?

10      A No, I do not. Some of the vehicles weren't owned by us

11 or owned by the company I was working for. So, no, I would not

12 have any knowledge of why they didn't.

13      **Q** And had you seen a pin in the Versa valve prior to your

14 suggestion of putting a pin in this Versa valve?

15      A I've seen, yes, the equivalent of a pin, a lockout,

16 something to mechanically lock the valve, the handle from moving.

17 So, yes, I had seen that prior to this incident, yes.

18      **Q** Is that what prompted you to have that idea to do that?

19      A Yes.

20      **Q** Are you aware of another dumping of material on the same

21 day of the subject incident?

22      A Yes.

23      **Q** And can you tell me about that.

24      A Yes. Prior to Mr. Koski dumping his gravel on the road,

25 another truck driven by myself, Scott Palmer, also dumped, in a

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1 similar fashion, in close to the same location, sand, not gravel,

2 but sand on the highway.

3      **Q** How did you become aware that your trailer released sand

4 on the highway?

5      A I received a phone call from one of the other drivers

6 and said check my trailers because there's a load of sand on the

7 highway. And I did, and it was, indeed, my back trailer that was

8 open.

9      **Q** And do you recall who called you?

10     A No. I would be guessing.

11     **Q** Okay. Did you perform any investigation as to why your

12 trailer unloaded sand on the highway?

13     A No. Or -- no.

14     **Q** Do you recall the equipment number for your truck and

15 trailers on that day?

16     A Yes.

17     **Q** And what were they?

18     A The truck -- the tractor was 5693 and the trailers were

19 6776, 6777 and 6778.

20     **Q** Did your company ever -- did MDB ever change its

21 policies and procedures after the subject incident to ensure that

22 there would not be an inadvertent opening of a belly dump?

23     MR. BROWN: Objection to the extent that it calls for

24 the eventual admission of subsequent remedial measures.

25     Go ahead and answer.

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1           THE REPORTER: Would you say that again.

2           MR. BROWN: I said objection to the extent it calls for

3 the possible introduction into later evidence, subsequent remedial

4 measures.

5           You can answer the question.

6           THE WITNESS: The answer to the question is, after the

7 subject incident, we installed lockout devices on all bottom dump

8 trailers equipped with Versa valves.

9           And it became company policy that those lockout devices

10 will be in place at all times when on the highway.

11 BY MS. SHREVE:

12      **Q** How about non-Versa valves?

13      A No. We have one trailer that does not have a Versa

14 valve. It has -- I believe it's a Wabco valve. I'm not sure.

15 But it does not have a lockout device on it.

16      **Q** So all of your -- all except one -- I apologize -- of

17 your belly dump trucks contain Versa valves on them?

18      A All but one, yes.

19           And also, to clarify, the one that doesn't have a Versa

20 valve, it was pretty much impossible to install a lockout device

21 on it, the way it operates.

22      **Q** Are you aware of any other time with MDB that there was

23 an inadvertent opening of a belly dump truck?

24      A Yes.

25      **Q** And when was that?

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1      A It would have been July 2013.

2      **Q** Do you know what day in July?

3      A No, I do not.

4      **Q** And do you know the truck and trailer involved in that

5 one?

6      A Yes, I do.

7      **Q** And what was the equipment number?

8      A It would have been the same truck Dan Koski was driving,

9 same driver, Dan Koski, Truck 5694, Trailer 6773, 6774 and 6775.

10     **Q** And what is your understanding of what happened with

11 that belly dump?

12     A They just opened on the highway.

13           Is that the question?

14     **Q** Where did it occur?

15     A I think it occurred in a similar -- between Paiute or

16 Wadsworth and Reno.

17     **Q** And what did MDB do to investigate that dumping?

18     A They completely investigated the wiring on all three

19 trailers, the truck; rewired the truck specifically to make sure

20 that all of the source of the voltage going to the Versa valve or

21 going to the switches going to the Versa valve would be coming

22 directly from the battery; checked all the grounds on the

23 trailers; changed the Versa valve, put a new Versa valve on the

24 trailer, 6775.

25     **Q** Is that the only other inadvertent opening of a belly

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1 dump truck that you are aware of that occurred at MDB?

2 A Yes, I believe so. Yes.

3 Q Can you explain how a belly dump can open, like, the

4 different ways you can activate the Versa valve to open the belly

5 dump?

6 A Driver can stop the vehicle and get out and manually

7 move the lever, manually operate the opening of the gates.

8 It can be operated by somebody on the ground, like a

9 dump man.

10 Q Like a what? I'm sorry.

11 A A dump man, somebody that -- you know, you can pull up

12 to the grizzly, somebody can just do it for you, manually, or they

13 can be operated electrically inside the cab.

14 Q When you said "a dump man," would they be pulling the

15 lever manually, like --

16 A Yes.

17 Q -- the driver would, the same thing?

18 A Yes. It could be either the driver or somebody on the

19 ground.

20 Q And then the last one you said, electrically?

21 A Yes.

22 Q And what does that entail? How do you activate it

23 electrically?

24 A Every truck I've ever seen, including all of our trucks,

25 have a safety switch cover, toggle switch in the truck, designated

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1 for each trailer. So if you have three trailers, you have three

2 switches.

3 Each one of them has a safety cover on them, and the

4 wires go back and connect to each individual solenoid on each

5 valve.

6 Q And are all the trucks that MDB owns or leases -- do

7 they all have the same safety switch to activate the valves to

8 open the belly dump?

9 A Yes.

10 Are you saying the same exact configuration or they all

11 have the same --

12 Q They all have, like, a switch --

13 A Yes.

14 Q -- that you would hit and it would activate.

15 A Yes. Yes.

16 Q Were there any pictures taken of the subject truck and

17 trailer on the day of the incident?

18 A Not to my knowledge.

19 Q Did anyone request that any pictures were taken of the

20 truck or trailer?

21 A No.

22 MS. SHREVE: I'm going to now move to Exhibit 3.

23 (Exhibit 3 marked for identification.)

24 BY MS. SHREVE:

25 Q I'll give you a second to look at that.

Page 60

1 Okay.

2 A Okay.

3 Q If you look at the first page that says MDB 001, are

4 those red flaps, I guess, the -- what you were talking about when

5 you have to switch to activate?

6 A Yes. You have to -- you have to lift up the cover in

7 order to access the toggle switch. It keeps you from accidentally

8 bumping it, bumping the switch. It's more of a guard or safety

9 cover.

10 Q So you would have to lift up the toggle --

11 A Yes.

12 Q -- and then push the switch?

13 A To the up position, yes.

14 In this particular vehicle, it also has the master

15 switch, the one red one above that.

16 Q What does the master switch do?

17 A It provides electricity to the three switches. So if

18 it's not activated, you could lift up the covers on the bottom

19 three and it still wouldn't work, unless the master switch is also

20 switched on.

21 Q Okay. So if the master switch is off, you can't lift up

22 the third one and turn it on?

23 A You can lift it up and turn it on, but it won't activate

24 it, yes. I mean, there's no power to them, yes.

25 Q And is this a picture of Equipment Number --

Page 61

1 A 5694?

2 Q Yes.

3 A Yes.

4 Q And was that master switch in place on July 7th, 2014?

5 A Yes.

6 Q Was that master switch in place on July 2013, before the

7 incident that took place in July?

8 A No.

9 Q Was that installed after the incident in July 2013

10 because of the inadvertent opening?

11 A Yes.

12 Q I'll switch to the next page of MDB 002.

13 What is this picture of?

14 A It looks like the license plate on the rear of a

15 trailer. I'm assuming it's the back, 6675, but I can only assume

16 because I don't know the license plate number off the top of my

17 head.

18 Q Okay. And then MDB 003, what is this a picture of?

19 A Looks like a picture of the manufacturer's label they

20 put on there that has the serial number. It looks like it's on

21 the front of Trailer Number 6775. I'm assuming it is.

22 Q Is there any way to tell that it's Trailer 6775?

23 A Not without looking at it close -- not without looking

24 at the numbers closer. I mean --

25 Q So we're not sure which trailer this is for by looking

Page 62

1 at the picture?

2 A No, I wouldn't be able to tell for sure.

3 Q And now, MDB 004.

4 A I'm sorry. This is actually on the back of the

5 turntable of 6775, yes. So it is the same trailer, though, yeah.

6 Q So sorry. Going back MDB 003 --

7 A Yes.

8 Q -- you said this is --

9 A I think I said it's on the front of the trailer, but

10 it's actually on the back of the turntable, of the front -- of

11 that Trailer 6775.

12 Q And you know this is Trailer 6775?

13 A I don't -- I can't say for sure, but I'm reasonably

14 sure.

15 Q Okay. MDB 0004.

16 A Sure.

17 Q And what is this a picture of?

18 A Looks like a picture of a lockout device attached to a

19 Versa valve. And it's attached to one of our trailers because I

20 recognize -- that I'm actually the one that installed it.

21 Q And do you know which trailer or equipment number this

22 is?

23 A No. I couldn't tell by looking at the picture. I would

24 assume it's the trailer we are -- the subject trailer.

25 Q And then the same -- MDB 005, what is this a picture of?

Page 63

1 A It's another picture of the Versa valve assembly and

2 oiler. It looks like it's on the -- yeah, probably the subject

3 trailer.

4 Q Is there any indication to let you know which trailer

5 this is --

6 A No.

7 Q -- based on the picture?

8 A No.

9 Q Okay. And then the same thing with MDB 006.

10 A Okay. I would assume that's the Versa valve that's on

11 the subject trailer, 6775, but it could be a picture of any of our

12 valves.

13 Q Okay. So does MDB have any policy and procedures in

14 place regarding inspection of their vehicles?

15 A Yes.

16 Q And are those policies and procedures written down?

17 A Yes.

18 Q Does MDB have copies of those policies and procedures

19 regarding inspections of the vehicles?

20 A Yes.

21 Are we speaking of current policies or policies at the

22 time of the incident?

23 Q At the time of the incident.

24 A I do not believe there is written --

25 Q Do you know when --

Page 64

1 A It could have been. Yes, I think it was. We did have

2 the policies then, yes.

3 Q I was going to say, if you did not, do you know when

4 they were provided.

5 A No.

6 Q But you think you had it at the time.

7 A Yes.

8 Q I know we had asked for those. So if -- and was told

9 that there was no documents.

10 So if you would be able --

11 MR. BARKLEY: Other than the annual inspection forms, I

12 don't believe there's another written protocol.

13 MR. BROWN: We'll go back and take another look and

14 supplement the responses --

15 MS. SHREVE: Thank you.

16 MR. BROWN: -- based upon what he just answered to your

17 question.

18 BY MS. SHREVE:

19 Q To the best of your knowledge, what are the MDB's

20 written policies and procedures regarding inspections of the

21 vehicles?

22 A That everyone is required to follow the DOT rules, be

23 knowledgeable and follow the DOT rules regarding the pre-trip

24 inspections and post-trip inspections set forth by the DOT.

25 Q And does MDB provide its drivers the requirements

Page 65

1 provided by the DOT?

2 A Yes. Yes.

3 MS. SHREVE: I would ask that the same be produced.

4 MR. BROWN: What are you asking for?

5 MR. BARKLEY: Well, let me phrase the issue. It's a

6 lack of foundation issue.

7 If you are talking about DOT manuals, they were not

8 provided to drivers at the time.

9 MS. SHREVE: He just testified that he provides them

10 to -- they provide them to their drivers as part of their

11 requirements for inspections.

12 MR. BARKLEY: There are multiple manuals. That's what

13 I'm trying to tell you.

14 BY MS. SHREVE:

15 Q What manuals does MDB provide to its drivers regarding

16 their requirements of inspections?

17 A The DOT handbook? I'm not sure -- without looking at it

18 I don't know -- I can't think of the name of it right offhand.

19 MR. BROWN: The red one? The blue one?

20 THE WITNESS: It's green. It's got the green front on

21 it.

22 MS. SHREVE: I'm requesting whichever one Mr. Palmer is

23 indicating that the MDB provides.

24 THE WITNESS: You are asking me do we supply the drivers

25 with them. At the time of the incident or now? I mean, I can't

Page 66

1 say for sure he was provided one, if that's what you are asking.  
 2 BY MS. SHREVE:  
 3 Q Okay. At the time of the incident, the subject  
 4 incident, what were the written policies and procedures in place  
 5 regarding inspection of the vehicles?  
 6 A I would have to look at them. I'm not sure.  
 7 Q Okay. What are the current policies and procedures  
 8 regarding inspection of the vehicles?  
 9 A Drivers -- and I'm sure -- I'm pretty sure this was the  
 10 way it was then, too, is that the drivers have to follow the  
 11 Federal Motor Carrier Safety Administration, which is the DOT  
 12 guidelines, for doing pre-trip and post-trip inspections.  
 13 They are required to note any defects.  
 14 Q Okay. And how are the drivers aware of the DOT  
 15 requirements?  
 16 A They are -- in order to get their CDL license, they have  
 17 to be aware of it. Otherwise, they can't -- they are not  
 18 allowed -- they won't get their CDL.  
 19 And most drivers that we hire have enough experience  
 20 that they know what the laws are, and we -- currently, we provide  
 21 them with all the rules and regulations.  
 22 At the time, I believe -- I'm not sure if we did or not.  
 23 I don't know if Mr. Koski got one or not.  
 24 Q Do you know of when the current written policies and  
 25 procedures and supplying your drivers of the DOT regulations were

Page 67

1 implemented?  
 2 A I'm not sure.  
 3 Q Is there a way of determining when they were  
 4 implemented?  
 5 A I would have to -- I would have to look into it.  
 6 They were in place when I came to work, and they were  
 7 implemented by myself when I took over that position. So I'm  
 8 assuming that they --  
 9 Q So when you started working at MDB, they were in place?  
 10 A I believe so, yes.  
 11 Q And they provided the DOT regulations?  
 12 A No. I think that they say that they are -- that you are  
 13 required to follow the DOT regulations pertaining to the pre-trip  
 14 inspections and post-trip inspections.  
 15 Q Okay. And then were the drivers supposed to look up  
 16 those DOT regulations themselves, then, if MDB did not provide  
 17 them?  
 18 A I think everybody knows them, my assumption.  
 19 Q Okay. Did the DOT regulations get updated?  
 20 A Yes.  
 21 Q And how are you notified of updates to the DOT  
 22 regulations?  
 23 A To my knowledge, we're not. You just have to stay on  
 24 top of it. You have to do your research to see when they have  
 25 updated the book.

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1 Q And does MDB provide the updates to their drivers?  
 2 A We would, yes, if they come out with a new book, an  
 3 updated book, yes.  
 4 Q How often do they come up with a new book?  
 5 A I'm not sure. I've been doing this for a long time.  
 6 Sometimes it's every year, sometimes it's every three or four  
 7 years.  
 8 Q But every time they do, MDB will provide its drivers  
 9 with the update of the regulations?  
 10 A I would imagine so, yes.  
 11 MS. SHREVE: Again, I would just request for anything  
 12 that was produced to their drivers.  
 13 MR. BARKLEY: At which time? Just generally?  
 14 MS. SHREVE: Yes. So before the subject incident  
 15 through now.  
 16 MR. BARKLEY: It's not in his personnel file, so --  
 17 MR. BROWN: We will go back --  
 18 MR. BARKLEY: We will go back and make an assumption,  
 19 but we cannot assure you it was there in existence at the time of  
 20 the incident.  
 21 BY MS. SHREVE:  
 22 Q Mr. Palmer --  
 23 MR. BROWN: Based upon his testimony, we will look and  
 24 see what records are available. To the extent we are required to  
 25 supplement them, we will do so.

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1 In the event that we're not going to supplement them,  
 2 you'll find that out as well.  
 3 MS. SHREVE: Thank you.  
 4 THE WITNESS: I think I'm going back and forth between  
 5 current and that time.  
 6 BY MS. SHREVE:  
 7 Q Right. But you testified that ever since you've been  
 8 employed with MDB, that there were these policies and procedures.  
 9 And am I correct in -- you were employed by MDB at the time of the  
 10 subject incident?  
 11 A Yes. There were policies and procedures in place then,  
 12 they were written, but I don't know if I got -- I don't know who  
 13 got them. I can't -- I can't testify to that.  
 14 Q And now that you are in place as the general manager, do  
 15 you make sure that the drivers have or are aware of MDB's policies  
 16 and procedures regarding inspections of their vehicles?  
 17 A Yes.  
 18 Q How often are the drivers supposed to inspect their  
 19 vehicles?  
 20 A Daily, pre-trip and post-trip. So they are inspecting  
 21 them officially twice a day.  
 22 And in between, during the day, you do visual  
 23 inspections as well. You walk back there to dump your trailers,  
 24 you are looking at the brakes. You are looking at stuff all day.  
 25 So, yes, but officially inspecting them, in the morning

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1 for pre-trip, and then afternoon, post-trip.  
 2 **Q Do you do the same inspection pre-trip as you do**  
 3 **post-trip?**  
 4 A Pretty much.  
 5 **Q Is there anything that would be different pre-trip from**  
 6 **post-trip?**  
 7 A Not necessarily. You wouldn't check your oil at the end  
 8 of the day. You would check it in the morning.  
 9 But other than that, no. You can check your tires.  
 10 So a lot of what you do post-trip is redundant to the  
 11 next day's pre-trip, that you want to make sure that, if you do  
 12 have a problem, you let the mechanics know at night so they can  
 13 fix it before you come to work in the morning and find it on your  
 14 next day's pre-trip.  
 15 **Q And do you do the same inspection every morning, or are**  
 16 **there different things that you do once a week versus every day?**  
 17 A No, same inspection every day.  
 18 You are talking about as a driver?  
 19 **Q Yes.**  
 20 A Yes.  
 21 **Q And can you go through the inspection that you would do**  
 22 **every morning.**  
 23 A Okay. I thought -- didn't I already do this, or no?  
 24 **Q But just to have more detail of what exactly is done.**  
 25 A Specifically, I can go into great detail.

Page 71

1 **Q Yes, please.**  
 2 A And you are required and you do.  
 3 You get there and you look under the truck to make sure  
 4 that there's no oil leaks under the truck. You look at it  
 5 visually to make sure there's no damage to the outside of the  
 6 vehicle, there's nothing wrong.  
 7 And then you tilt the hood, and then you check all your  
 8 under hood components, your oil, your coolant, your power steering  
 9 fluid, your windshield washer fluid.  
 10 You visually check to make sure your windshield wipers  
 11 are there, they operate. You check your lights, you check your  
 12 turn signals, your brake lights. You check all your hoses. You  
 13 are checking to make sure you don't have any loose lug nuts.  
 14 You are checking your tire -- tires to make sure you  
 15 don't have any low tires. You are checking your springs, your  
 16 brakes; your connections, your connection between the trailers,  
 17 your kingpin, make sure that's latched.  
 18 I mean, I could go on and on. I don't know how much  
 19 detail you want to go.  
 20 **Q Just looking to see everything that you do in your**  
 21 **inspections.**  
 22 A Yeah, you get in your truck and you make sure your  
 23 triangles are in there and your fire extinguishers are in there.  
 24 You check to make sure your truck's building air  
 25 pressure. And you are required by law to do your leakdown test

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1 for your air, to make sure you don't have any air leaks with the  
 2 truck, with the brakes applied or not applied.  
 3 So you just go through that. That's all the stuff that  
 4 is required by law, and also, the stuff that you want to do  
 5 because you don't want to be out on the road with any of those  
 6 defects.  
 7 **Q Okay. And do you, in your pre inspection -- I know**  
 8 **earlier, you testified that you don't -- or -- strike that.**  
 9 **In your pre inspection, do you flip the switch to**  
 10 **activate the belly dump?**  
 11 A I do not. Some of the drivers may. I would get in the  
 12 truck to make sure that the switches are -- covers are closed over  
 13 the switches, that they are not in the open position.  
 14 Part of your -- as you are walking down the trailer, you  
 15 are making sure all your gates operate. So you would manually  
 16 move the lever to make sure you have air pressure to the gates,  
 17 that they -- the Versa valve is, in fact, in the closed position  
 18 and the gates are closed and there's air to the gates.  
 19 But I don't personally make sure that they are working  
 20 with the electrical switches in the morning. But it's something  
 21 that some drivers may.  
 22 But for the most part, we don't open our gates with  
 23 electrical switches very often. So it's not an issue if one of  
 24 them may not work with the electrical switch. It's not as big an  
 25 issue as a company that may need to open them electrically.

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1 **Q So in your morning inspection, you test each trailer's**  
 2 **Versa valve by lifting the lever manually?**  
 3 A Yes, or pulling on the lever to make -- pushing it in,  
 4 pulling it out, make sure it's in out position.  
 5 We have air pressure gauges on all of our air tanks that  
 6 go to the gates, make sure you have a minimum of 90 pounds of air  
 7 pressure to hold the gates closed also as well.  
 8 **Q Okay.**  
 9 A We do that mostly because we have problems in the  
 10 wintertime. If something freezes up, it might not get enough air,  
 11 but you don't want to leave the yard that way.  
 12 **Q And do you do a visual inspection as to -- that the --**  
 13 **if the belly dump is supposed to be closed, that it is closed?**  
 14 A Yeah. Oh, yes.  
 15 **Q Okay. If there was an issue with the electrical**  
 16 **switching not activating the belly dump, you just testified that**  
 17 **you usually do it manually, not electrically; is that correct?**  
 18 A Yes.  
 19 **Q I believe you testified that if it's electrical, you are**  
 20 **not as concerned because you do it manually?**  
 21 A Correct.  
 22 **Q Okay.**  
 23 A So in other words, if the wires going to the plug in the  
 24 front of the trailer came unplugged or wasn't plugged in, for me  
 25 personally, I wouldn't care because you are dumping them by hand

Page 74

1 anyway when you get to the plant.

2 **Q Okay. Has that ever happened before, that the**

3 **electrical wiring has come out, but you still --**

4 A Or somebody might not have plugged it in, yeah.

5 **Q Or might not have plugged it in?**

6 A Yeah, it's still tied up, it's not even plugged in, or

7 it's possible that one of the switches doesn't activate that

8 particular dual electrical connection, but that's very rare.

9 **Q So have you driven your -- do you still drive your truck**

10 **or trailer even if the electrical isn't hooked up correctly?**

11 A Oh, yes.

12 Well, not hooked up correctly. I mean, if it's -- yeah,

13 if it's hooked up backwards, yeah -- if it's just not hooked up,

14 yeah, no. It wouldn't affect the operation of the trailer.

15 **Q How does MDB ensure that its drivers are properly**

16 **inspecting their truck and trailers each day?**

17 A Mostly, we police it by being there and watching it,

18 other drivers, other people that are involved in dispatch or

19 whatever, you know.

20 We self-police it, hey, you need to check your trailers,

21 whatever. I mean, everybody watches everybody, yeah, everybody is

22 doing it.

23 **Q And if someone -- if you find that someone is not**

24 **inspecting their vehicle properly, what's the protocol of -- for**

25 **MDB of what do they do in that situation?**

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1 A You bring them in and sit them down and tell them not

2 acceptable. If it happens again, they are not going to be

3 employed any longer.

4 **Q Do you provide any type of, like, written statement**

5 **regarding it to keep track of an employee that has not inspected**

6 **their truck properly?**

7 A No. It's something that's very rare, so --

8 **Q Now, the individuals that perform the maintenance and**

9 **repairs on the trucks and trailers, who are those individuals?**

10 A At that time or currently?

11 **Q Do you -- at that time?**

12 A At that time, Pat Bigby, which is our mechanic, and

13 myself.

14 **Q And as maintenance and repairmen for the trucks and**

15 **trailers, do you perform any type of inspections on the vehicles**

16 **on a regular basis?**

17 A Yes.

18 **Q And what are those inspections?**

19 A We generally bring them in every week or two weeks and

20 do a complete inspection and grease and do EM on them and also do

21 visual inspections on all the lights, reflectors, brakes, springs.

22 **Q Are these inspections the same as what a truck driver**

23 **would do?**

24 A Yes, it would be similar. It would just be more

25 involved as far as we actually grease the trailers and service

Page 76

1 them.

2 **Q So what are the additional things that you would do that**

3 **the drivers wouldn't do?**

4 A Well, a driver is not going to get under the truck and

5 crawl on a creeper and take a flashlight to look in to see if we

6 have a wheel seal starting to seep, that sort of thing.

7 But those are the things we do. We check to make sure

8 the brakes are in compliance, the shoes have the correct thickness

9 to make them legal. We check wiring, make sure all the wiring is

10 in place and all the lights work.

11 **Q Do you check the wiring that goes to the Versa valves?**

12 A We visually inspect it, yes.

13 **Q But you don't test it electrically?**

14 A We can -- we do sometimes.

15 **Q How often does that occur?**

16 A Well, generally, it -- generally, it's a situation where

17 the driver is going to bring it to your attention right away. If

18 he's using it electrically and it's not working, he's going to let

19 you know that day, and then we fix it.

20 **Q Are there certain drivers that prefer to use it**

21 **electrically, use -- activating the Versa valve electrically**

22 **versus manually?**

23 A Yes, and also to -- yes. Yes.

24 **Q Approximately how many drivers prefer electrically over**

25 **manually?**

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1 A I have no idea.

2 **Q Would you say half the drivers?**

3 A I would say a small percentage. When I'm over at the

4 plant helping the guys dump, hardly anybody dumps them with their

5 switches, electrically.

6 MS. SHREVE: I think -- what time is it?

7 MS. WOELFEL: It's 3:30. Why don't we take a break.

8 MS. SHREVE: We're going to take a quick break so we can

9 go off the record.

10 (A recess was taken.)

11 (Last two questions and answers were read by the reporter.)

12 MS. SHREVE: We can go back on the record. Is everyone

13 ready?

14 BY MS. SHREVE:

15 **Q We're back on the record, Mr. Palmer. Do you understand**

16 **you are still under oath?**

17 A Yes.

18 **Q Great. So earlier, you testified that at the time of**

19 **the subject incident, Pat Bigby and yourself were responsible for**

20 **maintenance of the truck; is that correct?**

21 A That's correct.

22 **Q Did you do all of the -- or did you or Pat perform all**

23 **the maintenance on the subject truck and trailer, so**

24 **Equipment Number 5694 and then Trailer 6775?**

25 A We were doing all the maintenance currently at that

Page 78

1 particular point, yes.

2 Q Prior to the subject incident, did you ever send the

3 truck out to another party to do any sort of inspection or repair

4 work on them?

5 A I do not know the answer to that question. If it was,

6 it would have only been to go out for maybe an alignment.

7 I think I testified to that earlier, that, generally, if

8 they went out, we don't have to do the equipment to do alignments.

9 Q Earlier, you testified if there was something you didn't

10 have time to do, you would sometimes send it out as well.

11 Was there anything that you didn't have time to

12 accomplish on that truck or trailer and you needed to send it out?

13 A No, I do not believe so.

14 Q What records does MDB typically keep for their

15 maintenance and repairs of their trucks and trailers?

16 A We keep -- we have files that contain all the work

17 orders of the repairs and parts purchased for the repairs.

18 Q Are there any other records that are kept for the

19 maintenance and repairs of a truck or trailer?

20 A We do annual inspections. Is that what you -- are

21 you --

22 Q Yeah, any type of maintenance or repair documents that

23 are kept.

24 A We would do annual inspections. And they are also kept

25 in the same file with the maintenance records.

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1 Q Are your annual inspections performed by any other

2 outside agency, like the DOT?

3 A No. Well, not annual inspections.

4 Q Are your vehicles ever inspected by an outside agency

5 like the DOT at any time?

6 A Oh, sure, roadside inspections, at scales.

7 Q How often does that happen?

8 A Not that often.

9 Q Okay. Is it required to happen at any certain time, or

10 is it a random --

11 A Just random.

12 Q Okay. So other than work orders, product receipts and

13 annual inspections, are there any other documents that are kept

14 regarding maintenance or repairs?

15 A Well, the Driver Vehicle Inspection Report is kept. So

16 if the driver turns it in with a defect, we make the repairs, the

17 mechanic signs off on the repair, and we keep that in the file

18 for -- we -- I believe the law is 90 days, but we keep them

19 probably for a year before we throw them out.

20 Q And so that's for the work orders?

21 A No, that's for the Driver's Vehicle Inspection Report.

22 The work orders, we keep forever.

23 Q So the Driver's, you keep for a year?

24 A Approximately, yes.

25 Q Prior to the subject incident, when was the last time

Page 80

1 that the Truck 5694 and the trailers 6773, -4 and -5 were

2 serviced?

3 A I don't know. I would have to look at the maintenance

4 records to answer that question.

5 I can tell you, at that time, we were changing the oil

6 in the trucks every 10,000 miles and inspecting the trailers and

7 the trucks weekly or biweekly -- or, actually, I should say

8 semiweekly, every other week.

9 Q What kind of education does Peter Bigby have in regards

10 to maintenance and repair work on the vehicles?

11 A Patrick Bigby?

12 Q Yes.

13 A I don't know. He has extensive knowledge. He has been

14 in the industry as long as I have, 30, 35 years.

15 Q Do you know what kind of training he has?

16 A He's got similar certifications and training that I have

17 had. He's gone to, you know -- taken classes on repair of

18 Caterpillar and Cummins engines, that sort of stuff.

19 Q You mention he had has extensive experience.

20 A Yes.

21 Q Do you know what sort of experience he has?

22 A He has been a heavy-duty mechanic his whole -- pretty

23 much his whole career.

24 Q Approximately how many years would you --

25 A I would say 30 years.

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1 Q Okay. Has MDB provided yourself or Mr. Bigby any

2 training in regards to the Versa valve?

3 A Training on repair or training on --

4 Q On maintenance of the Versa valve.

5 A No, as far as I know, there's no maintenance.

6 Q How about the installation of the Versa valve?

7 A No, no official training, other than we've all changed

8 numerous Versa valves over the years. They come with

9 instructions, but you don't really need those. Basically, you

10 just bolt them on, hook up the plumbing.

11 Q Do you have any manuals regarding installing or

12 repairing the Versa valve?

13 A No, we don't have a manual.

14 You are talking about an MDB manual or, like, an owner's

15 manual for the Versa valve?

16 Q Does MDB's maintenance -- people that perform the

17 maintenance or repairs, which you indicated were yourself and

18 Mr. Bigby, at the time of the subject incident, and I guess I

19 would say in 2013 before the subject incident as well, did you

20 have any manuals or -- that you used in installing or maintaining

21 or repairing a Versa valve?

22 A The only thing we would have is instructions on how to

23 install them or maintain them that come with a Versa valve when

24 you initially purchase it.

25 And the policy of MDB Trucking, since they started, was

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1 if there's any mechanical failure of any sort with a Versa valve,  
 2 they replace it. They don't do any repair work on it.  
 3 So there's no -- so if there's a defect in it, we would  
 4 just change it. But there is no actual maintenance that needs to  
 5 be performed on the valve, other than visual inspection, make sure  
 6 all the parts are there and working correctly.  
 7 **Q** When you say "they," did you mean MDB, or are you  
 8 speaking about Versa?  
 9 A I'm sorry?  
 10 MS. SHREVE: Could you read his answer back, please.  
 11 (The answer was read by the reporter.)  
 12 BY MS. SHREVE:  
 13 **Q** So when you are saying "they," you are talking MDB  
 14 requires that you just remove the valve and replace it?  
 15 A Yes, if there was an issue, we would just replace the  
 16 valve.  
 17 **Q** So you have -- so would that be fair to say, that you do  
 18 not perform maintenance on the Versa valve, you just remove it?  
 19 A Well, we do not perform preventive maintenance other  
 20 than visually inspecting it, make sure it operates correctly. If  
 21 there is an issue or defect, then we replace it, yes.  
 22 **Q** How often have you had to replace a Versa valve on a  
 23 trailer?  
 24 A Once, in 2013, after the first incident, a new Versa  
 25 valve was put on the trailer.

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1 And then the only other time we -- I believe, was when  
 2 they took them for testing, the attorneys took them for testing  
 3 and we had to replace them.  
 4 So we have -- Versa Products are pretty much maintenance  
 5 free. I mean, we really don't have any problems with them as far  
 6 as mechanical failures.  
 7 **Q** So MDB has disclosed numerous maintenance documents. I  
 8 won't go through all of them with you, but I did take out some I  
 9 would like to discuss and go through with you.  
 10 A Okay.  
 11 **Q** So I figured the easiest way to do it was by equipment  
 12 number and to do the exhibit by the stack of equipment number.  
 13 A Okay.  
 14 MS. SHREVE: Unless anyone has any objection to it?  
 15 MR. BARKLEY: No objection, Counsel.  
 16 MS. SHREVE: So then this would be -- I would like to  
 17 mark it as Exhibit 4. This is regards to Equipment Number 5694.  
 18 (Exhibit 4 marked for identification.)  
 19 BY MS. SHREVE:  
 20 **Q** I'll give you a moment to look over those documents.  
 21 A Are these in any particular order?  
 22 **Q** They are in date order.  
 23 A Okay.  
 24 **Q** So can you -- so we'll start with MEMAINT 00089.  
 25 A Okay.

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1 **Q** Can you explain to me what this document is.  
 2 A This is a repair order or a work order, is what it's  
 3 labeled, a repair order.  
 4 **Q** Okay. And is this the repair order that you spoke about  
 5 earlier as one of the things that are kept in regards to  
 6 maintenance?  
 7 A Yes.  
 8 **Q** Is there any other work order that is kept? Because I  
 9 know you indicated it's work order, the yearly, and then the  
 10 Driver's Report.  
 11 A And any parts that were purchased, yes.  
 12 And if, for some reason, it was sent out to a third  
 13 party, that would be a copy of that bill in there too. But, like  
 14 I said, I don't think this thing went out for any outside  
 15 maintenance.  
 16 **Q** Okay. Who prepares these work orders?  
 17 A The mechanic that does the work or the lead mechanic, I  
 18 would say, that's working on this particular piece of equipment.  
 19 **Q** And in this one, who was this work performed by?  
 20 A Pat Bigby.  
 21 **Q** And what is the location of where that is performed?  
 22 A It's performed at our shop, our shop location at Mustang  
 23 yard in Sparks, Nevada.  
 24 It says "WNT shop," but that's the shop that we rent  
 25 from them. I don't know -- we used to put that on there. It's

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1 actually our shop. That's where we work on our trucks.  
 2 **Q** If you flip to the next one, which is MDB 103, this  
 3 location is yard.  
 4 A Yes.  
 5 **Q** Is that the same as WNT shop?  
 6 A Yes, same location.  
 7 Sometimes, if he goes out in the yard to work on it,  
 8 he'll write "yard." If he brings it in the building, he'll put  
 9 "shop" or "WNT shop," but it's all the same location.  
 10 **Q** Okay. Perfect.  
 11 Can you tell me what this work order is for?  
 12 A It came in for power steering leaks. And Pat replaced  
 13 all the power steering lines. Looks like he flushed out the old  
 14 ATF or power steering fluid, replaced the filter, put a new cap --  
 15 gasket on the cap, put new power steering lines on it.  
 16 And also, replaced the cab accessory relay, which  
 17 provides electricity to the accessories, switched accessories in  
 18 the cab, and the batteries.  
 19 Looks like he also put a new clutch brake in and  
 20 adjusted the clutch.  
 21 **Q** Okay. You say he replaced the cab power relay and you  
 22 say that supplies power to the switch. Is that what you said?  
 23 A It supplies switched power to the cab. In other words,  
 24 anything that requires power after the key is turned on is  
 25 activated by this relay.

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1 Q So would that include the switch to activate --  
 2 A No.  
 3 Q -- the valves?  
 4 A Those are directly connected to the batteries.  
 5 Q Okay. So what -- could you give me an example of what  
 6 switch it would activate.  
 7 MR. BROWN: Do you understand what she's talking about?  
 8 THE WITNESS: Uh-huh.  
 9 MR. BROWN: Sorry. I was going to say vague, but if he  
 10 understands.  
 11 MS. SHREVE: His words were "the switch."  
 12 THE WITNESS: You are talking about switch power?  
 13 BY MS. SHREVE:  
 14 Q Yes.  
 15 A The same thing as in -- like in your car, if you turn  
 16 the key on, if you don't -- you can turn your radio on, your  
 17 windshield wipers on, something that would be on, but only with  
 18 the key on.  
 19 So if the key is off, your headlights still work, so  
 20 it's unswitched.  
 21 The things in the cab that require the key to be on are  
 22 activated by this relay.  
 23 So if that fails or doesn't work, then you lose all your  
 24 power to anything that was a switched accessory, like, for  
 25 instance, your radio, your -- your electronics for, maybe, like

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1 your cruise control, that sort of stuff.  
 2 Q So then can the Versa valve switch --  
 3 A It would still work --  
 4 Q -- activate -- can it activate without the key being  
 5 turned?  
 6 A Yes. Yes, that's a safety feature.  
 7 Q Okay. So it can be activated when the truck is turned  
 8 off?  
 9 A Yes. You do not want to activate only on accessory.  
 10 That's a safety issue.  
 11 Q Okay. Perfect.  
 12 Okay. I'm going to go to the next one. Sorry, I'll try  
 13 to make these -- I know it's kind of a lot.  
 14 So MDEMAINT 103, can you tell me about what this work  
 15 order is for, please.  
 16 A Okay. "TS" means trouble- -- it says troubleshoot inop  
 17 turn signals and four-way flashers. Found low voltage at the  
 18 switch. Trace to fuse in the fuse block. Replaced the fuse.  
 19 Working now. Unable to determine cause at this time.  
 20 So, apparently, truck came in with the turn signal not  
 21 working correctly. And the fuse in the fuse block to operate the  
 22 turn signals was making good contact, and by removing it and  
 23 replacing it, it cured the problem.  
 24 That's how I'm reading that.  
 25 Q What is the switch that it talks about in this?

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1 A He's talking about the turn signal switch itself, the  
 2 actual left and right turn signal switch.  
 3 Q Okay. Perfect. Okay. We'll go to the next one.  
 4 This is 107.  
 5 A Uh-huh.  
 6 Q Can you tell me about this one, of what this work order  
 7 is for.  
 8 A Some -- there is an air leak underneath the truck. And  
 9 I was the one that did the work.  
 10 I found the leak at the quarter-inch plastic air hose  
 11 fitting on the downside of the air shifter for the hydraulic pump.  
 12 So in other words, the valve that controls the dump, hydraulic  
 13 dumping of an end dump, was leaking when it was in the down  
 14 position.  
 15 But I found that it was leaking at the fitting, replaced  
 16 the fitting, removed and replaced the fitting with a new one, put  
 17 the -- reconnected the air hose in. It quit leaking.  
 18 Q And you said this is part of activating the dump? Is  
 19 that what you said? Sorry.  
 20 A We can either pull bottom dumps or end dumps. End dumps  
 21 are hydraulic, hydraulically operated. They are not electrical.  
 22 So we have -- you have to engage the power take-off, and  
 23 then we have an air switch that controls the hoist that raises or  
 24 lowers the dump.  
 25 Completely different than the bottom dumps. You have to

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1 be hooked to a different type of trailer that takes hydraulics to  
 2 raise the trailer and dump.  
 3 There's no electricity involved in this.  
 4 Q All right. We can go, then, to the next one. It's 109.  
 5 And can you tell me about this one.  
 6 A After an inspection -- after the truck was inspected,  
 7 both rubber hoses that go from the tractor to the trailer were  
 8 found to be bad, which probably meant they had -- they were out of  
 9 service, meaning they had a crack or a rub mark in it where it  
 10 showed the cord of the actual hose.  
 11 So we just replaced all -- both hoses from the service  
 12 side and the emergency side hoses.  
 13 Q What are the hoses for?  
 14 A Well, the supply line supplies air to your trailer to  
 15 release your brakes. And the service side takes -- delivers air  
 16 to the trailer to apply your brakes.  
 17 Q Okay. We'll go to the next one.  
 18 This is 122. Can you tell me what this work order is  
 19 for, please.  
 20 A Well, came in for a leaking top tank. I'm assuming he  
 21 means top radiator tank.  
 22 And -- oh, yeah, I do remember this. We took the tank  
 23 off -- we took the tank off, took it down to the radiator shop,  
 24 had it welded, tested, brought back, replaced the tank, along with  
 25 the gasket.

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1 Broken hood -- broke -- replaced broken head restraint  
 2 cable -- oh, hood restraint cable. Yeah, that's just the cable to  
 3 keep the hood from falling on the ground when you open the hood.  
 4 Q What is the date on this work order?  
 5 A It says 10/27/14.  
 6 Q Okay. We'll go to the next one.  
 7 **MAINT 129, can you -- we'll transition a little bit,**  
 8 **but can you start with the date of the work order and what this**  
 9 **work order was for.**  
 10 A 12/18/14 is the date.  
 11 Q And what was this work order for?  
 12 A It was for the screws being loose on the four-way. So  
 13 they were tightened and tested.  
 14 Four-way -- the four-way cable refers to the leftover  
 15 cable that plugs in the front of the trailer that operates the  
 16 Versa valves or operates whatever -- whatever particular trailer  
 17 you plug it into, it operates something.  
 18 On end up, it operates the tailgate; on bottom dumps, it  
 19 operates the Versa valves that dump the trailers.  
 20 So it came in for the gates not operating with the  
 21 switch. And one of the wires was loose, so we tightened it in and  
 22 put it back in service.  
 23 Q And who would have discovered this? Is this something  
 24 that --  
 25 A The driver.

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1 Q Okay. In your morning inspection, is this --  
 2 A The driver probably would -- probably would not have  
 3 found it during his morning inspection. He would have found it  
 4 during the day when he went to dump it, if he dumped it  
 5 electrically, flipped the switch, hey, my middle trailer is not  
 6 opening up.  
 7 So even though it -- the trailer is not opening, it's  
 8 actually the truck he's doing the work on, because it's the wiring  
 9 on the truck that is not making a good connection to the trailer.  
 10 Q Okay. We can go to the next one.  
 11 Can you tell me the date on this one, please.  
 12 A 2/5/15.  
 13 Q And what is this work order for?  
 14 A We put a new driver's seat in it. And then we replaced  
 15 the seven-way and four-way cords, cables, and replaced leaking  
 16 axle flange gasket.  
 17 Q Okay. So is this four-way cord different from the work  
 18 order we discussed of the four-way plug in MAINT 129?  
 19 A No, it would be the same -- it would be the same cord.  
 20 But this one, on the prior one, on 12/18/14, we replaced -- we  
 21 tightened the screws on the plug itself.  
 22 On this work order on 2/5/15, we actually replaced the  
 23 seven-way cable and the four-way cable.  
 24 Q So then the four-way plug that you tightened, you  
 25 removed and replaced it with another four-way plug; is that

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1 correct?  
 2 A It doesn't -- it appears that he reused the same  
 3 four-way and seven-way and just put new cord in.  
 4 Q Okay. So there's a four-way plug --  
 5 A On the end of the cable.  
 6 Q Okay. And here, he replaced the four-way cord?  
 7 A Yes, and the seven-way cord.  
 8 Q And the seven-way cord.  
 9 And is this something that the driver would note in  
 10 their morning inspection, that there was an issue with the  
 11 seven-way cord and the four-way cord?  
 12 A No. This, more than likely, we noticed in the post-trip  
 13 inspection, at the end of the day, or sometime during the day, he  
 14 would have noticed that his seven-way or four-way cord got damaged  
 15 somehow, maybe got snagged on something.  
 16 Maybe it was -- noticed it was -- yeah, had a damage.  
 17 And it wasn't worth repairing, we just replaced it.  
 18 So it probably wouldn't have been noticed in the  
 19 morning. It would have been -- in the morning, it would have been  
 20 good. Sometime during the day, something happened to it. So when  
 21 it got back to the yard, we fixed it.  
 22 Q What sort of thing could occur for something to happen  
 23 to it, I guess? You said something could snag it?  
 24 A Yeah, something could snag it. It could drag on the  
 25 ground. It could come unplugged and get caught in something.

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1 But that's generally not what happens. Generally, what  
 2 happens is they get old, they get cracked. And if somebody snags  
 3 it on something, they don't have it tied up correctly -- I mean,  
 4 the truck driver -- it's pretty easy to do.  
 5 Q So does that happen frequently?  
 6 A Well, I wouldn't say frequently, but we just sort of  
 7 have a pet peeve of ours to make sure that none of these things --  
 8 that these get fixed right away.  
 9 Q Uh-huh.  
 10 A So --  
 11 Q Okay. So we'll go to the next one, which is MAINT 290.  
 12 A Okay.  
 13 Q Can you tell me the date on this and what this work  
 14 order is for.  
 15 A 6/17/15. And brake lights inop on trailer.  
 16 Q Okay. And so what did you do on this one?  
 17 A I took the seven-way plug apart, tightened up the set  
 18 screws that hold the wire in place, and replaced the missing  
 19 strain relief, which would have vibrated out, which is some -- not  
 20 that uncommon.  
 21 Q When you say "vibrated out," what does that mean?  
 22 A Going down the road, it vibrates out and just falls out.  
 23 It's just a little tiny set screw that holds it, keeps the driver  
 24 from pulling the wire out of the plug when you pull it out.  
 25 It doesn't have to be there, it just -- if it's not

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1 there, you want to replace it, though.

2 **Q All right. We'll go to the next one. This is MDB 273.**

3 **And can you tell me the date on this one and what occurred.**

4 A 12/2/15?

5 **Q Uh-huh.**

6 A Replaced -- pulled out four-way plug. Replaced four-way

7 plug. Issues still exist. Found all wires pulled out of -- at

8 tractor. Also reattach wires and tested okay.

9 **Q So this one indicates -- it says issues still exist.**

10 **Was there -- is there another work order that would have been**

11 **performed indicating that there was an issue there prior?**

12 A No, this is another -- this probably happened when the

13 driver came to the yard, unhooked his trailer and its hoses and

14 electrical, pulled out from underneath the trailer to hook up to a

15 different trailer and forgot to unhook his four-way.

16 I don't have -- I don't know, and I don't have a memory

17 of that. That's probably what happened.

18 So the four-way stayed plugged into the trailer. When

19 he pulled away, it yanked -- pulled the plug off the end of the

20 cord.

21 So if you read this, Pat put a new plug on the end of

22 the cord, but it still didn't work. And then he found out that it

23 also pulled out the other end of the wiring on the tractor, it

24 pulled it that hard.

25 So he reattached the wires on both ends, and then it

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1 worked okay.

2 **Q Okay. So the -- Pat indicating issues still exist?**

3 A No, he said -- yeah, he replaced four-way plug, issues

4 still exist. Then he found all the wires pulled out at the

5 tractor, also reattached wires and tested okay.

6 **Q Okay. I understand now.**

7 A So two-step process now.

8 **Q I understand. Thank you.**

9 **We will go to the next one MDB 306. Can you tell me the**

10 **date and what this work order is for, please.**

11 A 2/11/16. It says troubleshoot trailer lights working

12 intermittently. I guess -- it doesn't tell me which trailers it

13 were, but I don't think it matters, because he found the seven-way

14 cord damaged, cut back four inches and reinstalled the plug.

15 So, once again, somebody -- somehow, it got damaged by

16 the driver dumping, getting caught on something.

17 **Q Okay. The next one, MDB 298, can you tell me the date**

18 **on this one and what this work order is for.**

19 A Yeah, 6/3 -- and -- I'm sorry, 6/13/16. Troubleshoot

20 air-conditioning failure, resecure hydraulic suction line, repair

21 fluid leak at the splitter valve.

22 They came in with the driver at the end of the day

23 saying air-conditioning didn't work, found an O-ring on a hose

24 going to the accumulator, it was leaking there, and then replaced

25 the O-ring and recharged air-conditioning and it worked.

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1 And then he found a loose fitting on the return line,

2 the return fuel line at the splitter between the two tanks,

3 removed the fitting and resealed the fitting and then made a new

4 bracket and reroute -- I'm not sure what that word is. Made a new

5 bracket.

6 **Q Looks like "resourced." Would that make sense?**

7 A "Resecured"?

8 MR. BROWN: "Resealed"?

9 THE WITNESS: I'm not sure, made a new bracket and

10 resecured hydraulic line, that sounds about right.

11 BY MS. SHREVE:

12 **Q Okay. What would that entail, the new bracket?**

13 A Yeah, resecure, because it does say that up here.

14 The hydraulic line that goes from the pump to the tank

15 has a bracket that holds it up from dropping down too low. And it

16 just -- the bracket broke.

17 So he made a new bracket and tied the line back up. And

18 it's secured to the truck in the middle so it holds the line up.

19 **Q Okay. We can go to the next one then, MDB 297. Could**

20 **you tell me the date on this one and what this work order is for,**

21 **please.**

22 A 6/15/16. And it has troubleshoot air dryer cycling

23 prematurely, which means, instead of it cycling when the air

24 pressure drops to a certain level, it would continue to cycle,

25 meaning it continued to drop off.

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1 So he replaced the air dryer check valve and rebuilt the

2 air compressor unloader valve --

3 **Q Okay.**

4 A -- which, these are somewhat -- it was one or the other

5 problem, but he did both of them to make sure it fixed the

6 problem.

7 **Q So he was being proactive about it?**

8 A Yes.

9 **Q Okay. We'll go to the next one, MDB 295. Could you**

10 **state the date and what this one is for.**

11 A 7/11/16, replace leaking air chamber, right side

12 Number 2 axle. So the brake air chamber on the Number 2 axle,

13 which would be the front drive axle, right side, has an air leak.

14 And it must have been leaking on the emergency side, or

15 the supply side, because he put a whole new brake chamber on

16 there, replaced the part, instead of replacing the diaphragm.

17 MS. SHREVE: Okay. So that's all the work orders I have

18 for Equipment Number 560- -- 5694 at this time that I would like

19 to ask about.

20 So I will go on to what would be Exhibit 5. This will

21 be all the work orders for Trailer 6773.

22 (Exhibit 5 marked for identification.)

23 BY MS. SHREVE:

24 **Q I'll give you a moment to look over that.**

25 **Okay. We'll do the same type of thing that we just did.**

<p style="text-align: right;">Page 98</p> <p>1 A Okay.</p> <p>2 Q If you could tell me the date and what this work order</p> <p>3 is for.</p> <p>4 A The date is August 11th, 2013. And it says replace</p> <p>5 seven-way on front of trailer, replace seven-way on the rear of</p> <p>6 trailer.</p> <p>7 So what it is, in this particular case, is the</p> <p>8 seven-ways are high maintenance. As you might see by now, the</p> <p>9 four-ways and seven-ways are a high-maintenance item, and they</p> <p>10 wear out.</p> <p>11 They get plugged in and out all the time. They go down</p> <p>12 the road and they -- so we replaced them -- or, actually, I did.</p> <p>13 So we put a new seven-way receptacle on the front and</p> <p>14 used almost new seven-way receptacle on the rear of the trailer.</p> <p>15 And there was also some wiring that I found in the</p> <p>16 trailer that was not being used and pulled that out and discarded</p> <p>17 it. I'm not sure where the wiring came from.</p> <p>18 Q You just answered my next question, where the wire was</p> <p>19 from.</p> <p>20 A I can only assume where it came from.</p> <p>21 Q We'll go to the next one, MDB 13. Can you tell me the</p> <p>22 date on this and what this involved -- work order was for, sorry.</p> <p>23 Go ahead.</p> <p>24 A July 7th, 2014, this work order actually pertains to all</p> <p>25 three trailers, 6773, 6774, and 6775. And this work order is for</p>	<p style="text-align: right;">Page 100</p> <p>1 three-sixteenths-inch-thick flat bar that was cut, and then some</p> <p>2 half-inch flat bar that was cut for the vertical uprights -- or,</p> <p>3 I'm not sure how you would call that.</p> <p>4 It's not vertical, it's on a trailer, but horizontal</p> <p>5 outriggers or whatever.</p> <p>6 Q Can I pause you for a minute. I'm going to see if you</p> <p>7 can actually circle on the exhibit, so make sure we all know</p> <p>8 exactly.</p> <p>9 So I'm going to hand you this, which is the official</p> <p>10 exhibit. And I have a red pen that I can give you to -- okay. If</p> <p>11 you don't mind.</p> <p>12 Can you circle the part you were just speaking about.</p> <p>13 A I believe that this piece here on the back side here</p> <p>14 that's got the bolts going through it, is a piece of</p> <p>15 three-quarter-inch wide, three-sixth-inch --</p> <p>16 three-sixteenths-inch-thick flat bar cut to about three inches in</p> <p>17 length.</p> <p>18 And then there's two pieces that are welded to that</p> <p>19 perpendicular that I believe were made out of half-inch by</p> <p>20 quarter-inch flat bar.</p> <p>21 Q Can you draw a square around that part.</p> <p>22 A Yes. Here's two pieces.</p> <p>23 Q Perfect.</p> <p>24 A And the handle goes in between those two pieces.</p> <p>25 And then there's a hole drilled between those two</p>
<p style="text-align: right;">Page 99</p> <p>1 the same day of the incident.</p> <p>2 And this is the day that I fabricated and installed the</p> <p>3 positive lockouts on these three trailers. I installed them the</p> <p>4 same day.</p> <p>5 Q Now, can you go through and tell me what did it entail</p> <p>6 to, since you were the one that actually performed this, fabricate</p> <p>7 and install the positive locks on the Versa valves.</p> <p>8 A Basically, I just took some one-inch flap bar,</p> <p>9 three-quarter-inch flap bar, cut it, drilled some holes, welded it</p> <p>10 together, bolted it to the trailer in such a manner that the hole</p> <p>11 was behind the valve handle, and a pin could be put in place that</p> <p>12 would not allow the handle to move.</p> <p>13 Q Okay. I'm going to -- go back to Exhibit 3. It was the</p> <p>14 pictures.</p> <p>15 A Uh-huh.</p> <p>16 Q So it might be easier for you to explain it to me with</p> <p>17 the picture.</p> <p>18 A Yes.</p> <p>19 Q I think MDB 004 is the, I guess, best --</p> <p>20 A That's it.</p> <p>21 Q -- picture.</p> <p>22 A Yes.</p> <p>23 Q Okay.</p> <p>24 A So as you can see in the picture, there's some -- it</p> <p>25 looks like three-quarter-inch by three-inch width, probably</p>	<p style="text-align: right;">Page 101</p> <p>1 pieces. And then -- the hole is drilled after it's on the trailer</p> <p>2 and mounted so that the hole is -- so when the pin goes in, it's</p> <p>3 directly behind the handle on every trailer, because every Versa</p> <p>4 valve could possibly be in a slightly different location.</p> <p>5 But these are made so that this pin holds this handle in</p> <p>6 place so the handle cannot move, so it cannot be dumped manually</p> <p>7 or electrically.</p> <p>8 Q You just indicated that the Versa valve could be in a</p> <p>9 different location on different trailers.</p> <p>10 A Slightly different.</p> <p>11 Q Slightly different.</p> <p>12 A Just within a sixteenth of an inch up or down.</p> <p>13 I mean, basically, I found that we had a -- you know, we</p> <p>14 prefabricated these brackets where the circle surrounds it and the</p> <p>15 square and then drilled the hole accordingly after we installed</p> <p>16 them.</p> <p>17 Q Did you have to take out the Versa valve to install this</p> <p>18 device?</p> <p>19 A No.</p> <p>20 Q Okay. So in every trailer, then, the Versa valve is</p> <p>21 in -- could possibly be in a slightly different location. Is</p> <p>22 that --</p> <p>23 A Yeah, they are not -- they are in exact -- they are in</p> <p>24 the same location physically, but they could be up -- the holes, I</p> <p>25 believe, with -- that hold the Versa valve to the trailer are</p>

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1 probably slightly larger than the bolts, so they can be moved up  
 2 or down by an eighth of an inch.

3 Q Okay. I understand. Thank you.

4 I'm going to put this back here. One second.

5 Okay. And so now, you did that for all of the Versa  
 6 valves on the -- I'm distracted really quick. I'm sorry.

7 You did that for all the Versa valves that MDB leases or  
 8 owns?

9 A MDB did, yes. I didn't do them all. I did most of  
 10 them, but yes.

11 Q But MDB did?

12 A Yes.

13 Q Did you -- I know you earlier testified that you made  
 14 this suggestion to install this lockout device on the Versa  
 15 valves, correct?

16 A I wouldn't really call it a suggestion. I said we're  
 17 doing it.

18 Q You told them?

19 A Yes. I put them out of service and we weren't back on  
 20 the road until these -- something was installed.

21 Q Is there a reason why you didn't do this after the dump  
 22 that occurred in July 2013?

23 A The only reason I can say is, I didn't think there  
 24 was -- myself or Pat or anybody that knows anything about this  
 25 incident, thought there was anything that it required.

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1 We went through all the wiring. We could find no  
 2 defects. The Versa -- everything was installed correctly. And we  
 3 had no more issues other than that one time, so we thought that  
 4 was an isolated incidence.

5 It wasn't until it opened a second time a year later  
 6 that we said, wait, we've got to do something that guarantees  
 7 these can't come open, because we can't explain why they came  
 8 open.

9 So there's -- hindsight would be, yeah, we would have  
 10 liked to have done it when -- the first time it happened. But  
 11 being in this industry for so long, I -- I didn't think it was --  
 12 I didn't think we were going to have a problem again.

13 Q Based on your experience, you didn't think it was  
 14 anything caused by the truck or the valve?

15 A Right. Exactly, the first time.

16 Q Did you find anything different in the July 2014 that  
 17 was different than the July 2013?

18 A No.

19 Q Okay. I'm going to go to the next one. This would be  
 20 MEMAINT 160. Can you tell me the date on this one and what  
 21 occurred, please.

22 A It's August 5th, 2014. And Pat Bigby replaced the  
 23 four-way socket on the front of 6773.

24 At least, I am assuming that's what he replaced. It  
 25 could be the four-way socket on the front or the back. It doesn't

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1 distinguish between the two on this work order.

2 But I'm assuming it's the one on the front. That's the  
 3 one that gets unplugged and plugged all the time, and we replace  
 4 them as soon as -- any issues whatsoever, we replace them.

5 Q Now, this one, I notice it says work order by Scott,  
 6 which is yourself, and then it says performed by Pat.

7 Why would it -- the work order have been by you, but  
 8 performed by Pat? Is that typical?

9 A It's typical of him at that time. I don't know if he  
 10 still does it that way. He used to write it up by Scott, meaning  
 11 I'm the one that told him what was wrong with the trailer, but  
 12 he -- it was performed by him.

13 That's what he's trying to get across there.

14 Q Okay. And how would you have known that there was an  
 15 issue with --

16 A The driver would have said something, would have been in  
 17 his daily DWIR anyway, saying, hey, my trailers aren't opening up  
 18 electrically or whatever.

19 Q Okay. So in this one, the four-way socket was replaced?

20 A Yes.

21 Q And so the next one, MEMAINT 165, if you can tell me  
 22 the date and what this one was.

23 A September 16th, 2014, troubleshoot air leak at the first  
 24 and second gate cylinders.

25 Okay. I guess he means the front and the rear gate

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1 cylinders. There are two air cylinders that open the gates, and  
 2 there's one on the front one on the back. I guess he's calling it  
 3 the first and the second.

4 Q When you say "gates," what do you mean by "gates"?

5 A The gates at the bottom of the bottom dump. That's what  
 6 opens -- so the air cylinders are what actually physically open  
 7 the gate. The Versa valve is what supplies the air to the  
 8 cylinders to command them to open or close.

9 So there was an air leak at the cylinder. It was  
 10 bypassing air through the -- to the cylinder and out the QR valve.

11 So he removed the gate -- or, he -- so he removed and  
 12 cleaned the QR valve on the driver's side of the first gate, so  
 13 then that solved the problem.

14 And he removed the second gate cylinder and repositioned  
 15 the O-ring and seals and reinstalled, meaning that -- the way the  
 16 O-rings and the cylinder -- where -- on the inside of the tube or  
 17 the cylinder, he just changed location so it's not in the same  
 18 place where it was wearing originally.

19 But either way, he solved the problem of it leaking air,  
 20 bypassing air.

21 Q Okay. You can go to the next one.

22 MEMAINT 170, can you tell me the date and what occurred  
 23 on this one, please.

24 A 12/18/14. And this would have been another replace the  
 25 four-way socket. And I didn't write on there either, where --

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1 whether it was the front or the rear, but I'm assuming it's the  
 2 front again.  
 3 And a lot of reasons why we replace -- do you want to  
 4 know this?  
 5 I mean, a lot of reasons why we replace it, because the  
 6 doors break off. There's a door on the receptacle that actually  
 7 holds the plug in place. And if the door breaks off, then there's  
 8 nothing holding the plug in.  
 9 Even though it still operates correctly, the door --  
 10 the -- actually, the latch -- the door becomes the latch to hold  
 11 it in there. It breaks off, so we've got to put a new receptacle  
 12 on.  
 13 It's very common.  
 14 **Q Is it -- so it's common for -- you would have to replace**  
 15 **the four-way socket, what was it, every four or five months?**  
 16 A Oh, yeah, yes. If it's a transfer, sometimes once a  
 17 week, because they are plugged in all day long.  
 18 **Q Are there certain trucks and trailers that are more of a**  
 19 **transfer to where you plug in and plug out more frequently?**  
 20 A Yeah. Like, a transfer truck, you -- every time you  
 21 dump, you have to unplug it. So, yeah, there's 18 times a day or  
 22 something that you are plugging in or unplugging in, or -- yeah.  
 23 **Q Is truck --**  
 24 A We're not -- we're talking about something -- a  
 25 different type of truck.

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1 **Q Different? So they are not transfer trucks?**  
 2 A No, nothing with that.  
 3 MS. SHREVE: All right. So that's the last one there.  
 4 Okay. We will go to the next one, which will be  
 5 Exhibit 6. This is going to be for Equipment Number 6774.  
 6 (Exhibit 6 marked for identification.)  
 7 BY MS. SHREVE:  
 8 **Q I will give you a second to look over this.**  
 9 **Do you need a break, or are you okay?**  
 10 A Oh, no, I'm good.  
 11 **Q So if you could tell me the date on this one and what**  
 12 **this work order is for.**  
 13 A February 13th, 2014. Again, I think you can see where  
 14 it says by Dan, meaning Dan would have told Pat what was wrong.  
 15 That's why he writes down who told him the problem.  
 16 Anyway, troubleshoot inop lights on trailer. Found the  
 17 male plug at the hitch broken, replaced plug and tested okay.  
 18 So on the rear of 6774 -- okay. It has to be on the  
 19 front.  
 20 The plug at the front of 6774 was damaged somehow. And  
 21 he replaced the plug and tested.  
 22 **Q And who is Dan? I don't think I've seen --**  
 23 A (Indicating.)  
 24 **Q Oh, Daniel Koski.**  
 25 A He was driving. He brought it to Pat's attention. It

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1 was probably -- once again, the door was probably broken off.  
 2 **Q I'm used to seeing "Daniel," not "Dan." Sorry.**  
 3 A Okay.  
 4 **Q Okay. We will go to the next one, MDEMAINT 189. Can**  
 5 **you tell me the date on this and what occurred, please.**  
 6 A February 15, 2014. And replaced the rear four-way  
 7 socket and plug on 6774. So that one -- yeah.  
 8 **Q Okay. Getting used to seeing that.**  
 9 A Yeah, unfortunately, there's no -- we're not writing  
 10 down exactly why we replaced it, but it was broken. Mostly, it  
 11 was the door on the receptacle.  
 12 **Q So the next one, MDEMAINT 209, can you tell me the date**  
 13 **on this one and what this work order is for.**  
 14 A Looks like 11/18/14, troubleshoot air leak at front gate  
 15 cylinder. Found QR valve leaking due to worn packing and cylinder  
 16 barrels. Oh, yeah, worn packing.  
 17 Replace cylinder, but unable to get barrel today.  
 18 Ordered two new barrels from truck parts.  
 19 So do you want me to explain it?  
 20 **Q Please.**  
 21 A So the cylinder was bypassing air and coming out the QR  
 22 valve. Took it apart and found that it was the worn cylinder  
 23 barrel, probably put oil in it, put it back together. It probably  
 24 sealed good enough.  
 25 And we ordered the two new barrels. And there's

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1 probably a future work order where he put those on.  
 2 Yeah, he did put a seal kit in it. He did replace the  
 3 packing, so it probably did stop the leak. It just -- he  
 4 recommended replacing the barrels, so we had to order those.  
 5 MS. SHREVE: I'm going to need a two-minute break, if  
 6 that's okay.  
 7 If we could go off the record, please.  
 8 (A recess was taken.)  
 9 BY MS. SHREVE:  
 10 **Q So we'll go back on the record, Mr. Palmer. You**  
 11 **understand you are still under oath?**  
 12 A Yes.  
 13 MS. SHREVE: So we'll do the next exhibit, which will be  
 14 Exhibit Number 7. And this is going to be for Equipment  
 15 Number 6775.  
 16 We'll give you a moment to look over that.  
 17 (Exhibit 7 marked for identification.)  
 18 BY MS. SHREVE:  
 19 **Q Okay. Did you have a chance to look over that?**  
 20 A No.  
 21 **Q You can do it as we go.**  
 22 A Exactly.  
 23 **Q Perfect.**  
 24 **Could you tell me the date on this first one, MDB 015,**  
 25 **and what this is for.**

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1 A I believe it says August 2nd, 2013.  
 2 Q Are you reading date completed or date of the work  
 3 order? I just realized that.  
 4 A Date completed.  
 5 Q To clarify, all the previous ones were date completed as  
 6 well?  
 7 A Yes.  
 8 Q Okay. Perfect.  
 9 A Pat wrote up this. It says investigate unintentional  
 10 gate opening. This is after the first incident back in 2013.  
 11 Replace Versa valve and rewire dump valve circuit from  
 12 valve to truck. Isolated dump -- I'm having a hard time reading  
 13 that -- dump circuit.  
 14 Isolating dump circuit, remove coil case ground from  
 15 circuit.  
 16 Q Okay. So here, it says investigated. Do you know what  
 17 Pat did in terms of investigate?  
 18 A I think he just did the usual, check all the wiring,  
 19 make sure all the wiring is working correctly and just replaced  
 20 the Versa valve to be safe and rewired the truck circuit to bypass  
 21 any -- anything that might be -- supply inadvertent voltage to the  
 22 gates, which he didn't find any.  
 23 He just wired it so it's directly from the battery to  
 24 the switch to the trailer.  
 25 Q Do you know why he rewired the circuit?

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1 A I think it was just an attempt to have one less thing to  
 2 worry about, as far as making sure that the voltage supply to it  
 3 is coming directly from the battery, and the wires weren't going  
 4 through any kind of a loom that may inadvertently make contact  
 5 with the circuit.  
 6 Q Did you ever ask Pat about what he did on this, with  
 7 this incident?  
 8 A Oh, yes, I did.  
 9 Q And what did he say?  
 10 A Basically, what I just said. He wanted to make sure  
 11 that that wasn't going to be the cause of it. And my discussion  
 12 with him at the time was I didn't think that was going to do any  
 13 good, but, you know, it's not going to hurt anything.  
 14 Q When you say that that wasn't the cause of it, what are  
 15 you referring to?  
 16 A Cause of this particular trailer dumping its load.  
 17 Q Right. But what was the "that," the circuit wiring  
 18 or -- can you -- sorry.  
 19 MS. SHREVE: Can you just repeat his answer so I can  
 20 understand.  
 21 THE WITNESS: I can clarify what I was talking about.  
 22 BY MS. SHREVE:  
 23 Q Yeah. That works then.  
 24 A I didn't think it was necessary for him to rewire the  
 25 truck to supply the voltage to the trailer or to the switches that

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1 operate at the trailer. I didn't think that was necessary.  
 2 I didn't think that had anything to do with the gates  
 3 opening on the highway, but he did it. And I think it doesn't  
 4 hurt anything to do it that way. It's one less thing you have to  
 5 worry about.  
 6 Q Why is it one less thing you have to worry about?  
 7 A Well, I mean, it's just one -- you can rule that out, I  
 8 suppose you could say, not that -- I've never seen -- I have never  
 9 seen any evidence of that being an issue.  
 10 MR. BROWN: She doesn't understand by when you say "rule  
 11 that out." What's the "that"?  
 12 THE WITNESS: Okay. I see what you are saying.  
 13 MS. SHREVE: Yeah. Just to clarify for the record.  
 14 MR. BROWN: I wasn't trying to coach him, I was trying  
 15 to --  
 16 MS. SHREVE: I was about to ask that.  
 17 THE WITNESS: Yeah, in my experience, I've never seen a  
 18 trailer open because faulty wiring on the truck that -- I  
 19 shouldn't say that -- where the voltage was supplied from  
 20 wasn't -- I've never seen that as an issue, where it's pulled off  
 21 of the starter, the battery, the -- he just wired it directly to  
 22 the battery so that it's isolated from any other circuit.  
 23 BY MS. SHREVE:  
 24 Q So you said you haven't seen that be the issue. Have  
 25 you seen something else be the issue then?

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1 A No, not in the last 20 years. Before that, I've seen  
 2 issues where guys did faulty wiring, wired it to the seven-way or  
 3 something like that.  
 4 Q And that caused --  
 5 A Could cause it, yes. That has to do with the trailers,  
 6 not the truck itself.  
 7 He basically just -- all he did was change where the  
 8 voltage -- the source of the voltage for the switches came from,  
 9 which is directly from the battery, instead of coming from a hot  
 10 wire under the dash that's hot off the battery.  
 11 Q Okay.  
 12 A I think we were just trying to do whatever we could to  
 13 make sure it didn't happen again.  
 14 Q And what -- what was -- what was Pat's thought when you  
 15 indicated that you disagreed, that you didn't think it had to do  
 16 with the electrical wiring?  
 17 A I would imagine his response would be it can't hurt, and  
 18 that is correct, it can't.  
 19 Q Did Pat indicate anything else he did to investigate the  
 20 unintentional gate opening as he indicated in his work order?  
 21 A We're talking about the first incident?  
 22 Q Yes, with this work order.  
 23 A 2013?  
 24 Q Uh-huh.  
 25 A No, this was actually done about a week prior to me

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1 coming to work there. So when I first came to work at  
 2 MDB Trucking, this just happened.  
 3 **Q So you weren't employed at this time?**  
 4 **A** I was not employed on the day he did this work, but I  
 5 was employed within a couple of -- like a week, I think.  
 6 **Q After?**  
 7 **A** Yes.  
 8 **Q Okay. When did you have the conversation with Pat**  
 9 **regarding this specific work order?**  
 10 **A** Well, the day I came to work, because this was a hot  
 11 topic. You know, they wanted to get this solved. And I had a lot  
 12 of experience with Versa Products, and so that's the first thing  
 13 we collaborated on.  
 14 **Q Did Pat have a lot of experience with Versa Products?**  
 15 **A** I think he did, yes.  
 16 **Q Was there any -- like, you said this was a hot topic at**  
 17 **the time when you started. Was there any written communication to**  
 18 **one another, whether emails or anything, regarding it?**  
 19 **A** No.  
 20 **Q Do you regularly email each other --**  
 21 **A** No.  
 22 **Q -- regarding things --**  
 23 **A** Never.  
 24 **Q Do you have an email with the company?**  
 25 **A** Right. He doesn't -- yeah, he doesn't have a company

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1 email address, no.  
 2 **Q All right. We'll go to the next one for now.**  
 3 **MEMORANDUM 237, the date is -- sorry. Can you please tell**  
 4 **me the date and what this work order is for.**  
 5 **A** June 4th, 2014; Trailer 6775. It says troubleshoot ABS,  
 6 which is antilock braking system. And he found -- YE-1, which is  
 7 one of the four wheel ends of the trailer. We've got four wheel  
 8 ends.  
 9 And YE-1 wire broken and ordered a new wire that goes  
 10 from the modulator valve down to the ABS sensor. And in the  
 11 meantime, he temporarily fixed the one that was broken and  
 12 replaced it two days later.  
 13 **Q Okay. So we'll go to the next one, MEMORANDUM 240. Can**  
 14 **you tell me the date and what occurred on this work -- for this**  
 15 **work order.**  
 16 **A** June 30th, 2014. Reattach Versa valve. I have no idea  
 17 why he would have to reattach it. I'm not sure what -- I'm not  
 18 sure what that's about.  
 19 **Q If he would have taken off the Versa valve, would there**  
 20 **be a work order for it?**  
 21 **A** Oh, it would be -- yes, it would be on the same work  
 22 order.  
 23 **Q It would be on this work order?**  
 24 **A** It would be on -- if he removed it and replaced it, it  
 25 would be on the same work order. All the work would be on the

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1 same work order.  
 2 So I'm not sure why he would reattach the Versa valve.  
 3 It doesn't show the symptom, it just shows what he did.  
 4 **Q Did you have any conversation with Pat regarding**  
 5 **reattaching the Versa valve on June 30th, 2014?**  
 6 **A** No, I do not believe so.  
 7 It's possible that Dan came in, because it says by Dan,  
 8 and he said, hey, my Versa valve, the bolts are loose, and he just  
 9 tightened the bolts up.  
 10 I -- he didn't use any parts. I'm not sure what it is  
 11 that he did. It couldn't have fallen off, you know.  
 12 **Q Okay. Would this be considered a, I guess,**  
 13 **maintenance -- I know earlier, you testified that you don't ever**  
 14 **really main- -- have to maintain the Versa valves.**  
 15 **A** Correct.  
 16 **Q You would just replace them.**  
 17 **A** Yes.  
 18 **Q Would this be an instance of, I guess, maintaining the**  
 19 **Versa valve?**  
 20 **A** Maintaining installation of the Versa valve, but not so  
 21 much the Versa valve itself.  
 22 What I meant by we don't -- the places I used to work,  
 23 we take the Versa valves apart and put O-ring kits in them and  
 24 rebuild them. But that's not the policy at MDB Trucking. They  
 25 just replace them.

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1 **Q Here, I see one, there's an X next to "Repair."**  
 2 **A** Yes.  
 3 **Q Does that indicate -- help indicate anything --**  
 4 **A** No.  
 5 **Q -- more?**  
 6 **A** No. If there was a box for "Reattach," he would have  
 7 checked that one. I guess repair is the closest thing he could  
 8 come up with.  
 9 **Q Would there be any other indication of what occurred on**  
 10 **this day, other than this work order?**  
 11 **A** Not necessarily. I mean, not -- I mean, not -- there  
 12 would be a DVIR, but I don't think it would still be in existence.  
 13 **Q Okay.**  
 14 **A** Yeah.  
 15 **Q I'll request -- I don't know if you've looked for any of**  
 16 **the past Driver --**  
 17 **A** Yeah.  
 18 **Q If you could please look to see if you have any and**  
 19 **produce -- pass them along to your counsel --**  
 20 **A** Okay.  
 21 **Q -- if it's still in existence, or if it's not, please**  
 22 **indicate that it no longer is.**  
 23 **A** Okay.  
 24 **MR. BARKLEY:** Specifically for this one?  
 25 **MS. SHREVE:** No, specifically from the -- I think I had

<p style="text-align: right;">Page 118</p> <p>1 all of it in my RPs and stuff, June 30th, 2013, to the present, I 2 believe it was.</p> <p>3 THE WITNESS: I seriously doubt there's any, because 4 when I took over, I threw everything out.</p> <p>5 BY MS. SHREVE:</p> <p>6 Q I'm just requesting that you look. 7 A Oh, yeah, absolutely. 8 Q If you look from there to the present, and any that you 9 do have, if you can pass it on to your counsel or indicate that, 10 you know, you no longer -- 11 A Okay. 12 Q So would you say it would be better to ask Pat regarding 13 this work order, that he would have better knowledge as to the 14 reattachment of the Versa valve and what was done? 15 A Yes. 16 MR. BROWN: I'm just going to the object to the extent 17 that I still don't think it complies with the 30(b)(6) notice, and 18 Pat can be a factual witness if you want to go deeper into this. 19 MS. SHREVE: Do you -- 20 THE WITNESS: I can ask him. I don't know if that 21 helps. He would have more chance to knowing what this meant than 22 I do. 23 I mean, every one of these that he has done, I have 24 had -- I haven't had much problem figuring out what he did. But 25 this particular one, I'm not sure. He didn't write down why he</p>	<p style="text-align: right;">Page 120</p> <p>1 first gate cylinder. Removed left QR valve, cleaned and inverted 2 diaphragm, reinstalled. Okay. 3 So the diaphragm was leaking on the QR valve. He just 4 flipped it over so that the part that would have been wore would 5 be on the other side now and it would be okay. It wouldn't leak 6 any longer. 7 Q Okay. We can go to the next one. If you can tell me 8 the date on this one and what occurred. 9 A November 18th, 2016. This or -- or, I mean, 2014. 10 Troubleshoot air leak at rear gate cylinder. Found cylinder 11 leaking at the rod. 12 So he would have removed the cylinder, removed -- 13 disassembled, put new packing in the cylinder and on the tube, the 14 rod, and had to order another barrel, another tube or barrel from 15 truck parts. 16 So he just resealed the gate cylinder again -- or, I 17 don't know about "again," but another instance of a gate cylinder 18 leaking. 19 Q Would this be the same gate cylinder as the one 20 previous? 21 A This one, no. This would be the front and this would be 22 the rear. 23 Q Okay. 24 A But they are two different -- this is the QR valve 25 that's attached to the gate cylinder. This is the actual gate</p>
<p style="text-align: right;">Page 119</p> <p>1 reattached it. But I'm pretty sure he would remember. 2 BY MS. SHREVE: 3 Q Okay. 4 A I don't know if that helps. 5 Q Let's go to the next one. 6 A July 7th, 2014. This is another work order for 7 installing lockout device for the Versa valve, for fabricating and 8 installing the device. 9 It would be the same device we talked about earlier in 10 the other trailer. They were all installed on the same day and 11 fabricated the same way. 12 Q Okay. All right. Can you please indicate the date on 13 this next work order and what this entails. 14 A July 8th, 2014. Looks like Dan came in and told Pat 15 that the ABS light was on, or he wrote it up, one of the two, on 16 the DVIR, probably both. 17 Of course, he would have done both. But Pat would have 18 hooked up the computer to it, found that -- that BU-1 circuit 19 fault, traced the circuit to the extension cable and replaced 20 cable and cleared codes. And it was all fine then. 21 So it had -- the ABS had a bad cable, and he replaced 22 it. 23 Q If you can go to the next one and please tell me the 24 date and what occurred in this work order. 25 A September 16th, 2014. And troubleshoot air leak at the</p>	<p style="text-align: right;">Page 121</p> <p>1 cylinder. So either one of them could leak. 2 This one, he just fixed the gate -- the QR valve. 3 Q Okay. We'll go to the next one, MDB 331. Can you tell 4 me the date on this one and what occurred, please. 5 A July 1st, 2015. This would have been -- the truck came 6 in with a problem that when you set the brakes on the tractor, 7 instead of it exhausting the air from the brakes on the trailer, 8 at the trailer, it would bleed all the air back off through the 9 truck, which means the valve is not working properly on the 10 trailer. 11 So after going back and finding out -- I went back and 12 troubleshooted it and found out it was not actually the brake 13 valve, it was the valve going to the air tank. 14 The check valve was allowing the air to come out of the 15 tank for the -- that supplies air to the gates, was allowing it to 16 backfeed out through the truck. 17 So the check valve -- this keeps the air from exiting 18 the tank -- was replaced. 19 Q Okay. 20 A That's the long answer. 21 Q And this next one, MDB 328, will you please tell me the 22 date and indicate what occurred on this work order. 23 A It looks like 2/11/16, troubleshoot inop tail lamp right 24 side, found broken wire on pigtail, replaced, repaired wire. 25 So, another instance of the wire possibly having a</p>

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1 bad -- bad spot in the wire, and he just repaired the wire.

2 **Q And we will go to the last one, MDB 327. Can you tell**

3 **me a date on this work order and what occurred.**

4 A 2/19/16. And this would be a continuation actually of

5 the July 1st, '15, one where it came to my attention that we used

6 the wrong check valve. I used the wrong check valve when I

7 replaced the check valve on July 1st, 2015.

8 And Pat went back and installed the correct valve,

9 pressure protection valve on the trailer. So we just replaced the

10 pressure protection valve, which is also a check valve, but a

11 different part number, a different style.

12 **Q Now, you said the one on July 1st was the wrong check**

13 **valve?**

14 A It didn't suit our needs the way it should. It was

15 still allowing -- it was allowing the air to start to fill the

16 gates sooner than it should, not keeping the air for the brakes as

17 long as it should. It's just different crack pressures and

18 whatnot that --

19 **Q And then how did you just -- or how was it discovered**

20 **that it was -- that you should use the pressure protection valve,**

21 **instead of the check valve that you used?**

22 A It just came to my attention I put the wrong one on. I

23 mean, I -- it still works for that application, it's just the

24 wrong one. It doesn't work -- it doesn't work in that application

25 as well as it should.

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1 MS. SHREVE: Okay. All right. So that's the last one

2 on that exhibit.

3 And what time is it? 5:09. So this will be a good

4 stopping point for the day, if we can go off the record, please.

5 (The proceedings concluded at 5:10 p.m.)

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REPORTER'S CERTIFICATION

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2

3 I, CONSTANCE S. EISENBERG, a Certified Court Reporter in

4 and for the State of Nevada, do hereby certify;

5 That on Monday, March 6, 2017, at the hour of 1:39 p.m.

6 of said day, at 100 W. Liberty St., 10th Floor, Reno, Nevada,

7 personally appeared SCOTT ALLEN PALMER, who was duly sworn by me to

8 testify in the within-entitled proceedings;

9 That said deposition was taken in verbatim stenotype

10 notes by me and thereafter transcribed into typewriting as herein

11 appears;

12 That I am not a relative nor an employee of any of the

13 parties, nor am I financially or otherwise interested in this

14 action;

15 That the foregoing transcript, consisting of pages one

16 through 124, is a full, true and correct transcription of my

17 stenotype notes of said deposition.

18 DATED: At Reno, Nevada, this 16th day of March, 2017.

19

20

*Constance S. Eisenberg*

21 \_\_\_\_\_

CONSTANCE S. EISENBERG, CCR #142, RMR, CRR

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Errata Sheet

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24 Signature \_\_\_\_\_ Date \_\_\_\_\_

25 PMK of MDB Trucking Scott Allen Palmer, Volume I | 03/06/2017

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24	Signature _____ Date _____	
25	PMK of MDB Trucking Scott Allen Palmer, Volume I   03/06/2017	

# EXHIBIT 5

1 1520  
Katherine F. Parks, Esq., State Bar No. 6227  
2 Brian M. Brown, Esq., State Bar No. 5233  
Thierry V. Barkley, Esq., State Bar No. 724  
3 Thorndal Armstrong Delk Balkenbush & Eisinger  
6590 S. McCarran Blvd., Suite B  
4 Reno, Nevada 89509  
(775) 786-2882  
5 Attorneys for Defendant  
MDB TRUCKING, LLC

6  
7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
8 IN AND FOR THE COUNTY OF WASHOE

9  
10 ERNEST BRUCE FITZSIMMONS and  
CAROL FITZSIMMONS, Husband and  
11 Wife,

12 Plaintiffs,

13 vs.

14 MDB TRUCKING, LLC; DANIEL  
ANTHONY KOSKI; ABC Corporations I-X,  
15 Black and White Companies, and DOES I-  
XX, inclusive,

16 Defendants.

CASE NO. CV15-02349

DEPT. NO. 10

CONSOLIDATED PROCEEDING

17  
18 AND ALL RELATED CASES

19  
20 DECLARATION BY DAVID R. BOSCH, Ph.D

21 COMES NOW, David R. Bosch, Ph.D. declares under penalty of perjury that the  
22 foregoing is true and correct as follows:

- 23 1. I am over the age of 18 and have personal knowledge of the facts stated herein.  
24 2. This declaration is prepared in connection with Defendant MDB's Motion for  
25 Continuance in response to Versa Products Company, Inc.'s recent Motions for Summary  
26 Judgment;  
27 3. I have been retained as forensic expert in the above-entitled matter by the  
28 Defendant MDB; a true and correct copy of my resume is attached hereto as Exhibit 1;

1           4.       Erik S. Anderson of Anderson Engineering of New Prague has also been  
2 retained as a forensic expert in the above-entitled matter by the Defendant MDB; his  
3 resume is attached hereto as Exhibit 2;

4           5.       Both myself and Mr. Anderson have been working extensively on this  
5 litigation since our retentions including inspections of the subject MDB Peterbilt truck and  
6 Ranco trailers that were driven Mr. Daniel Koski on the day of the accident of July 7, 2014  
7 as well as subsequent destructive testing of the Versa solenoid valves manufactured by  
8 Versa Products Company, Inc. that self activated on July 7, 2014 opening the gates of the rear  
9 Ranco bottom dump and releasing gravel on the I80 west highway;

10          6.       Self activation is defined by us as an activation of the subject Versa solenoid  
11 valve without active human intervention or current from the truck's electric system which  
12 energizes the valve to open the gates with the switch in the open or off position;

13          7.       I have reviewed the deposition exhibits that were referenced by Versa Products  
14 Company, Inc. on their motions for summary judgment which makes a shallow argument that  
15 Mr. Palmer and Mr. Patrick Bigby could not identify a defect in the subject Versa solenoid  
16 devices after the incidents of July 30, 2013 and July 7, 2014;

17          8.       Neither Mr. Palmer or Mr. Bigby as lay persons are experts in the fields of  
18 mechanical engineering, electrical engineering, or failure analysis; and they are not qualified to  
19 proffer opinions on the possible cause of the failures of the subject Versa solenoid valves on the  
20 day of the accident of July 7, 2017 especially as to whether there was a manufacturing or  
21 design defect in the subject Versa Products Company, Inc.'s solenoid valves; and as lay persons  
22 would not understand the use of the term "defect" as employed in their respective depositions;

23          8       Versa Products Company, Inc.'s motions for summary judgment were filed about  
24 one week before Versa's scheduled Rule 30(b)(6) depositions in New Jersey on May 9 and May  
25 10, 2017 and approximately 1 ½ months before the deadline for the trial expert disclosures of  
26 June 16, 2017;

27          9.       Even though both myself and Mr. Anderson have rendered preliminary opinions  
28 as to the absence of human intervention or error by Mr. Koski; and the absence of a mechanical

1 wiring or ground fault that could have activated the subject rear Ranco Versa solenoid device, we  
2 continue to conduct our forensic investigations on the possible causes of the unit's self activation  
3 which could include a failure to adequately shield the subject Versa solenoid devices and /or the  
4 sources of electro magnetic fields [EMF] sufficient to have energized the subject rear Ranco  
5 Versa valve involved in this accident;

6 10. Both Mr. Anderson and myself should be entitled to review the Rule 30(b)(6)  
7 depositions now proceeding with Versa Products Company, Inc.'s in New Jersey as well as the  
8 opportunity to prepare our trial expert reports when they are due on June 16, 2017 rather than  
9 submit early preliminary conclusions or opinions in opposition to Versa Products Company,  
10 Inc.'s motions for summary judgment; and,

11 11. MDB's request for a continuance to June 30, 2017 is both warranted and  
12 necessary under these circumstances

13  
14 DATED this 9<sup>th</sup> May, 2017.

15  
16   
17 DAVID R. BOSCH, Ph.D.

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**AFFIRMATION**  
Pursuant to NRS 239B.030

The undersigned hereby affirms that the preceding document filed in above-entitled court does not contain the social security number of any person.

DATED this 9th day of May, 2017.

THORNDAL ARMSTRONG  
DELK BALKENBUSH & EISINGER

By:   
Katherine R. Parks, Esq., State Bar No. 6227  
Brian M. Brown, Esq., State Bar No. 5233  
Thierry V. Barkley, Esq., State Bar No. 724  
6590 S. McCarran Blvd., Suite B  
Reno, Nevada 89509  
Attorneys for Defendant  
MDB TRUCKING, LLC

**CERTIFICATE OF SERVICE**

Pursuant to NRCF 5(b), I certify that I am an employee of Thorndal Armstrong Delk Balkenbush & Eisinger, and that on this date I caused the foregoing **DECLARATION BY DAVID R. BOSCH, Ph.D** to be served on all parties to this action by:

\_\_\_\_\_ placing an original or true copy thereof in a sealed, postage prepaid, envelope in the United States mail at Reno, Nevada.

  x   Second Judicial District Court Eflex ECF (Electronic Case Filing)

\_\_\_\_\_ hand delivery

\_\_\_\_\_ electronic means (fax, electronic mail, etc.)

\_\_\_\_\_ Federal Express/UPS or other overnight delivery fully addressed as follows:

Joseph S. Bradley, Esq.  
Sarah M. Quigley, Esq.  
Bradley, Drendel & Jeanney  
P.O. Box 1987  
Reno, NV 89505  
*Attorneys for Plaintiffs Ernest and Carol Fitzsimmons and Angela Wilt*

Jacob D. Bundick, Esq.  
Lisa J. Zastrow, Esq.  
Greenberg Traurig, LLP  
3773 Howard Hughes Pkwy, Ste. 400 North Las Vegas, NV 89169  
*Attorneys for Defendants The Modern Group GP-SUB, Inc. and Dragon ESP, Ltd.*

Matthew C. Addison, Esq.  
Jessica L. Woelfel, Esq.  
McDonald Carano Wilson LLP  
100 W. Liberty Street, Tenth Floor  
Reno, NV 89501  
*Attorneys for Defendant RMC Lamar Holdings*

Terry A. Friedman, Esq.  
Julie McGrath Throop, Esq.  
300 S. Arlington Avenue  
Reno, NV 89501  
*Attorneys for Plaintiffs Olivia John and Nakyla John*

Josh Cole Aicklen, Esq.  
David B. Avakian, Esq.  
Lewis Brisbois Bisgaard & Smith, LLP  
6385 S. Rainbow Blvd., Suite 600  
Las Vegas, NV 89118  
*Attorneys for Defendant Versa Products Co., Inc.*

Kevin M. Berry, Esq.  
Attorney at Law  
247 Court Street, Suite A  
Reno, NV 89501  
*Attorneys for Plaintiffs Beverly, Patrick and Ryan Crossland*

Lisa A. Taylor, Esq.  
5664 N. Rainbow Blvd.  
Las Vegas, NV 89103  
*Attorneys for USAA [subrogated insurer]*

Craig M Murphy, Esq.  
Murphy & Murphy Law Offices  
8414 W. Farm Road, Suite 180  
PMB 2007  
Las Vegas, NV 89131  
*Attorneys for Plaintiffs Christy, Shawn and Sonya Corthell*

DATED this   9   day of May, 2017.

  
\_\_\_\_\_  
An employee of Thorndal Armstrong  
Delk Balkenbush & Eisinger

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## INDEX OF EXHIBIT(S)

Exhibit No.	Exhibit Description	No. of Pages
1	Curriculum Vitae	5
2	Erik S. Anderson Resume	3

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2017-05-09 04:00:25 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 6092403 : csulezic

# EXHIBIT

1

# EXHIBIT

1

AA001031

**David R. Bosch, Ph.D.**  
Contract Forensic Engineer



**FORENSIC ENGINEERING INC**

4665 South Ash Avenue, Suite G4  
Tempe, Arizona 85282  
Phone: 480.491.1291  
Fax: 480.491.2622  
[fei@feiaz.com](mailto:fei@feiaz.com)  
[www.ForensicEngineeringInc.com](http://www.ForensicEngineeringInc.com)  
Revised 11/09/14

**CURRICULUM VITAE**

Dr. Bosch has had a combination of over 35 years of experience in the Materials Engineering, Mechanical Engineering, Engineering Design and automotive technical fields. His industrial experience includes research and development with a focus on the manufacturing and testing of discrete and embedded microelectronics and Micro-Electrical-Mechanical-Systems (MEMS) technology including pressure and acceleration sensors for applications in the automotive industry. Dr. Bosch has provided more than seven years of forensic engineering support and expert testimony for various aspects of product liability and personal injury, including the following.

- Mechanical Design Analysis for Failure and Defects
- Material Failure Analysis
- Accident Reconstruction
- Vehicle Crashworthiness
- Fire Causation; Explosions; Electrical Arcs/Shorts/Thermal Effects
- Slip/Trip and Fall, Materials, Surface Measurements
- Light Measurements and Associated Engineering Assessments
- Product Maintenance and Repair
- Standard of Care
- Building Defects
- ASE-Certified Master Medium-Heavy Truck Technician
- Human Factors and Ergonomics
- Codes, Specifications and Standards

Dr. Bosch has testified on behalf of both plaintiff and defendant for insurance companies, private attorneys and manufacturing companies since 2006. He has practiced as a forensic engineering consulting expert on over 250 cases. He has been deposed over 45 times and has testified in trials.

**DEGREES**

- Ph.D. Engineering Science (Direct Energy Conversion; Materials Science and Engineering), Arizona State University, Tempe, Arizona, May 1994
- M.S. Engineering Science (Direct Energy Conversion; Mechanical Engineering), Arizona State University, Tempe, Arizona, December 1990
- B.S. Mechanical Engineering with Honors (Minors in Mathematics, Physics and Computer Science), South Dakota State University, Brookings, South Dakota, May 1987

**INDUSTRIAL EXPERIENCE**

- 2004 – present Bosch Automotive Consulting, Phoenix, Arizona, President, Forensic Engineer. Forensic engineering support for aspects of product liability and personal injury litigation.
- 2001 – 2004 ON Semiconductor, Internal Manufacturing and Technology, Corporate Office, Phoenix, Arizona, Principle-Senior Global Equipment Engineering Manager.

- 2000 – 2001 ON Semiconductor, Internal Manufacturing and Technology, COM1, Phoenix, Arizona, Senior Engineering Manager.
- 1998 – 2000 Motorola, Semiconductor Products Sector, Micro-Electrical-Mechanical-Systems (MEMS) Development Engineer, MOS5, Mesa, Arizona, Senior Development Engineer.
- 1997 – 1998 Motorola, Semiconductor Products Sector, Advanced Custom Technologies, Mesa, Arizona, Senior Development Engineer.
- 1995 – 1997 Motorola, Semiconductor Products Sector, Materials Research and Strategic Technologies, Phoenix Arizona, Senior Manager of Direct Wafer Bond Technologies Development.
- 1994 – 1995 Motorola, Semiconductor Products Sector, Materials Research and Strategic Technologies, Phoenix Arizona, Senior Process Development Engineer.

**PRACTICAL EXPERIENCE**

- 1978 – 1989 Navistar International Truck Dealership, A and B Service Garage, Brookings, South Dakota; shop manager; ASE Certified Professional Truck Technician.
- 1974 – 1978 O. L. Busmuss, General Contractor, Mitchell, South Dakota. Job superintendent and laborer.
- 1970 – 1974 Heesch Distributing, Brookings, South Dakota. Motorcycle, snowmobile and motorboat sub-component and system diagnostics and repair.
- 1967 – 1969 International Harvester Truck Dealership, A and B Service Garage, Brookings, South Dakota. Light, medium and heavy motor truck and automobile technician.
- 1965 – 1967 Worked summers on various family-owned farms driving farm tractors and self-propelled farm equipment.

**PROFESSIONAL SOCIETIES, ACTIVITIES AND AWARDS**

- Society of Automotive Engineers (SAE)
- American Society for Metals (ASM)
- National Association of Corrosion Engineers (NACE International)
- Human Factors and Ergonomics Society (HFES)
- National Association of Professional Accident Reconstruction Specialists (NAPARS)
- Accreditation Commission for Traffic Accident Reconstruction (ACTAR)
- Southwestern Association of Technical Accident Investigators (SATAI)
- National Fire Protection Association (NFPA)
- National Association of Fire Investigators (NAFI)
- International Code Council (ICC)
- American Society of Mechanical Engineers (ASME)
- American Society of Safety Engineers (ASSE)
- National Society of Professional Engineers (NSPE)
- Arizona Society of Professional Engineers (ASPE), Papago Chapter (Past President and Secretary)
- Forensic Expert Witness Association (FEWA)

Tau Beta Pi

Pi Tau Sigma

The National Dean's List

TECHSTAR Professional, International Harvester Company

National Institute of Automotive Service Excellence (ASE) Certified Master Medium-Heavy Truck Technician

English XL™ VIT Certified User – Certificate No. 243

#### **CONTINUING EDUCATION UNITS**

Texas A&M University – Semiconductor Processing – 1998

Motorola – Future Leader Program – 1997

Motorola – Leadership Institute – 1996

Northwestern University Department of Public Safety – Traffic Accident Reconstruction I – 2005

#### **VOCATIONAL AND TECHNICAL CLASSES**

International Harvester Company – DT466 Diesel Engine Overhaul – 1986

International Harvester Company – Diesel Fuel Injection System Operation, Testing and Repair – 1985

International Harvester Company – Chassis Diagnostics and Repair – 1985

International Harvester Company – Specifying Medium Duty Trucks – 1980

Sun Electronics – Electronic Engine Diagnostics – 1979

Kawasaki Heavy Industries (Motorcycle) – Z1-900 Maintenance and Repair – 1973

Kawasaki Heavy Industries (Motorcycle) – General Diagnostics and Repair – 1973

Rupp Industries (Snowmobile) – Engine Diagnostics and Overhaul – 1973

Arctic Cat Industries (Snowmobile) – Systems Diagnostics Overview – 1972

Brookings High School – Vocational Automobile Mechanics – 1971 to 1974

Brookings High School – Vocational Electronics – 1969 to 1971

Brookings High School – Vocational Drafting – 1969 to 1971

#### **PUBLICATIONS AND CONFERENCES**

*"Crashworthiness Investigation of Modern Sedan Bumper Designs," (with Scott Anderson, B.S., Mark C. Pozzi, M.S., Todd Saczalski, and Dean L. Jacobson, Ph.D.) at the American Academy of Forensic Sciences 66th Anniversary Meeting, Washington, DC, February 17-22, 2014.*

*"Crashworthiness Simulations of Glass Mat Thermoplastic (GMT) and High Strength Steel (HSS) Sedan Bumper Beam Designs Using Explicit Finite Element Analysis," (with Scott Anderson, B.S., Mark C. Pozzi, M.S., and Dean L. Jacobson, Ph.D.) at the American Academy of Forensic Sciences 65th Anniversary Meeting, Washington, DC, February 18-23, 2013.*

*"Thick Polysilicon Processing for MEMS Transducer Fabrication,"* (with P. L. Bergstrom and G. Averett) at the SPIE Symposium and Education Program on Micromachining and Microfabrication, Santa Clara, California, September 19-23, 1999.

*"Application of Predictive Engineering in Developing Low Power Chemical Sensors,"* (with Tien-Yu Lee and Ben Chambers) Motorola Summer AMT, Chicago, Illinois.

*"Double Sided Polish for Damage Removal Shape Back of Silicon On Insulator (SOI) Substrates,"* (with Ray Wells) Motorola Technical Enrichment Matrix, Phoenix, Arizona, 1995.

*"The High Temperature Electron Emission, Photon Emission and Sublimation Behavior of Several Potential Thermionic Emitter Materials,"* Ph.D. Dissertation, 1994.

*"An Interpretation of the Work Function Variations at Surfaces of Dilute Solution W-Ir Alloys,"* (with L. A. D'Cruz and D. L. Jacobson) submitted for publication in J. Mat. Eng. & Perf.

*"The High Temperature Work Function of Chemically Vapor Deposited Rhenium on a Polycrystalline Molybdenum Substrate,"* (with D. L. Jacobson) J. Mat. Eng. & Perf., 2 97 (1993).

*"The Effect of Surface Depletion on the Work Function of Arc-Melted Dilute Solution W-Ir Alloys,"* (with L. A. D'Cruz and D. L. Jacobson) High Temp. Sci., 32 59 (1993).

*"The High Temperature Work Function of Sintered Dilute Solution W-Ir Alloys,"* (with L. A. D'Cruz and D. L. Jacobson) J. Mat. Eng. & Perf., 2 (1) 81 (1993).

*"The High Temperature Work Function and Vaporization of Tungsten-Osmium Alloys,"* (with R. N. Wall and D. L. Jacobson) Met. Trans. A, 24 951 (1993).

*"The High Temperature Spectral Emissivity of Several Refractory Metals and Alloys,"* (with R. N. Wall and D. L. Jacobson) J. Mat. Eng. & Perf., 1 (5) 679 (1993).

*"High Temperature Electron Emission and Vaporization of Tungsten-Iridium Alloys,"* (with R. N. Wall and D. L. Jacobson) High Temp. Sci., 30 95 (1991).

*"The High Temperature Work Function of Chemically Vapor Deposited Rhenium on Tungsten-Rhenium and Molybdenum Substrates,"* M. S. Thesis, 1990.

*"The High Temperature Electron Emission from Surfaces of Mo-HfC and Mo-W-Re-HfC Alloys,"* (with D. L. Jacobson) presented at the ASME-WAM Symposium on Thermionic Energy Conversion Technologies and Systems, New Orleans, Louisiana, November 28-December 3, 1993.

*"The Spectral Emissivity of Several Refractory Alloys,"* (with R. N. Wall and D. L. Jacobson) presented at the 181st Meeting of the Electrochemical Society, St. Louis, Missouri, May 18-22, 1992.

*"The High Temperature Work Function of Sintered Dilute Solution W-Ir Alloys,"* (with L. A. D'Cruz and D. L. Jacobson) presented at the 181st Meeting of the Electrochemical Society, St. Louis, Missouri, May 18-22, 1992.

*"Work Function Study of Some Dilute Solutions of Sintered Tungsten-Iridium Alloys,"* (with D. Tang, L. A. D'Cruz, and D. L. Jacobson) at the 25th ICECE Conference Proceedings, Reno, Nevada, August 11, 1990.

*"The Effective Work Function of Tungsten-Iridium Alloys,"* (with R. N. Wall and D. L. Jacobson) at The Anniversary Specialist Conference on Nuclear Power Engineering in Space, Obninski, USSR, May 15-18, 1990.

*"The Thermionic Emission of Chemically Vapor Deposited Rhenium,"* (with R. N. Wall, and D. L. Jacobson) at the TMS Annual Meeting, Anaheim, California, February 18-22, 1990.

#### PATENTS

*"Trailer Escape/Container Escape Keeper/Cam Release System,"* US20070200362 A1, (with D. Jacobson, P. Bacco and R. Stout), 2007.

*"Trailer Escape/Container Escape Keeper/Cam Release System,"* US 20090121499 A1 . (with D. Jacobson, P. Bacco and R. Stout), 2009.

**PUBLIC DISCLOSURES**

*"A Novel Technique for Wafer to Wafer Alignment in Wafer Level Packaging of MEMS Devices,"* (with M. J. Davison) Motorola, Phoenix, Arizona, September 1999.

*"Power Reduction Design on Sensor Devices,"* (with T. T. Lee and B. C. Chambers) Motorola, Phoenix, Arizona, October 1996.

*"MicroElectroMechanical Systems (MEMS) Fatigue Life Enhancement,"* (with R. C. Wells) Motorola, Phoenix, Arizona, July 1996.

*"Batch Shaping of Bonded Silicon On Insulator (BSOI) Wafers,"* (with R. C. Wells) Motorola, Phoenix, Arizona, November 1995.

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CV15-02349  
2017-05-09 04:00:25 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 6092403 : csulezic

# EXHIBIT

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# EXHIBIT

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AA001037

**ANDERSON ENGINEERING OF NEW PRAGUE, INC.**

3725 E. Roeser Road, Ste. 20

Phoenix, Arizona 85040

Phone: (602) 437-5455

Fax: (602) 437-3272

**ERIK S. ANDERSON**

**Registered Professional Engineer**

**REGISTRATION: Licensed Professional Engineer**

State of Minnesota	1991	21471
State of Illinois	1999	062052733
State of Arizona	2003	39627
State of Wisconsin	2008	39418-006
State of Indiana	2008	PE.10809314
State of Iowa	2008	18758
State of New Mexico	2008	19001
State of Texas	2009	102714
State of Louisiana	2009	PE.0034787
State of California	2010	105359
State of Kentucky	2012	28492
State of Michigan	2013	6201060247
State of Nevada	2013	022690

**Other Licenses:**

Licensed Class A Master Electrician – State of Minnesota 1995 AM005344

Private Investigator – Arizona 2011 1615601

Certified Fire and Explosion Investigator (C.F.E.I.) 2012 17853-9760

**EDUCATION: B.S. in Electrical and Electronic Engineering**  
North Dakota State University, Fargo, North Dakota, 1987.

Chemical Engineering Course Work  
University of Minnesota, Minneapolis, Minnesota, 1981-1983.

**CONTINUING EDUCATION: Hazardous Materials: HAZWOPER: 40-hour worker 2008**  
Annual 8-Hr. HAZWOPER Refresher Course: 2009, 2010, 2011, 2012, 2013, 2014

Asbestos Awareness: 05/09, 3/14

Annual Fire Investigation Seminar Instructor  
Maricopa AZ: 04/08, 03/09, 03/12, 03/13

Minnesota Chapter IAAI Fire & Arson Conference  
3/88, 3/89, 3/90, 3/01, 3/05, 3/06.

Instructor: Fire/Arson Level 3  
Mesa, Arizona, 10/03.

Illinois Chapter IAAI Northern Zone Winter Seminar  
Instructor: Electrical Appliance Fires, 2/03.

Completed Code & Code Change Class  
Minnesota Electrical Association – National Electrical Code  
1/99, 2/01, 1/03, 1/05, 1/07, 1/09, 1/11, 2/13, 5/15

Illinois Chapter IAAI Fire Investigation Conference  
Instructor: Forensic Electrical Engineering Principles & Practices, 9/99.

Graduate Course Work, University of Minnesota  
Minneapolis, Minnesota, 1995-1997.

Master Electrician Course, Hennepin County Technical College,  
Eden Prairie, Minnesota 3/95.

Completed Designing Electrical Systems for Hazardous Locations  
University of Wisconsin-Madison, 4/92.

Completed Electrical Fires Accidental and Deliberate  
Sponsored by Georgia Chapter of IAAI, 12/91.

Completed Fire and Arson Investigation Course,  
Nebraska State Fire & Arson Investigators Conference, 10/87

**EXPERIENCE:** Anderson Engineering of New Prague, Inc., Phoenix, AZ  
01/05 - Present President & Forensic Electrical Engineer. Responsible for all aspects of business operations including engineering services to clients, product testing, fire investigation, and failure analysis.

Our case load also includes construction defect cases involving the evaluation of the workmanship of the electrical subcontractor and personal injury cases involving electric shock and/or electrocutions.

4/87 – 1/05 Anderson Engineering of New Prague, Inc., New Prague, MN  
Electrical Engineer. Responsible to client for engineering services including product testing, fire investigation, and failure analysis.

Midwest Current Transformer, Division of Anderson Engineering of New Prague, Inc., New Prague, MN.  
Designer, manufacturer, and quality control engineer of current transformers.

1/84 - 11/84 O.S. Anderson Engineering, Inc., New Prague, MN.  
Research and Design Coordinator. Duties included work on transponder design for communications system through earth.

6/83 - 9/83 Koch Refinery, Southeast St. Paul, MN. Conducted ultrasound testing on oil refinery systems.

1981 & 1982 O.S. Anderson Engineering, Inc., New Prague, MN.  
(Summers) Assistant Engineer. Designed software for and compiled data of E-fields generated by high voltage transmission lines, assisted in investigations of various cases involving questions of product liability.

PROFESSIONAL AFFILIATIONS: Member Institute of Electrical and Electronic Engineers.  
Member National Society of Professional Engineers.  
Member Minnesota Society of Professional Engineers.  
Member International Association of Arson Investigators.  
Member National Fire Protection Association.  
Member National Association of Fire Investigators.  
Member American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc.

EXPERT	Arbitrations:	02
TESTIFYING	Depositions:	83
WITNESS:	Trials:	26

# EXHIBIT 6

1 **DISC**  
Katherine F. Parks, Esq., State Bar No. 6227  
2 Brian M. Brown, Esq., State Bar No. 5233  
Thierry V. Barkley, Esq., State Bar No. 724  
3 Thorndal Armstrong Delk Balkenbush & Eisinger  
6590 S. McCarran Blvd., Suite B  
4 Reno, Nevada 89509  
(775) 786-2882  
5 Attorneys for Defendants/Cross-Claimant  
MDB TRUCKING, LLC

6  
7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
8 IN AND FOR THE COUNTY OF WASHOE

9 ERNEST BRUCE FITZSIMMONS and  
10 CAROL FITZSIMMONS, Husband and  
Wife,

11 Plaintiffs,

12 vs.

13 MDB TRUCKING, LLC; DANIEL  
14 ANTHONY KOSKI; ABC Corporations I-X,  
Black and White Companies, and DOES I-  
15 XX, inclusive,

16 Defendants.

Case No. CV15-02349

Dept. No. 15

(Consolidated with

Case No.: CV15-02410

Case No.: CV16-00626

Case No.: CV16-02410

Case No.: CV16-00519 [Discovery  
Purposes]

**ANSWER TO VERSA PRODUCTS  
COMPANY, INC.'S FIRST REQUESTS  
FOR ADMISSIONS TO MDB  
TRUCKING, LLC**

17  
18 CAND RELATED CROSS-CLAIMS AND  
THIRD PARTY COMPLAINT.

19  
20 **TO: CROSS-DEFENDANT AND THEIR COUNSEL OF RECORD:**

21 COMES NOW the Defendant MDB TRUCKING, LLC and hereby provides the  
22 following Rule 36 Response to Cross-Defendants [Versa Products] First Set of Requests for  
23 Admissions in accordance with the provisions of Rule 36.

24 **RESPONSE TO REQUEST FOR ADMISSIONS**

25 **REQUEST FOR ADMISSION NO. 1:**

26 Admit that VERSA PRODUCTS COMPANY, INC. was not in exclusive control of the  
27 Ranco semi-trailer that allegedly spilled gravel on the roadway in which Plaintiffs' allege caused  
28 the subject accident.

1 **RESPONSE TO REQUEST FOR ADMISSION NO. 1:**

2 Admitted.

3 **REQUEST FOR ADMISSION NO. 2:**

4 Admit that VERSA VALVE PRODUCTS COMPANY, INC. was not in exclusive  
5 control of the Peterbuilt truck that allegedly spilled gravel on the roadway in which Plaintiffs'  
6 allege caused the subject accident.

7 **RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

8 Admitted.

9 **REQUEST FOR ADMISSION NO. 3:**

10 Admit that you or someone on your behalf fabricated and installed a lockout device on  
11 the VERSA valve that you allege was defective in this case after the subject incident.

12 **RESPONSE TO REQUEST FOR ADMISSION NO. 3:**

13 Admitted.

14 **REQUEST FOR ADMISSION NO. 4:**

15 Admit that you or someone on your behalf discovered a BU-1 circuit fault on the Ranco  
16 semi-trailer that allegedly spilled gravel on the roadway in this case after the subject incident.

17 **RESPONSE TO REQUEST FOR ADMISSION NO. 4:**

18 Admitted with the qualification that maintenance found an ABS circuit fault on Unit 6775  
19 on July 8, 2014.

20 **REQUEST FOR ADMISSION NO. 5:**

21 Admit that you or someone on your behalf replaced a cable and cleared codes on the  
22 Ranco semi-trailer that allegedly spilled gravel on the roadway in this case after the subject  
23 incident.

24 **RESPONSE TO REQUEST FOR ADMISSION NO. 5:**

25 Admitted with the qualification that routine maintenance was done on July 8, 2014.

26 **REQUEST FOR ADMISSION NO. 6:**

27 Admit that you or someone on your behalf performed work on the four-way plug on the  
28 Peterbuilt truck that allegedly spilled gravel on the roadway in this case after the subject incident.

1 **RESPONSE TO REQUEST FOR ADMISSION NO. 6:**

2 Denied.

3 **REQUEST FOR ADMISSION NO. 7:**

4 Admit that you or someone on your behalf replaced an electric cable/harness on the  
5 Peterbuilt truck that allegedly spilled gravel on the roadway in this case after the subject incident.

6 **RESPONSE TO REQUEST FOR ADMISSION NO. 7:**

7 Admitted.

8 **REQUEST FOR ADMISSION NO. 8:**

9 Admit that you or someone on your behalf adjusted the hydraulic valves on the Peterbuilt  
10 truck that allegedly spilled gravel on the roadway in this case after the subject incident.

11 **RESPONSE TO REQUEST FOR ADMISSION NO. 8:**

12 Admit with the qualification that standard routine maintenance occurred on November  
13 2014.

14 **REQUEST FOR ADMISSION NO. 9:**

15 Admit that you or someone on your behalf replaced the turbo waste gate solenoid and  
16 pressure line on the Peterbuilt truck that allegedly spilled gravel on the roadway in this case after  
17 the subject incident.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

19 Admitted.

20 **REQUEST FOR ADMISSION NO. 10:**

21 Admit that you or someone on your behalf replaced the valve cover gaskets on the  
22 Peterbuilt truck that allegedly spilled gravel on the roadway in this case after the subject incident.

23 **RESPONSE TO REQUEST FOR ADMISSION NO. 10:**

24 Admitted with the qualification that standard routine maintenance occurred on November  
25 10, 2014.

26 **REQUEST FOR ADMISSION NO. 11:**

27 Admit that the Ranco semi-trailer that allegedly spilled gravel on the roadway in this case  
28 is not in the same exact condition as it was at the time of the subject incident.

1 **RESPONSE TO REQUEST FOR ADMISSION NO. 11:**

2 Denied.

3 **REQUEST FOR ADMISSION NO. 12:**

4 Admit that the VERSA valve that you allege was defective in this case, is not in the same  
5 exact condition as it was at the time of the subject incident.

6 **RESPONSE TO REQUEST FOR ADMISSION NO. 12:**

7 Denied.

8 **REQUEST FOR ADMISSION NO. 13:**

9 Admit that the Peterbuilt truck that allegedly spilled gravel on the roadway in this case is  
10 not in the same exact condition as it was at the time of the subject incident.

11 **RESPONSE TO REQUEST FOR ADMISSION NO. 13:**

12 Admitted.

13 **REQUEST FOR ADMISSION NO. 14:**

14 Admit that the Ranco semi-trailer that allegedly spilled gravel on the roadway in this case  
15 continues to be used since the subject incident.

16 **RESPONSE TO REQUEST FOR ADMISSION NO. 14:**

17 Admitted.

18 **REQUEST FOR ADMISSION NO. 15:**

19 Admit that the Peterbuilt semi-trailer that allegedly spilled gravel on the roadway in this  
20 case continues to be used to haul trailers since the subject incident.

21 **RESPONSE TO REQUEST FOR ADMISSION NO. 15:**

22 Admitted.

23 **REQUEST FOR ADMISSION NO. 16:**

24 Admit that you or someone on your behalf altered the mounting/bracketing on the subject  
25 VERSA valve following the subject incident.

26 **RESPONSE TO REQUEST FOR ADMISSION NO. 16:**

27 Denied.

28 ///

1 **REQUEST FOR ADMISSION NO. 17:**

2 Admit that you or someone on your behalf created a cotter-pin safety device that you  
3 mounted on the subject Ranco semi-trailer after the subject incident.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 17:**

5 Admitted.

6 **REQUEST FOR ADMISSION NO. 18:**

7 Admit that the cotter-pin device that you designed and fabricated after the subject  
8 incident is not an original VERSA product.

9 **RESPONSE TO REQUEST FOR ADMISSION NO. 18:**

10 Admitted.

11 **REQUEST FOR ADMISSION NO. 19:**

12 Admit that you or someone on your behalf welded the cotter-pin device on to the Ranco  
13 semi-trailer to impede the free-function of the subject VERSA valve.

14 **RESPONSE TO REQUEST FOR ADMISSION NO. 19:**

15 Admitted.

16 **REQUEST FOR ADMISSION NO. 20:**

17 Admit that neither you nor anyone on your behalf notified VERSA of the subject  
18 incident.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 20:**

20 Admitted.

21 **REQUEST FOR ADMISSION NO. 21:**

22 Admit that neither you nor anyone on your behalf had any evidence that the subject  
23 VERSA valve had malfunctioned.

24 **RESPONSE TO REQUEST FOR ADMISSION NO. 21:**

25 Denied.

26 **REQUEST FOR ADMISSION NO. 22:**

27 Admit that you or someone on your behalf did not change or replace the subject VERSA  
28 valve following the subject incident.

1 **RESPONSE TO REQUEST FOR ADMISSION NO. 22:**

2 Admitted.

3 **REQUEST FOR ADMISSION NO. 23:**

4 Admit that you or someone on your behalf did not preserve the subject VERSA valve in  
5 the condition that it was in immediately after the subject incident.

6 **RESPONSE TO REQUEST FOR ADMISSION NO. 23:**

7 Denied.

8 **REQUEST FOR ADMISSION NO. 24:**

9 Admit that you or someone on your behalf continued to use and operate the subject  
10 VERSA valve on the same subject trailer from the time of the subject incident to the present.

11 **RESPONSE TO REQUEST FOR ADMISSION NO. 24:**

12 Admitted.

13 **REQUEST FOR ADMISSION NO. 25:**

14 Admit that you or someone on your behalf disassembled the subject VERSA valve  
15 following the subject incident.

16 **RESPONSE TO REQUEST FOR ADMISSION NO. 25:**

17 Denied.

18 **REQUEST FOR ADMISSION NO. 26:**

19 Admit that the subject VERSA valve has now been operated hundreds of times after the  
20 subject incident.

21 **RESPONSE TO REQUEST FOR ADMISSION NO. 26:**

22 Admitted with the qualification that by the addition of the pin lock system, MDB cannot  
23 determine when the VERSA valve may have failed by self-activating.

24 **REQUEST FOR ADMISSION NO. 27:**

25 Admit that you have no evidence, documents, records, paperwork, correspondence, file  
26 materials, or written or electronic correspondence which support your allegations, as contained in  
27 Paragraph 6 of your Cross-Claim, in which you allege that "the Ranco trailer was activated  
28 inadvertently.

1 **RESPONSE TO REQUEST FOR ADMISSION NO. 27:**

2 Denied.

3 **REQUEST FOR ADMISSION NO. 28:**

4 Admit that you have no evidence, documents, records, paperwork, correspondence, file  
5 materials, or written or electronic correspondence which support your allegations, as contained in  
6 Paragraph 10 of your Cross-Claim, in which you allege that “VERSA Valve solenoid control as a  
7 component to the Ranco trailer was unreasonably dangerous and defective.”

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 28:**

9 Denied.

10 **REQUEST FOR ADMISSION NO. 29:**

11 Admit that you have no evidence, documents, records, paperwork, correspondence, file  
12 materials, or written or electronic correspondence which support your allegations, as contained in  
13 Paragraph 12 of your Cross-Claim, in which you allege that Cross-Defendant VERSA “breached  
14 a duty of care owed to Cross-Claimant.”

15 **RESPONSE TO REQUEST FOR ADMISSION NO. 29:**

16 Denied.

17 **REQUEST FOR ADMISSION NO. 30:**

18 Admit that you have no evidence, documents, records, paperwork, correspondence, file  
19 materials, or written or electronic correspondence which support your allegations, as contained in  
20 Paragraph 22 of your Cross-Claim, in which you allege that you are “entitled to complete  
21 indemnity against VERSA Products Company, Inc. with respect to all allegations or liabilities set  
22 forth in the First Amended Complaint.”

23 **RESPONSE TO REQUEST FOR ADMISSION NO. 30:**

24 Denied.

25 **REQUEST FOR ADMISSION NO. 31:**

26 Admit that you have no evidence, documents, records, paperwork, correspondence, file  
27 materials, or written or electronic correspondence which support your allegations, as contained in  
28 Paragraph 25 of your Cross-Claim, in which you allege that you are “entitled to contribution

1 from Cross-Defendant VERSA Products Company, Inc. with respect to any settlement,  
2 judgment, award, or any other type of resolution of claims brought forward by the Plaintiffs in  
3 their First Amended Complaint on file herein.”

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 31:**

5 Denied.

6 DATED this 2nd day of October 2016.

7 THORNDAL ARMSTRONG  
8 DELK BALKENBUSH & EISINGER

9 By: 

Katherine F. Parks, Esq., State Bar No. 6227  
Brian M. Brown, Esq., State Bar No. 5233  
Thierry V. Barkley, Esq., State Bar No. 724  
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Attorneys for Defendants/Cross-Claimant  
MDB TRUCKING, LLC

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27 THORNDAL ARMSTRONG  
DELK BALKENBUSH  
& EISINGER  
6590 S. McCarran, Suite B  
Reno, Nevada 89509  
(775) 786-2882

28

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of Thorndal Armstrong Delk  
3 Balkenbush & Eisinger, and that on this date I caused the foregoing ANSWER TO VERSA  
4 PRODUCTS COMPANY, INC.'S FIRST REQUESTS FOR ADMISSIONS TO MDB  
5 TRUCKING LLC to be served on all parties to this action by:

6  placing an original or true copy thereof in a sealed, postage prepaid, envelope in the  
7 United States mail at Reno, Nevada.

8  Second Judicial District Court Eflex ECF (Electronic Case Filing)

9  hand delivery

10  electronic means (fax, electronic mail, etc.)

11  Federal Express/UPS or other overnight delivery fully addressed as follows:

12 **Joseph S. Bradley, Esq.**  
13 **Sarah M. Quigley, Esq.**  
14 **Bradley, Drendel & Jeanney**  
15 **P.O. Box 1987**  
16 **Reno, NV 89505**

17 **Attorneys for Plaintiffs Ernest and Carol Fitzsimmons and Angela Wilt**

18 **Matthew C. Addison, Esq.**  
19 **Jessica L. Woelfel, Esq.**  
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21 **100 W. Liberty Street, Tenth Floor**  
22 **Reno, NV 89501**

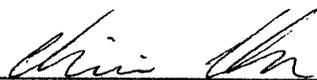
23 **Attorneys for Defendant RMC Lamar Holdings**

24 **Josh Cole Aicklen, Esq.**  
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29 **Jacob D. Bundick, Esq.**  
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32 **3773 Howard Hughes Parkway, Suite 400 North**  
33 **Las Vegas, NV 89169**  
34 **Attorneys for Defendants**  
35 **The Modern Group GP-SUB, Inc. and Dragon ESP, Ltd.**

36 DATED this 3 day of October 2016.

37 THORNDAL ARMSTRONG  
38 DELK BALKENBUSH  
& EISINGER  
6590 S. McCarran, Suite B  
Reno, Nevada 89509  
(775) 786-2882

  
An employee of Thorndal Armstrong  
Delk Balkenbush & Eisinger

# EXHIBIT 7

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IN THE SECOND JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

ERNEST BRUCE FITZSIMMONS )  
and CAROL FITZSIMMONS, ) Case No. CV15-02349  
husband and wife, ) Dept. No. 10

Plaintiffs,

vs.

MDB TRUCKING, LLC, et al.,

Defendants.

AND ALL RELATED CASES.

**CONDENSED  
TRANSCRIPT**

DEPOSITION OF TRACY SHANE

Taken on Tuesday, April 11, 2017

At 9:00 a.m.

At 100 West Liberty Street, 10th Floor

Reno, Nevada

REPORTED BY: JANET ANN MENGES, CCR #206

Page 2

1 APPEARANCES:  
 2  
 3 For the Plaintiffs:  
 4 SARAH QUIGLEY, ESQ. (Present Telephonically)  
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 19 For RMC Lamar Holdings, Inc.:  
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 18 For MDB Trucking, LLC:  
 19 BRIAN BROWN, ESQ.  
 20 THEIRRY BARKLEY, ESQ.  
 21 THORNDAL, ARMSTRONG, DELK,  
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Page 3

1 (Continued Appearances)  
 2 For The Modern Group GP-SUB, Inc.:  
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 13 5664 North Rainbow Boulevard  
 14 Las Vegas, Nevada 89130  
 15 (702) 645-0150  
 16  
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Page 5

1 TRACY SHANE  
 2 called as a witness, being first duly  
 3 sworn, was examined and testified  
 4 as follows:  
 5  
 6 EXAMINATION  
 7 BY MS. SHREVE:  
 8 Q. Good morning.  
 9 A. Good morning.  
 10 Q. My name is Paige Shreve, and I represent Versa  
 11 Products in this lawsuit.  
 12 Can you please state your name and spell it for me?  
 13 A. Tracy Shane, T-r-a-c-y S-h-a-n-e.  
 14 Q. Thank you.  
 15 And you understand that the oath you just took is the  
 16 same oath that you would take in a court of law and you're  
 17 subject to the same penalty of perjury?  
 18 A. Yes.  
 19 Q. Have you ever had your deposition taken before?  
 20 A. No.  
 21 Q. I'm going to go over some ground rules with you in  
 22 regards to depositions so you understand everything that we're  
 23 doing today.  
 24 First to my left is a court reporter. She is taking  
 25 down everything that we say today. So I request that any

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1 answers be verbal and not um-hum or that. So if you do say  
 2 um-hum I may say is that a yes. I'm not trying to be rude. I  
 3 just want to make sure that the court reporter can type down  
 4 everything. So just request again verbal answers for everything  
 5 that I ask you.  
 6 Additionally I would request that you wait for me to  
 7 complete my question before you respond. In normal conversation  
 8 a lot of times you anticipate what the person is going to ask  
 9 and so you start to answer. That is difficult for the court  
 10 reporter to take down. So if you could wait for me to finish  
 11 before you answer I would greatly appreciate it and so would the  
 12 court reporter.  
 13 During your deposition sometimes the attorney to your  
 14 right may make an objection, but that is okay for him to make  
 15 the objection. You can go ahead and answer unless he instructs  
 16 you otherwise.  
 17 Any question that I ask you and you answer I will  
 18 assume that you understood it. If for some reason you don't  
 19 understand the question that I'm asking or you need me to  
 20 rephrase it, please let me know and I will be happy to ask it a  
 21 different way or maybe give you some more information to help  
 22 you understand it better.  
 23 A. Okay.  
 24 Q. After we are done the deposition, you will be provided  
 25 a copy of the transcript. You can look over it and if you need

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1 to make any changes. There are two different types of changes  
 2 you can make.  
 3 One is just small grammatical errors, that kind of  
 4 thing. You're welcome to do that. Another one is substantive  
 5 changes. Those are big things like if you tell me a stoplight,  
 6 which is not involved in this case, but if you tell me it was  
 7 red and then later you change it and say it was green that would  
 8 be a substantive change and that is something if this case were  
 9 to go to trial I can comment on.  
 10 A. I see.  
 11 Q. Also if at any time you need a break please let me  
 12 know. I just request that you would answer the question, if a  
 13 question is pending, before we break and we can gladly break.  
 14 So at any time just let me know and we can take a break.  
 15 A. Thank you.  
 16 Q. Is there any reason that you cannot give your best  
 17 testimony today?  
 18 A. None.  
 19 Q. Okay.  
 20 Have you taken any medication today?  
 21 A. No.  
 22 Q. Can you please tell me your date of birth?  
 23 A. 10th of March 1966.  
 24 Q. And where were you born?  
 25 A. Truckee.

Page 8

1 Q. Truckee?  
 2 A. Truckee, California.  
 3 Q. Can you spell that for me?  
 4 A. T-r-u-c-k-e-e.  
 5 Q. And how long did you live in Truckee?  
 6 A. Eighteen years.  
 7 Q. And I'm going to go over a bunch of background  
 8 information about you before we start to get into questions  
 9 about the accident that was involved in the subject litigation,  
 10 just to give you a little heads up.  
 11 Where do you currently live now?  
 12 A. Sparks.  
 13 Q. And how long have you lived in Sparks?  
 14 A. In the current house or in the town?  
 15 Q. Let's start with what is your address of your current  
 16 house?  
 17 A. 2685 Rio Seco Lane.  
 18 Q. And how long have you lived there?  
 19 A. Seventeen years.  
 20 Q. And then before there did you live in Sparks?  
 21 A. Reno.  
 22 Q. How long did you live in Reno?  
 23 A. Fifteen years.  
 24 Q. Before that where were you?  
 25 A. Antarctica.

Page 9

1 Q. I have never heard that before.  
 2 MR. BROWN: You don't hear that one every day.  
 3 BY MS. SHREVE:  
 4 Q. How long did you live in Antarctica?  
 5 A. Three years.  
 6 Q. This is just out of curiosity. What brought you to  
 7 Antarctica?  
 8 A. Work.  
 9 Q. We will get into that a little more then. Where were  
 10 you before Antarctica?  
 11 A. Truckee.  
 12 Q. Okay.  
 13 Are you currently married?  
 14 A. No.  
 15 Q. Have you ever been married?  
 16 A. Yes.  
 17 Q. How long were you married?  
 18 A. Five years.  
 19 Q. And when was that?  
 20 A. 1995.  
 21 Q. To 2000?  
 22 A. Um-hum.  
 23 Q. Do you have any children?  
 24 A. No.  
 25 Q. Did you attend high school in Truckee?

Page 10

1 A. I did.  
 2 Q. What high school did you go to?  
 3 A. Truckee Tahoe.  
 4 Q. And did you graduate high school?  
 5 A. I did.  
 6 Q. Did you attend any secondary education after high  
 7 school?  
 8 A. No.  
 9 Q. What is your current occupation?  
 10 A. Dispatcher.  
 11 Q. For what company?  
 12 A. Cyclone Transport.  
 13 Q. And how long have you worked there?  
 14 A. One and a half years.  
 15 Q. What do you do as a dispatcher at Cyclone?  
 16 A. Coordinate orders and equipment to jobs and customers.  
 17 Q. And before Cyclone where did you work?  
 18 A. MDB Trucking.  
 19 Q. And how long were you at MDB Trucking?  
 20 A. Five -- if I am correct, five years and a month.  
 21 Q. Do you remember when you started?  
 22 A. It was in November of 2010.  
 23 Q. And do you remember when you left?  
 24 A. December 2nd, 2015.  
 25 Q. Why did you leave MDB?

Page 11

1 A. I was dismissed, fired.  
 2 Q. Why were you fired?  
 3 A. There were no reasons given.  
 4 Q. Who was it that fired you?  
 5 A. Safety director of a sister company, Terry Davis.  
 6 Q. He didn't provide any reason?  
 7 A. He didn't even know, no.  
 8 Q. He didn't know what -- He is the one that informed you  
 9 that you were fired?  
 10 A. Um-hum.  
 11 Q. And he didn't know the reason why you were?  
 12 A. Um-hum.  
 13 Q. Did you ask about it?  
 14 A. Yes.  
 15 Q. Did they do any investigation to give you any more  
 16 information?  
 17 A. Never talked to them again.  
 18 Q. Okay.  
 19 And at MDB Trucking what was your job title?  
 20 A. Dispatcher.  
 21 Q. Briefly take me through the job duties that you would  
 22 perform at MDB Trucking?  
 23 A. I did the hiring of drivers, the training of the  
 24 drivers, approved timecards. I'm trying to remember the exact  
 25 word, essentially reconciled paperwork and timecards and

Page 12

1 reported to the owner the state of affairs.  
 2 Q. The owner, is that Terry Davis or somebody else?  
 3 A. No, it's Travis Bonanno.  
 4 Q. I'm going to go back a little later and talk about the  
 5 different duties that you did more in detail, but prior to MDB  
 6 where did you work?  
 7 A. I worked for Atlas Contractors in Sparks.  
 8 Q. And when did you work at Atlas, if you can recall when  
 9 you started there?  
 10 A. I believe that was March of 1992.  
 11 Q. And then when did you leave Atlas?  
 12 A. It was in March of 2007.  
 13 Q. Why did you leave Atlas?  
 14 A. Went to start my own business.  
 15 Q. What business did you start?  
 16 A. Metal building construction.  
 17 Q. Metal building?  
 18 A. Um-hum.  
 19 Q. Is that what it was called, the company?  
 20 A. No.  
 21 Q. What was the company called?  
 22 A. It was Silver State Construction.  
 23 Q. How long did you have Silver State Construction for?  
 24 A. I ended up not buying the business. I worked there  
 25 for three years.

Page 13

1 Q. So was that from 2007 to 2010?  
 2 A. That is correct.  
 3 Q. Is there any particular reason why you decided not to  
 4 buy the business?  
 5 A. The economy for one. Two, couldn't agree upon a sale  
 6 price in the end.  
 7 Q. Okay.  
 8 When you were working at Silver State Construction  
 9 what was your job title?  
 10 A. Estimator, project superintendent.  
 11 Q. What were the job duties that you would perform?  
 12 A. Managed construction crews, go to bid openings, job  
 13 box.  
 14 Q. So your duties here were a little bit different than  
 15 as dispatcher at MDB and what you're currently doing; is that  
 16 correct?  
 17 A. Yes.  
 18 Q. So before that you were at Atlas. What was your job  
 19 title at Atlas?  
 20 A. Low bed truck driver.  
 21 Q. Did you only drive low bed trucks?  
 22 A. I drove -- Primarily, yes, that was my truck, but I  
 23 filled in on others as needed.  
 24 Q. What were other types of trucks that you drove?  
 25 A. Transfers, end dumps, bottom dumps, water trucks.

Page 14

1 Q. When you say bottom dumps are bottom dump and belly  
2 dump considered the same?  
3 A. Yes.  
4 Q. So you drove belly dumps at Atlas?  
5 A. Yes.  
6 Q. How often would you drive a belly dump?  
7 A. At Atlas I very rarely did.  
8 Q. Like once a month, would you guess, or less than that?  
9 A. Less than that.  
10 Q. And the belly dumps or bottom dumps that you drove,  
11 did they have Versa valves on them, do you recall?  
12 A. I believe they did.  
13 Q. At Atlas were you provided any training regarding  
14 driving transfer trucks, end dumps or bottom dumps?  
15 A. Yes.  
16 Q. What type of training did you receive?  
17 A. Well, I believe it would be to me considered  
18 rudimentary, simple operation of the switches of the trailer.  
19 Most of that for most any driver is fairly common knowledge.  
20 It's not like flying a space shuttle, for example. You can look  
21 at a piece of equipment and see it's very simple.  
22 Q. Okay.  
23 A. And they are all the same.  
24 Q. Were you provided any specific training regarding the  
25 operation of the Versa valve on the belly dumps, if you recall?

Page 15

1 A. No, I believe I had that knowledge prior.  
2 Q. Okay.  
3 So then let's go back even further. Before Atlas  
4 where were you?  
5 A. Granite Construction.  
6 Q. When did you begin working at Granite Construction?  
7 A. I believe it was '91.  
8 Q. Where is Granite Construction located?  
9 A. Sparks.  
10 Q. And you worked for Granite Construction from '91 to  
11 '92; is that correct?  
12 A. That's correct.  
13 Q. And what was your job title at Granite Construction?  
14 A. Truck driver.  
15 Q. Why did you leave Granite Construction?  
16 A. Winter layoff.  
17 Q. What type of trucks would you drive there?  
18 A. Bottom dumps.  
19 Q. Only bottom dumps?  
20 A. That is correct.  
21 Q. Do you recall if those bottom dumps had Versa valves  
22 on them?  
23 A. I believe they did.  
24 Q. Did you receive any training regarding operating or  
25 driving the bottom dumps at Granite Construction?

Page 16

1 A. Yes.  
2 Q. What type of training did you receive?  
3 A. There were no instruction manual.  
4 Q. There was no instruction manual?  
5 A. There were no instruction manual, but just simple  
6 here's the switches, this is how they work, this is the valve,  
7 this is how you use the valve.  
8 Like at Granite you're paving with bottom dumps and so  
9 there is a dump man that walks beside you and actually operates  
10 the valve for you regulating the size of the windrow. So he  
11 does most of that and it's almost like being taught how to ride  
12 a bicycle from a tricycle. So it's very just very simple and  
13 obvious.  
14 So training almost seems as though it's probably the  
15 least amount of training involving the trailers you use as  
16 compared to the truck.  
17 Q. Okay.  
18 So would a dump man usually be the one operating the  
19 valve then on the trucks that you drove?  
20 A. Correct.  
21 Q. Did you ever have to actually operate the Versa valve  
22 for opening?  
23 A. From inside the cab, yes.  
24 Q. So you would never actually do it manually, that would  
25 be the dump man?

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1 A. Correct.  
2 Q. So before Granite Construction where were you, where  
3 did you work?  
4 A. Sierra Rental and Transport.  
5 Q. Sierra?  
6 A. Um-hum.  
7 Q. And where was that located?  
8 A. Sparks.  
9 Q. When did you start working at Sierra Rental and  
10 Transport?  
11 A. 1987.  
12 Q. Did you work there until '92?  
13 A. '91.  
14 Q. I'm sorry, yes, '91.  
15 What was your title at Sierra Rental and Transport?  
16 A. Truck driver.  
17 Q. What type of trucks did you drive?  
18 A. Truck and pup, end dump, bottom dump.  
19 Q. Did you receive any training in regards to driving the  
20 trucks at Sierra Rental and Transport?  
21 A. Yes.  
22 Q. And again what kind of training did you receive, was  
23 it in-house training?  
24 A. Yes.  
25 Q. And what exactly did they teach you in regards to

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1 training you?  
 2 A. Basic how to operate the various trailers.  
 3 Q. You operated bottom dumps at Sierra Rental and  
 4 Transportation?  
 5 A. Yes.  
 6 Q. How often would you drive a bottom dump trailer?  
 7 A. Irregular.  
 8 Q. Would you say once a month?  
 9 A. Probably less.  
 10 Q. Once every three months maybe?  
 11 A. That's more like it.  
 12 Q. Okay.  
 13 Did those bottom dumps have Versa valves on them?  
 14 A. Those did.  
 15 Q. So prior to Sierra where did you work?  
 16 A. Sha-Neva Incorporated.  
 17 Q. Where was that?  
 18 A. Truckee.  
 19 Q. When did you start working at Sha-Neva?  
 20 A. It was a family business. Legally I think I got my  
 21 first paycheck in '77.  
 22 Q. So you worked there from '77 to '91 -- I'm mean sorry,  
 23 to '87?  
 24 A. Correct.  
 25 Q. What was your job title there?

Page 19

1 A. Slave.  
 2 Q. So you did a little bit of everything they needed?  
 3 A. Um-hum.  
 4 Q. Was this a trucking business as well?  
 5 A. It did have a trucking division to it, yes.  
 6 Q. Did you drive trucks?  
 7 A. I did.  
 8 Q. Did you drive any bottom dumps or belly dumps?  
 9 A. Yes.  
 10 Q. How often would you drive those?  
 11 A. Seasonal, summer, a third of the time.  
 12 Q. Did they have Versa valves in those?  
 13 A. Those did, yes.  
 14 Q. Why did you leave Sha-Neva?  
 15 A. To see the world.  
 16 Q. With Sierra, why did you leave Sierra Rental and  
 17 Transport?  
 18 A. Lack of work.  
 19 Q. Okay.  
 20 So before Sha-Neva where did you work?  
 21 A. I was a student.  
 22 Q. Okay.  
 23 A. That was the beginning.  
 24 Q. So where was Antarctica, I feel like we're missing  
 25 Antarctica?

Page 20

1 A. Yeah, Antarctica was from '85 to the end of '87 -- '88  
 2 actually.  
 3 Q. So Sha-Neva, were you still working -- I have '77 to  
 4 '87, so was it '85?  
 5 A. Well, Antarctica I went down in the summers, our  
 6 winters here, summers there.  
 7 Q. So Sha-Neva was seasonal and then you would go -- you  
 8 were up there half the year and Antarctica half the year?  
 9 A. Um-hum.  
 10 Q. Where did you work in Antarctica?  
 11 A. Two summers in McMurdo and one at the South Pole  
 12 station.  
 13 Q. What company did you work for?  
 14 A. I worked for ITT.  
 15 Q. What does that stand for?  
 16 A. International Telephone Telegraph was the parent  
 17 company. Antarctica services was the division that -- was their  
 18 polar division.  
 19 Q. What was your job title?  
 20 A. Equipment operator. Truck driver for the first  
 21 season, I should say. Equipment operator for the last two.  
 22 Q. As a truck driver did you operate belly dumps?  
 23 A. No.  
 24 Q. As an equipment operator what did that entail?  
 25 A. Running loaders, loading dump trucks, forklifts, what

Page 21

1 people call dozers. I believe that's -- rough drills for  
 2 drilling and blasting.  
 3 Q. Did I miss any other jobs?  
 4 A. None.  
 5 Q. Okay, great.  
 6 Did you do anything to prepare for your deposition  
 7 today?  
 8 A. No.  
 9 Q. Did you speak to anyone in preparation for your  
 10 deposition today?  
 11 A. I have not.  
 12 Q. Did you speak with Daniel Koski about his deposition?  
 13 A. No.  
 14 Q. Did you speak with Scott Palmer about his deposition?  
 15 A. No.  
 16 Q. Did you speak with Patrick Bigby about his deposition?  
 17 A. No.  
 18 Q. I'm going to go back to your time at MDB Trucking. So  
 19 you were there from 2010 to 2015. Who hired you at MDB  
 20 Trucking?  
 21 A. Travis Bonanno.  
 22 Q. And when you arrived were you trained by anybody at  
 23 MDB Trucking to do any of the -- for the hiring, training,  
 24 timecards, paperwork and that sort of thing?  
 25 A. No.

Page 22

1 Q. How many people did you hire during your time at MDB  
 2 Trucking, if you can recall?  
 3 A. I would say under 30. I could be wrong.  
 4 Q. Did you hire Daniel Koski?  
 5 A. I did.  
 6 Q. Did you hire Scott Palmer?  
 7 A. I did.  
 8 Q. Did you hire Patrick Bigby?  
 9 A. I did.  
 10 Q. Were you responsible for any of the purchasing or  
 11 leasing of the trucks and trailers at MDB?  
 12 A. I was.  
 13 Q. Okay.  
 14 Do you happen to recall the equipment number of the  
 15 truck and trailer for the July 2014 unintentional dump on the  
 16 highway driven by Daniel Koski?  
 17 A. I do.  
 18 Q. What equipment number was that?  
 19 A. The trailer was number 6775.  
 20 Q. Okay.  
 21 And were you responsible for leasing that trailer?  
 22 A. I was involved.  
 23 MS. SHREVE: Brian, do you have any objection to using  
 24 the exhibits from yesterday for today?  
 25 MR. BROWN: Yes.

Page 23

1 I'm just kidding.  
 2 BY MS. SHREVE:  
 3 Q. I'm going to show you this is Exhibit 1. Does this  
 4 look familiar to you?  
 5 A. Yes.  
 6 Q. So is this a bill from the purchase of the truck and  
 7 trailer that Daniel Koski drove or one of them?  
 8 A. This is looks like an invoice for six trailers, two  
 9 sets, train sets, one of which was Danny's, yes. No trucks,  
 10 though.  
 11 Q. Just the trailers, sorry.  
 12 And then did MDB lease the trailers from SKS Corp; is  
 13 that correct?  
 14 A. I believe that's how he had that set up.  
 15 Q. Did you negotiate the lease of the truck and trailer,  
 16 so 6775 trailer?  
 17 A. No.  
 18 Q. Who negotiated the lease for that?  
 19 A. That I would have no idea.  
 20 Q. Okay.  
 21 But you were involved in the process of it, though?  
 22 A. As I see that as being internal.  
 23 Q. Okay.  
 24 A. Which I had no involvement in.  
 25 Q. When MDB first leased trailer 6775 did you request any

Page 24

1 of your employees or did you yourself perform any inspection on  
 2 the trailer prior to putting it in service?  
 3 A. Yes.  
 4 Q. Who performed the inspection when you first leased the  
 5 trailer before you put it in service?  
 6 A. I don't recall who specifically did that.  
 7 Q. Did you do that?  
 8 A. I certainly inspected many, but I can't say for sure.  
 9 The record indicates, but I don't recall.  
 10 Q. Did you receive any maintenance records from the  
 11 company that you leased the trailer 6775 from before you started  
 12 leasing it? So that was probably a badly phrased question, so  
 13 strike that.  
 14 From SKS Corp, did they provide you any of the  
 15 maintenance records of 6775 before it was acquired by MDB?  
 16 A. No, I don't recall seeing any previous paperwork.  
 17 Q. Okay.  
 18 So you're not sure if there was anything done to the  
 19 trailer prior to MDB leasing the trailer, any work performed or  
 20 maintenance done on it?  
 21 A. Well, the trailer was used so I'm certain there was  
 22 normal maintenance performed, which would be common, unknown to  
 23 me what it may have been.  
 24 Q. Okay.  
 25 When you were working at MDB did you or did you have

Page 25

1 anyone at MDB perform maintenance on trailer 6775 or did you  
 2 have to send it to SKS Corp?  
 3 A. No, MDB did all of their own maintenance.  
 4 Q. Earlier you testified you did all the training at MDB  
 5 when you were employed there; is that correct, you did all the  
 6 training for the employees?  
 7 MR. BROWN: I'm going to object. I think it misstates  
 8 his testimony. I think it was limited to certain areas, but you  
 9 can answer, if you can.  
 10 THE WITNESS: I don't believe I did all of it.  
 11 BY MS. SHREVE:  
 12 Q. What training did you perform?  
 13 A. Well, I arranged for training through MSHA as MDB was  
 14 an MSHA carrier. I was a trainer for Cemex, which is one of  
 15 their customers, and I did the training for all the employees  
 16 who went to that customer.  
 17 Q. Went to Cemex?  
 18 A. Yes, which was all of our employees.  
 19 So I was trained by Cemex to train our guys, and  
 20 you're wanting to know other type of training?  
 21 Q. Yes.  
 22 Did you do any other training for any of the employees  
 23 at MDB?  
 24 A. It was all task specific training. So whatever job  
 25 that the various employees had I made sure that they had the

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1 training, whether the training was in-house or outsourced.  
 2 Q. Okay.  
 3 A. Every position.  
 4 Q. Okay.  
 5 As a trainer for Cemex, you said that Cemex actually  
 6 trained you yourselves; is that correct?  
 7 A. That is.  
 8 Q. What type of training did Cemex provide you?  
 9 A. MSHA for one. Actually myself and others, Danny  
 10 included, received our MSHA training at and through Cemex.  
 11 Q. And what is MSHA?  
 12 A. Mine and Health Safety.  
 13 Q. What type of training does that include?  
 14 A. It is geared towards surface mining, the training of  
 15 awareness around the various equipment, how to operate -- task  
 16 training what you operate. Every individual piece of equipment  
 17 that you operate you're task trained for that specific piece of  
 18 equipment.  
 19 Q. Does that include driving a belly dump truck and  
 20 trailer?  
 21 A. Specifically, yes.  
 22 Q. Did it include operating the opening and closing of  
 23 the belly dump truck and trailer?  
 24 A. Yes.  
 25 Q. So tell me a little bit about -- so Cemex had you go

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1 to MSHA training; is that correct?  
 2 A. Yes.  
 3 Q. So tell me a little bit about the -- what was  
 4 explained to you regarding driving a belly dump trailer during  
 5 your MSHA training?  
 6 A. What was explained to me?  
 7 Q. Yes, what did they tell you about driving a belly dump  
 8 trailer?  
 9 A. Well, I'm not sure I think along those lines. I don't  
 10 want to read into it, but perhaps we went through the  
 11 rudimentary safety of operating it on a site. Maybe I'm not  
 12 understanding exactly.  
 13 Q. So were they training you more on the safety of  
 14 driving versus actually operating the truck, how to operate it?  
 15 A. Both.  
 16 Q. Okay.  
 17 So let's go to when you were operating a belly dump,  
 18 how did they teach you how to operate a belly dump to open it  
 19 and close it?  
 20 MR. BROWN: At --  
 21 BY MS. SHREVE:  
 22 Q. At MSHA training, what about the MSHA training --  
 23 A. Oh, boy, they explain training hands on, on-site, the  
 24 operation with the switches in the cab, the valve on the  
 25 outside. They go -- after you're finished with that class you

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1 could be a kindergartner and do it. They explain every facet of  
 2 it as far as the moving as unloading, the surroundings, the  
 3 softness or the hardness of the ground, getting stuck on your  
 4 load, I mean --  
 5 Q. So you said that they taught you about the switch and  
 6 manually using the lever to open and close; is that correct?  
 7 A. Yes.  
 8 Q. So how did they teach you how to manually open and  
 9 close the lever?  
 10 A. Well, MSHA is very safety oriented. I don't want to  
 11 sound childish, but they -- you almost -- they treated it like  
 12 it was a nuclear bomb practically. You had to have all your  
 13 safety gear, eyewear. You had to check your surroundings of  
 14 where you were at. Even though it's the most simplest thing  
 15 they teach you even how to walk on a job site.  
 16 So it is all encompassing in the training of the  
 17 bottom dump, as simple as it is. I mean it's very difficult for  
 18 me to even recall all the minute of what they taught us because  
 19 it is such second nature.  
 20 Q. Let's go, then, specifically your -- we don't need to  
 21 talk about the other safety stuff, but just actually the opening  
 22 and closing of the belly dump, how you actually do that like  
 23 step by step, do you just push the handle in, how did you  
 24 perform that?  
 25 A. Well, the lever is spring loaded, air pressure is

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1 behind it. You push it to open the gate and the further you  
 2 push it in the more the gate opens.  
 3 Q. When you say it are you talking about the lever?  
 4 A. The lever itself.  
 5 Q. Okay.  
 6 A. And if you let go of the lever it closes.  
 7 Q. Okay.  
 8 A. And there is a relief valve, I don't recall the exact  
 9 terminology, that if you push that in it relieves the pressure,  
 10 the air pressure in that cylinder that the lever is attached to.  
 11 Q. Are you talking about the accumulator?  
 12 A. That's it.  
 13 Q. Okay.  
 14 A. That's it, and that will allow the lever to stay in  
 15 any position to move it and it will stay there. That  
 16 accumulator will equalize the pressure. So you can operate it  
 17 by hand two different ways.  
 18 Q. So they taught you two different ways to operate the  
 19 lever manually; is that correct?  
 20 A. Correct.  
 21 Q. And correct me if I'm wrong, the first way you said  
 22 was just pushing the lever in and then did you say it would  
 23 automatically close; is that correct, is that what you said?  
 24 A. That is.  
 25 Q. That was the first way?

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1 A. Um-hum.  
 2 Q. And then the second -- what was the second way, sorry?  
 3 A. The accumulator.  
 4 Q. And can you go through that process again?  
 5 A. That equalizes the pressure in the cylinder.  
 6 Q. So would you push the accumulator first or after you  
 7 moved the lever?  
 8 A. Most times first, because it would be the simple step  
 9 to push that and then adjust the lever where you want.  
 10 Q. Okay.  
 11 So you would push it and put it wherever you want and  
 12 then would it automatically close or would it stay there?  
 13 A. It would stay there until you moved the lever.  
 14 Q. Okay.  
 15 So if you pushed it and moved it forward and it opened  
 16 how would you close the belly dump?  
 17 A. You would pull the lever back and then you would  
 18 function through the switch on the dash to reset the  
 19 accumulator.  
 20 Q. So for the second way you would do it manually and  
 21 then have to use the switch inside; is that correct?  
 22 A. Electrically.  
 23 Q. Okay.  
 24 Were you ever taught to not use the switch after you  
 25 used the accumulator?

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1 A. No.  
 2 There were no instructions supplied with the  
 3 manufacturer, but that's just common sense.  
 4 Q. Okay.  
 5 Common sense to do the switch after, is that what  
 6 you're saying, if I understood correctly?  
 7 A. I would say.  
 8 Q. Okay.  
 9 A. Everyone does it.  
 10 Q. Okay.  
 11 So that is what you were taught at MSHA, correct, that  
 12 Cemex sent you to? I'm just trying to get the --  
 13 A. Yes, that was part of the MSHA training. It wasn't  
 14 anything new, it was known, but that was reinstilled there.  
 15 Q. And you said Daniel Koski also attended that MSHA  
 16 training?  
 17 A. He did.  
 18 Q. And what about Tracy Shane?  
 19 A. I was there, too.  
 20 Q. I mean, sorry, Patrick Bigby?  
 21 A. Yes, he went through MSHA training as well.  
 22 Q. What about Scott Palmer?  
 23 A. Yes.  
 24 Q. For Daniel Koski, Patrick Bigby and Scott Palmer did  
 25 you schedule their training with Cemex and MSHA for that?

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1 A. I don't recall precisely, but I must have.  
 2 Q. Did you keep any records after an employee completed  
 3 their MSHA training or Cemex training?  
 4 A. Yes.  
 5 Q. What type of record was kept?  
 6 A. You were issued a certificate from MSHA from your  
 7 trainer that you were required to carry a copy to present when  
 8 needed and there were multiple copies through carbon or some  
 9 such thing. One copy was left with the trainee, one went into  
 10 his qualification file, because in the case of an audit MSHA --  
 11 an MSHA audit you would have to show that --  
 12 Q. That they had their training?  
 13 A. In their qualification file, yes.  
 14 Q. Okay.  
 15 Would you let a driver drive if they didn't have their  
 16 MSHA training?  
 17 A. Yes.  
 18 Q. How long would you let a driver drive without having  
 19 their MSHA training?  
 20 A. MSHA isn't required for all positions.  
 21 Q. So what positions is it required for?  
 22 A. When you're entering a mine site that is regulated by  
 23 MSHA.  
 24 Q. So for drivers that were not entering mine sites did  
 25 they have other training regarding operating a belly dump

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1 trailer?  
 2 A. Yes.  
 3 Q. Was that the training that was performed by Cemex or  
 4 did you provide the training at MDB?  
 5 A. Both, as a matter of fact.  
 6 Q. What was the training -- did you take any training  
 7 from Cemex other than the MSHA training regarding operating the  
 8 belly dump?  
 9 A. I did.  
 10 Q. Was that training different or were you told  
 11 differently regarding operating the belly dump at Cemex than  
 12 MSHA?  
 13 A. No, there were no differences.  
 14 Q. Was every driver at MDB required to go through the  
 15 Cemex training?  
 16 A. Yes.  
 17 Q. Did MDB keep records of the Cemex training performed?  
 18 A. Yes.  
 19 Q. Was it a certificate like the MSHA?  
 20 A. Similar.  
 21 Q. Would you allow a driver to drive without having their  
 22 Cemex training?  
 23 A. No.  
 24 Q. When you were employed with MDB did MDB have any  
 25 written company policy regarding the operation of the trucks or

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1 trailers?  
 2 A. Yes.  
 3 Q. Okay.  
 4 What was the company's written policy, did they have a  
 5 handbook?  
 6 A. Yes.  
 7 Q. Was that written handbook around prior to your  
 8 employment at MDB?  
 9 A. Prior to my employment I can't really say.  
 10 Q. When you started working there did they have that  
 11 handbook?  
 12 A. I don't believe there was a handbook that I received.  
 13 Q. Do you recall the first time you remember seeing the  
 14 company handbook regarding the operation of the trucks and  
 15 trailers?  
 16 A. Repeat that, please.  
 17 Q. I believe you just testified that there was written  
 18 company policies or procedures regarding the operation of the  
 19 trucks and trailers?  
 20 A. Um-hum.  
 21 Q. I believe you said that you do not recall them having  
 22 one when you first started at MDB. So I'm trying to figure out  
 23 when they implemented the written policies regarding the  
 24 operation of the truck and trailer, so just trying to recall  
 25 what year you remember seeing it first?

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1 A. I would have to say it was shortly into 2011. I  
 2 should say that they didn't have bottom dumps originally. That  
 3 came along in 2011.  
 4 Q. So MDB first started with bottom dumps in 2011 then?  
 5 A. Correct.  
 6 Q. So when MDB received the bottom dumps in 2011 there  
 7 was a written policy regarding the operation of those trailers  
 8 then; is that correct?  
 9 A. Well, I guess you could say that. I was the driver.  
 10 I was the only -- I was the only one to tow the bottom dump so  
 11 --  
 12 Q. When did other drivers begin driving the other bottom  
 13 dump?  
 14 A. I would have to say 2012. It could have been late --  
 15 it could have been -- could have been '11, but I believe it was  
 16 in '12.  
 17 Q. Okay.  
 18 Did you hire the drivers to drive the bottom dump  
 19 trailers?  
 20 A. I did.  
 21 Q. Who did you hire to drive the bottom dump trailers?  
 22 A. Names?  
 23 Q. Yes, please.  
 24 A. The first driver was Louis Solidab. He took my  
 25 position.

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1 Q. Okay.  
 2 A. The second one was Danny.  
 3 Q. Did you have any other drivers driving the bottom dump  
 4 trailers?  
 5 A. Only had two and those were the two fellows.  
 6 Q. Okay.  
 7 So from 2010 to 2015 yourself, Louis and Daniel were  
 8 the only three drivers of bottom dumps at MDB?  
 9 A. No, no, by 2015 there were dozens of trailers by that  
 10 time.  
 11 Q. Okay.  
 12 What about in 2013.  
 13 A. '13, number of trailers?  
 14 Q. Yes, we will do the number of trailers, bottom dump  
 15 trailers?  
 16 A. I believe eight.  
 17 Q. Eight bottom dumps.  
 18 Would that be eight trucks with trailers or just eight  
 19 actual trailers?  
 20 A. Eight separate trailers that can be configured into  
 21 train combinations.  
 22 Q. What about 2014, how many bottom dump trailers did you  
 23 have or did MDB have?  
 24 A. I believe in '14 we added 16 more.  
 25 Q. Okay.

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1 So sixteen to the eight, on top of the eight?  
 2 A. Correct.  
 3 We may have -- we may have -- actually in '13 we had  
 4 seven.  
 5 Q. Seven.  
 6 So then in 2014 did MDB have to hire additional bottom  
 7 dump drivers to accommodate the 16 additional belly dump  
 8 trailers?  
 9 A. Yes.  
 10 Q. Who did you hire or who did MDB hire at that time to  
 11 drive the additional belly dump trailers?  
 12 A. You want their names?  
 13 Q. Please.  
 14 A. Boy, I'm not sure I can --  
 15 Q. If you can remember.  
 16 A. Boy, I haven't thought about this in quite a while.  
 17 Q. Testing your memory today.  
 18 A. Yes, Jim Logan.  
 19 So between the Reno division we had Louis that we  
 20 mentioned, Danny and Jim. We had three sets up here. Is  
 21 Sacramento relevant?  
 22 Q. We will just talk about Reno.  
 23 A. Okay.  
 24 Well, that's -- Sacramento was the remaining trailers  
 25 that were obtained in that year.

1 Q. So how many of the bottom dumps were added to Reno?  
 2 A. None.  
 3 Q. So the 16 additional were for Sacramento in 2014?  
 4 A. Correct.  
 5 Q. Okay.  
 6 A. That is correct.  
 7 Q. So Reno had seven total bottom dump trailers; is that  
 8 correct?  
 9 A. Yes, that is correct.  
 10 Q. And yourself, Louis and Daniel and Jim were the only  
 11 drivers of those bottom dump trailers?  
 12 A. I would say so, yes.  
 13 Well, Scott he drove. He and I drove when needed.  
 14 Q. Anybody else drive occasionally?  
 15 A. Pat.  
 16 Q. Anybody else that you can think of?  
 17 A. Well, no, not that I can think of.  
 18 Q. Okay.  
 19 Who trained Pat, Scott, Louis, Daniel and Jim in  
 20 driving and operating the belly dump trailers?  
 21 A. Well, officially I was as required by DOT, not to  
 22 mention all of the various training that we need to be subjected  
 23 to through job requirements of our customers. Even though it's  
 24 all rudimentary and been the same for years we all have to  
 25 submit to annual training. So either myself or someone at Cemex

1 inspection station or Highway Patrol, clarifications.  
 2 Q. When you were at MDB did you require your belly dump  
 3 drivers to perform inspections on the trucks and trailers each  
 4 day?  
 5 A. Every day.  
 6 Q. Was that implemented by you or was that prior to your  
 7 time?  
 8 A. I'm certainly sure it was prior to my time.  
 9 Q. And how would you ensure that the drivers were  
 10 performing their daily inspections of their trucks and trailers  
 11 on the belly dumps?  
 12 A. I would ensure it in a number of ways.  
 13 Q. Okay.  
 14 A. Through visual, through back-up inspection by myself  
 15 or the maintenance crew, by looking at the paperwork that is  
 16 involved by the driver to do these inspections.  
 17 Q. After they would do the inspections they would --  
 18 would they turn paperwork into you?  
 19 A. That is correct.  
 20 Q. And what would you do with that paperwork?  
 21 A. Depending upon what was written on it. If it was --  
 22 there were no defects then it went into a file for that  
 23 particular trailer. If there were defects a report was written  
 24 up always -- someone would always verify prior to writing up the  
 25 paperwork to see what was involved, and I mean the flow of

1 would do those.  
 2 Q. When you hired Louis, Daniel, Jim, Scott and Pat did  
 3 you provide them with the written company policy regarding  
 4 operation of the belly dumps?  
 5 A. I did with whatever form it was at the time.  
 6 Q. Do you recall what form it was at the time?  
 7 A. It's always a work in progress from one year to the  
 8 next, sometimes revised more often depending upon need.  
 9 Q. Is it a book or is it sheets of paper?  
 10 A. I don't believe it was bound or hole punched. I think  
 11 mostly a handout in stapled form.  
 12 Q. And when there were updates who would provide the  
 13 updated versions of the handbook, is that something you would  
 14 work on --  
 15 A. Yes.  
 16 Q. -- and provide?  
 17 A. Yes.  
 18 Q. Would you type something up on the computer and print  
 19 it out and give it to them?  
 20 A. It would be presented at a safety meeting or with a  
 21 paycheck, depending upon what it was.  
 22 Q. What sort of things would be in the revisions?  
 23 A. New rules set upon by our customers, anything that the  
 24 feds would come out with in the handbook, to be aware of laws  
 25 that are being misinterpreted by inspectors at either the

1 paperwork just went on from there.  
 2 Q. Would you keep the daily inspection reports that you  
 3 would receive?  
 4 A. The daily, yes. The law requires, I believe, 90 days.  
 5 Q. So you would keep them for the 90 days and then  
 6 discard; is that correct?  
 7 A. Oh, yes.  
 8 Q. If there was an issue with a truck or trailer during  
 9 the driver's daily inspection would they still continue -- would  
 10 you allow them to continue to pick up their load for the day?  
 11 A. It depends on what type of defect.  
 12 Q. Do you have an example of a type of defect that they  
 13 would still be allowed to drive even though they indicated there  
 14 was a defect prior to leaving?  
 15 A. Well, I can -- Yes, I can recall. These trailers are  
 16 detachable. You can run as three or two or one. A landing leg  
 17 for the tongue on a trailer, for instance I can remember being  
 18 written up that like the foot needed to be welded or a new tire  
 19 put on it or something, and those sorts of items, unrelated to  
 20 our daily activity depending upon what it was, you know, we  
 21 wouldn't repair it then, maybe not until the end of the shift or  
 22 the next day, if we weren't going to unhook it, just common  
 23 sense.  
 24 Q. Did you have the drivers check to make sure the belly  
 25 dumps would activate correctly, open and close each morning?

1 A. In the pre-trip, yes.  
 2 Q. How about the post-trip?  
 3 A. Oh, yes, and daily every use.  
 4 Q. And would you have them in the morning before they  
 5 left -- how would you have them check it, using the electrical  
 6 switch or actually manually using the lever?  
 7 A. Both, and there was plenty of time to do this as it is  
 8 air operated. You couldn't move the truck because the brakes  
 9 are air and you couldn't leave until you had enough air pressure  
 10 for the brakes to release and there were safeties involved in  
 11 that, so --  
 12 Q. So when they would check each morning manually would  
 13 they do manually one or two? I'm just going to list them as one  
 14 or two from what we discussed earlier. Do you understand what I  
 15 mean by manual one and two?  
 16 A. One would be manually on the valve. Two would be  
 17 switch in the cab.  
 18 Q. No, I will go back.  
 19 So the one you said was just manually moving it. Two  
 20 you said was pushing the accumulator and then moving it,  
 21 specifically for the manual, the two types of manual ways to do  
 22 it. Would you have them perform both manual ways?  
 23 A. It was up to their discretion to verify its function.  
 24 Q. Okay.  
 25 A. Releasing the pressure in the accumulator was not a

1 upon the job. Sometimes you would tighten them up so it would  
 2 open up very little and other times you would not have them  
 3 restricting the width at all.  
 4 Q. Would you ever put those gate chains on when you're  
 5 driving to ensure the belly dump doesn't open while driving?  
 6 MR. BROWN: Objection, foundation.  
 7 BY MS. SHREVE:  
 8 Q. Go ahead, you can answer.  
 9 A. I can answer?  
 10 MR. BROWN: You can.  
 11 THE WITNESS: That is not the design or purpose of  
 12 those chains. I suppose you wouldn't want to trust them.  
 13 BY MS. SHREVE:  
 14 Q. Okay.  
 15 Earlier you testified you hired Patrick Bigby;  
 16 correct?  
 17 A. Yes.  
 18 Q. What was the position you hired Patrick Bigby for?  
 19 A. Mechanic.  
 20 Q. Did MDB have a mechanic prior to Patrick Bigby?  
 21 A. No.  
 22 Q. Was Patrick Bigby -- Strike that.  
 23 Prior to Patrick Bigby how would maintenance be  
 24 performed on the trucks and trailers that MDB used?  
 25 A. May I ask the definition of maintenance, airing of

1 function that was required by us or the driver or the job, but  
 2 you could tell if it was working just by the tension on the  
 3 lever. So there was no need to reset or push in the accumulator  
 4 because you knew if there was tension on the lever there was  
 5 pressure on the accumulator.  
 6 Q. Okay.  
 7 During the pre-trip inspection were the drivers  
 8 required to make sure the electrical connections between the  
 9 trucks and trailers were working properly?  
 10 A. Yes, they were an integral part of the system.  
 11 Q. During your time at MDB did you have any policy  
 12 regarding the gate chains?  
 13 I'm not sure -- So there is chains to limit how far  
 14 the belly dump can open and close. Do you understand which  
 15 chains I'm talking about?  
 16 A. Yes, I do.  
 17 Q. I will call them the gate chains to make it easy so we  
 18 know what we're talking about.  
 19 Did MDB have any policy while you were there regarding  
 20 placing the gate chains on the belly dump at all?  
 21 A. Not in general terms, no.  
 22 Q. Were there any other terms other than general terms?  
 23 A. Yes, I suppose depending upon the job that the truck  
 24 was going to that was, like you mentioned, a gauge to set a  
 25 width of the gates. So that was a normal practice depending

1 tires?  
 2 Q. Any of the duties that Patrick Bigby performed when he  
 3 was hired. So the duties that he performed who was responsible  
 4 for those prior to his arrival at MDB?  
 5 A. Well, general maintenance we had a tire guy, an  
 6 independent tire contractor so we didn't -- that wasn't part of  
 7 our maintenance. That was something that an outside vendor did  
 8 maintenance-wise.  
 9 I hired Pat because of the onset of the miles being  
 10 put on the trucks that we were going to need a mechanic and it  
 11 was far more effective to have on our on staff rather than  
 12 sending it out and waiting and having unknown people working on  
 13 the trucks. So there hadn't been any -- depending upon your  
 14 definition of maintenance there hadn't been really any heavy  
 15 maintenance required quite yet.  
 16 Q. Who would you send the trailers or trucks out to to do  
 17 any of the type of performance that Patrick Bigby would perform?  
 18 A. There hadn't been any at that point, any needed -- any  
 19 repairs like that.  
 20 Q. Okay.  
 21 Was Patrick Bigby the only person responsible for  
 22 performing maintenance on the trucks and trailers?  
 23 A. No.  
 24 Q. Who else performed maintenance on the trucks and  
 25 trailers?

1 A. Scott did, I did. I believe somewhere along during  
2 that time there were some part-time fellows, but I don't recall  
3 who they were.

4 Q. Did you have any previous training regarding  
5 maintenance of trucks and trailers?

6 A. Um-hum, yes.

7 Q. What type of training did you have?

8 A. In my file and all of their files are certificates  
9 that met the requirements of DOT for brake inspection, brake  
10 adjustment. Part of the federal annual inspection program,  
11 there's certificates for all of us to show that we are able and  
12 approved to do such inspections.

13 Q. Okay.

14 What type of maintenance work would you perform on the  
15 trucks and trailers?

16 A. Just routine grease, pretty much greasing, maintenance  
17 of that nature, filling the oilers on the bottom dump.

18 Q. What type of records did MDB require to be kept  
19 regarding maintenance of trucks and trailers?

20 A. Everything was recorded, everything was written.

21 Q. How were they recorded?

22 A. There were various forms depending upon the task.

23 Q. What were the various forms? I know we have a work  
24 order that I will discuss with you.

25 A. Well, I don't really remember specifically, but I

1 Q. Okay.

2 Prior to July 2013 did you have any experience  
3 regarding maintenance of a Versa valve?

4 A. Maintenance?

5 Q. Yes.

6 A. I don't -- no.

7 Q. Did you have any experience prior to July 2013  
8 regarding installation of a Versa valve on a trailer -- on a  
9 belly dump trailer?

10 A. No.

11 Q. Prior to July 2013 did you have any experience in  
12 maintenance of a belly dump trailer's electrical wiring?

13 A. Well, let me seek some clarification.

14 Q. Okay.

15 A. Maintenance on the electrical? I'm not aware of any  
16 maintenance needed on an electrical system.

17 Q. Before July 2013 would you perform any inspection of  
18 the electrical wiring on a belly dump trailer?

19 A. Yes.

20 Q. What sort of inspection would you perform?

21 A. If the lights worked, the plug is clean, no corrosion.  
22 That was pretty rudimentary.

23 Q. Would you ever inspect the electrical wiring in the  
24 belly dump trailer to the Versa valve?

25 A. Only if the switch in the cab didn't activate the

1 believe there was a repair order form, there was a work order.  
2 I think there was a parts requisite form, not all of which  
3 necessarily were needed, but I'm kind of seeing that one and I  
4 see that it's familiar. It was check-offs depending upon what  
5 was done.

6 Q. And would MDB keep all of the work orders, repair  
7 orders, part request forms?

8 A. Oh, yes.

9 Q. How long would MDB keep those forms?

10 A. As far as when I was there indefinitely.

11 Q. When you hired Patrick Bigby do you know if he had any  
12 prior experience on maintenance of belly dump trucks and  
13 trailers?

14 A. Yes.

15 Q. Yes, he did have prior experience?

16 A. Yes.

17 Q. Do you recall what that prior experience was?

18 A. I do not.

19 Q. Do you recall if he had any education and training on  
20 maintenance and repair of belly dumps and belly dump trucks?

21 A. I don't remember specifically, but he does.

22 Q. Okay.

23 Do you recall if Patrick Bigby had any experience in  
24 regards to maintenance of a Versa valve prior to coming to MDB?

25 A. Couldn't really say that for sure.

1 Versa valve.

2 Q. Did that occur at any time before July 2013?

3 A. The files would indicate. I'm sure, but I don't  
4 remember specifically.

5 Q. I'm not trying to trick you here.

6 A. No, it's a common -- electrical things are common and  
7 usually it's very simple.

8 Q. I guess we will go into some of the maintenance  
9 records then and kind of help you out.

10 So I'm going to go to -- This will be Exhibit 2. I'm  
11 going to ask you to turn to MDBMAINT 000312. It will be at the  
12 bottom of the page. Do you see those numbers?

13 A. Yes.

14 Q. I think it should be the second page, if I'm correct.

15 A. 302?

16 Q. 312.

17 A. Okay.

18 Q. So this work order is dated February 20th, 2014;  
19 correct?

20 A. Yes.

21 Q. Actually sorry, wrong one.

22 MDBMAINT 000315, it should be the next page.

23 A. Okay.

24 Q. Sorry about that.

25 This work order is dated April 16th, 2014; correct?

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1 A. Um-hum.  
 2 MR. BROWN: Is that a yes?  
 3 THE WITNESS: I'm sorry, yes.  
 4 BY MS. SHREVE:  
 5 Q. And you were currently employed at MDB at this time,  
 6 correct?  
 7 A. Yes.  
 8 Q. Do you recall this work order, it says Versa valve  
 9 handle loose and it looks like spring action, check lever not  
 10 working correctly?  
 11 MR. BROWN: I'm going to object foundation. You  
 12 haven't even established that he ever saw it before.  
 13 THE WITNESS: Yes, I'm not sure that I have seen it.  
 14 BY MS. SHREVE:  
 15 Q. So let's back up then. How does Scott receive  
 16 information that he needs to perform work on a trailer?  
 17 A. Multiple ways. The driver through his DVIR or  
 18 verbally, and/or verbally, I should say, not just or, but and/or  
 19 verbally.  
 20 Q. So whenever a truck or trailer needs work performed on  
 21 it does that go through you?  
 22 A. Not always.  
 23 In addition through -- there was checks and balances  
 24 in addition to the DVIR through the normal weekly maintenance.  
 25 Q. Okay.

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1 So things could be performed on trucks and trailers  
 2 and you would not be aware of that then; is that correct?  
 3 A. Me personally?  
 4 Q. Yes.  
 5 A. Oh, absolutely.  
 6 Q. Okay.  
 7 So would the drivers -- when you said the DVIR we're  
 8 talking driver vehicle inspection report; correct?  
 9 A. Daily.  
 10 Q. So who would the drivers hand those reports to?  
 11 A. In Reno they were turned in where they turn in their  
 12 paperwork in the office, which is where everything hubbed, the  
 13 hub of everything.  
 14 Q. So would that be to you or somebody else?  
 15 A. Multiple, to myself, to Pat, to Scott.  
 16 Q. Okay.  
 17 So you would see -- so would you see every driver  
 18 vehicle inspection report that would come in then?  
 19 A. One of the three of us would.  
 20 Q. Okay.  
 21 Is there a way you would be able to determine who  
 22 would see the driver vehicle inspection report? Is there a way  
 23 to determine who looked at the driver vehicle inspection report  
 24 whether it was you, Scott or Patrick?  
 25 A. Is there a way to know who looked at it?

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1 Q. Yes, did someone sign off on them to know who actually  
 2 looked at that report?  
 3 A. Oh, they were signed off by whoever made the repair.  
 4 Q. So they would -- I'm trying to make sure that I  
 5 understand.  
 6 So the driver vehicle inspection report would come in  
 7 and the driver would put it in the office; is that correct?  
 8 A. Yes, which is adjacent to the shop.  
 9 Q. And from there either yourself or Patrick Bigby or  
 10 Scott Palmer would look at the driver vehicle inspection report;  
 11 correct?  
 12 A. Yes.  
 13 Q. What would occur after one of you looked at the driver  
 14 vehicle inspection report?  
 15 A. Then it was to be determined what the issue was,  
 16 determine what parts were needed, order, procure and repair.  
 17 Q. Who would determine that, the person who looked at the  
 18 driver vehicle inspection report?  
 19 A. Not always. It could be any one or all of the three  
 20 of us.  
 21 Q. How would you ensure that every driver vehicle  
 22 inspection report was seen by one of the three of you?  
 23 A. It would be inconceivable that one of the three didn't  
 24 see it. A truck would come in, it was obvious to whoever was on  
 25 duty. If you hadn't received phone calls of an issue or fair

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1 warning of an issue then you would be expecting that DVIR or a  
 2 comment from the driver. It was a policy to review these.  
 3 Q. Okay.  
 4 How would you ensure that someone was actually  
 5 reviewing those? How would you know that someone reviewed them,  
 6 are they moved to a different stack, are they signed off on, how  
 7 would you know?  
 8 A. Yes, the DOT DVIRs that we used there was no provision  
 9 on there to sign off on a clear DVIR, in other words a DVIR that  
 10 had no repair requests or equipment failures, only if there was  
 11 problems then it was signed off after being fixed.  
 12 So yes, it would go to a basket where it was turned  
 13 in, removed, and then filed if there was no issue, and if there  
 14 was then one of these type of forms that you have here would be  
 15 filled out and affixed to the DVIR.  
 16 Q. You can hold onto Exhibit 2. We will just go to  
 17 Exhibit 10. This might be easier in discussing it since we have  
 18 a driver vehicle inspection report so we can make sure that  
 19 we're on the same page here.  
 20 A. Yes.  
 21 Q. So if you go to the second page on Exhibit 10.  
 22 A. On this?  
 23 Q. Yes, please.  
 24 So at the top the date is 11/21/2015; correct?  
 25 A. Yes.

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1 Q. This is for tractor 5694, correct?  
 2 A. Um-hum.  
 3 Q. So the date of November 21, 2015, that is the date you  
 4 -- that is the date the driver vehicle inspection report was  
 5 prepared; is that correct?  
 6 A. Yes.  
 7 Q. So that is turned into the office. Then one of the  
 8 three of you look at the report and then at the bottom do you  
 9 know whose signature that is?  
 10 A. I don't even recognize the driver's signature, but no,  
 11 I'm not -- it would -- I can guess, but I don't know for sure.  
 12 Q. So it looks like someone signed off on it on 11/25/15;  
 13 is that correct?  
 14 A. Yes.  
 15 Q. So that is when -- so it would be signed off after the  
 16 work was performed; is that correct?  
 17 A. That is what it appears to be.  
 18 Q. But there is no way looking at this to determine who  
 19 actually looked at this report and gave it to maintenance to be  
 20 repaired, is that a correct understanding?  
 21 A. Yeah, yes.  
 22 Q. Okay.  
 23 A. Yeah, I'm just not even -- I don't recognize the  
 24 signatures, if that is what that is. Nothing looks out of the  
 25 ordinary to me.

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1 Q. Okay.  
 2 I'm just trying to figure out if there is a way to  
 3 determine whether you looked at a driver vehicle inspection  
 4 report before turning it over to maintenance or not, but there  
 5 would be no way of knowing?  
 6 A. Well, I may not even have been there.  
 7 Q. But during your time at MDB there would be no way of  
 8 knowing if you looked at the driver vehicle inspection report  
 9 versus Scott Palmer or Patrick Bigby?  
 10 A. Oh, I see. No, no way of determining.  
 11 Q. Okay.  
 12 So we will go back then to number 2, that page that  
 13 you're on, Exhibit Number 2, MDBMAINT 000315.  
 14 A. Okay.  
 15 MR. BROWN: This is the document that he says he  
 16 doesn't even recall seeing any more.  
 17 MS. SHREVE: Correct.  
 18 MR. BROWN: Okay.  
 19 BY MS. SHREVE:  
 20 Q. Do you ever recall there being an issue regarding a  
 21 Versa valve on equipment number 6777?  
 22 MR. BROWN: At any time?  
 23 BY MS. SHREVE:  
 24 Q. At any time in his employment at MDB.  
 25 A. I don't remember specifically.

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1 Q. Okay.  
 2 A. I mean no.  
 3 Q. Okay.  
 4 We will then go to Exhibit 3.  
 5 A. Are these for me to keep?  
 6 MR. BROWN: No.  
 7 BY MS. SHREVE:  
 8 Q. No, they are not. She needs to keep them.  
 9 MR. BROWN: If you take off with them you're in big  
 10 trouble.  
 11 THE WITNESS: I don't have any --  
 12 BY MS. SHREVE:  
 13 Q. This is Exhibit 3. It should be MDB 031. Do you see  
 14 that at the bottom?  
 15 A. Yes.  
 16 Q. This is a work order from 4/13/2013; is that correct  
 17 on what it says up there?  
 18 A. Um-hum, yes.  
 19 Q. Have you seen this work order before?  
 20 A. This report?  
 21 Q. Yes.  
 22 A. My name is on it, so I would assume that I had seen  
 23 it.  
 24 Q. Okay.  
 25 Is this your handwriting?

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1 A. It is not.  
 2 Q. So would this indicate that you would have told -- it  
 3 says performed by Patrick Bigby. So would this indicate that  
 4 you would have told Patrick to perform this job?  
 5 A. Yes, yes, that is the layout of this, yes.  
 6 Q. Do you recall this event?  
 7 A. Not specifically.  
 8 Q. Okay.  
 9 A. I'm really having a difficult time even reading it,  
 10 what work was done.  
 11 MR. BROWN: We have been going about an hour and a  
 12 half, so whenever is good for you, if we could take a break.  
 13 MS. SHREVE: Would you like to take a break?  
 14 THE WITNESS: Sure.  
 15 MS. SHREVE: We will take a break and go off the  
 16 record.  
 17 (A recess was taken.)  
 18 BY MS. SHREVE:  
 19 Q. Back on the record.  
 20 Mr. Shane, you understand that you're still under  
 21 oath, correct?  
 22 A. Yes.  
 23 Q. Are you aware of an incident that occurred in  
 24 July 2013 with trailer 6775 in which an unintentional dumping  
 25 occurred on the highway?

1 A. I do remember that.  
 2 Q. What do you recall of that incident?  
 3 A. I remember Danny calling me and telling me that when  
 4 he got to the job where he was unloading that someone had  
 5 followed him in and told him that his back trailer had opened up  
 6 and it was a rainy day. He got out in the rain and looked  
 7 before he went into the ready mix plant to unload and he told me  
 8 that he saw that the gate was open and that that had happened.  
 9 That was the beginning of that.  
 10 Q. Did he call you that day or did he wait until he came  
 11 back?  
 12 A. Oh, no, he called me the instant that he learned of  
 13 it.  
 14 Q. What did you tell him to do when he called you?  
 15 A. To get the name, exchange information with the car  
 16 that witnessed this, which I don't recall had any damage, that  
 17 there was no one hurt, just exchange that information.  
 18 Thinking back about that I don't believe the Highway  
 19 Patrol knew of that, so it's like they didn't appear. I don't  
 20 recall if I called the Highway Patrol to coordinate other calls  
 21 that surely were made, I don't know, but I believe I did.  
 22 Q. Do you recall if you told Daniel Koski to continue  
 23 working that day?  
 24 A. That happened to be his last load of the day.  
 25 Q. Do you recall if you told Daniel Koski to place those

1 gate chains on the trailers to ensure that there was no  
 2 additional dumping on the highway?  
 3 A. By this time he was already at the job site to unload.  
 4 Q. So do you recall informing Daniel Koski that he should  
 5 put the gate chains on the trailers?  
 6 A. At that moment?  
 7 Q. Yes, when you spoke to him?  
 8 A. No need, because he was there on the job to unload.  
 9 Q. So is that a no?  
 10 A. Correct, no.  
 11 Q. Okay.  
 12 Do you recall if you contacted anyone else to tell  
 13 them about Daniel's losing of the load in July 2013?  
 14 A. On that particular day?  
 15 Q. Yes.  
 16 A. Not until I learned more information, no, I didn't  
 17 make any other phone calls that I recall.  
 18 Q. And when did you learn more information?  
 19 A. When he returned to the yard.  
 20 Q. What was your discussion with Daniel when he returned  
 21 to the yard?  
 22 A. I don't remember anything specific. I could guess  
 23 what I asked and all.  
 24 Q. Did he provide you with more information regarding the  
 25 incident?

1 A. I'm sure he did, yes.  
 2 Q. Okay.  
 3 A. I'm sure there were a lot of questions.  
 4 Q. Did you have him write down any statement regarding  
 5 the incident?  
 6 A. The Highway Patrol did and I have -- I received a copy  
 7 of that, because I do recall speaking with the Highway Patrol,  
 8 giving them instructions on how to find our yard.  
 9 Q. Okay.  
 10 So the Highway Patrol came to your yard after the  
 11 July 2013 incident?  
 12 A. Yes.  
 13 Q. Did you provide any written report or did you write  
 14 anything down regarding the July 2013 incident?  
 15 A. May have been included in some report I may have made  
 16 for the office pertaining to the events of that month or that  
 17 week or quarter.  
 18 Q. Did you provide written statements to someone  
 19 regarding events that occurred in a month or a period or  
 20 whatever -- however you just indicated?  
 21 A. You asked -- Ask me that again, please.  
 22 MS. SHREVE: Can you repeat his answer?  
 23 (The record was read by the reporter.)  
 24 BY MS. SHREVE:  
 25 Q. So based on your testimony there, did you provide

1 monthly reports or quarterly reports regarding events that  
 2 occurred at the Reno location?  
 3 A. At times.  
 4 Q. What were those times that you would make those  
 5 reports?  
 6 A. Typically production reports. I may be confusing it  
 7 with what went on in the future when we had multiple locations  
 8 and that might be my progress reports involving that. Here it  
 9 may have been payroll reports and production reports.  
 10 Q. In those reports you would include any type of big  
 11 event that would occur at the Reno location; is that correct?  
 12 A. If it -- Yes, could be, if it wasn't something that  
 13 had been previously discussed.  
 14 Q. And who would you give those reports to?  
 15 A. To the office, the main office.  
 16 Q. What is the main office?  
 17 A. Various locations through time, but whatever was  
 18 considered the main office.  
 19 Q. What was the main office in 2013?  
 20 A. A residence belonging to the secretary.  
 21 Q. Do you know that secretary's name?  
 22 A. Stephanie.  
 23 Q. Do you know Stephanie's last name?  
 24 A. Morello, I'm not positive of the spelling.  
 25 Q. Do you know where that was located?

1 A. North of Reno. I don't recall the address.  
 2 Q. This was MDB's main office; is that correct?  
 3 A. It was her home where she operated. I'm not sure what  
 4 would be --  
 5 Q. Did she work for MDB Trucking?  
 6 A. Yes.  
 7 Q. And then in 2014 what was the main office?  
 8 A. I believe it was still there.  
 9 Q. Did the main office change from 2013 to when you left  
 10 in 2015?  
 11 A. It did.  
 12 Q. When did it change?  
 13 A. I'm not certain of the date. It could be in '15  
 14 Q. Where did you change to?  
 15 A. A normal office complex in Sparks off of Glendale.  
 16 Q. Do you know the address?  
 17 A. I do not.  
 18 Q. Did you still report to Stephanie Morello?  
 19 A. I did.  
 20 Q. So you would provide those reports to Stephanie?  
 21 A. Correct.  
 22 Q. Would you provide them to anybody else other than  
 23 Stephanie?  
 24 A. No.  
 25 Q. So other than a monthly report or quarterly or

1 something along those lines, do you recall providing any sort of  
 2 written statement to anyone at MDB Trucking or the owners or  
 3 anything like that regarding the incident --  
 4 A. Regarding this incident?  
 5 Q. -- in July of 2013, yes?  
 6 A. No.  
 7 Q. Did you take any pictures of the truck or trailer  
 8 following the July 2013 incident?  
 9 A. No.  
 10 Q. Were you at the yard when the Highway Patrol arrived  
 11 in the July 2013 incident?  
 12 A. I was.  
 13 Q. Do you recall if the Highway Patrol took any pictures  
 14 of the truck or trailer?  
 15 A. They did.  
 16 Q. Did they provide MDB with copies of those pictures, if  
 17 you recall?  
 18 A. None that I'm aware of.  
 19 Q. Okay.  
 20 Did you speak to anyone else other than Daniel Koski  
 21 and the Highway Patrol regarding the July 2013 incident?  
 22 A. Yes.  
 23 Q. Who else did you speak with?  
 24 A. Our shop crew.  
 25 Q. Who would consist of your shop crew?

1 A. Pat and Scott.  
 2 Q. So Scott was employed with MDB at the time of the  
 3 July 2013 incident?  
 4 A. Yes.  
 5 Q. Do you recall the date that the July 2013 incident  
 6 occurred?  
 7 A. I really don't, no.  
 8 Q. Okay.  
 9 So after Daniel came back to the yard in the July 2013  
 10 incident what occurred next?  
 11 A. I kept him there to meet with the Highway Patrol and  
 12 we did our rudimentary observation.  
 13 Q. What does that consist of?  
 14 A. Just looking for any clues as to say what may have  
 15 happened, what may have caused it.  
 16 Q. Was it just a visual inspection?  
 17 A. Um-hum, we didn't want to interfere with anything  
 18 before the Highway Patrol did their investigation.  
 19 Q. And then after the Highway Patrol came and did their  
 20 investigation what occurred next?  
 21 A. The Highway Patrol wasn't able to find anything wrong.  
 22 We tested the system, to my recollection we were dumfounded as  
 23 to a cause and what to do next.  
 24 Q. So after the Highway Patrol left did you perform any  
 25 inspection on the truck and trailer?

1 A. I believe I just visually inspected.  
 2 Q. Did you direct anyone to perform any other additional  
 3 inspection on the truck and trailer?  
 4 A. I did.  
 5 Q. Who did you direct to perform that?  
 6 A. Pat and Scott.  
 7 Q. What did you direct them to do?  
 8 A. To find clues.  
 9 Q. Did you tell them anything specific that you wanted  
 10 them to do?  
 11 A. Nothing specific.  
 12 Q. Did you assist Patrick Bigby at all in investigating?  
 13 A. I don't believe I did anything other than the visual.  
 14 Q. Okay.  
 15 Do you recall the type of inspections that Pat and  
 16 Scott performed after the July 2013 incident?  
 17 A. I believe I would have an idea, but I don't recall  
 18 specifically. The paperwork they filled out at that time would  
 19 probably be more specific. I would only be guessing based upon  
 20 what I would probably do.  
 21 Q. What would you probably do?  
 22 A. Just check the ground, electrical continuity, that  
 23 sort of thing.  
 24 Q. And did Patrick or Scott inform you that they found  
 25 anything wrong with trailer 6775?

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1 A. They found nothing.

2 Q. Did Pat or Scott tell you what they found in regards

3 to the truck 6773 and the other two trailers, so 6773, 6774,

4 regarding their investigation?

5 A. My recollection was they found nothing.

6 Q. Okay.

7 And did Patrick or Scott indicate that they found any

8 type of defect with the Versa valve after the July 2013

9 incident?

10 A. No defects.

11 Q. Did Pat or Scott inform you that they found any design

12 defect with the Versa valve following the July 2013 incident?

13 MR. BROWN: Objection to the extent it calls for

14 speculation and beyond this person's knowledge, foundation.

15 BY MS. SHREVE:

16 Q. You can answer.

17 Did Pat or Scott tell you that there was any design

18 defect with the Versa valve following the July 2013 incident on

19 trailer 6775?

20 MR. BROWN: Same objection, foundation.

21 BY MS. SHREVE:

22 Q. You can answer.

23 A. No disrespect, is that something that I can answer?

24 MR. BROWN: Yes, unless I tell you not to answer.

25 ///

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1 BY MS. SHREVE:

2 Q. Unless he tells you not to answer, you can answer.

3 A. To my knowledge there were no defects found.

4 Q. And did you find any defect with the Versa valve, you

5 personally find any defect with the Versa valve following the

6 July 2013 incident?

7 MR. BROWN: Objection, foundation.

8 THE WITNESS: Do you want to reword that, I guess?

9 BY MS. SHREVE:

10 Q. No.

11 Did you personally find any defect with the Versa

12 valve following the July 2013 incident?

13 A. No.

14 MR. BROWN: Objection, foundation.

15 BY MS. SHREVE:

16 Q. Did you find any -- did you personally find any design

17 defect with the Versa valve following the July 2013 incident?

18 MR. BROWN: Objection, foundation.

19 You can answer. Go ahead and answer.

20 THE WITNESS: We never found any defect.

21 BY MS. SHREVE:

22 Q. So you personally did not find any design defect?

23 A. No.

24 Q. Okay.

25 Following the July 2013 incident did you do any

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1 investigation into what Daniel Koski did on the day of the

2 subject incident?

3 A. Nothing specifically other than hear his side of the

4 story, which was routine, nothing out of the ordinary.

5 Q. Did MDB or did you investigate the possibility that

6 Daniel Koski could have done something to contribute to the

7 July 2013 incident?

8 A. I deemed that there was nothing that he did to

9 contribute.

10 Q. Okay.

11 Following the July 2013 incident did you implement any

12 type of retraining of the belly dump drivers regarding the use

13 of the trailers?

14 A. None was needed other than -- he didn't know that his

15 load had dumped until he got 30 miles down the road, couldn't

16 tell. It was a third, three trailers, so a third of the load,

17 he didn't feel a weight difference, a pull difference. It's all

18 on flat.

19 All we did was pay super particular attention, more

20 than what you normally would, if that is possible, and to pay

21 attention to other clues that might lead to whatever caused this

22 to happen in the first place. In other words, everyone's eyes

23 were wide open looking for any possible reason.

24 Q. Okay.

25 Following the July 2013 incident did you or anyone at

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1 MDB do any type of retraining regarding the operation of opening

2 and closing the belly dumps?

3 A. No retraining.

4 Q. So I'm going to go back to Exhibit 3 which you have in

5 front of you. I'm going to ask you to go to MDB 073. It also

6 says MDBMAINT 000057.

7 A. Yes.

8 Q. This work order I believe it says July 26th, 2013; is

9 that correct?

10 A. Um-hum.

11 Q. Have you seen this work order before?

12 A. I believe that is my writing on the date completed, so

13 I must have.

14 Q. This says you rewired gate switches on equipment

15 number 5694. Do you recall the rewiring of gate switches on

16 equipment number 5694?

17 A. I do.

18 Q. Okay.

19 And do you recall why that was performed?

20 A. Yes.

21 Q. And why was that performed?

22 A. The truck was equipped factory with these dump

23 switches from Peterbilt and in trying to determine the cause of

24 this gate opening we were all racking our brains trying to look

25 for clues as to why. The power source for the gate switches

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1 came from the dashboard where you could have problems with  
 2 ground or other issues. We decided to -- in an effort to try to  
 3 prevent such a thing from get unadulterated power and ground  
 4 source directly from the battery rather than through a cab  
 5 harness so we would have better protection of ground and power  
 6 that would operate the -- send power down to the lines to  
 7 operate the dump valves.

8 Q. Who decided to rewire to have the wiring, the  
 9 electrical wiring come from the battery instead of inside the  
 10 cab?

11 A. I believe it was a group agreement between Scott, Pat  
 12 and myself.

13 Q. Did anyone have any type of training or education that  
 14 indicated that that -- to make the wiring from the battery  
 15 instead of the cab?

16 A. Oh, yes.

17 Q. Where did you learn that from?

18 A. Well, electrical is rudimentary to all mechanical  
 19 problems and as vehicles become newer, newer designs, it gets  
 20 more complicated. We wanted to go back to basic and I don't  
 21 personally have an electrical background, but I was a part of  
 22 this decision. It was a group collective decision.

23 They have -- these other two fellows have very good  
 24 electrical knowledge, but it really didn't take much to  
 25 determine that it would be an improvement.

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1 Q. So if I understand you correctly, the newer designs  
 2 come from the dash and the older designs used to come from the  
 3 battery, is that a correct understanding?

4 A. Correct, yes.

5 Q. So you guys made a group effort to take it back to  
 6 what the older designs had of coming from the battery versus the  
 7 dash; is that correct?

8 A. Well, that might be a convoluted way of looking at it.  
 9 It's to obtain a good ground was the goal and you weren't --  
 10 it's not possible to get a good ground from behind the dash. Go  
 11 to where the ground originates from and that's the battery.

12 Q. Okay.

13 Do you recall if you did the rewiring to any other  
 14 trucks or trailers?

15 A. We concentrated only on this one initially. There  
 16 were only three combined. We concentrated efforts on this one.

17 Q. Were the other two, were they wired straight to the  
 18 battery or were they to the dash?

19 A. One each.

20 Q. Okay.

21 Do you recall if you rewired the electrical to each of  
 22 the trailers as well?

23 A. That was already in place, so we did not at that time  
 24 run -- rewire the trailers.

25 Q. So the trailers, you didn't change out the wiring in

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1 the trailers?

2 A. Not at that time I don't recall ever finding need, no.  
 3 I recall this instance where we seeked ground, direct power from  
 4 the battery.

5 Q. So that was only in the truck, not the trailers then;  
 6 correct?

7 A. Yes.

8 Q. Is that what you're saying?

9 A. Um-hum.

10 Q. Okay.

11 Hang on one second. I'm going to take you then to --  
 12 Sorry, one second.

13 Let's go to Exhibit Number 6. I'm going to hand you  
 14 this one.

15 A. Okay.

16 Q. I'm going to have you go to the second page, please.  
 17 It should be MDB 015.

18 A. Okay.

19 Q. This looks like date completed of August 2nd, 2013.  
 20 Do you see that?

21 A. Yes.

22 Q. Does this work order look familiar to you?

23 A. No, no.

24 Q. So this looks like Pat investigated the unintentional  
 25 gate opening. Do you recall replacing the Versa valve on

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1 equipment number 6775?

2 MR. BROWN: When you say you, I don't think he has  
 3 ever done any of this stuff himself. Are you talking you as in  
 4 MDB?

5 BY MS. SHREVE:

6 Q. Does he recall there was a replacement of the Versa  
 7 valve on equipment number 6775?

8 A. I do recall having replaced the dump valve, that it  
 9 had been replaced. I don't specifically recall when.

10 Q. When a part is replaced on a truck or trailer does  
 11 that go through you to order new parts or whatever is needed to  
 12 replace the part?

13 A. Not necessarily. One of the three of us will procure  
 14 or research available parts and order, kind of a collective  
 15 effort.

16 Q. So Pat and Scott don't need to receive authority from  
 17 you to order a part or something that needs to be --

18 A. Not at all.

19 Q. Do you recall if Patrick Bigby spoke to you about  
 20 replacing the Versa valve on equipment number 6775 in 2013 after  
 21 the July 2013 incident?

22 A. I don't specifically recall that. I'm sure it was a  
 23 topic, and if memory serves me right I think that was probably  
 24 the first thing that was done was just replace the valve.

25 Q. Okay.

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1 Did you place the order for the Versa valve after the  
 2 July 2013 incident?  
 3 A. I don't believe so.  
 4 Q. Okay.  
 5 Do you have any recollection of who did place the  
 6 Versa valve order?  
 7 A. No.  
 8 Q. I'm going to move to Exhibit 7. I'm going to hand you  
 9 this. This is an invoice for the purchase of the July 2013  
 10 Versa valve for equipment 6775. Do you recall seeing this  
 11 document?  
 12 A. Not particularly, no.  
 13 Q. Who receives the invoices when a part is purchased?  
 14 A. The office.  
 15 Q. When you say office, who is considered the office?  
 16 A. Stephanie, for example, the lady we mentioned earlier.  
 17 Q. So these invoices would go to Stephanie, not to you?  
 18 A. Correct, the address on there was a P.O. Box they  
 19 would get mailed to.  
 20 Q. Okay.  
 21 Did you have any conversation with Pat or Scott  
 22 regarding the purchase of any other valve other than the Versa  
 23 valve for trailer 6775 for July 2013?  
 24 A. Purchasing another one?  
 25 Q. A different company's valve versus Versa valve?

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1 A. No, we had several different varieties of valves.  
 2 That trailer was equipped with a Versa valve and that's what we  
 3 replaced it with, a like valve.  
 4 Q. So you did not have any discussion, then, with Scott  
 5 and --  
 6 A. About changing --  
 7 Q. -- Patrick about changing it to a different type of  
 8 valve?  
 9 A. No.  
 10 Well, we may have had that on the table, a discussion.  
 11 Q. Do you recall any conversation about it?  
 12 A. I don't remember anything specific other than I can  
 13 see that we agreed that we didn't need to change brands.  
 14 Q. Okay.  
 15 A. But I don't remember anything specific.  
 16 Q. Do you recall why you -- why the three of you decided  
 17 you did not need to switch brands?  
 18 A. We didn't see anything wrong with what was installed  
 19 new on the trailer.  
 20 Q. Would you direct -- Strike that.  
 21 Did you direct Patrick Bigby to install the Versa  
 22 valve in July of 2013?  
 23 A. I don't specifically remember doing it, but he didn't  
 24 need my authority to do so.  
 25 Q. Okay.

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1 Did you ever ask Patrick Bigby if he had any education  
 2 or experience in installing a Versa valve on a trailer?  
 3 MR. BROWN: Objection, foundation. Go ahead and  
 4 answer the question.  
 5 THE WITNESS: Well, there are no specific instructions  
 6 that come with how to install it. I think there is a diagram  
 7 that describes how it works and you install it.  
 8 A Versa valve is a generic valve and you remove one and put  
 9 one in place, like so many other valves, air valves and whatnot  
 10 that it's part of a collective knowledge rather than something  
 11 specific, in my opinion.  
 12 BY MS. SHREVE:  
 13 Q. Okay.  
 14 So were you aware of whether or not Patrick Bigby had  
 15 any experience or knowledge of installing a Versa valve in  
 16 July 2013 for trailer 6775?  
 17 A. I would say so, that he had knowledge to do so.  
 18 Q. So at that time you knew that he had knowledge  
 19 regarding installation of Versa valve in July of 2013?  
 20 A. Are you asking if he knows how to or that I know that  
 21 he did so?  
 22 Q. I'm asking if you had any knowledge that he had  
 23 experience installing --  
 24 A. Oh, yes, I have knowledge of that.  
 25 Q. You had knowledge that he had experience installing?

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1 A. Yes, yes.  
 2 Q. Did you have knowledge that he had installed a Versa  
 3 valve prior to July of 2013, is that --  
 4 A. I didn't doubt it. I don't recall consciously knowing  
 5 as a fact.  
 6 Q. I'm trying to figure out what the experience that you  
 7 knew that he had regarding installing the Versa valve in July of  
 8 2013?  
 9 A. Well, I didn't --  
 10 MR. BROWN: Just answer her question as far as -- I  
 11 mean, you guys are talking around each other as far as I'm  
 12 concerned.  
 13 What knowledge, if any, did you have about him installing a  
 14 Versa valve when you hired him, any specific knowledge, do you  
 15 remember talking to him about this?  
 16 THE WITNESS: No.  
 17 BY MS. SHREVE:  
 18 Q. Did you provide Patrick Bigby with any handbook or  
 19 installation manuals regarding installing the Versa valve in  
 20 July of 2013?  
 21 A. We had a Ranco manual, several copies that was in the  
 22 shop that he used. So I believe that information was in there  
 23 as well as others.  
 24 Q. Did you provide that to him to use for installing that  
 25 valve, Versa valve?

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1 A. For working in general on the trailer, not  
2 specifically for the valve.  
3 Q. Did you contact Versa after the July 2013 incident?  
4 A. No.  
5 Q. I'm going to go back to Exhibit 6. I'm going to go to  
6 MDBMAINT 000240. The date completed is 6/30/2014. Have you  
7 seen this document?  
8 A. No.  
9 Q. This looks like it's a work order requested by Dan and  
10 performed by Pat according to it. It says reattached Versa  
11 valve. Are you aware in June 2014 of a reattachment of the  
12 Versa valve on equipment number 6775?  
13 A. No, I'm not even sure what that means.  
14 Q. Okay.  
15 So let's go to July 2014, which is the subject  
16 incident of this lawsuit. Do you know what happened on  
17 July 7th, 2014?  
18 A. No.  
19 Q. I will represent to you that is the day that Mr. Koski  
20 had an unintentional dumping again on the highway?  
21 A. Oh, I'm familiar with that.  
22 Q. Okay, perfect.  
23 So in July 2014 how did you become aware of what  
24 occurred with Mr. Koski's unintentional dumping?  
25 A. I received a phone call from Danny.

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1 Q. Okay.  
2 What did he say?  
3 A. Told me what had occurred, that his gate had come  
4 open.  
5 Q. Okay.  
6 What did you say to Mr. Koski?  
7 A. Well, after all the normal things of, you know,  
8 anybody hurt, are you okay, all of the normal things I ask,  
9 where in his route did it happen.  
10 Q. When you asked if anyone was hurt and everyone as okay  
11 what did Mr. Koski say?  
12 A. He said there was a lot of the scene that he couldn't  
13 see from where he was so he didn't have any knowledge  
14 specifically.  
15 Q. Where did he say it occurred?  
16 A. Painted Rock.  
17 Q. What else did he tell you?  
18 A. I don't remember specifically. I think that pretty  
19 much got the point across to me and he just very basic indicated  
20 that he didn't know exactly why or what caused it.  
21 Q. Did you instruct Mr. Koski to take any pictures of the  
22 truck or trailer?  
23 A. I don't recall if I did.  
24 Q. Do you recall what you told Mr. Koski to do next?  
25 A. He was stopped on the side of the road and I believe

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1 he was -- may have had an NHP there with him. So it was beyond  
2 my giving him instructions as to what to do.  
3 Q. Did you instruct him to finish dropping off the load  
4 that day?  
5 A. No.  
6 Q. Did you instruct him to come back to the yard?  
7 A. Well, I do know that all of the trucks were instructed  
8 to go to the yard immediately, whether they were in that area or  
9 not, wherever they were. If they were towing a bottom dump they  
10 were all to return to the yard immediately. That meant two  
11 other trucks, and Danny returned at some point, but I don't  
12 recall how much time elapsed between when this happened and when  
13 he came into the yard. I wasn't there, but from the phone I  
14 directed everyone else to return to the yard.  
15 Q. Did you indicate whether or not they should unload the  
16 rest of their load prior to coming to the yard?  
17 A. I'm not sure that I had much choice in that. I don't  
18 remember. Something tells me that the NHP directed him to go  
19 straight to our yard or I did. I don't even think he finished  
20 his round. Our yard at that time was on the way to where he was  
21 delivering, so I think he was sent straight to the yard.  
22 Q. Where was your yard at that time?  
23 A. Mustang.  
24 Q. Did you direct Mr. Koski or the other two belly dump  
25 drivers to put the gate chains on the gates for the rest of

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1 their drive?  
2 A. I don't recall that specifically. I don't find that  
3 as a safety myself, but I don't recall. People do do that. I  
4 have done it, but it's not -- I'm not sure that I --  
5 Q. You said you have done it before?  
6 A. I have done it.  
7 Q. Why did you do that?  
8 A. I don't recall the exact instance, but it's a -- it is  
9 one means to keep your gate closed. I don't think it's  
10 necessarily designed that way.  
11 Q. Okay.  
12 Did you speak to anyone else regarding Mr. Koski's  
13 2014 incident?  
14 A. Did I speak to someone else of it?  
15 Q. Yes.  
16 A. That was a topic of conversation around that time with  
17 a number of people.  
18 Q. Did you speak with anyone at MDB regarding -- other  
19 than Daniel Koski regarding the incident?  
20 A. Oh, yes.  
21 Q. Who did you speak with regarding it?  
22 A. Well, I can well imagine it was Scott and Pat, the  
23 owner Travis. That is probably the main ones that I can think  
24 of, probably the other drivers that were towing those trailers.  
25 Q. Okay.

1 Did you have Mr. Koski provide any sort of written  
 2 statement regarding the incident?  
 3 A. I believe he did.  
 4 Q. Who did he provide the written statement to?  
 5 A. It would have been to me.  
 6 Q. And do you know what you would have done with that  
 7 written statement?  
 8 A. It would have been collected, turned in with whatever  
 9 other information the insurance company or agent needed.  
 10 Q. So would that have gone to Stephanie or would you have  
 11 passed that along directly?  
 12 A. That particular document I don't recall, but I  
 13 certainly scanned and e-mailed to our agent at various times or  
 14 passed along to the office either electronically or personally.  
 15 Q. Okay.  
 16 Do you know if anyone else performed any type of  
 17 written statement regarding the July 2014 incident?  
 18 A. In general in the period since?  
 19 Q. At MDB did anyone provide a written statement  
 20 regarding the July 2014 incident of Mr. Koski's unintentional  
 21 dumping?  
 22 A. Not that I'm aware of.  
 23 Q. Did the Highway Patrol come to the yard following the  
 24 July 2014 incident?  
 25 A. I'm pretty sure they did, yes. Yeah, I think I may

1 have been present.  
 2 Q. Do you recall if the Highway Patrol took any pictures  
 3 of the truck or trailer following the July 2014 incident?  
 4 A. I never saw any, but I'm certain they did.  
 5 Q. Did you go to the scene in July 2014 where the  
 6 incident occurred?  
 7 A. I did not.  
 8 Q. Did you direct anyone to go out there from MDB?  
 9 A. No.  
 10 Q. Did you speak with anyone from the Highway Patrol?  
 11 A. I did, yes.  
 12 Q. Was that when they came to the yard?  
 13 A. Yes, and on the phone, I believe.  
 14 Q. On the phone, was that on the day of the subject  
 15 incident?  
 16 A. I believe it was shortly afterwards.  
 17 Q. That day or another day?  
 18 A. Shortly after it occurred within an hour or two.  
 19 MS. SHREVE: It's 11:52. Do you want to break for  
 20 lunch or do you want me to continue on a little bit longer?  
 21 Off the record.  
 22 (A discussion was held off the record.)  
 23 BY MS. SHREVE:  
 24 Q. So after the July 2014 incident with Mr. Koski's truck  
 25 and trailer did you direct anyone to perform any type of

1 inspection on the truck and trailer?  
 2 A. Absolutely.  
 3 Q. Who did you direct?  
 4 A. Once again Scott and Pat.  
 5 Q. Did you tell them to do anything specific?  
 6 A. Build some sort of safety lock to attach, to hold the  
 7 lever on the valve from moving.  
 8 Q. Who came up with that idea?  
 9 A. I believe it was collective between Pat and Scott on  
 10 the design and they fabricated them and installed them on all  
 11 trailers before they left.  
 12 Q. And did they do any type of inspection on the truck or  
 13 trailer other than the lockout device?  
 14 A. I don't remember specifically, but my guess is that  
 15 that particular trailer and truck combination did not go out  
 16 that day and I think it stayed behind and I'm not certain for  
 17 how long before it went out again.  
 18 Q. But that truck and trailer did go out again?  
 19 A. Oh, eventually it did, yeah. Somewhere in the records  
 20 you have here I'm sure there is something specific, but I know  
 21 for a fact it didn't go out that same day.  
 22 Q. But it went out after and continued to be used; is  
 23 that correct?  
 24 A. I have seen it on the road recently.  
 25 Q. Did Pat or Scott -- Following July 2014 for trailer

1 6775 did Scott or Pat inform you that they found any type of  
 2 defect with the Versa valve?  
 3 A. They could not find any defect as far as I recall.  
 4 Q. So following July 2014 on trailer 6775 did Scott or  
 5 Pat inform you that they found any type of design defect with  
 6 the Versa valve?  
 7 A. No, we found no such flaw.  
 8 Q. Okay.  
 9 Did you personally find any design defect with the  
 10 Versa valve following the July '14 incident on equipment number  
 11 6775?  
 12 A. No.  
 13 Q. Did you personally find any design defect with the  
 14 Versa valve following the July 2014 incident on equipment number  
 15 6775?  
 16 A. No.  
 17 Q. Okay.  
 18 Did MDB or did you direct any of the employees to have  
 19 any retraining regarding the operation of the Versa valve  
 20 following the July 2014 incident?  
 21 A. Again all we did was reiterate the rules and  
 22 procedure. There wasn't any new -- anything new to add.  
 23 Q. So in regards to operating the Versa valve you did a  
 24 retraining on what was already done; is that correct, is that  
 25 what you're saying?

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1 A. Well, as part of a safety meeting here or there I'm  
 2 most certain without any direct recall, but it would just be a  
 3 reiteration of, not a change in procedure.  
 4 Q. What would be entailed in that reiteration?  
 5 A. The same as what it was in the very beginning, how the  
 6 damn thing functions, how it works.  
 7 Q. Can you explain to me what the reiteration would have  
 8 been after the July 2014 incident?  
 9 A. No, nothing specific. I can formulate what it would  
 10 have been, but I don't have the paperwork or anything, but I can  
 11 imagine what was said. I don't remember specifically.  
 12 Q. I wouldn't expect you to remember word for word, but I  
 13 guess what do you expect you most likely would have said with  
 14 reiterating how to operate the Versa valve following the  
 15 July 2014 incident?  
 16 A. To always reset the valve electrically from the cab  
 17 after unloading.  
 18 Q. Okay.  
 19 Is that the only thing you would have discussed?  
 20 A. No, that's the most important.  
 21 Q. Following the July 2014 incident did you investigate  
 22 Daniel Koski's actions to determine whether or not he had done  
 23 anything that could have potentially caused the unintentional  
 24 opening?  
 25 A. Oh, I think as a part of an every day deal you watch

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1 the mannerisms and habits of people. I may have -- I don't  
 2 remember specifically, but I may have looked closer at him just  
 3 to see if I could pick up on anything and there was no question  
 4 in my mind that there was anything like that to guess or  
 5 substantiate.  
 6 Q. Did you do any ride alongs with Daniel Koski at all  
 7 after --  
 8 A. Oh, yeah, yes.  
 9 Q. Was that to inspect the way he was operating the truck  
 10 and trailers?  
 11 A. No, I believe there was a vibration or something like  
 12 a tire -- there was a tire problem and I went with him to  
 13 observe it while he was driving.  
 14 Q. So it wasn't related to how he was actually operating  
 15 the truck or anything like that?  
 16 A. No.  
 17 Q. Okay.  
 18 A. No, there has been no such suspicions to warrant that.  
 19 Q. Did you require that your drivers or maintenance have  
 20 any certifications or special license when you were hiring  
 21 them --  
 22 A. Yes.  
 23 Q. -- for MDB?  
 24 A. Yes.  
 25 Q. What were the special certifications or license that

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1 you would require for your maintenance, so for Patrick Bigby  
 2 when you hired him?  
 3 A. Certification of their brake adjustment, brake  
 4 inspection. It's all of the various things that the Federal  
 5 Highway Administration requires that your mechanics or anybody  
 6 that does maintenance have. It's all listed on their website.  
 7 Q. So you required everything that was required by the  
 8 federal --  
 9 A. Absolutely, yes.  
 10 Q. How did you ensure that they had those qualifications?  
 11 A. Obtained those from them and put it in their file.  
 12 Q. Did you require anything else other than what is  
 13 listed on the federal regulation website for maintenance?  
 14 A. I didn't require a college diploma or anything like  
 15 that, but I required a knowledge of such things and during a  
 16 preliminary period, during the beginning of their employment  
 17 such things were determined.  
 18 Q. And then did you require your maintenance, so Patrick  
 19 Bigby to undergo any additional training while he was employed  
 20 at MDB?  
 21 A. Seems he went to some classes, I think air  
 22 conditioning, things that were put on by our parts suppliers.  
 23 Q. What about your belly dump drivers, did you require  
 24 they have any specific certifications and/or license?  
 25 A. Yeah, their CDL, of course, the MSHA that we spoke of,

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1 all of the things that are more or less typical.  
 2 Q. Are these all listed in the federal regulations as  
 3 well that are required?  
 4 A. Yeah, you have to have certain endorsements for your  
 5 air system, train, doubles, triples. You certainly have to have  
 6 those endorsements on your CDL.  
 7 Q. Anything else that you required of your drivers?  
 8 A. They went through routine drug testing.  
 9 Q. Okay.  
 10 A. They had to renew their driver's license.  
 11 Q. Did you require any additional training at all once  
 12 they were hired?  
 13 A. Just the semi-annual -- annual and semi-annual job  
 14 site training.  
 15 Q. Who performed those trainings?  
 16 A. I did some of them, the customer did some of them,  
 17 MSHA instructors.  
 18 Q. What sort of things would occur in the annual or  
 19 semi-annual job site trainings?  
 20 A. All of the things that we discussed earlier at Cemex  
 21 and at MSHA. It's all refresher courses.  
 22 Q. So it's nothing new, it's just refreshers?  
 23 A. Correct, yes.  
 24 MS. SHREVE: I'm going to stop right here because  
 25 we're at a good stopping point. So we will break for lunch.

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1 Off the record.  
 2 (The noon recess was taken.)  
 3  
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 23  
 24  
 25

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1 A. Yes, that is a normal thing.  
 2 Q. Is this your handwriting on this work order?  
 3 A. As a matter of fact it is.  
 4 Q. Okay.  
 5 We will go to the next page, should be MDB 170 or  
 6 MAINT 000154.  
 7 A. Yes.  
 8 Q. And this the date completed is April 5th, 2014; is  
 9 that correct?  
 10 A. Yes.  
 11 Q. And does this look familiar to you?  
 12 A. Yes.  
 13 Q. And can you tell me what this is?  
 14 A. That was just a work order directing the federal  
 15 annual inspection of this particular trailer.  
 16 Q. And this trailer is 6773; correct?  
 17 A. Correct.  
 18 Q. And do you typically perform the annual inspections on  
 19 the equipment or did you when you were at MDB?  
 20 A. It was a combined effort between us, we all did it.  
 21 Q. Okay.  
 22 A. It's not typical for either one of us to do it or not  
 23 do it.  
 24 MS. SHREVE: Okay.  
 25 I'm going to mark this next exhibit as Exhibit 11.

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1 RENO, NEVADA, TUESDAY, APRIL 11, 2017, 1:05 P.M.  
 2 -oOo-  
 3  
 4 EXAMINATION  
 5 (Resumed)  
 6 BY MS. SHREVE:  
 7 Q. We can go back on the record.  
 8 You understand that you are still under oath; correct?  
 9 A. Yes.  
 10 Q. I'm going to go over a couple more exhibits with you.  
 11 This will be Exhibit Number 4, and I'm going to have you look at  
 12 MDB 161 or it's MDBMAINT 000145.  
 13 A. Okay.  
 14 Q. The date of this looks like August 24th, 2013;  
 15 correct?  
 16 A. Um-hum, yes.  
 17 Q. Have you seen this work order before?  
 18 A. Yes.  
 19 Q. Is this the type of services that you would usually  
 20 perform? I know we talked earlier, you said you would do some  
 21 maintenance, but would that be the greasing and that kind of  
 22 thing?  
 23 A. Yes.  
 24 Q. I see it was performed by Pat and Scott and not you,  
 25 but I just wanted to see.

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1 (Exhibit 11 was marked.)  
 2  
 3 BY MS. SHREVE:  
 4 Q. This is MDB 011. Does this look familiar to you?  
 5 A. Yes.  
 6 Q. What is this document?  
 7 A. It's just the form to use as a guideline for the  
 8 federal annual inspection.  
 9 Q. And is this your handwriting or your signature at the  
 10 bottom?  
 11 A. Yes.  
 12 Q. So would you have been the one who filled out this  
 13 form?  
 14 A. Not only filled it out, but did the inspection.  
 15 Q. Okay.  
 16 Then I'm going to go back to -- Would you do these,  
 17 you, Scott Palmer or Patrick Bigby would perform these annual  
 18 inspection checklists on each equipment number?  
 19 A. Yes.  
 20 Q. I'm going to go back to Exhibit Number 6. I'm going  
 21 to go to MDBMAINT 000249. The date completed is September 16th,  
 22 2014; is that correct?  
 23 A. Yes.  
 24 Q. Have you seen this document before?  
 25 A. I may have.

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1 Q. Is this your handwriting?  
 2 A. No.  
 3 Q. On here it looks like it says the work order was by  
 4 Tracy?  
 5 A. Yes.  
 6 Q. Is that you?  
 7 A. Oh, yes.  
 8 Q. When you supply work orders how do you know what the  
 9 work order is for, would it be from an inspection you performed?  
 10 A. You're asking how this form, this work order is  
 11 generated?  
 12 Q. Yes.  
 13 A. It's generated either as a result of a DVIR, something  
 14 that someone in the shop may have inspected and found to be  
 15 haywire or something that we routinely do and it starts the  
 16 process for something to be done, handled. It can be any number  
 17 of ways.  
 18 Q. So there is no way of knowing how exactly this work  
 19 order came about, just that it came about from you, is that  
 20 correct?  
 21 A. Correct.  
 22 Q. Okay.  
 23 When you first hired Daniel Koski did you ever take  
 24 him on drives with you to do like hands on training?  
 25 A. Yes.

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1 Q. What would that entail?  
 2 A. As required by the federal government we're supposed  
 3 to verify that they can drive, and so even though I have known  
 4 Danny for years, like in our business we know just about  
 5 everybody, it's just a formality.  
 6 So you take him out on the drive tests. You have a  
 7 particular route. You have a form that you check off just like  
 8 you do when you're getting your driver's license and he had to  
 9 go through the same thing as everyone else.  
 10 Q. When you were doing your drive did you ever take the  
 11 belly dumps over grizzlies and empty them over grizzlies?  
 12 A. Yes.  
 13 Q. During that time how did you explain to Daniel Koski  
 14 how to operate the Versa valve over grizzlies?  
 15 A. I don't remember what I specifically told him, but I  
 16 can tell you that it was probably the same routine as everyone  
 17 else that I wanted them done by hand.  
 18 Q. Okay.  
 19 A. In certain circumstances the lead trailer, the gate  
 20 was long, wouldn't fit on a grizzly. You had to do that by  
 21 hand. The two back trailers were short gated trailers, they  
 22 could be done from the cab, and my instructions and training  
 23 involved them unloading the front trailer by hand and the last  
 24 two from the cab for multiple reasons.  
 25 Q. Okay.

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1 What were those reasons?  
 2 A. Well, they are designed to operate that way. You have  
 3 the switches in the cab. If they come in and lineup on the  
 4 grizzly the way they should as a train configuration there would  
 5 be no reason to get out and do it by hand. So it was expediency  
 6 and utilizing the equipment the way it was designed to be used.  
 7 Q. So when you say the first trailer, so for instance on  
 8 5694 or 93, that would be trailer 6773, is that the first  
 9 trailer?  
 10 A. That would be in that combination, yes.  
 11 Q. So that one is longer than 6774 and 6775?  
 12 A. Correct.  
 13 Q. So you would recommend to do that one by hand and then  
 14 the other two manually, is that correct?  
 15 A. Exactly.  
 16 Q. When you do the first one manually how did you explain  
 17 to Mr. Koski how to do that one?  
 18 A. Didn't really need to, but I showed him how I wanted  
 19 it done. He was well versed, but I'm particular.  
 20 Q. When you showed him can you explain to me the process  
 21 that you showed him of how to do it manually of how you wanted  
 22 it done?  
 23 A. Besides all the safety nonsense the actuality was pull  
 24 the safety pin that we installed, push the -- what was that deal  
 25 you called it?

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1 Q. The accumulator?  
 2 A. The accumulator, right. Push the accumulator, crack  
 3 the gate open, get it going, and then you walk to the next two  
 4 trailers, unpin them, come back up to the truck, get in the  
 5 truck, by that time the trailer is empty, you open the gate with  
 6 the switch in the cab to clear it and close it, pull ahead, dump  
 7 the next trailer by the switch in the cab, pull up, dump the  
 8 next one, pull out of the way, repin them and leave.  
 9 Q. So for the first one after you opened it then do you  
 10 pull it closed or do you leave it open?  
 11 A. No, you just leave it open and then you go to the cab  
 12 and use the switch and open it.  
 13 Q. Okay.  
 14 A. To clear the gates of material.  
 15 Q. So you're not supposed to pull it close until --  
 16 A. No need. No need because you're going to do it from  
 17 the cab and that resets the accumulator as well.  
 18 Q. Okay.  
 19 Now, did you do the same driving with Patrick Bigby  
 20 when you hired him?  
 21 A. Um-hum, even though he was a mechanic, yes.  
 22 Q. And did you explain to him the same way to operate or  
 23 to dump the belly dump over grizzlies?  
 24 A. I would -- I don't remember specifically. Very rarely  
 25 did he run these, but probably the first time he did I did his

1 site training and that was part of the site training so I would  
 2 surmise that he did.  
 3 Q. And how about Scott Palmer?  
 4 A. Oh, most definitely.  
 5 Q. And did you explain to Scott the same way you  
 6 explained to Daniel Koski how to dump the load over a grizzly?  
 7 A. I probably did. Wasn't necessary, he's pretty sharp.  
 8 Not that Danny isn't, but Scott had done other processes at the  
 9 plant and had seen and known and probably showed others before I  
 10 ever got a chance to show him how I wanted it. So my guess is I  
 11 did, but --  
 12 Q. Would you have any issue of someone operating trailer  
 13 6774 or 6775, so the last two trailers, manually from inside the  
 14 truck?  
 15 MR. BROWN: Objection, vague.  
 16 THE WITNESS: Would I have an issue, did you say?  
 17 BY MS. SHREVE:  
 18 Q. Like inside the truck versus manually.  
 19 A. Reask that.  
 20 Q. If you were informed that an employee preferred to  
 21 open the last two trailers manually versus inside the truck,  
 22 would you advise them to do it otherwise or would you be okay  
 23 with them performing that manually instead?  
 24 MR. BROWN: Objection, incomplete hypothetical, lacks  
 25 foundation. You can answer.

1 THE WITNESS: Okay.  
 2 I prefer that they did not, but if for some reason  
 3 obstacle-wise or other in the plant they were unable to maneuver  
 4 their trailer over where they could do it from the cab, in other  
 5 words the gate would just open up fully and they couldn't do  
 6 that so they had to go out there and meter it slowly by hand,  
 7 that was fine, but there were steps they needed to do to reset  
 8 that valve from the cab, which was all known and common  
 9 knowledge, but I preferred to hit the target the first time and  
 10 do it in a timely manner and that's just how we did it, but  
 11 there is always exceptions.  
 12 BY MS. SHREVE:  
 13 Q. So is your reasoning for that the timeliness of it or  
 14 is there any other reason?  
 15 A. Well, sure. The other reason is -- well, it's just  
 16 outside of the routine. You want to utilize the equipment to  
 17 the fullest of its ability, but there are processes to follow if  
 18 you had to do that by hand.  
 19 Q. You said metering it slowly. What did that mean when  
 20 you said you were doing it manually metering slowly?  
 21 A. Well, you push the accumulator in and you adjust the  
 22 lever on the dump valve to get the gate open to a certain width.  
 23 If you don't do that and if you don't have your chains or your  
 24 pins to adjust it then the gate will just open up full width and  
 25 some of the grizzlies that you dump into can't handle the volume

1 or they are shorter than the gate so you open it up in a  
 2 controlled width so that it doesn't overflow.  
 3 Q. Can you meter it manually without pressing the  
 4 accumulator?  
 5 A. You can. You have to just stand there and hold the  
 6 lever because it's spring loaded. It has tension on it.  
 7 Q. Have you ever directed them to meter it slowly without  
 8 pressing the accumulator?  
 9 A. No, I don't micromanage them too much. I showed them  
 10 what I did, then they can come up with their own plan as long as  
 11 it was expedient.  
 12 Q. Okay.  
 13 I can't recall if I asked this or not, so I apologize  
 14 if I already asked this. I know asked about the July '13  
 15 incident, but I wasn't sure about July '14.  
 16 So after the July '14 incident did you call Versa  
 17 regarding the incident?  
 18 A. This is the very first time you're talking about?  
 19 Q. No, the July 2014 incident, so the second time.  
 20 A. Oh, the second time.  
 21 No, no, I don't believe there was any phone calls to  
 22 them, not to say there wasn't.  
 23 Q. But you personally did not call them?  
 24 A. I don't believe I did, no.  
 25 MS. SHREVE: I think that was all I had. So I will

1 pass the witness at this point.  
 2  
 3 EXAMINATION  
 4 BY MS. WOELFEL:  
 5 Q. I will move right here.  
 6 A. I didn't know I was going to be tossed around like  
 7 this.  
 8 Q. I do have a few follow-up questions for you. My name is  
 9 Jessica Woelfel.  
 10 You just testified a few moments ago that in  
 11 connection with dumping over a grizzly, you were talking about  
 12 how you prefer and how you tell your employees on their drive  
 13 tests that they should open the first trailer, the one that is  
 14 attached to the truck by hand, and then the second two should be  
 15 opened electrically from the inside of the cab; is that correct?  
 16 A. That is.  
 17 Q. And you said the reason you prefer that is because  
 18 there are processes to follow if you have to do it by hand for  
 19 the latter two trailers; is that correct?  
 20 A. I think specifically for any, for all.  
 21 Q. Okay.  
 22 Are any of those processes written down for your  
 23 employees to review?  
 24 A. No, I don't think in that detail.  
 25 Q. Okay.

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1 A. To that specific, no.  
 2 Q. How do your employees or how do the employees at MDB  
 3 learn the processes that have to be followed when opening a  
 4 valve by hand?  
 5 A. Well, it isn't that complicated. I think through the  
 6 practice of, use is probably more effective than giving them  
 7 something to read that they wouldn't read.  
 8 Q. Okay.  
 9 You alluded to the fact that you knew Daniel Koski --  
 10 A. That I hired --  
 11 Q. That you knew Daniel Koski prior to hiring him; is  
 12 that right?  
 13 A. We were acquaintances.  
 14 Q. Did you guys work together before?  
 15 A. No.  
 16 Q. Never worked together?  
 17 A. No.  
 18 Q. How long had you known Dan Koski before you had hired  
 19 him?  
 20 A. Let's see, over 20 years.  
 21 Q. In what capacity did you know Dan Koski?  
 22 A. Just acquaintances in our construction field.  
 23 Q. Had you ever worked together on a project before  
 24 working together at MDB?  
 25 A. Never in that situation. We have hauled out of the

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1 same plants, but never delivered to the same place, never worked  
 2 together on the same job.  
 3 Q. So you had never worked with him prior to MDB to  
 4 release product from a belly dumper before?  
 5 A. No, only seen him in that, but never shared the same  
 6 job.  
 7 Q. Okay.  
 8 You said when you were talking about Dan Koski and his  
 9 drive test that he was well versed, I believe those were your  
 10 words, in unloading a belly dumper manually. Why do you believe  
 11 he was well versed in unloading a belly dumper manually?  
 12 A. Well, remembering and being familiar with his prior  
 13 jobs, knowing what those companies and the job sites were all  
 14 about, knowing the processes that took place would lead to my  
 15 understanding of that.  
 16 Q. Okay.  
 17 So you presumed that based on your knowledge of his  
 18 prior employment history that he was well versed in manually  
 19 operating valves to open a belly dumper?  
 20 A. Well, I suppose you could say that. It was more of a  
 21 presumption, more of a factual from his -- how should I say  
 22 that, his application that showed where he worked reminded me of  
 23 the companies that he was at and knowing personally what those  
 24 companies were doing, if he was there doing it then he was doing  
 25 it that way.

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1 Q. Did you ask him when you were interviewing -- or let  
 2 me ask you this.  
 3 Did you interview Mr. Koski before you hired him?  
 4 A. Yes.  
 5 Q. Did you ask him in his interview if he had ever worked  
 6 with belly dumpers before?  
 7 A. I don't recall making that exact question, because  
 8 it's quite common knowledge.  
 9 Q. Did you ask him if he had ever operated Versa valves  
 10 before in your interview?  
 11 A. I probably didn't ask him that specifically.  
 12 Q. Okay.  
 13 Had you ever worked with Patrick Bigby before?  
 14 A. I had.  
 15 Q. At what employer?  
 16 A. Atlas Contractors.  
 17 Q. How long did you work with Patrick Bigby?  
 18 A. Oh, I would guess as I don't remember, but I would  
 19 guess at least five years.  
 20 Q. Okay.  
 21 And what was his position at Atlas while you were  
 22 working with him?  
 23 A. He was mechanic, night supervisor, field mechanic at  
 24 one point. He held multiple jobs.  
 25 Q. Did you approach him about the job at MDB Trucking?

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1 A. I did, yes.  
 2 Q. And why did you approach him about the job at MDB  
 3 Trucking?  
 4 A. Because he was a very desirable employee, very  
 5 talented, and the company, Atlas, was closing and wanted to give  
 6 him the opportunity to have somewhere to go.  
 7 Q. Okay.  
 8 Do you know if Patrick Bigby had any experience  
 9 working with belly dumpers while at Atlas?  
 10 A. There were a limited number of bottom dumps, so he had  
 11 exposure to them.  
 12 Q. Did you ask him when you interviewed him for the  
 13 position -- Let me ask you this.  
 14 Did you interview him for the position at MDB  
 15 Trucking?  
 16 A. I did.  
 17 Q. Did you ask him if he had performed work on belly dump  
 18 trailers?  
 19 A. Not specifically.  
 20 Q. You were talking about your work at Granite  
 21 Construction and you were saying that in your work with belly  
 22 dumpers with that employer that you had a dump man operating the  
 23 valves for you; is that correct?  
 24 A. Um-hum, yeah.  
 25 Q. Have you ever acted as a dump man before?

1 A. Sure.  
 2 Q. Have you?  
 3 A. Sure.  
 4 Q. For MDB Trucking?  
 5 A. Sure, yes.  
 6 Q. And how often do you act as a dump man?  
 7 A. Occasionally.  
 8 Q. On specific job sites or for specific clients?  
 9 A. Specific job sites, yeah.  
 10 Q. Okay.  
 11 Have you ever acted as a dump man for Dan Koski?  
 12 A. Oh, yes, many times.  
 13 Q. And when you act as a dump man for Dan Koski does he  
 14 stay in the truck while you're operating the valves manually or  
 15 does he get out and stand next to you while you're operating the  
 16 valves?  
 17 A. I prefer that he stay in, but often he would find  
 18 himself outside.  
 19 Q. Can you tell me for what clients you would act as the  
 20 dump man?  
 21 A. Cemex only.  
 22 Q. And how often for Cemex would you act in the position  
 23 as the dump man?  
 24 A. No particular schedule, only when the situation called  
 25 for it.

1 Q. What would be a situation that would call for you to  
 2 act as the dump man?  
 3 A. When we would have over, say, four or five bottom dump  
 4 trucks running into the plant, I would go there -- and that is  
 5 not a general rule, that is just an example of usually when I  
 6 would show up and it was to keep the trucks moving.  
 7 Q. So you --  
 8 A. Speed up the process.  
 9 Q. So you were there to expedite the process, because if  
 10 there is a dump man then your drivers don't have to get out of  
 11 their trucks theoretically?  
 12 A. Exactly, plus I would have sub haulers coming in there  
 13 and I was responsible for them and their drivers. I would be  
 14 there to train their guys, if they were new. So multiple  
 15 reasons. I would be there and dump a guy if I was there and  
 16 they drove in, I would just run over there and do it to help  
 17 them.  
 18 Q. If you are acting as the dump man and you have a three  
 19 bottom dump train, tell me about the process. Let's say, Dan  
 20 Koski pulls his truck up, walk me through step by step what  
 21 happens?  
 22 A. If he does it himself --  
 23 Q. Well, if you're there as the dump man.  
 24 MR. BROWN: I'm just going to state a late objection,  
 25 foundation, incomplete hypothetical.

1 THE WITNESS: He would pull in. I would stop him  
 2 where the hopper or the trailer was over the grizzly. Like I  
 3 said the hopper on the front trailer was longer than the ones on  
 4 the back, so he had to be in a particular spot. So he would  
 5 stop, I would unpin, push the accumulator in, set the dump valve  
 6 to a certain position to where the gate would open up so far,  
 7 get him going, walk to the back, unpin those, do normal  
 8 inspection and, you know, looking over equipment, come back, and  
 9 by that time the material would have emptied, the gates are  
 10 still only half open. So I would give him the thumbs up, he  
 11 would flip the switch to open it from inside the cab, that would  
 12 clear the rest of the material out of the gates. He would then  
 13 close it, pull up.  
 14 From that point he could see what he was doing and he can  
 15 operate, because of the smaller gates on that set of doubles,  
 16 which was the second two trailers. He would do those. As he  
 17 finished open and close I would pin them then he was out of  
 18 there.  
 19 BY MS. WOELFEL:  
 20 Q. Did you ever act as the dump man before your pinning  
 21 system --  
 22 A. Oh, yes.  
 23 Q. -- was in place?  
 24 A. Yes.  
 25 Q. Would that only be at Cemex?

1 A. Yes.  
 2 Q. And on an as needed basis?  
 3 A. Same purposes.  
 4 Q. Okay.  
 5 And would the process be exactly the same but for the  
 6 fact that there is no pin to remove?  
 7 A. Exactly, there were no chains.  
 8 Q. And if a driver does not have a dump man available and  
 9 is doing it himself, would you expect them to follow the exact  
 10 same procedure that you just described?  
 11 A. Oh, yes, and they would do it.  
 12 Q. Has there been occasion where you found that a driver  
 13 was not dumping via the procedure that you just described?  
 14 A. I'm not sure there is another way to do it.  
 15 Q. Meaning if the driver manually dumped the second and  
 16 third trailer, that's not the same process that you just  
 17 described, but are you aware that some drivers would do that?  
 18 A. Oh, okay, sure, sure. Yeah, there would be, I  
 19 suppose, an instance where they off shot the grizzly and  
 20 couldn't open it fully so they would do it manually. The  
 21 procedure was to always -- when you're done you return to the  
 22 truck, flip the switch, open it to clear it and to close it, and  
 23 typically we would always have one more trailer to do after  
 24 that, same thing.  
 25 Q. If a driver just shut it manually and did not go into

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1 the truck and flip the switch to clear it, would that be a  
 2 violation of your procedures?  
 3 A. Not exactly.  
 4 Q. Why not?  
 5 A. Well, because then the alternate would be doing it on  
 6 the way out of the ready mix plant, doing it at the plant before  
 7 they load.  
 8 Q. You're presuming that at some point in time the driver  
 9 would flip the switch from the inside?  
 10 A. They would need to.  
 11 Q. Why would they need to?  
 12 A. Because that resets the accumulator.  
 13 Q. What happens if they don't flip the switch from the  
 14 inside and the accumulator is not reset?  
 15 A. Well, you have the chance of when the loader goes to  
 16 load you, he throws the first bucket of material in there and  
 17 the gates will open up. We have seen that happen. Fortunately  
 18 at MDB during the time I was there it was never reported that  
 19 that had happened, but we all saw examples.  
 20 Q. Where a driver would forget to flip the switch after a  
 21 dump to re-actuate?  
 22 A. You would assume that is what happened.  
 23 Q. Did you investigate whether or not for the July 2013  
 24 or July 2014 dumps Mr. Koski did not flip the switch on the  
 25 inside of the cab, did you explore that possibility?

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1 A. Certainly.  
 2 Q. How did you explore that possibility?  
 3 A. I talked to the loader operator at the ready mix plant  
 4 and to the plant operator to see if they were around, if they  
 5 saw him, if they noticed anything. The plant operator wasn't  
 6 there. His view is not of that area so -- and he wasn't out  
 7 walking around.  
 8 The loader operator, as I remember, I don't remember  
 9 which one it was, he didn't remember anything directly specific,  
 10 but he didn't remember anything out of the ordinary.  
 11 Q. Did you take a statement from Dan Koski?  
 12 A. Yes.  
 13 Q. Did you ask him how he was emptying product on the  
 14 loads that he had done that day?  
 15 A. I simply asked him if there was anything out of the  
 16 ordinary from ordinary process and he said there was not.  
 17 Q. And that's the extent of the questioning that you  
 18 asked him?  
 19 A. Yep, yes.  
 20 Q. You said that you were hired by Travis Bonanno; is  
 21 that correct?  
 22 A. Correct.  
 23 Q. Who is Travis Bonanno?  
 24 A. He is the owner of the company.  
 25 Q. The owner of MDB?

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1 A. Um-hum.  
 2 Q. Is he also the owner of SKS Corporation?  
 3 A. I believe he is. I don't know that for sure.  
 4 Q. Would you ever report directly to Travis Bonanno?  
 5 A. I would.  
 6 Q. Did you have any discussions with Travis Bonanno about  
 7 the July 2013 inadvertent dump incident?  
 8 A. I'm sure we did. I don't remember specifics, but I'm  
 9 most certain we discussed it.  
 10 Q. And as you sit here today you don't recall anything  
 11 that you discussed with Travis Bonanno regarding that incident?  
 12 A. Nothing out of the ordinary.  
 13 Q. Did you tell Travis Bonanno any conclusions that you  
 14 came to regarding the cause of the July 2013 incident?  
 15 A. I was never able to give him a conclusion.  
 16 Q. Because you weren't able to reach a conclusion as to  
 17 the cause?  
 18 A. Only suspicions.  
 19 Q. What did you suspect was the cause in July 2013?  
 20 A. Ground issue, an electrical ground issue.  
 21 Q. Were you able to discover an actual electrical ground  
 22 issue after having Patrick and Scott investigate?  
 23 A. My recollection was that we were never able to  
 24 pinpoint or determine as the damn thing functioned just  
 25 perfectly shortly thereafter the accident.

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1 Q. What about July 2014, did you have any conversations  
 2 with Travis Bonanno that you can recall about that incident?  
 3 A. I remember that more specifically.  
 4 Q. Okay.  
 5 What did you guys talk about?  
 6 A. I don't think there was much of a conversation other  
 7 than telling him that a disaster had happened and nobody was  
 8 hurt and it was a quick phone call.  
 9 Q. Did he ask who the driver was?  
 10 A. I think I probably told him.  
 11 Q. Was there any concern by you about the fact that the  
 12 same driver had these two incidents a year apart?  
 13 A. No, there was no concern about the driver. There was  
 14 concern about the trailer. I think it was more derived as to it  
 15 happened again.  
 16 Q. And did you interview Dan Koski about the actions that  
 17 he took prior to the date of the July 2014 accident to see if he  
 18 had done anything that might cause the incident?  
 19 A. Yes, during that same conversation that we had when  
 20 you were asking me about if he functioned his gates and loaded  
 21 the previous load in the normal fashion, I think during that  
 22 same conversation pertaining to anything out of the ordinary,  
 23 was there anything done differently and there wasn't.  
 24 Q. Okay.  
 25 You say there was concern about the trailer after the

1 July 2014 incident. What concern did you have about the  
 2 trailer?  
 3 A. Well, I certainly wasn't concerned about the driver.  
 4 I was concerned that this specific trailer, the same specific  
 5 trailer opened the gates on its own again.  
 6 Q. Okay.  
 7 Did you reach any conclusions about why the trailer  
 8 opened its gates in July 2014?  
 9 A. We never were able to pinpoint why, but saw it as a  
 10 coincidence in that there had to be a reason and a simple  
 11 reason, but I mean it's just mechanical. It's just very simple  
 12 determining what it was and it has alluded us all this time.  
 13 Q. Now, when you first obtained trailer 6775 you were  
 14 working at MDB when the company first acquired that trailer; is  
 15 that correct?  
 16 A. Correct.  
 17 Q. And my recollection of your testimony is that you did  
 18 not receive any paperwork with that trailer from the previous  
 19 owner?  
 20 A. As far as manuals, no, there were no manuals.  
 21 Q. What about maintenance logs?  
 22 A. No, there weren't any maintenance logs with those.  
 23 Q. Did you ever ask if you could receive any maintenance  
 24 logs from the prior owner?  
 25 A. That's a pretty common thing.

1 Q. What is a pretty common thing?  
 2 A. It's pretty common to want the previous records just  
 3 to complete -- so you have a complete record, and it's also  
 4 pretty common never to get it.  
 5 Q. Is it your recollection that you asked for them and  
 6 didn't receive it?  
 7 A. It is conceivable that I asked, yes, because I want  
 8 those things.  
 9 Q. Who would you have asked to receive those records?  
 10 A. Well, I knew all of the people over there at Western  
 11 Nevada Trucking or Transport, so it wouldn't be out of line to  
 12 think that I went directly to their mechanic, but I don't think  
 13 so. I think I just asked the owner during the transaction that  
 14 I would like to have it.  
 15 Q. And can you recall the owner's name?  
 16 A. Paul Gianoli.  
 17 Q. And it's your recollection that you never received the  
 18 maintenance records for that trailer?  
 19 A. I don't believe we did. Didn't really expect to  
 20 either, but --  
 21 Q. Why not?  
 22 A. Just not common. People tend to not give up those  
 23 sort of things. Not that they are hiding anything, it's just --  
 24 you know, I'm kind of weird, I kind of want all that.  
 25 Q. Why would you have liked to see that information?

1 A. Because I'm a collector of information. I like full  
 2 file cabinets.  
 3 Q. Okay.  
 4 So when the trailer 6775 came to you did you do an  
 5 inspection of the trailer?  
 6 A. Yes, before we bought it.  
 7 Q. Did you go to Western Nevada Transport to conduct that  
 8 inspection?  
 9 A. Yes.  
 10 Q. Do you know how old the trailer was when you acquired  
 11 it for MDB?  
 12 A. I would guess that that back trailer was a 2002 and I  
 13 believe we purchased it in '12.  
 14 Q. So approximately ten years old?  
 15 A. Yes.  
 16 Q. And do you know if it had original wiring and original  
 17 components at the time you acquired it in 2012?  
 18 A. I'm guessing that it did.  
 19 Q. Is that a guess or do you know?  
 20 A. Well, I really don't know for sure.  
 21 Q. Did you ask anybody if it had its original component  
 22 parts or original wiring?  
 23 A. No, and I wouldn't because it's not an uncommon thing  
 24 to have different parts.  
 25 Q. Because when you're using it things break and things

1 get changed?  
 2 A. Yeah, normal routine things.  
 3 Q. Would it be unusual for a trailer such as 6775 to have  
 4 the original component parts ten years after it was  
 5 manufactured?  
 6 MR. BROWN: Objection, vague.  
 7 THE WITNESS: It wouldn't be unusual. They didn't use  
 8 those trailers a lot, not like say if it was a Granite trailer.  
 9 You know, their trailers were not barely used, but they weren't  
 10 heavily used.  
 11 BY MS. WOELFEL:  
 12 Q. So in your inspection of the trailer did you see  
 13 anything that concerned you before you acquired it?  
 14 A. Nothing.  
 15 Q. Did you operate the Versa valve or do anything with  
 16 the trailer before you acquired it?  
 17 A. The trailers were sitting there unhooked from a truck  
 18 so they were depleted of air. I didn't function anything like  
 19 that. Mainly, you know, those are things that wouldn't bring a  
 20 deal to not go. In other words, I was just looking at other  
 21 more important things.  
 22 Q. What were you looking at?  
 23 A. The condition of the hoppers, the thickness of the  
 24 walls, you know, see how wore out it was. Tires are immaterial.  
 25 You buy tires, that is part of the negotiation. Those sort of

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1 things are not as important as others. They are repairable.  
 2 Q. What was the condition of the trailer at the time you  
 3 acquired it?  
 4 A. I thought it was probably 75 percent of a hundred.  
 5 Q. Okay.  
 6 When you went on-site to Western Nevada Transport to  
 7 inspect the trailers that you were acquiring, did you ask when  
 8 you were on-site to see any paperwork associated with the  
 9 trailers?  
 10 A. No.  
 11 Q. Did you ask if the trailers had ever been in an  
 12 accident before?  
 13 A. I don't believe there was anybody there to ask.  
 14 Q. Oh, you were there by yourself?  
 15 A. I was there alone.  
 16 Q. Okay.  
 17 Is that a question you asked just in general during  
 18 the acquisition process, did you ask anybody if the trailers had  
 19 ever been involved in an accident?  
 20 A. I don't believe so, no.  
 21 Q. Is that information you would want to know before  
 22 acquiring a trailer?  
 23 A. Well, not necessarily.  
 24 Q. Why not?  
 25 A. Because it really wouldn't have any bearing on -- to

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1 me if it had been in an accident or not.  
 2 Q. Why wouldn't it have any bearing on your decision to  
 3 acquire?  
 4 A. Well, it's common to get trucks, trailers, whatever  
 5 that have been in an accident, you know. As long as it pulls  
 6 straight and it functions well it doesn't really matter. I mean  
 7 --  
 8 Q. Did you ever ask anybody in the acquisition process if  
 9 any of the trailers had ever had inadvertent dumps?  
 10 A. No.  
 11 Q. Would that be information that you want to know?  
 12 A. Today it would.  
 13 Q. But at the time you didn't think that was information  
 14 you needed to know?  
 15 A. It wasn't anything on anybody's mind. It hadn't  
 16 presented a known issue.  
 17 Q. Have you in your employment history in working with  
 18 various types of trucks and trailers, of which it appears you  
 19 have worked with quite a few, would you agree?  
 20 A. Nothing out of the ordinary.  
 21 Q. Have you had any other occasion where a belly dump  
 22 truck has opened while you were employed with a company?  
 23 A. But not necessarily with me at the controls?  
 24 Q. Not necessarily with you at the controls, but are you  
 25 aware of any of your co-workers having a belly dump truck open?

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1 A. Sure.  
 2 Q. What employer were you with when this occurred?  
 3 A. Years ago at Sha-Neva.  
 4 Q. Just on one occasion?  
 5 A. Yes.  
 6 Q. So at the time you were acquiring these MDB belly dump  
 7 trailers from Western Nevada Transport you were certainly aware  
 8 that inadvertent dumps could happen?  
 9 A. Oh, sure, and if I may add, I hate to say anything  
 10 inappropriate, but it was on a trailer from a previous era where  
 11 the gate switches were run through the seven wire cord on the  
 12 electrical, and the one that opened up turned on the turn  
 13 signal, the gates opened and closed. You know, modern trailers  
 14 are -- have got a completely separate circuit. So, you know,  
 15 that is one of the beauties of the modern technology.  
 16 Q. Thank you.  
 17 A. So I just wanted to clarify.  
 18 Q. I appreciate that.  
 19 So I want to talk a little bit more about the MSHA  
 20 training that you talked about. My understanding was if you  
 21 were going to work at Cemex you had to go through MSHA training;  
 22 is that right?  
 23 A. Yes.  
 24 Q. Where was the MSHA training performed?  
 25 A. Multiple locations.

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1 Q. Where did you take MSHA training?  
 2 A. I took it in Reno.  
 3 Q. Where in Reno?  
 4 A. It was held in Cemex's conference room at that batch  
 5 plant on Galletti Way.  
 6 Q. How long did MSHA training last?  
 7 A. It's a three-day course.  
 8 Q. Are all three days in a conference room or are you out  
 9 in the field?  
 10 A. No, it's all in a conference room.  
 11 Q. So you're not actually working with the trucks in the  
 12 conference room, I would presume; is that right?  
 13 A. That is correct. That part of the MSHA training is  
 14 all classroom.  
 15 Q. It's a lecture course for three days?  
 16 A. Yes.  
 17 Q. We have all been there. That's painful.  
 18 A. Yes.  
 19 Q. Is there any part of the MSHA training that is not  
 20 lecture?  
 21 A. They showed videos.  
 22 Q. Okay.  
 23 A. So yes.  
 24 Q. Any part of MSHA training that is out in the dirt  
 25 working with a truck hands on?

1 A. Not in that 24-hour, 3-day class.  
 2 Q. So when you said that the MSHA training involved  
 3 training on trucks and trailers and Versa valves that would be  
 4 through lecture and video; is that correct?  
 5 A. That was specific task training per the equipment you  
 6 were wanting to be signed off on to use. So that was in the  
 7 field.  
 8 Q. So if there was specific task training that is field  
 9 training?  
 10 A. Yes.  
 11 Q. Where does that field training take place?  
 12 A. It could be done anywhere.  
 13 Q. Who provides that field training?  
 14 A. An MSHA certified trainer.  
 15 Q. Is there a course book where you sign up for specific  
 16 tasks that you would like to be trained on?  
 17 A. No, I believe the way it works is you need someone to  
 18 do something, you ensure that they have gone through the 24-hour  
 19 class or that they have their certificate, then you find -- you  
 20 get them their task training for any particular task that you're  
 21 needing them to do.  
 22 So in other words, when I received mine I had to get  
 23 it from a trained MSHA person that knew how to do my job to  
 24 ensure that I knew how to do mine or to show me how to do it  
 25 following the guidelines of MSHA.

1 Q. So you went to a 3-day lecture course for MSHA;  
 2 correct?  
 3 A. Yes.  
 4 Q. Okay.  
 5 And then after you did your 3-day lecture course you  
 6 did some specific task training?  
 7 A. Yes.  
 8 Q. What specific task training did you do?  
 9 A. How to operate a bottom dump, how to operate pneumatic  
 10 cement trailers, manlift, forklift, loader.  
 11 Q. So five different specific task trainings?  
 12 A. That I recall for myself.  
 13 Q. How long do each of those task trainings last?  
 14 A. Depends on how complicated it is, could be an hour.  
 15 Q. And is it one-on-one training or part of a group?  
 16 A. I have seen them where it could be in a group setting  
 17 and I have seen it one-on-one.  
 18 Q. What were yours?  
 19 A. One-on-one.  
 20 Q. And it was somebody from Cemex that was giving you  
 21 this training?  
 22 A. I would say a hundred percent of it was.  
 23 Q. Okay.  
 24 And did you receive certificates upon completion of  
 25 your specific task training?

1 A. Yes.  
 2 Q. And those would be in your personnel file?  
 3 A. There is one with me, one with the trainer and should  
 4 be in the qualification file.  
 5 Q. Okay.  
 6 So if someone's file did not have a copy of a  
 7 certificate then it's likely they didn't take that course; is  
 8 that right?  
 9 MR. BROWN: Objection, leading.  
 10 THE WITNESS: Yeah, it's not necessarily likely. The  
 11 fail safe is that you have it in your wallet. I wanted it in  
 12 the file so that I can track the expiration dates and that's --  
 13 but that isn't necessarily meaning that it isn't -- hasn't been  
 14 done. It was simply office keeping for me.  
 15 BY MS. WOELFEL:  
 16 Q. Did require all of your drivers to attend the MSHA  
 17 three-day lecture course?  
 18 A. Yes.  
 19 Q. For MDB?  
 20 A. Yes.  
 21 Q. And then with respect to specific task training for  
 22 individual drivers that you had hired, who chose what courses  
 23 those drivers had to go to?  
 24 A. Well, in effect it was the employee. If they wanted  
 25 to work then they would have to submit and there was some

1 fellows that didn't want to go. They didn't have to go. They  
 2 went on different duty.  
 3 Danny, however, wanted to go and submitted and so I  
 4 guess it would be false to say that everybody was required to  
 5 have it, but if they wanted to work consistently and to do the  
 6 job I needed them to do they did so.  
 7 Q. Okay.  
 8 Did you receive when you went to the specific task  
 9 training any written materials from Cemex?  
 10 A. There was no written material for the task training  
 11 through MSHA. It was hands on. Most all the time it was very  
 12 rudimentary, very simple, which generally isn't synonymous with  
 13 MSHA, but the task at hand is usually very simple.  
 14 Q. Now, you said or I believe you said in your testimony  
 15 that you have, while driving, used gate chains to keep the belly  
 16 closed on occasion; is that correct?  
 17 A. Yeah, I can think of those times.  
 18 Q. On what occasions would you use the gate chains to  
 19 keep the belly dump closed?  
 20 MR. BROWN: Object as to foundation. Go ahead.  
 21 THE WITNESS: Quick release valves on the cylinders  
 22 that keep the gates open and keep them closed, the diaphragm on  
 23 the quick release valve will get a hole in it. It's an obvious  
 24 defect of sound, air is leaking through there. You have the  
 25 gauges to monitor what the pressure is and how bad the loss is,

1 if it's nothing serious. I can remember empty just pulling the  
 2 chains on this one trailer. On the doubles it's hard to get in  
 3 there and do that, but on the lead trailer I have pulled ones  
 4 and I did that, but it's not normal practice.  
 5 BY MS. WOELFEL:  
 6 Q. Have you driven with the gate chains closed, have you  
 7 been able to drive down the highway with the gate chains closed?  
 8 A. You can. I have I think once.  
 9 Q. Do you recall ever telling Dan Koski that he should  
 10 use gate chains just as an extra safety precaution while  
 11 driving?  
 12 A. I think I told him that when he -- this last incident.  
 13 I think when he had to come into the yard after they were done,  
 14 released him, I think I told him even though we have had no  
 15 experience with those front two trailers having a problem, but  
 16 we're not knowing what was going on I may have and he might be  
 17 able to concur this, but I believe I said just pin the front  
 18 one, pull the chains on the middle one. It wouldn't be unusual  
 19 to think that.  
 20 Q. So the front trailer has a pinning system in lieu of  
 21 gate chains; is that correct?  
 22 A. It's a newer trailer.  
 23 MR. BROWN: I'm going to object, foundation, as to the  
 24 pins and the gate chains are the same purpose, but go ahead.  
 25 ///

1 BY MS. WOELFEL:  
 2 Q. In your opinion is the pinning system and the gate  
 3 chains, do they serve the same purpose?  
 4 A. Yes.  
 5 Q. What purpose is that?  
 6 A. Unloading purposes, to meter the material, to set the  
 7 gates a certain width to unload.  
 8 Q. If you have the pin set in the pinning system on the  
 9 first trailer in the lowest setting while you're driving would  
 10 that prevent the belly dump from opening all the way?  
 11 A. On the first pin setting I would guess. It would  
 12 either be the first or the last, I'm not sure which, but it  
 13 would do as you say, yeah.  
 14 Q. Is there any reason that you can think of not to have  
 15 that pin set while you're driving?  
 16 A. In an MSHA environment there is.  
 17 Q. What is that?  
 18 A. We weren't allowed to get underneath your equipment  
 19 for one.  
 20 Q. Why not?  
 21 A. Some silly MSHA -- someone stubbed their toe or  
 22 something at some point in time and I don't know it's -- but  
 23 normally you can't do certain things. You can't even get up on  
 24 your trailer above four feet there. No, being underneath you  
 25 probably -- if I remember you have to have a second person

1 watching.  
 2 Q. Is that based on a rule or --  
 3 A. I think back now, it's been so long, but if I think  
 4 back it would be part of their training.  
 5 Q. The MSHA training?  
 6 A. Yeah.  
 7 MS. SHREVE: Do you want to take a break real quick?  
 8 MS. WOELFEL: No, I think I might be done, but that  
 9 doesn't mean that you're done. We might have a few questions  
 10 from the folks on the phone, but thank you very much for your  
 11 time. I appreciate it.  
 12 Does anyone on the phone have any questions?  
 13 MS. QUIGLEY: I don't have identify questions.  
 14 MR. BUNDICK: I do not have any questions either.  
 15  
 16 FURTHER EXAMINATION  
 17 BY MS. SHREVE:  
 18 Q. I have just one follow-up just to clarify.  
 19 Earlier you just testified that you had spoken to  
 20 Mr. Koski following the July 2014 incident and he had said he  
 21 didn't do anything differently with operating the trailers, did  
 22 I understand that correctly?  
 23 A. Yes.  
 24 Q. So if Mr. Koski manually opened the last two trailers  
 25 instead of doing it in the truck, would that be operating it

1 differently than what he was told?  
 2 A. In a perfect world it would be, but there -- it  
 3 wouldn't be out of line to think that he had to manually  
 4 function the trailers.  
 5 Q. So when Mr. Koski told you he didn't do anything  
 6 differently, what did that mean to you that he had done?  
 7 MR. BROWN: Object, calls for speculation.  
 8 THE WITNESS: Yeah, I'm really not sure.  
 9 BY MS. SHREVE:  
 10 Q. You don't know what your opinion was when he told you  
 11 he didn't do anything different?  
 12 A. Well, I know what that is, but I'm not sure that I can  
 13 tell you specifically what -- after all this time what that  
 14 would be.  
 15 My guess is that he unloaded them with the switch,  
 16 because he said that he hadn't done anything out of the  
 17 ordinary, but unloading it by hand would not be out of the  
 18 ordinary either. It's just not the desired method.  
 19 Q. I'm just looking to try to figure out what you -- when  
 20 he told you he did not do anything differently, what you  
 21 interpreted from when he said that, so your thought of that.  
 22 MR. BROWN: Object, he just answered it.  
 23 MS. SHREVE: I thought he was saying what Mr. Koski --  
 24 what he assumed Mr. Koski --  
 25 MR. BROWN: He said I can't tell you. Either one

1 would not be out of the ordinary.  
 2 MS. SHREVE: Can you repeat his answer then?  
 3 (The record was read by the reporter.)  
 4 BY MS. SHREVE:  
 5 Q. So that was your opinion, then, regarding how  
 6 Mr. Koski, when he said he did not do anything differently, that  
 7 was your opinion as to what he did?  
 8 A. Yes.  
 9 Q. Okay.  
 10 A. Yes.  
 11 Q. If he had opened the gates manually, the last two  
 12 trailers manually versus inside the truck would you have wanted  
 13 to know that from Mr. Koski?  
 14 A. Not specifically.  
 15 Q. Okay.  
 16 So that would not have changed your investigation as  
 17 to what he had performed during that day?  
 18 A. Correct, because that wouldn't be out of the ordinary  
 19 as far as we're concerned. You know, him as a driver is someone  
 20 that wants to make sure processes are upheld, either way is  
 21 fine.  
 22 MS. SHREVE: Okay.  
 23 That was all I had. That will conclude so we can go off  
 24 the record.  
 25 (The deposition concluded at 2:15 p.m.)

1 CERTIFICATE OF REPORTER  
 2 I, JANET MENGES, Certified Court Reporter, State of  
 3 Nevada, do hereby certify:  
 4 That I reported the deposition of TRACY SHANE,  
 5 commencing of Tuesday, April 11, 2017, at 9:00 a.m.  
 6 That prior to being deposed, the witness was duly sworn by me to  
 7 testify to the truth. That I thereafter transcribed my said  
 8 shorthand notes into typewriting and that the typewritten  
 9 transcript is a complete, true and accurate transcription of my  
 10 said shorthand notes. That prior to the conclusion of the  
 11 proceedings, the reading and signing was requested by the  
 12 witness or a party.  
 13 I further certify that I am not a relative or employee of  
 14 counsel of any of the parties, nor a relative or employee of the  
 15 parties involved in said action, nor a person financially  
 16 interested in the action.  
 17 In witness whereof, I hereunto subscribe my name at Reno,  
 18 Nevada, this 20th day of April, 2017.  
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JANET MENGES, CCR #206

1 CERTIFICATE OF DEPONENT  
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 16 I, TRACY SHANE, deponent herein, do hereby certify and  
 17 declare under penalty of perjury the within and foregoing  
 18 transcription to be my deposition in said action; that I have  
 19 read, corrected and do hereby affix my signature to said  
 20 deposition.  
 21  
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TRACY SHANE, Deponent

# EXHIBIT 8

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IN THE SECOND JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

ERNEST BRUCE FITZSIMMONS )  
and CAROL FITZSIMMONS, ) Case No. CV15-02349  
husband and wife, ) Dept. No. 10

Plaintiffs, )

vs. )

MDB TRUCKING, LLC, et al., )  
Defendants. )

**CONDENSED  
TRANSCRIPT**

\_\_\_\_\_  
AND ALL RELATED CASES. )  
\_\_\_\_\_ )

DEPOSITION OF PATRICK BIGBY

Taken on Monday, April 10, 2017

At 11:30 a.m.

At 100 West Liberty Street, 10th Floor

Reno, Nevada

REPORTED BY: JANET ANN MENGES, CCR #206

Page 2

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Page 3

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1 PATRICK BIGBY  
2 called as a witness, being first duly  
3 sworn, was examined and testified  
4 as follows:  
5  
6 EXAMINATION  
7 BY MS. WOELFEL:  
8 Q. Good afternoon.  
9 Could you state and spell your full name for the  
10 record, please?  
11 A. My name is Patrick Dean Bigby, P-a-t-r-i-c-k D-e-a-n  
12 B-i-g-b-y.  
13 Q. Patrick, where do you live?  
14 A. I live in Sparks.  
15 Q. What is your address?  
16 A. 395 Boise Court, Sparks, Nevada, 89431.  
17 Q. My name is Jessica Woelfel. I'm one of the attorneys  
18 in this matter. I represent RMC Lamar and I will be asking you  
19 some questions today.  
20 Have you ever had your deposition taken before?  
21 A. I have not.  
22 Q. Have you ever been a party to a lawsuit before?  
23 A. No.  
24 Q. Have you ever testified in court before?  
25 A. I have not.

Page 6

1 Q. Okay.

2 I'm going to just go over some ground rules for this

3 deposition since this is your first time and just let me know if

4 you have any questions as we go through these rules, okay?

5 A. Um-hum.

6 Q. First rule I will need you to respond audibly, because

7 we have a court reporter here who is taking down everything that

8 we say. So if we mumble or just nod our heads the court

9 reporter can't take that down. So if you could answer audibly

10 with yes or no I would appreciate it and so would the court

11 reporter, okay?

12 A. Okay.

13 Q. Thank you.

14 Please do your best to provide me with complete

15 information in response to my questions, okay?

16 A. Okay.

17 Q. If you don't understand my question that's okay, just

18 let me know that you don't understand it and I can rephrase the

19 question, okay?

20 A. All right.

21 Q. Have you taken any medication or drugs today that

22 would prohibit you from answering truthfully?

23 A. I have not.

24 Q. Is there any reason you can't provide me with truthful

25 testimony today?

Page 7

1 A. No.

2 Q. Any reason that you can think of that we cannot

3 proceed with your deposition?

4 A. Pardon?

5 Q. Any reason that you can think of that we cannot

6 proceed with your deposition today?

7 A. No reason that I'm aware of.

8 Q. After the deposition you're going to get a copy of the

9 transcript and you will be able to review the questions that I

10 have asked you today and your answers. You will be able to make

11 any changes to the deposition transcript, to your answers if

12 there is some sort of a mistake that you made, okay?

13 A. Okay.

14 Q. If you do make a change I will be able to comment on

15 that change, if we get to trial, okay, and so I tell you that so

16 that you can make sure that if you don't understand something

17 that I'm asking you that you make sure to ask for clarification.

18 If you answer me I will presume that you understood the

19 question, okay?

20 A. Understood.

21 Q. Thank you.

22 Did you meet with anybody in preparation for your

23 deposition today outside of your attorney?

24 A. No.

25 Q. Did you speak with anybody in preparation for your

Page 8

1 deposition?

2 A. I have not.

3 Q. Did you talk with Scott Palmer?

4 MR. BROWN: Objection, vague. About his deposition?

5 BY MS. WOELFEL:

6 Q. About your deposition.

7 A. No.

8 Q. Did you talk with Scott Palmer about his deposition?

9 A. I have not.

10 Q. What about Dan Koski, did you speak with him about

11 your deposition?

12 A. I have not spoken with Dan.

13 Q. Have you spoken with Dan about his deposition?

14 A. No.

15 Q. Did you review any documents today in preparation for

16 your deposition?

17 A. Today, no.

18 Q. Did you review any documents at any point prior to

19 today's deposition?

20 A. I have not.

21 MR. BROWN: Can I just say one thing, Jessica?

22 If you remember during Scott's depo there were a couple of

23 questions that Scott went and asked Patrick about and then Scott

24 testified about the next day. I don't think he was meaning to

25 exclude that he didn't talk to him at that time about that.

Page 9

1 MS. WOELFEL: Yes, understood, and I appreciate that.

2 Thank you.

3 BY MS. WOELFEL:

4 Q. Just go back one more admonition. Let me finish my

5 question before you answer. I know in typical conversations a

6 lot of times we will anticipate what the other person will say

7 and we will just answer. Because this is not your typical

8 conversation and the flow of it is being recorded we want to

9 make sure that we don't talk over each other, okay?

10 A. Very well.

11 Q. Can you tell me your date of birth?

12 A. July 27th, 1963.

13 Q. Married?

14 A. Yes.

15 Q. And what is your wife's name?

16 A. Christie.

17 Q. How long have you been married?

18 A. Twenty-nine years.

19 Q. Have any children?

20 A. Two.

21 Q. What are their names?

22 A. John and Alan.

23 Q. How old are they?

24 A. One is 19 and the other one is 29.

25 Q. Where did you go to high school?

1 A. Lost River High School in Merrill, Oregon.  
 2 Q. What year did you graduate?  
 3 A. 1981.  
 4 Q. Do you have any secondary education after high school?  
 5 A. A few semesters in the technical institute.  
 6 Q. What is the name of the technical institute?  
 7 A. It's Oregon Technical Institute, OTI.  
 8 Q. What did you study there?  
 9 A. Diesel mechanics.  
 10 Q. What years were you at the Oregon Technical Institute?  
 11 A. What years?  
 12 Q. Yes.  
 13 A. I could not be specific.  
 14 Q. Was it immediately after high school?  
 15 A. No.  
 16 Q. Can you approximate how many years after high school  
 17 you attended?  
 18 A. This is approximate, I would say five.  
 19 MS. WOELFEL: Did someone just join the call?  
 20 MR. BUNDICK: There is some background noise coming  
 21 through the phone.  
 22 MS. WOELFEL: I don't think there is any background  
 23 noise coming from this end, but we will try to speak up for you.  
 24 MR. BUNDICK: Thank you, I apologize. I couldn't hear  
 25 the last six or seven questions because of it.

1 MS. WOELFEL: No problem.  
 2 BY MS. WOELFEL:  
 3 Q. Can you describe for me what courses you look at OTI  
 4 related to diesel mechanics?  
 5 A. They were basically general theory courses in  
 6 operation and theory of diesel.  
 7 Q. Did you receive any certificates or degree of any  
 8 type?  
 9 A. I have received no degree or certificates.  
 10 Q. Can you remember the names of any specific courses  
 11 that you took while at OTI?  
 12 A. I don't believe I can.  
 13 Q. Okay.  
 14 Outside of OTI have you taken any other courses or any  
 15 other technical training?  
 16 A. I have taken some that are typically offered through  
 17 like our parts stores and such, more like seminars versus actual  
 18 courses.  
 19 Q. Can you recall specifically any courses or seminars  
 20 that you have taken?  
 21 A. I couldn't say exactly or some pertaining to like  
 22 brakes and --  
 23 Q. Do you remember when you took a course related to  
 24 brakes?  
 25 A. It's been several years. I do not know exactly when.

1 Q. Do you know through whom you took that course?  
 2 A. The last one I think was probably through Truck Parts  
 3 here in Reno.  
 4 Q. How many hours was that course?  
 5 A. Oh, I don't recall. It was an afternoon, I believe,  
 6 or an evening.  
 7 Q. Okay.  
 8 And do you recall what you learned in that course?  
 9 A. I can't give you any specific.  
 10 Q. Do you hold any certificates from any nationally  
 11 recognized institutes or training groups that you can think of?  
 12 A. I would say no.  
 13 Q. Okay.  
 14 Where are you currently employed?  
 15 A. I'm currently employed with MDB Trucking.  
 16 Q. When did you start working at MDB Trucking?  
 17 A. I don't know the exact dates.  
 18 Q. Can you recall what year?  
 19 A. I believe it was in 2013.  
 20 Q. We're going to talk in detail about your job at MDB,  
 21 but I want to go back in time before we go into your job with  
 22 MDB. Can you tell me where you worked prior to obtaining  
 23 employment with MDB?  
 24 A. I worked for Atlas Contractors in Sparks, Nevada.  
 25 Q. What was your position at Atlas Contractors?

1 A. I was a mechanic.  
 2 Q. When did you start working for Atlas?  
 3 A. This is an estimation, I believe it was in the fall of  
 4 2001.  
 5 Q. When did you leave Atlas?  
 6 A. Again an estimation, I believe it was in the fall of  
 7 -- fall or winter, possibly spring of 2013.  
 8 Q. So approximately 12 years?  
 9 A. Yes, ma'am.  
 10 Q. And what does Atlas Contractors do?  
 11 A. Atlas Contractors, they did primarily paving and site  
 12 pad preparation.  
 13 Q. And were you in the position of mechanic for the  
 14 entire 12 years that you worked for Atlas Contractors?  
 15 A. Yes.  
 16 Q. Describe your position as mechanic, what were your job  
 17 duties?  
 18 A. My job duties was to assess, repair, maintain  
 19 equipment as directed.  
 20 Q. What type of equipment did you assess, repair and  
 21 maintain?  
 22 A. We had some large earth moving equipment, graders,  
 23 tractor-trailer or tractors as in trucks, and light equipment,  
 24 pickups.  
 25 Q. Were you the only mechanic?

Page 14

1 A. I was not.  
 2 Q. How many mechanics were there?  
 3 A. I believe at one time there were 12 to 14 of us.  
 4 Q. Did you work full-time at Atlas?  
 5 A. I did.  
 6 Q. Who was your supervisor at Atlas?  
 7 A. Originally it was Kipp Henderson.  
 8 Q. Is he still there?  
 9 A. Pardon?  
 10 Q. Is he still at Atlas?  
 11 A. He is not. Atlas Contractors is no longer in  
 12 business.  
 13 Q. When did Atlas Contractors go out of business?  
 14 A. I believe it was 2013, fall or spring.  
 15 Q. Is that why you left?  
 16 A. That's correct.  
 17 Q. Do you know why they went out of business?  
 18 A. Economic reasons, I believe.  
 19 Q. Was your title simply mechanic or were you a  
 20 supervisor, can you describe for me more precisely your role?  
 21 A. When I originally was employed with Atlas I started as  
 22 a mechanic and at one point in time I became a supervisor, a  
 23 lead mechanic.  
 24 Q. Approximately when?  
 25 A. Perhaps like 2005, somewhere in that area.

Page 15

1 Q. Okay.  
 2 And how long were you in the position of lead  
 3 supervisor?  
 4 A. Pretty much until the end of my employment with them  
 5 in one respect or another.  
 6 Q. Okay.  
 7 And as a supervisor what were your job duties?  
 8 A. Mainly to guide and help my other -- the other  
 9 employees on my shift.  
 10 Q. Did you do any training of other employees?  
 11 A. Yes.  
 12 Q. What type of training did you conduct?  
 13 A. Mostly how to inspect and it depended on each job as  
 14 to what was required and assess their level of competence and  
 15 help them understand and receive information or find it to make  
 16 proper repairs.  
 17 Q. Did you do electrical work while at Atlas?  
 18 A. I have, yes.  
 19 Q. How often would you do electrical work?  
 20 A. I would say at least once a week.  
 21 Q. Did you take any courses in electrical work?  
 22 A. I have not.  
 23 Q. How did you learn how to do electrical work?  
 24 A. From working with experienced mechanics and reading  
 25 manuals.

Page 16

1 Q. Okay.  
 2 Did you in your position at Atlas ever work with Versa  
 3 valve products?  
 4 A. Yes.  
 5 Oh, pardon, no.  
 6 Q. In your position at Atlas did you ever work with belly  
 7 dump trailers?  
 8 A. No.  
 9 Q. Did you work with any type of trailer while at Atlas?  
 10 A. Yes.  
 11 Q. What types?  
 12 A. An end dump, transfer trailers, and just like some  
 13 12,000 pound flat trailers.  
 14 Q. Would you maintain and repair the end dump transfer  
 15 trailers?  
 16 A. Yes, ma'am.  
 17 Q. Did you ever conduct electrical work on the end dump  
 18 transfer trailers?  
 19 A. Yes.  
 20 Q. What type of electrical work?  
 21 A. Typically repairing broken wires, lighting.  
 22 Q. Have you ever in your time at Atlas ever fully  
 23 replaced the wiring system in an end dump transfer trailer?  
 24 A. We have in a transfer trailer, yes.  
 25 Q. How many times?

Page 17

1 A. Once for complete.  
 2 Q. Prior to 2001 where did you work?  
 3 A. I worked for the City of Klamath Falls, Klamath Falls,  
 4 Oregon.  
 5 Q. Let me go back. Where was Atlas Construction located?  
 6 A. In Sparks.  
 7 Q. So prior to that you were living in Oregon?  
 8 A. I was.  
 9 Q. What did you do for the City of Klamath Falls?  
 10 A. Mechanic.  
 11 Q. When did you start working for the City of Klamath  
 12 Falls?  
 13 A. I don't recall those dates.  
 14 Q. Do you have an estimation on the year?  
 15 A. Well, perhaps 1997.  
 16 Q. And did you leave just prior to moving to Sparks?  
 17 A. I did.  
 18 Q. So that would be approximately 2001?  
 19 A. Correct.  
 20 Q. Why did you leave your job at the City of Klamath  
 21 Falls?  
 22 A. Better employment.  
 23 Q. You weren't terminated?  
 24 A. I was not.  
 25 Q. Atlas paid better?

Page 18

1 A. Yes, ma'am.

2 Q. Describe for me your duties as a mechanic for the

3 city?

4 A. General maintenance and repair of the equipment within

5 the city, including pickups, dump trucks, small equipment.

6 Q. Did the city provide you with any training?

7 A. No.

8 Q. Did you attend any training courses while you were

9 employed by the City of Klamath Falls?

10 A. I don't recall having any.

11 Q. What kind of dump trucks were you working on?

12 A. Ten wheel dump trucks class A.

13 Q. Did you work with any belly dumpers when you were --

14 A. No.

15 Q. What about with any Versa valves?

16 A. No.

17 Q. Prior to the City of Klamath Falls, I know we're going

18 back in time quite a ways here, can you tell me where you

19 worked?

20 A. I worked for Basin Transit Service.

21 Q. Basin Transit Service?

22 A. Um-hum.

23 Q. Where are they located?

24 A. In Klamath Falls, Oregon.

25 Q. What was your position there?

Page 19

1 A. Mechanic.

2 Q. What year did you approximately begin working for

3 Basin Transit Service?

4 A. 1994 perhaps.

5 Q. And did your employment end in approximately 1997?

6 A. Correct.

7 Q. Can you tell me why your employment ended?

8 A. I applied for and received the job with the city.

9 Q. Okay.

10 Tell me what your job duties were at Basin Transit

11 Service?

12 A. General maintenance and repair of transit buses.

13 Q. Did Basin Transit Service provide you with any

14 training?

15 A. I was sent to several courses involving the buses.

16 Q. These are transit buses that were just operating

17 around Klamath Falls or were they school buses?

18 A. Yes, these are just operating general passengers, not

19 school.

20 Q. So the courses that you went to were in how to

21 maintain transit buses?

22 A. Yes, component-wise like the transmissions, some

23 engine work.

24 Q. Was there any on-the-job training?

25 A. Yes.

Page 20

1 Q. Can you describe that for me?

2 A. Go with -- my supervisor would come out and we would

3 go over systems and general repair, maintenance and inspection,

4 adjustments, such as the handicap lifts on the buses. I was

5 given training on that from my supervisor and his knowledge of

6 the electrical components and failures and diagnostics of such

7 with those buses.

8 Q. I presume you did not work with belly dumpers while at

9 Basin Transit?

10 A. I did not.

11 Q. What about Versa valves?

12 A. No.

13 Q. Prior to Basin Transit Service can you recall where

14 you worked?

15 A. Yes, I worked for Gastaldi and Associates Land

16 Surveyors.

17 Q. Can you spell that for me?

18 A. G-a-s-t-a-l-d-i.

19 Q. Gastaldi?

20 A. Um-hum.

21 Q. Gastaldi and what?

22 A. And Associates.

23 Q. Land surveyors?

24 A. Correct.

25 Q. What was your position there?

Page 21

1 A. Land surveyor, I suppose, helper.

2 Q. Okay.

3 Can you recall approximately when you began your work

4 at Gastaldi and Associates?

5 A. Boy, that's getting so far back there.

6 Q. Can you recall approximately how many years you worked

7 there?

8 A. I would say three to four.

9 Q. Okay.

10 And why did you leave that position?

11 A. Much more stable and better pay.

12 Q. Outside of the employers we just discussed have you

13 held any other mechanic positions?

14 A. Yes.

15 Q. With whom?

16 A. The first one was with Tom Strong, Tom's Equipment.

17 Q. Tom's Equipment?

18 A. Yes.

19 Q. Where is that located?

20 A. In Klamath Falls, Oregon.

21 Q. How long were you with Tom's Equipment?

22 A. Two years, I believe, approximately.

23 Q. You were a mechanic there?

24 A. I began as a parts runner.

25 Q. And worked your way up?

Page 22

1 A. Correct.

2 Q. Did they send you to any training?

3 A. No.

4 Q. What were your job duties?

5 A. Clean the shop, assist the mechanics with repairs.

6 Q. What type of equipment were you working on?

7 A. Mostly class A trucks.

8 Q. Did you work on any trailers?

9 A. Yes.

10 Q. What types of trailers?

11 A. Mostly logging trailers.

12 Q. Any belly dumpers?

13 A. No belly dumpers.

14 Q. Any Versa valve experience?

15 A. No.

16 Q. Any other employer where you acted in the capacity of

17 mechanic that we have not yet discussed?

18 A. High Tech Diesel.

19 Q. Can you tell me approximately when you worked there?

20 A. Three years perhaps.

21 Q. Is this in the '80s?

22 A. Pardon?

23 Q. This is in the decade of the 1980s?

24 A. Yes.

25 Q. Okay.

Page 23

1 What was your position there?

2 A. Mechanic.

3 Q. Tell me what types of equipment you were working on?

4 A. Class A trucks.

5 Q. Were you also working on logging trailers?

6 A. Not so much there.

7 Q. Mostly --

8 A. Typically just the tractors.

9 Q. Did you receive any training while at High Tech

10 Diesel?

11 A. On-the-job, yes.

12 Q. Any other training besides on-the-job training?

13 A. No.

14 Q. Did you work with belly dumpers while at High Tech

15 Diesel?

16 A. I did not.

17 Q. What about Versa valves?

18 A. No.

19 Q. Any other mechanic positions that we haven't already

20 discussed?

21 A. I believe that is it.

22 Q. So going to your position at MDB you said you began in

23 2013?

24 A. I believe so, yes.

25 Q. Do you recall approximately what month you started?

Page 24

1 A. Not precisely. I'm sure it was January, February,

2 somewhere in there.

3 Q. Early in the year?

4 A. Yes.

5 Q. Okay.

6 What position were you hired to perform?

7 A. A mechanic.

8 Q. Who were you hired by?

9 A. I was hired by Tracy Shane.

10 Q. Are there any other mechanics at MDB Trucking besides

11 you?

12 A. No.

13 Q. When you started working at MDB in January or February

14 of 2013 was there any other mechanic that you worked with for

15 any period of time?

16 A. No.

17 Q. Did you receive any training when you started your job

18 at MDB Trucking?

19 A. No.

20 Q. Were you sent out to receive any training from any

21 outside source when you began working for MDB Trucking?

22 A. Pardon? I don't understand.

23 Q. I apologize, and thank you for telling me you didn't

24 understand. That means you were listening to my question.

25 Did MDB send you to any outside training courses?

Page 25

1 A. No.

2 Q. Tell me what your job duties were when you were hired

3 in January, February 2013 at MDB?

4 A. My job duties are to maintain and repair the trucks

5 and trailers.

6 Q. How many trucks and trailers does MDB or did MDB have

7 in its portfolio at the time you started in January or February

8 of 2013?

9 A. I believe there were nine.

10 Q. Nine --

11 A. Nine units or nine trucks.

12 Q. So nine trucks and each of those trucks had trailers

13 that it hauled?

14 A. Correct.

15 Q. Do you know how many trailers in total MDB had in

16 January or February of 2013?

17 A. I can't give you an exact total.

18 Q. But each of those nine trucks hauled trailers; is that

19 correct?

20 A. Correct.

21 Q. What types of trucks?

22 A. We have what they call the semi-tractor with a fifth

23 wheel plate and we have transfer tractors, which are actually a

24 dump truck.

25 Q. Before coming to work for MDB had you worked on these

Page 26

1 types of tractors before?  
 2 A. I had.  
 3 Q. And what about the trailers, what types of trailers  
 4 does MDB have?  
 5 A. They have bottom dump trailers.  
 6 Q. That would also be called a belly dumper?  
 7 A. Correct.  
 8 Q. Any other type of trailers?  
 9 A. We have a flatbed, pneumatics and transfer. I believe  
 10 that is it.  
 11 Q. Prior to coming to work at MDB had you ever worked on  
 12 a bottom dump trailer before?  
 13 A. I have not.  
 14 Q. What about a flatbed trailer?  
 15 A. Yes.  
 16 Q. What about a pneumatic?  
 17 A. Yes.  
 18 No. Pardon, no, not a pneumatic.  
 19 Q. What about a transfer trailer?  
 20 A. Yes.  
 21 Q. Did you receive any training on how to perform  
 22 maintenance on a bottom dump trailer after arriving at MDB?  
 23 A. No.  
 24 Q. Did you do any independent training, anything on your  
 25 own to prepare you for maintaining bottom dump trailers?

Page 27

1 MR. BROWN: Foundation. Go ahead.  
 2 THE WITNESS: I don't believe so, no.  
 3 BY MS. WOELFEL:  
 4 Q. Prior to coming to work at MDB had you worked at all  
 5 with a product called Versa valve?  
 6 A. No.  
 7 Q. Did you receive any training on how to maintain a  
 8 Versa valve?  
 9 A. No.  
 10 Q. Did you conduct any independent training on how to  
 11 work with Versa valve products?  
 12 A. No.  
 13 Q. Do you have a mechanic's assistant or anybody else  
 14 that performs mechanic work with you at MDB?  
 15 A. Pardon?  
 16 Q. Is there a mechanic's assistant or anybody else that  
 17 assists you in performing mechanic work at MDB?  
 18 A. We have had some assistants and I receive assistance  
 19 from Scott Palmer on occasion.  
 20 Q. How often does Scott Palmer on average assist you with  
 21 maintenance issues?  
 22 A. Now or then?  
 23 Q. When did he start actually, let's go ahead --  
 24 A. When did Scott?  
 25 Q. Yes, was it before you or after you?

Page 28

1 A. It was after my being hired there.  
 2 Q. Do you know what position he was hired to perform?  
 3 A. My understanding was to assist me on maintenance and  
 4 to drive.  
 5 Q. Okay.  
 6 So he would split his time between those duties?  
 7 A. Correct.  
 8 Q. And on average when Scott Palmer began working at MDB  
 9 how often would he assist you with maintenance duties?  
 10 A. Fairly often.  
 11 Q. What about now, does he still assist you fairly often?  
 12 A. Not as often.  
 13 Q. When you began working at MDB did you receive any  
 14 documents or manuals to review related to the trucks and  
 15 trailers that you work on?  
 16 A. No.  
 17 Q. Have you ever reviewed any documents or manuals  
 18 related to the trucks and trailers that you work on?  
 19 A. Have I ever?  
 20 Q. In your position with MDB?  
 21 A. I don't quite understand the question.  
 22 Q. Have you had occasion to review any documents or  
 23 manuals related to the trucks or trailers that you are working  
 24 on?  
 25 A. Yes.

Page 29

1 Q. Can you describe for me any specific occasions that  
 2 you can recall?  
 3 A. Such as when I am working on the engines when I'm  
 4 unfamiliar, not familiar with a certain procedure then we would  
 5 look up in a manual that particular procedure and  
 6 specifications --  
 7 Q. Okay.  
 8 A. -- necessary.  
 9 Q. Okay.  
 10 Are there any MDB standard operating procedures that  
 11 are written down that you received when you began working for  
 12 MDB?  
 13 A. In relation -- in regards to --  
 14 Q. In relation to your position or any manuals at all  
 15 that you received?  
 16 MR. BROWN: Objection, vague. You can answer.  
 17 THE WITNESS: I don't -- from when I was hired or to  
 18 present?  
 19 BY MS. WOELFEL:  
 20 Q. Well, let's start with when you were hired. When you  
 21 were hired did you receive any company manuals, anything  
 22 outlining any policies or procedures from MDB Trucking?  
 23 A. I don't recall receiving any.  
 24 Q. Are there any standard operating procedures related to  
 25 maintenance that you can recall receiving from MDB Trucking?

Page 30

1 A. No.

2 Q. Did you do any driving at any time while at MDB

3 Trucking?

4 A. On occasion, yes.

5 Q. How often -- Well, describe for me what you do when

6 you drive, are you transporting material?

7 A. Yes, typically.

8 Q. How often are you engaged as a driver for MDB

9 Trucking?

10 A. Not very often. I choose not to. On occasion, I

11 can't give you an exact amount of time, but typically they will

12 need someone to fill in occasionally, so not very often.

13 Q. Okay.

14 Have you hauled the belly dump trailers before when

15 you have acted as a driver?

16 A. I have, yes.

17 Q. Have you utilized the Versa valve in manually dumping

18 over a grizzly when you have acted as a driver?

19 A. I have.

20 Q. Can you walk me through -- I want to talk about when

21 you have acted as a driver and you have operated the Versa valve

22 and you have dumped over a grizzly, did you operate the Versa

23 valve manually or through the switch in the cab?

24 A. Both depending upon the situation.

25 Q. Did you receive any training on how to manually

Page 31

1 operate the Versa valve?

2 A. Yes, I did.

3 Q. From whom?

4 A. From Tracy Shane.

5 Q. When did Tracy Shane provide you training on how to

6 manually operate the Versa valve?

7 A. When?

8 Q. Yes.

9 A. As in an exact date?

10 Q. As in give me your best approximation, was it shortly

11 after you first started working?

12 A. I would say probably six months afterwards when he

13 first asked me to fill in as a driver.

14 Q. So six months after you started working as a mechanic

15 Tracy asked you to fill in as a driver?

16 A. Approximately, yes.

17 Q. When he asked you to fill in as a driver he gave you

18 training on how to operate the Versa valve?

19 A. Correct.

20 Q. Can you describe for me the training that you

21 received?

22 A. Yes, the training consisted of we drove the truck

23 together. He was with me, loaded it, checked our equipment,

24 returned to Cemex to dump the load over the grizzlies. At that

25 point in time he instructed me on how the Versa valve was

Page 32

1 applied in this situation, whether with the switches and/or by

2 manually, by hand.

3 Q. Okay.

4 And did he demonstrate for you how to operate it

5 manually by hand?

6 A. Correct.

7 Q. Can you tell me what he showed you or told you?

8 A. When we were over the grizzlies we could open the

9 Versa valve depending on how much room was in the grizzly,

10 whether it would hold the complete trailer load or not. We

11 could open it partially by pushing in on the valve to a certain

12 degree to modulate its opening and then pushing on the palm

13 valve, which is attached to an accumulator that will hold the

14 gate in that position until acted upon again either electrically

15 or manually on the valve.

16 Q. Okay.

17 A. That way we could modulate our dump to facilitate the

18 space available in the grizzly.

19 Q. Okay.

20 So you're standing outside of your cab next to the

21 Versa valve and you're pushing on the handle; is that right?

22 A. That is correct.

23 Q. Okay.

24 And it opens partially; is that right?

25 I'm breaking it down into plain English, because

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1 you're using a lot of big words here, and then what you're

2 describing is then you would open it all the way; is that right?

3 A. Correct.

4 Q. What would you do after all of the material comes out?

5 A. Pull forward onto the grizzlies with the next trailer.

6 Q. Would you close the trailer before you would get in

7 the cab and pull forward?

8 A. No, I would get in the cab and pull forward and

9 activate the switch that electrically opens and then closes the

10 gates.

11 Q. So you would not close the gates manually, you would

12 go into the cab and then you would --

13 A. Correct.

14 Q. -- flip the switch and that would close it?

15 A. I would turn the switch to the on position and then

16 return it to the off position and closing the cover at the same

17 time and allowing -- that allows the gates to close

18 electrically.

19 Q. Okay.

20 And then you would pull forward?

21 A. Um-hum.

22 Q. And do the same thing again?

23 A. Correct.

24 Q. And then after that you would do the same thing one

25 more time?

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1 A. Correct.

2 Q. Okay.

3 How many times did Tracy Shane drive with you?

4 A. We made, I believe, two complete rounds.

5 Q. Can you tell me how many trips you have taken on your

6 own without Tracy?

7 A. Oh, since that time, 40, 50, somewhere in there.

8 Q. Have you always dumped over the grizzly in the same

9 manner that you just described?

10 A. I personally have, yes.

11 Q. Did you receive any written materials to review on how

12 to operate a Versa valve prior to beginning your work as a

13 driver?

14 MR. BROWN: Objection, foundation.

15 THE WITNESS: No.

16 BY MS. WOELFEL:

17 Q. At any time did you receive any materials on how to

18 operate a Versa valve?

19 A. No.

20 Q. Was there any group training that you were involved in

21 on how to operate a Versa valve?

22 A. No.

23 Q. Now you said that you personally operated the Versa

24 valve in that manner. Are you aware of other people operating

25 the Versa valve differently at MDB Trucking?

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1 A. I cannot say how they operate them. The way I

2 operated them was manually to ensure that I didn't miss the

3 grizzly and spread material on the approach.

4 Q. And the way that you closed the bottom dumper by going

5 in the cab and shutting it there, do you know if that is the way

6 that everybody did it or just the way that you did it?

7 A. Well, that's the way it was intended or what Tracy

8 Shane implied I should do to properly close that gate.

9 Q. Did he explain why that was important or not

10 important?

11 A. No.

12 Q. Are you involved in setting any training protocol for

13 any other employees at MDB Trucking?

14 A. No.

15 Q. Do you perform all of the maintenance on the trucks

16 and trailers that MDB Trucking operates, do you perform the

17 maintenance on that in-house or do you ever send it out for

18 work?

19 A. We typically do most of it in-house. However, there

20 is some that is sent out on repairs.

21 Q. What types of repairs would you send out to someone

22 else to perform?

23 A. Typically like engines and transmissions, the things

24 that I do not have the tooling for we send out.

25 Q. Do you typically do all of the electrical work

Page 36

1 in-house?

2 A. Typically, yes.

3 Q. Can you tell me do you work full-time for MDB?

4 A. I do.

5 Q. Forty hours a week?

6 A. Yes.

7 Q. Is that Monday through Friday?

8 A. Yes, it is.

9 Q. Talk to me about sort of your typical schedule when

10 you are working in the maintenance department, what does a

11 typical day look like for you?

12 A. A typical day --

13 Q. What time do you arrive?

14 A. -- can be varied depends on the workload, the trucks

15 and what we have pending for repair.

16 Q. What time do you typically arrive for work?

17 A. I typically arrive at 8:00 o'clock.

18 Q. Are most of your drivers already out in the field at

19 that time?

20 A. Yes.

21 Q. And is it typical that you will have some sort of

22 standard maintenance or some repair on a truck or trailer to do

23 each day?

24 A. That is what we try to do, yes.

25 Q. What is the standard maintenance process for MDB

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1 trucks and trailers?

2 A. Standard maintenance?

3 Q. Yes, do you have a standard maintenance protocol, do

4 you check them every week, every month, is there some sort of a

5 standard protocol for the maintenance department?

6 A. We try to look at them once every two weeks at a

7 minimum.

8 Q. And what does that mean to look at them, does that --

9 A. We bring them in, we inspect and lubricate the

10 equipment.

11 Q. And what does an inspection involve?

12 A. An inspection involves visually looking for any

13 issues, broken parts, worn-out brakes, inoperative lights,

14 unsecured components, make sure all functions are correct.

15 Q. Is it a visual inspection or are you --

16 A. It's mostly visual. Some of it is physical.

17 Q. What part is physical?

18 A. Such as the brakes, we check the length of the brake

19 to make sure it's within the specified distance for a foundation

20 brake.

21 Q. Do you conduct annual inspections?

22 A. Yes.

23 Q. Describe for me what the annual inspections involve?

24 A. Well, the annual inspections involve pretty much the

25 same as a weekly or biweekly inspection, just making certain

1 that we have all of our safety equipment, windshields,  
2 windshield wipers, motors, engines and such like that, brakes,  
3 securement.

4 Q. Do you check the wiring as part of your inspections  
5 every other week?

6 MR. BROWN: Vague, go ahead.

7 THE WITNESS: Would you explain or more detail?

8 BY MS. WOELFEL:

9 Q. If you were inspecting a belly dump trailer do you  
10 inspect any of the wiring on your multi-week inspections?

11 A. No, we -- as we go through it there's a lot of wires  
12 that you cannot see. We visually inspect any that are exposed,  
13 that's just part of what we do. If we see something odd hanging  
14 down, unsecured, we inspect it, resecure it and make sure that  
15 it's proper.

16 Q. Do you ever inspect the wiring that is not exposed?

17 A. No.

18 Q. So during your annual inspections you're not checking  
19 the wiring that runs through the bars?

20 A. No.

21 Q. Is there any type of regular maintenance conducted on  
22 the electrical system of the trucks?

23 A. Maintenance?

24 Q. Yes, regular maintenance.

25 A. Such as checking the alternator and the batteries,

1 BY MS. WOELFEL:

2 Q. Okay.

3 Do you conduct -- outside of the maintenance process  
4 that you described where you try to see each vehicle every other  
5 week, do you conduct any random inspections of trucks or  
6 trailers?

7 A. The random inspections are continuous on the yard  
8 bringing them in or you're always looking underneath the trucks.  
9 It's more like when you get your CDL, part of your walk around  
10 inspection and being a mechanic you are constantly looking for  
11 something, whether it's a puddle on the ground or a broken lamp  
12 or something not secured.

13 Q. So are you physically out walking amongst --

14 A. On occasion we do, yes.

15 Q. And outside of that are you receiving reports from the  
16 drivers regarding issues that they are having with their  
17 vehicles?

18 A. I don't personally receive the reports. Scott Palmer  
19 does.

20 Q. How do you receive the reports or the work orders?

21 A. I'm directed by Scott Palmer.

22 Q. Well, how will you receive or how do you typically  
23 receive a work order from Scott, do you have a standard meeting  
24 time where the two of you get together or does he leave them for  
25 you in a certain location, how do you obtain the information

1 yes, we do that.

2 Q. What about the electrical system of the various  
3 trailers that MDB owns or leases?

4 A. With the trailers again we inspect to make sure that  
5 the wires are secured and that we don't have any that we see or  
6 know of creating shorts or are in poor condition, any abrasions  
7 that we can see.

8 Q. Are you involved in confirming whether or not the  
9 driver's conduct their daily inspections of the trucks and  
10 trailers that they are driving?

11 A. I am not.

12 Q. Do you know how the company ensures, if they do at  
13 all, that their drivers are adequately maintaining their  
14 vehicles?

15 MR. BROWN: Objection, compound.

16 THE WITNESS: I don't understand what you're asking  
17 there.

18 BY MS. WOELFEL:

19 Q. Sure.

20 Is there anything that you're aware of that MDB does  
21 to make sure that its drivers are adequately inspecting their  
22 vehicles on a daily basis?

23 MR. BROWN: Objection, foundation.

24 THE WITNESS: I don't recall. I don't know if there  
25 is or isn't.

1 that --

2 A. It depends on the repair necessary. I will either  
3 receive them in the evening for repair that evening or typically  
4 we will meet in the mornings prior to going into the shop and  
5 discuss the needs for maintenance and repairs.

6 Q. And do the two of you discuss prioritizing what you're  
7 going to work on or who makes that decision of what you're going  
8 to work on for the day?

9 A. Scott typically makes that decision.

10 Q. Before Scott began working at MDB was Tracy the person  
11 that you were directed by?

12 A. Yes.

13 Q. And did Scott take Tracy's place? Did Scott move into  
14 Tracy's position when Tracy left the company?

15 A. Yes.

16 Q. Do you know Daniel Koski?

17 A. I do know Dan.

18 Q. How long did you work with him?

19 A. Since I hired on at MDB until the time that he left.

20 Q. So he had been there prior to your arrival?

21 A. Correct.

22 Q. Are you aware of the two dump incidents that Mr. Koski  
23 was involved in?

24 A. I am.

25 Q. Were you working for MDB in July of 2013?

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1 A. I was.  
 2 Q. And also in July of 2014 during the second dump  
 3 incident?  
 4 A. Yes.  
 5 Q. Other than those two dump incidents that we will  
 6 discuss, are you aware of any other inadvertent dumps during  
 7 your time at MDB Trucking?  
 8 A. No.  
 9 MR. BROWN: Object, vague.  
 10 BY MS. WOELFEL:  
 11 Q. I'm going to refer to the trailer that Mr. Koski was  
 12 pulling that opened up in July of 2013 as trailer 6775. Do you  
 13 recall if that's the number that that trailer was assigned?  
 14 A. I believe it would be one of those numbers. That  
 15 exact number, I would have to look at a work order or something.  
 16 Q. I will show you some, but I will represent to you that  
 17 it's trailer 6775.  
 18 Do you know when this trailer first came into MDB's  
 19 possession, the trailer that was involved in the dump incident  
 20 in July of 2013?  
 21 A. I don't know the exact date.  
 22 Q. Was it in MDB's possession when you began work --  
 23 A. No.  
 24 Q. -- at MDB?  
 25 Trailer 6775 was not in MDB's possession when you

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1 first started working?  
 2 A. To the best of my knowledge it was not.  
 3 Q. So the lease or purchase of that trailer occurred  
 4 after you had started working at MDB; is that correct?  
 5 A. I believe so.  
 6 Q. Okay.  
 7 Were you involved in the process of -- Let me back up.  
 8 Do you know if MDB inspected this trailer before it  
 9 leased or purchased it in 2013?  
 10 A. I do not believe so. If it were it was not with me.  
 11 Q. Okay.  
 12 Do you know who the trailer was purchased or leased  
 13 from?  
 14 A. I can't say with any authority.  
 15 Q. Do you know how old trailer 6775 was when it was  
 16 purchased or leased by MDB Trucking?  
 17 A. I do not.  
 18 Q. Were you involved in the purchase or the lease or the  
 19 acquisition of the trailer in any way?  
 20 A. No.  
 21 Q. You didn't inspect the trailer prior to MDB taking  
 22 possession of the trailer?  
 23 A. I did not.  
 24 Q. And you reviewed no documents associated with the  
 25 trailer?

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1 A. No.  
 2 Q. Have you seen any maintenance documents related to  
 3 this trailer from the time before MDB took possession of the  
 4 trailer?  
 5 A. I have not.  
 6 Q. Do you know if the wiring on that trailer is original,  
 7 and I'm talking about when MDB first took possession of the  
 8 trailer, do you know if the wiring that was on the trailer was  
 9 original or not?  
 10 A. I could not say either way.  
 11 Q. Do you have any information regarding whether or not  
 12 trailer 6775 had ever been involved in an accident prior to MDB  
 13 acquiring it?  
 14 A. I would have no knowledge.  
 15 Q. Do you have any knowledge of whether trailer 6775 had  
 16 ever had any other inadvertent dump prior to MDB acquiring it?  
 17 A. I have no knowledge of that, no.  
 18 Q. Do you know if MDB made any efforts to evaluate the  
 19 state or condition of the electrical connections on trailer 6775  
 20 before it acquired it?  
 21 MR. BROWN: Objection, vague.  
 22 THE WITNESS: I don't recall.  
 23 BY MS. WOELFEL:  
 24 Q. Do you have any knowledge of whether the Versa valve  
 25 included with trailer 6775 was the original Versa valve

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1 installed on that trailer?  
 2 MR. BROWN: Objection, vague.  
 3 THE WITNESS: I could not say that it was original or  
 4 not.  
 5 BY MS. WOELFEL:  
 6 Q. Do you know if trailer 6775 was painted by MDB when it  
 7 was acquired?  
 8 A. Painted?  
 9 Q. Painted.  
 10 A. It was not painted.  
 11 Q. Has the trailer been painted or repainted at all since  
 12 it's been in MDB's possession?  
 13 A. No.  
 14 MS. WOELFEL: Let's go ahead and mark that as  
 15 Exhibit 1.  
 16 (Exhibit 1 was marked.)  
 17 BY MS. WOELFEL:  
 18 Q. Exhibit 1 is a document Bates labeled MDB 723. Have  
 19 you ever seen this document before?  
 20 A. I have not.  
 21 Q. Okay.  
 22 The date on this invoice is February 25, 2014, and I  
 23 will represent to you that this is an invoice for the sale of  
 24 two Ranco trailer sets from Western Nevada Transport to MDB, and  
 25 one of the trailer sets involves trailer 6773, 6774, and 6775

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1 and the other is 6776, 6777 and 6778. Are you familiar with  
 2 those two trailer sets?  
 3 A. Yes.  
 4 MR. BROWN: Objection, vague.  
 5 BY MS. WOELFEL:  
 6 Q. And do you know if the trailers were being leased  
 7 before they were purchased by MDB, do you have any knowledge of  
 8 that?  
 9 A. No.  
 10 Q. When they were purchased in or around February of 2014  
 11 did you conduct or were you involved in conducting any specific  
 12 inspections of these trailers prior to purchase?  
 13 A. No.  
 14 Q. So I want to talk to you about the July 2013 incident  
 15 involving Mr. Koski and the inadvertent dump that occurred. Do  
 16 you have knowledge of that incident?  
 17 A. I have knowledge of it occurring, yes.  
 18 Q. And you had been with the company for approximately  
 19 six months; is that correct?  
 20 A. Possibly, yes.  
 21 Q. How did you become aware of the July 2013 incident  
 22 involving Mr. Koski?  
 23 A. I was notified by Tracy Shane.  
 24 Q. Were you working on the date that this incident  
 25 occurred?

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1 A. I believe I was, yes.  
 2 Q. And how were you notified by Tracy Shane, did he call  
 3 you or did you see him in person?  
 4 A. I believe it was in person, but I'm not certain.  
 5 Q. What did Tracy Shane say to you?  
 6 A. That the rear trailer of Dan Koski's set had deployed  
 7 on the road.  
 8 Q. Did he tell you anything else?  
 9 A. We did not go into any details, no.  
 10 Q. Did you discuss conducting an investigation to  
 11 determine why the incident had occurred?  
 12 A. Not at that time, that exact time, if that's what  
 13 you're referring to, but it was discussed.  
 14 Q. When did you have that discussion about conducting an  
 15 investigation?  
 16 A. I believe it was after the truck and trailers were  
 17 returned to the yard and we discussed what our course of action  
 18 was to be on this.  
 19 Q. And can you describe for me what specifically you  
 20 discussed with regard to what your course of action would be?  
 21 A. Originally the discussion was to try to determine or  
 22 try to duplicate this uncommanded opening of that gate.  
 23 Q. Did you attempt to duplicate the uncommanded opening?  
 24 A. I did.  
 25 Q. Were you able to duplicate it?

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1 A. I was never able to duplicate it.  
 2 Q. Tell me what you did in order to try to duplicate that  
 3 event?  
 4 A. My original thoughts on the process was to be a short  
 5 inside the electrical system. So I turned on the lights and  
 6 then went back through the trailers trying to move, shake,  
 7 rattle, create a short, if it were to be one, within that system  
 8 and to be able to observe the gates opening uncommanded, and it  
 9 was a combination of lighting, brake lights, turn signals,  
 10 emergency flashers, even though those weren't used at the time,  
 11 anything within my electrical system from the trailers and  
 12 tractor. I tried every combination I could think of to try to  
 13 duplicate this issue and was not successful.  
 14 Q. Okay.  
 15 Did you work with anyone in trying to do these, I  
 16 don't want to call them experiments, but in your investigation  
 17 and trying to duplicate, did you have an assistant to maybe work  
 18 with you or were you working alone?  
 19 A. Occasionally I would have Tracy Shane give me a hand  
 20 such as operating from the tractor while I was back observing on  
 21 the trailer.  
 22 Q. How long did this work last in trying to duplicate the  
 23 event?  
 24 A. I can't be specific, but it was quite some time.  
 25 Q. Can you estimate, was it a matter of days or a matter

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1 of hours?  
 2 A. Oh, it was at least one to two days.  
 3 Q. So in your inspection you were unable to recreate any  
 4 type of electrical short that would open the belly dumper; is  
 5 that correct?  
 6 A. That is correct.  
 7 Q. Did you conduct a visual inspection of the truck and  
 8 trailers to see if there was anything visually wrong?  
 9 A. Yes.  
 10 Q. Did you see anything visually wrong?  
 11 A. I did not.  
 12 Q. Did you conduct any sort of inspection on the Versa  
 13 valve?  
 14 A. Just visually at that time.  
 15 Q. Did you see anything wrong with the Versa valve?  
 16 A. I did not.  
 17 Q. Did you conduct any testing on the Versa valve?  
 18 A. No.  
 19 Q. Did you believe that there was a problem with the  
 20 Versa valve?  
 21 A. I did not believe there was at the time.  
 22 Q. Did you interview Daniel Koski about why the dump  
 23 occurred or what was taking place when the dump occurred?  
 24 A. I don't recall interviewing, but I may have spoken  
 25 with him at least to get the situation, like what lights were on

Page 50

1 perhaps.

2 Q. Did you take any notes regarding your conversation

3 with Mr. Koski?

4 A. No, ma'am.

5 Q. Do you know if the trailer stayed in service for any

6 period of time after the incident occurred that day?

7 A. Pardon?

8 Q. Do you know if the trailer in July of 2013 after it

9 had the dump take place, do you know if it stayed in service for

10 any period of time before it was returned to the yard?

11 A. No, I don't believe so.

12 Q. Did you come to any conclusions after your testing of

13 the electrical system?

14 A. No.

15 Q. Did you put together any documentation describing the

16 tests that you ran?

17 A. I did not.

18 Q. Did you evaluate or test the air system as part of

19 your tests?

20 A. Yes.

21 Q. Tell me what you did with respect to the air system?

22 A. Built air, make sure that it would maintain air

23 pressure, maintain -- or confirm that air was getting to the

24 valve, passing through the valve and holding the gates closed

25 and that it would also open and hold the gates open so there was

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1 adequate air pressure.

2 Q. Did you reach any conclusions after that test with

3 respect to the air system?

4 A. Any conclusion or a negative conclusion?

5 Q. Any conclusion at all?

6 A. At that time after running that test the conclusion

7 was I had not found an issue.

8 Q. Did you talk to Mr. Koski about any of the previous

9 dumps that he had performed that day leading up to the accident?

10 A. No.

11 Q. Did you evaluate whether or not Mr. Koski may have

12 made an error that led to the inadvertent dump?

13 A. That would not be my position to make such evaluation.

14 Q. Is that something that you considered when you were

15 trying to figure out how this incident occurred, did you

16 consider whether or not Mr. Koski had made an error?

17 A. I believe in human nature it would be -- that would

18 still have to be thought of, yes.

19 Q. Did you do anything to explore whether or not

20 Mr. Koski made an error?

21 A. I did not personally, no.

22 Q. Did you reach any conclusion at all as to the cause of

23 the incident in July of 2013?

24 A. No.

25 Q. Did you take any action to prevent this from occurring

Page 52

1 again after your tests were run in July of 2013?

2 A. Yes.

3 Q. What actions did you take?

4 A. My actions were to completely isolate the wiring of

5 the tractor and trailer, remove or not use, I should say, not

6 use the wires that were originally installed for the purpose and

7 we ran independent wires from the tractor battery back through

8 each trailer to the Versa valves.

9 Q. So you believed that it could have been a wiring

10 problem that led to the --

11 A. There was still the possibility.

12 Q. -- incident?

13 MR. BROWN: Wait until she finishes asking her

14 question, even though you know what she is asking and so she

15 gets everything down.

16 MS. WOELFEL: You're doing a good job, but thank you,

17 Brian.

18 BY MS. WOELFEL:

19 Q. What led you to the conclusion that the wiring should

20 be changed?

21 A. Well --

22 MR. BROWN: Object, misstates his testimony. Go

23 ahead.

24 THE WITNESS: It was the theory of a short in the

25 original or the existing wiring that may have caused this

Page 53

1 accidental uncommanded opening.

2 BY MS. WOELFEL:

3 Q. And in your tests you were unable to recreate a short,

4 correct?

5 A. Correct.

6 Q. So there was no evidence that you were able to find

7 that suggested that there actually was a short in the wiring, is

8 that correct?

9 A. That is correct.

10 Q. When you rewired or when you removed the wiring from

11 the trailer 6775 did you inspect the wiring after it was

12 removed?

13 A. The wire at that time was not removed. I merely

14 eliminated the wires -- eliminated the use of the wires that

15 were existing.

16 Q. So you didn't actually pull the wires that existed in

17 the trailer at the time that the incident occurred, you didn't

18 pull that all out; is that correct?

19 A. That is correct.

20 Q. You just included different wires and left the old

21 wires in the trailer?

22 A. Correct.

23 Q. So you did not perform any sort of inspection on the

24 wires, visual inspection of the wires that were in the trailer

25 after the incident occurred?

1 MR. BROWN: Object, vague, misstates his testimony.  
 2 THE WITNESS: That's correct, I did not.  
 3 BY MS. WOELFEL:  
 4 Q. Those wires, are they still in trailer 6775, the wires  
 5 that were original to the trailer when MDB acquired it?  
 6 A. I believe they may still be, yes.  
 7 Q. When you were inspecting trailer 6775 after the  
 8 July 2013 incident did you identify any problems with the way  
 9 that the trailer was manufactured that you believe contributed  
 10 to the unauthorized dump?  
 11 A. Can you rephrase that, please?  
 12 Q. Sure, I will repeat it.  
 13 When you were conducting your tests and your  
 14 inspection of the trailer after the July 2013 incident took  
 15 place did you identify any problems with the way that the  
 16 trailer was manufactured that you believe could have led to the  
 17 unauthorized dump?  
 18 MR. BROWN: Object to the extent it calls for  
 19 speculation.  
 20 THE WITNESS: No.  
 21 BY MS. WOELFEL:  
 22 Q. In your work with trailer 6775 after the incident and  
 23 your testing were you able to identify any problems with the  
 24 design of the trailer that you believe contributed to the  
 25 unauthorized dump in July of 2013?

1 MR. BROWN: Same objection, calls for speculation.  
 2 THE WITNESS: Potentially.  
 3 BY MS. WOELFEL:  
 4 Q. Okay.  
 5 What potentially did you believe with respect to the  
 6 design?  
 7 A. Run the seven -- the activation wires with the wires  
 8 for the lights and brakes and ABS all in one loom the potential  
 9 for a short exists.  
 10 Q. And that was your working theory when you were  
 11 conducting your tests?  
 12 A. Correct.  
 13 Q. You were unable to find any shorts in your inspection;  
 14 correct?  
 15 A. Correct.  
 16 Q. Now, if you thought that there was a problem with the  
 17 design of the trailer would you continue to run the unit,  
 18 meaning if you thought there was a safety issue would you put it  
 19 back on the road?  
 20 A. No.  
 21 Q. And this trailer went back on the road; is that  
 22 correct?  
 23 A. That is correct.  
 24 Q. It went back on the road the next day after the July  
 25 2013 incident; isn't that right?

1 A. I'm not certain of the date it went back into service.  
 2 Q. But pretty shortly thereafter?  
 3 A. Pardon?  
 4 Q. It went in shortly thereafter; is that right?  
 5 A. I can't recall.  
 6 Q. Okay.  
 7 Did you rewire all of the rest of the belly dump  
 8 trailers in the same manner in which you rewired trailer 6775?  
 9 A. I believe I did, but I'm not positive.  
 10 Q. And how would we determine whether or not you rewired  
 11 the rest of the trailers?  
 12 A. We would have to go through the work orders.  
 13 Q. If there is no work orders demonstrating that you  
 14 rewired the remainder of the trailers then does that suggest to  
 15 you that you did not do it?  
 16 A. It would suggest that I personally may not have done  
 17 it, but it may have been done.  
 18 Q. Did you direct anybody to rewire the remainder of the  
 19 trailers after the July 2013 incident?  
 20 A. I made no directive, but it would be perhaps Scott  
 21 Palmer may have done one.  
 22 Q. Okay.  
 23 Are you aware that trailer 6775 has bottom gate  
 24 chains, do you know what those are?  
 25 A. Yes.

1 Q. What are they used for?  
 2 A. My understanding?  
 3 Q. Yes.  
 4 A. For spreading material to limit the opening of the  
 5 gate.  
 6 Q. Have you ever used bottom gate chains before when you  
 7 have been driving?  
 8 A. No.  
 9 Q. Have you ever had any training on the use of bottom  
 10 gate chains?  
 11 A. No.  
 12 Q. Did you ever have any discussions with anybody about  
 13 utilizing the bottom gate chains while driving to prevent a  
 14 belly dumper from opening all the way while on the road?  
 15 MR. BROWN: Objection, foundation.  
 16 THE WITNESS: I personally haven't had any  
 17 conversation like that, no.  
 18 BY MS. WOELFEL:  
 19 Q. Was the Versa valve replaced after the July 2013  
 20 incident?  
 21 A. Yes, it was.  
 22 Q. Why did you replace the Versa valve?  
 23 A. General principles. We did not find a failure, but  
 24 perhaps there was an issue with the valve that I was unaware of.  
 25 Q. Did you purchase the same type of Versa valve?

1 A. Yes.  
 2 Q. Were you the person that installed the Versa valve  
 3 once it -- once you received the new one?  
 4 A. Yes.  
 5 Q. Had you ever installed a Versa valve before coming to  
 6 work at MDB?  
 7 A. No.  
 8 Q. Did you receive any training with respect to the  
 9 installation of the Versa valve?  
 10 A. No.  
 11 Q. Did you read the manual or read any manual on how to  
 12 install a Versa valve?  
 13 A. I'm unaware that there is a manual for that.  
 14 Q. So you did not read any manuals prior to installing  
 15 it?  
 16 A. I did not.  
 17 Q. So I want to move to the July 2014 incident involving  
 18 Mr. Koski. Can you tell me how you became aware of the  
 19 July 7th, 2014 incident?  
 20 A. I was informed by Tracy Shane.  
 21 Q. Were you working that day?  
 22 A. I was.  
 23 Q. Okay.  
 24 And how did you learn from Tracy Shane that this  
 25 incident had taken place?

1 A. Pardon?  
 2 Q. How did you learn from Tracy Shane, did he call you,  
 3 did you see him in person, can you recall how he conveyed the  
 4 information regarding the incident to you?  
 5 A. I believe it was in person in the shop.  
 6 Q. And what did he say to you?  
 7 A. I cannot recall the exact words.  
 8 Q. Do you know what kind of material was being hauled by  
 9 Mr. Koski on July 7th, 2014?  
 10 A. No, I was unaware.  
 11 Q. Did Tracy Shane indicate to you whether or not there  
 12 had been injuries as a result of the incident?  
 13 A. He did not indicate anything about injury.  
 14 Q. Tell me what he told you when he first spoke with you  
 15 about this incident?  
 16 A. Ma'am, that is quite a while ago. I can't tell you  
 17 verbatim.  
 18 Q. Can you give me your best recollection regarding what  
 19 you discussed?  
 20 A. The best I could say is that the gates had opened on  
 21 his trailer on I-80.  
 22 Q. Any discussion about how that happened, did you and  
 23 Tracy discuss the reason for the opening?  
 24 A. No, we didn't know the reason.  
 25 Q. Did you discuss the fact that it was the same person

1 who had the previous dump a year ago, was there any concern  
 2 about that?  
 3 A. We didn't discuss any of that, no, but it may have  
 4 been mentioned that it was Dan. I'm sure it would have been.  
 5 Q. Did you inspect the truck after it returned to the  
 6 site, the MDB site?  
 7 A. Yes.  
 8 Q. And you inspected the trailer that had inadvertently  
 9 opened?  
 10 A. Correct.  
 11 Q. Was anybody else involved in the inspection?  
 12 A. I believe Scott Palmer.  
 13 Q. Did you inspect it on the same day that the incident  
 14 occurred?  
 15 A. I believe we initially did, yes.  
 16 Q. Describe for me what you did during that inspection?  
 17 A. I believe we checked our connections, made sure the  
 18 4-ways were proper. If I recall I think we turned on the brakes  
 19 and the lights and such and see if we could not get an  
 20 uncommanded opening.  
 21 Q. Did you find anything wrong?  
 22 A. No, ma'am.  
 23 Q. Did you conduct any other type of investigation  
 24 related to how this opening occurred?  
 25 A. From that time?

1 Q. Yes.  
 2 A. No.  
 3 Q. So you did an inspection with Scott Palmer you believe  
 4 on the same day that the incident occurred?  
 5 A. I believe so, but I'm not certain of that.  
 6 Q. And after that -- how long did that inspection take?  
 7 A. An hour, two hours.  
 8 Q. Did you do any other inspection or testing on the  
 9 trailer at issue after that one to two hour inspection with  
 10 Scott Palmer?  
 11 A. At that point in time we put mechanical lockouts on  
 12 it.  
 13 Q. So you were not able to discover any type of an  
 14 electrical short that would have led to the incident; is that  
 15 correct?  
 16 A. That is correct.  
 17 Q. And whose idea was it to come up with a mechanical  
 18 lockout system?  
 19 A. That would be Scott Palmer.  
 20 Q. I want to go back to your one to two hour inspection.  
 21 Can you walk me through each thing that you did during that  
 22 inspection?  
 23 A. We started at the tractor, the source of the power,  
 24 checked the connections at the battery and then I believe we  
 25 went into the cab and checked the wiring behind the panel to

1 make sure we didn't have any wires come loose from the toggle  
 2 switches, which we did not, and then we checked the wiring to  
 3 the deck of the trailer or the tractor looking for any abrasions  
 4 and stress to the wiring, which there was none.  
 5 Then we checked from the tractor to the trailer, the  
 6 cord to make sure it hadn't been abraded on the deck or any  
 7 other way of crossing, even though theoretically there is no  
 8 power on there unless the switch is turned on. We inspected the  
 9 wires as best we could following the trailer to make sure that  
 10 they hadn't rubbed through on top of another wire that  
 11 potentially might have been hot creating a circuit all the way  
 12 through to that last valve.  
 13 Q. Did you see any evidence --  
 14 A. No, ma'am.  
 15 Q. -- of any hot spots or anything, nothing?  
 16 A. No.  
 17 Q. So you were unable to determine the cause of the  
 18 inadvertent dump?  
 19 A. Correct.  
 20 Q. Did you talk to Mr. Koski about anything that he might  
 21 have done to cause the inadvertent dump?  
 22 A. I did not.  
 23 Q. Do you know if Scott Palmer did?  
 24 A. I do not know whether he did or did not.  
 25 Q. Did you run any tests on the Versa valve following the

1 the mechanical lockout device?  
 2 A. On a few of them, yes.  
 3 Q. Did you or Scott Palmer or somebody else design the  
 4 mechanical lockout device?  
 5 A. It's my understanding that Scott Palmer had seen these  
 6 devices and whether he designed it or copied it, I do not know.  
 7 Q. Did you have any discussion with him about the devices  
 8 before the decision was made to utilize them?  
 9 A. No.  
 10 Q. Were you involved in installing the mechanical lockout  
 11 devices into the Versa valves on the various trailers?  
 12 A. Yes.  
 13 Q. Did you guys -- did MDB institute -- Scratch that.  
 14 After July 7, 2014 did MDB require that all trailers  
 15 have a mechanical lockout in place before they were able to be  
 16 put on the road?  
 17 A. That's my understanding, yes.  
 18 Q. Were you able to reach any conclusion as to the cause  
 19 of the July 7th, 2014 inadvertent dump?  
 20 A. No.  
 21 Q. Going back to the July 2013 dump, I had asked you if  
 22 you had replaced the Versa valve. Do you recall that?  
 23 A. Um-hum.  
 24 Q. Yes?  
 25 A. Yes.

1 July 7th, 2014 event?  
 2 MR. BROWN: Objection, foundation.  
 3 THE WITNESS: No.  
 4 BY MS. WOELFEL:  
 5 Q. Did you evaluate or test the air system?  
 6 MR. BROWN: Objection, foundation.  
 7 THE WITNESS: I don't recall. I think we assumed that  
 8 it was fine, because it still had air.  
 9 BY MS. WOELFEL:  
 10 Q. What do you mean it still had air?  
 11 A. From the trailer when it arrived when we were looking  
 12 at it the air tank that operates the valves or the gates was  
 13 still full of air, had air pressure.  
 14 Q. So because of that you didn't conduct any other tests  
 15 on the air system?  
 16 A. I did not see any need at that moment.  
 17 Q. Did you speak with the police department or anyone  
 18 else about this incident?  
 19 A. No.  
 20 Q. Now describe for me the decision to use the mechanical  
 21 lockout system, did you participate in that decision at all?  
 22 A. No, I was unaware of those particular devices of  
 23 varying degrees, otherwise we probably would have put it on the  
 24 first set the first time.  
 25 Q. Did you help with the fabrication of those devices,

1 Q. And you told me that you did replace the Versa valve.  
 2 What did you do to the Versa valve that you removed from trailer  
 3 6775?  
 4 A. I believe we disposed of it.  
 5 Q. Okay.  
 6 When you were inspecting trailer 6775 after the  
 7 July 7th, 2014 incident did you identify any problems with the  
 8 way the trailer was manufactured that you believe contributed to  
 9 the unauthorized dump?  
 10 A. At that the time, no.  
 11 Q. Do you believe that there is a problem as you sit here  
 12 today with the way trailer 6775 was manufactured that  
 13 contributed to the unauthorized dump?  
 14 MR. BROWN: Objection, foundation, calls for expert  
 15 opinion.  
 16 THE WITNESS: No.  
 17 BY MS. WOELFEL:  
 18 Q. In your work after July 7, 2014 on trailer 6775 have  
 19 you been able to identify any problems with the design of the  
 20 trailer that you believe contributed to the July 7, 2014  
 21 unauthorized dump?  
 22 MR. BROWN: Same objection.  
 23 THE WITNESS: No.  
 24 MS. WOELFEL: We have been going for about an hour and  
 25 a half. Why don't we take a five-minute break.

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1 THE WITNESS: Okay.  
 2 MS. WOELFEL: Thank you very much.  
 3 (A recess was taken.)  
 4 BY MS. WOELFEL:  
 5 Q. Back on the record.  
 6 So I want to talk to you about the second inadvertent  
 7 dump that took place on July 7th, 2014 involving Scott Palmer.  
 8 Are you aware that Mr. Palmer lost a load of sand on the same  
 9 day as Dan Koski in 2014?  
 10 A. Yes, I had heard that.  
 11 Q. How did you become aware that that had occurred?  
 12 A. I believe that Scott Palmer had called me about that  
 13 incident.  
 14 Q. What did he say to you when he called you?  
 15 A. That he had dropped a load of sand on the highway at  
 16 approximately the same area that Dan had.  
 17 Q. Did Scott indicate how the dump had occurred?  
 18 A. To me at that time with that phone call?  
 19 Q. Yes.  
 20 A. No.  
 21 Q. Did he indicate to you at any time how that dropped  
 22 load had occurred?  
 23 A. He is unaware of how it occurred as much as I am.  
 24 Q. Did you conduct any investigation to try to determine  
 25 how that dump occurred?

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1 A. I don't believe we went as in depth as at that time we  
 2 were installing the mechanical lockouts.  
 3 Q. So did you conduct any inspection at all of the wiring  
 4 on the trailer that Scott was pulling that opened?  
 5 A. I don't recall making that inspection. Doesn't mean  
 6 that I didn't.  
 7 Q. Do you recall any investigation that you conducted of  
 8 the trailer that Scott was pulling on July 7th, 2014?  
 9 A. I do not recall doing so.  
 10 Q. Do you recall whether or not you reached any  
 11 conclusions regarding the cause of Mr. Palmer's trailer opening  
 12 on July 7th, 2014?  
 13 A. I have made no conclusions as to why either of those  
 14 or any of those incidents have occurred.  
 15 Q. Do you know if anyone at MDB has made any conclusions  
 16 regarding why the July 7th, 2014 incident involving Mr. Palmer's  
 17 truck occurred?  
 18 A. You said does anyone --  
 19 Q. Yes, have you heard from anybody at MDB any  
 20 conclusions regarding why the incident on July 7th, 2014  
 21 occurred?  
 22 A. No.  
 23 Q. Did you conduct any investigation as to why  
 24 Mr. Palmer's trailer and Mr. Koski's trailer may have opened on  
 25 the same day, is that a theory that you -- did you explore that

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1 theory of why those two occurred on the same day?  
 2 A. There are several theories, or at least one prevalent  
 3 theory, but again it's just theory.  
 4 Q. What is that theory?  
 5 A. I have no way to explore that.  
 6 Q. Can you describe what that theory is?  
 7 A. My prevalent theory is that we have an atmospheric  
 8 condition in that area.  
 9 Q. And what did you do, if anything, to explore that  
 10 theory?  
 11 A. I'm unable. I don't have enough technical equipment  
 12 to even attempt such exploration.  
 13 Q. Have you discussed that theory with Scott Palmer?  
 14 A. Yes, I have.  
 15 Q. What have you two discussed?  
 16 A. We discussed the potential of a static charge,  
 17 atmospheric that could be engaging the magnet on the valve in  
 18 that area potentially. I believe there are some high tension  
 19 lines out there. I believe there is some cell towers or perhaps  
 20 microwave towers. Any of those potentially, in my opinion,  
 21 could have an effect on those trailers.  
 22 Q. An effect on what part of the trailer?  
 23 A. On the Versa valve's coil, the magnetic coil that  
 24 actually activates electrically the gate.  
 25 Q. Did you run any tests to try to determine if that

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1 theory is accurate at all?  
 2 A. I'm unable to. I don't have the equipment.  
 3 Q. Okay.  
 4 Are there any other theories that you have discussed  
 5 with anyone at MDB regarding why these incidents occurred other  
 6 than what you just described, the atmospheric condition in that  
 7 area?  
 8 A. No other pertinent or no other prevalent theories.  
 9 Q. Did you discuss with Scott whether or not he may have  
 10 done anything on his own to cause this incident?  
 11 A. No.  
 12 MS. WOELFEL: I'm going to walk through a bunch of  
 13 documents, okay. I will mark this as Exhibit 2.  
 14 (Exhibit 2 was marked.)  
 15 BY MS. WOELFEL:  
 16 Q. Exhibit 2 is a series of four pages that are work  
 17 orders Bates labeled MDBMAINT, maintenance 000309, 312, 315 and  
 18 321.  
 19 Have you seen these documents before?  
 20 A. I have not seen this particular document.  
 21 Q. We're looking at the first document that is entitled  
 22 work order and it's dated -- actually there is a date that says  
 23 December 1st, 2013 and then there is a date completed that says  
 24 November 30th, 2013. Do you see that?  
 25 A. Yes.

1 Q. And at the bottom it says performed by Scott and Pat.  
 2 Do you see that?  
 3 A. That is correct.  
 4 Q. And I presume that you are the Pat that this refers  
 5 to?  
 6 A. That is correct.  
 7 Q. And who is Scott that is named here?  
 8 A. That would be Scott Palmer.  
 9 Q. Did you write out this work order or did somebody  
 10 else?  
 11 A. I believe Scott Palmer made this work order.  
 12 Q. Now, if you look on the line that says additional, can  
 13 you read what is written there?  
 14 MR. BROWN: Objection, the document speaks for itself.  
 15 Go ahead.  
 16 BY MS. WOELFEL:  
 17 Q. Are you able to read what is written there?  
 18 A. I believe it reads -- the first word is not extremely  
 19 clear to me, but I believe it says rewired trailer to meet MDB  
 20 standards, replace lights with LEDs.  
 21 Q. Okay.  
 22 Do you know what this refers to when it says rewire  
 23 trailer to meet MDB standards?  
 24 A. What I believe he is referring to is we typically  
 25 don't rush through our wiring job. We install junction boxes

1 when necessary in a clean, safe location to keep it from being  
 2 damaged or filled with water or such. We take more time in our  
 3 wiring terminals and such and to insulate them than the industry  
 4 standard.  
 5 Q. Okay.  
 6 Is there a way in which you wire a trailer that is  
 7 considered, quote unquote, MDB standards?  
 8 A. Just by the neatness in which we do the wiring.  
 9 Q. If you acquire a new trailer, if MDB acquires a new  
 10 trailer do you rewire it to meet MDB standards?  
 11 A. Typically, no, unless the wiring is indicated that it  
 12 needs to be done.  
 13 Q. Do you know if what you were doing with 677 --  
 14 Actually scratch that.  
 15 Can you tell me based on this work order what it was  
 16 that you did to trailer 6777 on or around November 30th, 2013?  
 17 A. Again I can't read his writing very well, but I  
 18 believe what we're indicating is that we ran new cable from the  
 19 tractor to the first -- or to the trailer eliminating or  
 20 cleaning up the wiring on the 7-way and the 4-way.  
 21 Q. What do you mean cleaning up the wiring from the 7-way  
 22 and 4-way, what specifically were you doing?  
 23 A. Again this is quite a while back, but I believe that  
 24 we had wiring at the 7-way -- the original 7-way that was messy,  
 25 to say the least, wires stacked upon wires, potential for them

1 to become loose, therefore we installed 7-way boxes, junction  
 2 boxes to neaten that up is what I believe we did here, along  
 3 with some more new cable, which would be wires inside wrapped  
 4 together, probably the ABS green wire with seven independent  
 5 wires inside this cable and bringing a 4-way cable to looks like  
 6 another junction box.  
 7 Q. What did you do with any of the wires that you were  
 8 replacing or that weren't going to be used, did you remove them  
 9 from the trailer or did you leave them there?  
 10 A. Typically we remove these. It would be my estimation  
 11 that we did. Again it's been a while.  
 12 Q. And what did you do with the removed wires, would you  
 13 throw those away?  
 14 A. Yes.  
 15 Q. If you had noted or seen any problems with the wires  
 16 that you removed would you note that somewhere?  
 17 A. If there had been an issue, yes, we would have.  
 18 Q. Where would you have noted that?  
 19 A. We would put it down here on the notes.  
 20 Q. Okay.  
 21 Moving to the next page, MDB maintenance 000312. This  
 22 indicates that there is work on February 20th, 2014 performed by  
 23 Pat, it looks like. Is this your handwriting?  
 24 A. Pardon?  
 25 Q. Is this your handwriting on this document?

1 A. It appears to be, yes.  
 2 No, that would be -- Yes, that is my handwriting on  
 3 most of it.  
 4 Q. Okay.  
 5 I want to go to the next page, MDB maintenance 000315.  
 6 This is a work order dated April 16th, 2014 and it indicates  
 7 that the work is performed by Pat and Scott. Is this your  
 8 handwriting on this document?  
 9 A. No.  
 10 Q. Do you know whose handwriting it is?  
 11 A. It's my opinion it would be Scott Palmer's.  
 12 Q. And this indicates that on April 16, 2014 there was a  
 13 Versa valve handle loose and air spring action on lever not  
 14 working correctly.  
 15 Do you recall performing the work indicated by way of  
 16 this work order?  
 17 MR. BROWN: Objection, foundation.  
 18 THE WITNESS: I did not perform the work on this  
 19 valve.  
 20 BY MS. WOELFEL:  
 21 Q. Okay.  
 22 Do you know why it says under performed by it says Pat  
 23 and Scott, do you know why your name is listed there?  
 24 A. Potentially, again it's been a while, that I may have  
 25 removed the valve for Scott.

1 Q. Why would you have removed the valve for Scott?  
 2 A. He may have asked me to remove it or he may have been  
 3 in the process.  
 4 Q. Do you have any independent recollection of working on  
 5 this project in April of 2014?  
 6 A. Nothing specific.  
 7 Q. Going to the next page, it's a work order dated  
 8 December 1, 2014. Can you tell me if this is your handwriting  
 9 or not?  
 10 A. That's probably my handwriting.  
 11 Q. Okay.  
 12 And is that your name at the bottom that says  
 13 performed by Pat?  
 14 A. Yes.  
 15 Q. Okay.  
 16 Now, this says T/S gates not closing with switch.  
 17 What does T/S gates not closing with switch mean?  
 18 A. That is my shorthand for troubleshoot and then gates  
 19 not working or not closing with switch meaning in the cab of the  
 20 tractor the third switch activates to open it and they ask for  
 21 it to be closed by turning the switch off, the gate would not  
 22 close.  
 23 Q. Okay.  
 24 A. By removing the power from it.  
 25 Q. Okay.

1 or not, Pat?  
 2 A. It appears to be my handwriting.  
 3 Q. Okay.  
 4 It indicates that the work performed pursuant to this  
 5 work order was performed by you, correct?  
 6 A. Correct.  
 7 Q. So it says troubleshoot no power at gate dump 4-way  
 8 plug; is that correct?  
 9 A. That is correct.  
 10 Q. What does that mean?  
 11 A. That means at the plug, the 4-way plug for the trailer  
 12 dumps there was no power. In other words, the gates were not  
 13 opening because no power was being provided to them when  
 14 commanded by the driver.  
 15 Q. So if the driver hit the switch from inside the cab  
 16 the belly dumpers would not open; is that correct?  
 17 A. That is correct.  
 18 Q. What did you determine was the problem that caused  
 19 that?  
 20 A. It appears here that I found that the wiring for the  
 21 switches, the positive wire to the switches was on an  
 22 inappropriate circuit inside the cab, was wired to a light  
 23 circuit.  
 24 Q. How would that have occurred that it would be wired to  
 25 an inappropriate circuit inside the cab?

1 And so what did you do in response to that issue?  
 2 A. In this response from what I found the accumulator  
 3 apparently was not functioning properly on the Versa valve,  
 4 therefore I replaced the Versa valve.  
 5 Q. How did you determine that the accumulator was not  
 6 working on the Versa valve?  
 7 A. I couldn't tell you specifically. I'm pretty sure  
 8 that I probably checked to see if there was air on the other  
 9 side of this accumulator by functioning the valve, the handle,  
 10 and at that point in time it was as far as I can go with it with  
 11 my knowledge of the Versa valve, therefore I replaced the valve  
 12 and the function was proper.  
 13 Q. Did you replace it with the exact same type of Versa  
 14 valve?  
 15 A. Yes.  
 16 MS. WOELFEL: This will be Exhibit 3.  
 17 (Exhibit 3 was marked.)  
 18 BY MS. WOELFEL:  
 19 Q. Exhibit 3 is another stack of work orders with various  
 20 Bates numbers and they all relate to equipment number 5694,  
 21 which I will represent to you is Daniel Koski's truck, the truck  
 22 that he drove to pull the three belly dump trailers.  
 23 If we look at the first work order, which is dated --  
 24 first of all, it's Bates labelled MDB 031 and it is dated  
 25 April 13th, 2013. Can you tell me if this is your handwriting

1 A. This is a personal opinion that it's inappropriate. I  
 2 wouldn't have wired it to that circuit, so meaning I would have  
 3 taken it to a different circuit, which I did in this particular  
 4 instance.  
 5 Q. Okay.  
 6 So you rewired the circuit so that it was -- describe  
 7 to me how you rewired it?  
 8 A. This particular switch at the time when I found it I  
 9 ran the wire from the light circuit, the lamp circuit to an  
 10 accessory circuit that was made to run accessories inside the  
 11 cab, which in my opinion these switches were accessories, not  
 12 part of the lighting and brakes or anything else, heaters or  
 13 anything else for that matter, more to perhaps a more dedicated  
 14 circuit.  
 15 Q. And after you made that change everything worked?  
 16 A. It appears so, yes.  
 17 Q. Okay.  
 18 Moving on to the next work order, which is Bates  
 19 labeled MDB 155, this looks like it's work performed by Brandon  
 20 Jones. Who is that?  
 21 A. Brandon Jones was a young man hired to help lubricate  
 22 and service the vehicles.  
 23 Q. Did he work with you?  
 24 A. He worked with me on occasion, yes.  
 25 Q. Did you train him?

1 A. To a certain extent, yes.

2 Q. So when you say his jobs were to lubricate and inspect  
3 the vehicles, what is involved with the inspection that Brandon  
4 would perform?

5 A. Well, he was instructed to keep his eyes open for  
6 anything that looked odd to him, cracks or breaks, something  
7 that is just not right and to bring it to either myself or  
8 Tracy's attention at this time.

9 Q. So based on what is written here where it says grease  
10 and inspect, do you know precisely or can you tell what Brandon  
11 inspected on equipment number 5694 and trailers 6773, 6774 and  
12 6775?

13 A. I could not tell you precisely what he inspected.

14 Q. But if he found any problems you would have expected  
15 him to bring that to either your or Tracy Shane's attention?

16 A. That is correct.

17 Q. Do you know if anything was brought to your attention  
18 on or around May 19th, 2013?

19 A. I do not believe so.

20 Q. Next page is MDB 073. This is work that looks like --  
21 the work order is dated July 20th -- can you read that?

22 A. Pardon?

23 Q. Can you read the date on this work order?

24 A. It looks like July 26, 2013.

25 Q. Is that your handwriting?

1 A. That is my handwriting.

2 Q. And it looks like the work order is completed by Pat.  
3 That is you; correct?

4 A. Correct.

5 Q. And the work is performed also by you; is that  
6 correct?

7 A. Correct.

8 Q. And here it looks like you are rewiring gate switches;  
9 is that right?

10 A. Yes.

11 Q. This is inside the cab of the truck?

12 A. That is correct.

13 Q. Can you tell me why you were rewiring gate switches on  
14 July 26, 2013?

15 A. I believe at that time we had the uncommanded opening  
16 of the gate and this was part of the repairs to help isolate  
17 even more so the system.

18 Q. Okay.

19 Had you found any problems with the gate switches  
20 inside the cab prior to making the decision to rewire?

21 A. There was one issue where we didn't have power flowing  
22 through when I rewired to the accessory circuit.

23 Q. That occurred on or about April 13th, 2013; correct?

24 A. Yeah.

25 Q. Okay.

1 Did you believe that there could have been a wiring  
2 issue there that would have contributed to this unauthorized  
3 dump?

4 A. I didn't truly believe so, but there is always a  
5 potential.

6 Q. Okay.

7 And is that the reason why you did the rewiring in the  
8 cab?

9 A. Yes, I wanted to isolate those circuits as best I  
10 could completely from the tractor and that's why we went to the  
11 batteries directly instead of pulling any power or ground from  
12 the chassis.

13 Q. Okay.

14 It also says you installed a master switch?

15 A. That is correct.

16 Q. Was there a master switch in there before?

17 A. No, there was not.

18 Q. Why did you install a master switch?

19 A. It's one more step, one more protective circuit.

20 Q. Did you believe that there was a possibility that  
21 driver error could have contributed to the unauthorized dump in  
22 July of 2013?

23 A. That possibility never truly entered my mind.

24 Q. Did you install master switches in every other truck?

25 A. No, we did not.

1 Q. Just the one that Mr. Koski was driving?

2 A. Correct.

3 Q. On to the next page, MDB 078. This work order is  
4 dated August 17, 2013 and it looks like it says performed by  
5 Pat, and that is you; correct?

6 A. That is correct.

7 Q. Is this your handwriting?

8 A. It appears to be, yes.

9 Q. I can't read what is written where it says additional.  
10 Can you read that for me, please?

11 A. I wish I could. I cannot with this copy. It seems a  
12 little blurry.

13 Q. Okay.

14 A. But it seems something about the trailer lights,  
15 troubleshooting the trailer lights, perhaps pulsing may be the  
16 word, may not, and then in my poor parentheses is possible  
17 ground.

18 Q. What does that mean?

19 A. Possible ground would be a possible grounding issue.  
20 The circuit is not being completed well as perhaps a corroded  
21 circuit that doesn't allow the electricity to return to the  
22 battery and, therefore, let's just take a light, for example, it  
23 cannot illuminate as it's supposed to, but it may illuminate  
24 dimly because it's still getting some circuit, but not all the  
25 circuit required to operate properly.

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1 Q. Okay.  
 2 So what did you do to correct that issue?  
 3 A. It looks to me it says I found an issue perhaps in the  
 4 7-way plug and socket on the tractor.  
 5 Q. And replaced those parts?  
 6 A. Yes, I replaced the plug and a socket on this tractor,  
 7 which the ground wire passes through.  
 8 Q. Okay.  
 9 When you replace a part do you throw away the part you  
 10 have taken off the truck or do you keep it?  
 11 A. Typically we dispose of it.  
 12 Q. If you were to keep it would that be noted somewhere?  
 13 A. No.  
 14 Q. I want to go to MDB 095, so go two pages ahead.  
 15 A. 85?  
 16 Q. 95, right there.  
 17 This is a work order dated October 20th, 2013, and is  
 18 this your handwriting?  
 19 A. No.  
 20 Q. That is Scott's name on the bottom; correct?  
 21 A. That is correct.  
 22 Q. If you had performed work with Scott in any capacity,  
 23 even just a little bit, would your name be written on the bottom  
 24 of the work order?  
 25 A. Typically, yes.

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1 Q. Okay.  
 2 Do you have any recollection of assisting him in  
 3 replacing a master switch on 5694?  
 4 A. I do not recall assisting him.  
 5 Q. Okay.  
 6 Let's move on to MDB 101. Is that your handwriting on  
 7 this document?  
 8 A. Pardon?  
 9 Q. Is this your handwriting?  
 10 A. That is correct.  
 11 Q. What does PM-1 mean?  
 12 A. That is preventative maintenance first level.  
 13 Q. What does preventative maintenance first level  
 14 involve?  
 15 A. It involves changing the engine oil and filter,  
 16 lubricating all the lubricatable components and inspection,  
 17 visual typically, and topping off of fluids, such as the  
 18 windshield washers, checking to make sure the wipers are in good  
 19 condition and all the lights are functional.  
 20 Q. And if any issues were noted from the visual  
 21 inspection would that be indicated on this work order?  
 22 A. The smaller stuff, yes.  
 23 Q. What if there was larger stuff?  
 24 A. Bigger stuff would be opened on a separate work order.  
 25 Q. All right.

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1 Next page is MDB maintenance 000089 and it says the  
 2 work is performed by Pat and the date is February 6th, 2014. Is  
 3 this your handwriting, Pat?  
 4 A. It does appear to be my handwriting, yes.  
 5 Q. Okay.  
 6 And here it says that you replaced cab power relay?  
 7 A. Correct.  
 8 Q. What does that mean, what does that involve?  
 9 A. In the cab for the main power coming to the cab  
 10 supplies 12-volt DC is a relay behind the dash. When that relay  
 11 fails we lose all power in the dash. So that entails us  
 12 removing a portion of the dash to get to this relay and  
 13 replacing it, physically replacing the electrical component.  
 14 Q. Okay.  
 15 Next page is MDB 109 and that is a work order for 5694  
 16 dated March 21, 2014, and in this it looks like you repaired the  
 17 center gate toggle switch cover?  
 18 A. Correct.  
 19 Q. And that is one of the switches that operates the  
 20 belly dumper; correct?  
 21 A. That is correct. That is one of the covers for the  
 22 switch.  
 23 Q. One of the red covers that you would flip up before  
 24 you could move the toggle switch; is that correct?  
 25 A. That is correct.

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1 Q. Do all cabs have toggle covers over the switches?  
 2 A. Pardon?  
 3 Could you define which toggle switches you're  
 4 referring to?  
 5 Q. The toggle switches that activate the belly dumpers,  
 6 does every truck in MDB's line have covers over those toggle  
 7 switches?  
 8 A. Correct, they do.  
 9 Q. The next page is MDB maintenance 000103. It's  
 10 June 25th, 2014, and at the bottom it says work performed by  
 11 Pat. Can you tell me if this is your handwriting?  
 12 A. That is correct.  
 13 Q. I believe it says troubleshoot, I don't know,  
 14 something turn signals and 4-way flashers. Can you read that  
 15 for me?  
 16 A. I certainly can. It reads troubleshoot TS in-op turn  
 17 signals and 4-way flashers.  
 18 Q. Okay.  
 19 And it says you found low voltage at the switch?  
 20 A. That is correct.  
 21 Q. What does that mean, at the flasher switch you found  
 22 low voltage?  
 23 A. Correct.  
 24 Q. What could that have been caused by?  
 25 A. At this point it appears by my notes the fuse in the

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1 fuse panel was not allowing full voltage through the fuse.  
 2 Q. Okay.  
 3 A. Extremely rare, but it occurs.  
 4 Q. Do you know what could have caused that?  
 5 A. At this point I assumed that it was perhaps the fuse,  
 6 the filament in the fuse was not making good contact.  
 7 MS. WOELFEL: Okay.  
 8 We're going to move to another set of exhibits. Let's do  
 9 the next set really fast.  
 10 (Exhibit 4 was marked.)  
 11 BY MS. WOELFEL:  
 12 Q. This is a set of exhibits related to equipment number  
 13 6773, which is the first trailer in Mr. Koski's three trailer  
 14 lineup, the one attached to the truck.  
 15 Now, going to the very first work order it says work  
 16 is performed by Scott, but it notes that there is pulled out  
 17 unused wire from, I don't know, can you read his writing better  
 18 than me under the note section?  
 19 A. I have difficulty reading my own writing, but I can't  
 20 really speculate on what that word is.  
 21 Q. Okay.  
 22 A. The last word appears to be discarded.  
 23 Q. Okay.  
 24 Do you have any knowledge regarding what this work  
 25 order was about or involved?

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1 A. No.  
 2 Q. The third page, MDB 170, states inspect FAI and that  
 3 is performed by Tracy. What is an FAI?  
 4 Oops, let me see that. You have my super secret  
 5 highlights, which you probably can't read that handwriting  
 6 either.  
 7 What is an FAI?  
 8 A. Not knowing Tracy's shorthand I'm going to state that  
 9 potentially it's a federal annual inspection.  
 10 Q. Did you ever conduct federal annual inspections on  
 11 these trailers?  
 12 A. I have. I believe I have done a federal on these  
 13 trailers.  
 14 Q. Who typically does the federal annual inspections on  
 15 these trailers?  
 16 A. Typically it could be myself, Scott Palmer or Tracy  
 17 Shane at this time. Tracy Shane was the one typically doing the  
 18 federal annual inspections at this time.  
 19 Q. What does a federal annual inspection involve?  
 20 A. It involves the visual physical inspection of the  
 21 condition of the trailer in regards to brakes, tires,  
 22 securement, chains, if required, lighting, bumpers, if required,  
 23 handholds and such. It's a somewhat general inspection of the  
 24 overall condition, whether it's a tractor, a trailer. If these  
 25 components exist on it then they are to be inspected.

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1 Q. Are you inspecting the wiring that is not visible?  
 2 A. No.  
 3 Q. The next work order is dated July 7, 2014, which we  
 4 know is the date that there was an unauthorized dump by  
 5 Mr. Koski, correct, and this says gate opened on highway,  
 6 trailer number 6775, install positive gate valve lock. Were you  
 7 involved in the installing of positive gate valve locks?  
 8 A. Let me find that.  
 9 MS. SHREVE: I think yours is in a different order.  
 10 MS. WOELFEL: MDB 0013.  
 11 Let's go ahead and break right there so I can put that in  
 12 the correct order and we only have a few minutes before the  
 13 call. I apologize for that.  
 14 (A recess was taken.)  
 15 BY MS. WOELFEL:  
 16 Q. So we are back on the record, and when we left off we  
 17 were on Exhibit 4 and I had given you a jumble of paper that was  
 18 not in the same order as mine and we have corrected that.  
 19 We were looking at MDB 013, which is a work order  
 20 dated 7/7/14. Do you see that?  
 21 A. I do see it.  
 22 Q. And that is for equipment number 6773, 6774 and 6775.  
 23 Do you see that?  
 24 A. That is correct.  
 25 Q. And this is a work order that was on the same day as

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1 the unauthorized release; correct?  
 2 A. That appears to be correct.  
 3 Q. And it notes that there was a gate opening on the  
 4 highway with trailer 6775 and that there was an installation of  
 5 positive gate valve locks. Were you involved in installing the  
 6 positive gate valve locks on 6773, 6774 and 6775?  
 7 A. I believe I assisted in the installation of these  
 8 locks.  
 9 Q. Did you assist in the fabrication of those positive  
 10 locks?  
 11 A. I believe that Scott Palmer made that fabrication of  
 12 those locks.  
 13 Q. Did he discuss with you at all the design that he was  
 14 putting together before he did it?  
 15 A. No.  
 16 Q. Go to the next page, that is a work order dated  
 17 August 5th, 2014 for 6773. Is that your handwriting?  
 18 A. That is my handwriting, correct.  
 19 Q. And it says you replaced a 4-way socket. Do you know  
 20 why you had to replace that 4-way socket based on what is on  
 21 this document?  
 22 A. It's an assumption that the socket -- the flap that  
 23 holds the plug in place may have been broken or there may have  
 24 been corrosion on the socket on the plugs or it could have had a  
 25 broken pin. Some damage, it's an assumption at this point.

1 Q. Because you can't tell what the problem was based on  
 2 this work order?  
 3 A. No.  
 4 Q. And the next page, MDB maintenance 000165, is a work  
 5 order dated 9/16/2014. Is that your handwriting on this page?  
 6 A. Yes, it is.  
 7 Q. And what does this work order describe?  
 8 A. Describing troubleshooting an air leak on the first  
 9 and second gate cylinders.  
 10 Q. What would an air leak on a gate cylinder do, would  
 11 that prevent the belly dumper from opening and closing?  
 12 MR. BROWN: Objection, foundation.  
 13 THE WITNESS: It does not prevent them from operating.  
 14 It's merely a leak in the air system. In this case it appears  
 15 to be on a QR valve and perhaps a cylinder and those air leaks  
 16 needed to be addressed and repaired for loss of air.  
 17 BY MS. WOELFEL:  
 18 Q. And you made those repairs?  
 19 A. It appears I had, yes.  
 20 MS. WOELFEL: All right.  
 21 We will move on to a different exhibit.  
 22 (Exhibit 5 was marked.)  
 23 BY MS. WOELFEL:  
 24 Q. On the first page, MDB 196, that is dated -- I believe  
 25 it's dated July 31st, 2013 and it says date completed 8/2/2013

1 and it says work performed by Pat for equipment 6774. Is that  
 2 your handwriting, Pat?  
 3 A. It does appear to be.  
 4 Q. And can you tell me what is indicated in this work  
 5 order?  
 6 A. In this particular work order it indicates that I ran  
 7 new wires in this trailer for the dump circuit.  
 8 Q. Was this in response to the July 2013 unauthorized  
 9 dump?  
 10 A. I do believe so.  
 11 Q. And it says you rewired dump valve circuit. Can you  
 12 explain precisely how you rewired the dump valve circuit?  
 13 A. Rather than using the circuit that existed with the  
 14 7-way wires it appears with the parts used that I ran  
 15 independent wires from the 4-way socket back to the coil on the  
 16 Versa valve.  
 17 Q. How can you tell from this work order that you left  
 18 the existing wires in the trailer or the previously existing  
 19 wires in the trailer?  
 20 A. At this point I didn't state that I had removed them,  
 21 therefore that's the only reason I can say we did not.  
 22 Q. Okay.  
 23 If you had removed them would you have written removed  
 24 --  
 25 A. Typically I would have, yes.

1 Q. Okay.  
 2 A. It's a fairly major event.  
 3 MS. WOELFEL: Mark this as Exhibit 6.  
 4 (Exhibit 6 was marked.)  
 5 BY MS. WOELFEL:  
 6 Q. Handing you what has been marked as Exhibit 6, it's a  
 7 series of documents related to equipment number 6775.  
 8 The first page is Bates labeled MDB 239 and it's a  
 9 work order dated July 18, 2013 with the date completed of  
 10 July 19th, 2013. Is this your handwriting?  
 11 A. I do not believe it is.  
 12 Q. It says the work order is by and then it says Pat. Is  
 13 there anybody else at MDB Trucking whose name is Pat?  
 14 A. No, there is not.  
 15 Q. It says the work is performed by Pat. Do you see that  
 16 at the bottom?  
 17 A. I do.  
 18 Q. Whose handwriting do you think this is?  
 19 A. Pardon?  
 20 Q. Do you know whose handwriting this is?  
 21 A. I don't know for certain, but it may be my wife's.  
 22 It's much too legible for mine.  
 23 Q. Would your wife assist you in writing up work orders?  
 24 A. On rare occasions.  
 25 Q. And does she also work at MDB Trucking?

1 A. She does not.  
 2 Q. So would you fill out these work orders at home after  
 3 work?  
 4 A. More than likely she was out visiting and with my  
 5 hands being all greasy and whatnot it's more convenient to have  
 6 her -- to be able to dictate to her what I did.  
 7 Q. So you would be dictating to her and she would be  
 8 filling out this work order?  
 9 A. Correct.  
 10 Q. Can you describe for me what you were doing with  
 11 respect to this work order?  
 12 A. On the trailers there is two inline apparatus that  
 13 deal with air prior to the Versa valve. One of them is the  
 14 water separator and filter and the other is the oiler, which  
 15 automatically provides oil to the Versa valve and our cylinders  
 16 to keep them functioning properly.  
 17 In this where they are put together these have used a  
 18 fairly flimsy O ring system and a taper lock that holds them  
 19 together. Over time the O rings become weak and the air  
 20 pressure that they are supposed to seal is able to overcome them  
 21 and leak to the outside so we have an air loss at that point.  
 22 With these particular valves I found the way they are  
 23 done are inadequate for an over-the-road trailer. So what I did  
 24 in this instance, rather than duplicate the O rings and the  
 25 locking mechanism to hold them together, these particular valves

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1 also have pipe threads that could be utilized and I did utilize  
 2 pipe threads and unions, which made a solid junction for the air  
 3 and eliminates the O rings from leaking in the future.  
 4 Q. What would be the result of the air leak?  
 5 A. Pardon?  
 6 Q. What is the result of the air leaking at the gate  
 7 control valve?  
 8 A. At this one, this particular one besides basically  
 9 what we were dealing with was just a loss of air. It's still  
 10 part of the system. The air compressor from our tractor is  
 11 working harder to try to make up for this air. It still has  
 12 plenty of air to operate properly the cylinders on the gates and  
 13 maintain pressure in the tank, it's just unacceptable to have  
 14 that air leak.  
 15 Q. Okay.  
 16 And this was shortly before the unauthorized dump in  
 17 July of 2013 involving this trailer; correct?  
 18 A. It appears so, yes.  
 19 Q. When that unauthorized dump in July 2013 took place  
 20 did you check to see if what is described on this work order  
 21 played any part in that unauthorized release?  
 22 A. I did not make any specific test to this, perhaps  
 23 checked for leaks, but I don't believe there would have been any  
 24 found.  
 25 Q. The next page is Bates labeled MDB 015 and it's a work

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1 order dated August 1st, 2013. It says by Pat and performed by  
 2 Pat. Is that your handwriting?  
 3 A. It does appear to be, yes.  
 4 Q. Can you describe for me what you were doing in this  
 5 work order?  
 6 A. It says that we were investigating unintentional gate  
 7 opening. At this point it appears to me that I have begun to  
 8 replace and isolate the circuit for the Versa valve's function  
 9 in this particular work order, replaced the Versa valve,  
 10 isolated the dump valve circuit. I have difficulty reading my  
 11 own handwriting. Install the Versa valve and rewire dump valve  
 12 circuit from valve to truck isolating dump circuit and I removed  
 13 a coil case ground from the circuit.  
 14 Q. So you rewired the dump valve circuit in the same  
 15 manner that you rewired 6774 that we talked about?  
 16 A. Correct.  
 17 Q. Then it says you replaced the Versa valve. Did you  
 18 take off the Versa valve, did you remove the Versa valve from  
 19 6775?  
 20 A. I'm pretty sure I would have, yes.  
 21 Q. What did you do with the Versa valve that you removed?  
 22 A. My best recollection is we disposed of it.  
 23 Q. Did you run any tests on it after you removed it from  
 24 the trailer?  
 25 A. I do not believe so.

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1 Q. Okay.  
 2 And did you place the order for a new Versa valve?  
 3 A. I believe so. I went and picked it up at our vendor.  
 4 Q. Were you the person that made the choice on which  
 5 Versa valve to purchase?  
 6 MR. BROWN: Objection, foundation.  
 7 THE WITNESS: You could say that, I suppose.  
 8 BY MS. WOELFEL:  
 9 Q. Did you have any discussions with anybody else at MDB  
 10 about what type of Versa valve to purchase in order to replace  
 11 the one that you had removed?  
 12 A. No.  
 13 Q. So if you placed the order then it would have been  
 14 your decision on which Versa valve to order?  
 15 A. Yes.  
 16 Q. Did you look at any other types of Versa valve when  
 17 you were making a decision on what to purchase?  
 18 A. No.  
 19 MS. WOELFEL: Keep that exhibit in front of you. I  
 20 want to show you what we will mark as Exhibit 7.  
 21 (Exhibit 7 was marked.)  
 22 BY MS. WOELFEL:  
 23 Q. Handing you an invoice that is dated July 31st, 2013,  
 24 and it's an invoice ordering a side port Versa valve. Do you  
 25 see that?

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1 A. I do.  
 2 Q. And it's with Eng's Motor Truck Company. Is that with  
 3 whom you placed your order for a new Versa valve?  
 4 A. That is correct.  
 5 Q. You said you went and picked it up at Eng's when it was  
 6 ready?  
 7 A. Correct.  
 8 Q. How do you pronounce this company?  
 9 A. I believe it's Eng's.  
 10 Q. So going back to work order MDB 015, do you know if  
 11 Eng's had the Versa valve in stock and you just went and picked  
 12 it up or did you have to place an order and have it delivered?  
 13 A. If I recall correctly it was in stock.  
 14 Q. Okay.  
 15 And you went and picked it up and then did you notice  
 16 when you opened the package for the Versa valve that there was  
 17 any written documentation included with it?  
 18 A. I would have to say that there probably was.  
 19 Q. Did you read it before you replaced the Versa valve?  
 20 A. I did not.  
 21 Q. Did anyone assist you in installing the new Versa  
 22 valve?  
 23 A. I do not believe so.  
 24 Q. Okay.  
 25 After you installed the new Versa valve did you

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1 utilize the pinning system that -- scratch that. That didn't  
 2 happen for a year later, correct?  
 3 A. Pardon?  
 4 Q. You were not utilizing a pinning system with the Versa  
 5 valve that you replaced in July of 2013; correct?  
 6 A. Correct.  
 7 Q. You put the trailer back in service after you  
 8 completed this work order; is that right?  
 9 A. I did not put it back into service.  
 10 Q. Who makes the decision to put it back into service?  
 11 A. At that time it would have been Tracy Shane.  
 12 Q. Okay.  
 13 A. I could not give him reason not to.  
 14 Q. So did you recommend to Mr. Shane that he put 6775  
 15 back in service?  
 16 A. I did not make any recommendation.  
 17 Q. But you could not give him a reason to keep it out of  
 18 service?  
 19 A. Correct.  
 20 Q. Go to three pages back, MDB maintenance 240. It's a  
 21 work order dated June 30th, 2014.  
 22 A. June 30th, 2014?  
 23 Q. That's correct.  
 24 A. Okay.  
 25 Q. For equipment number 6775, and at the bottom it says

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1 performed by Pat. Is that your handwriting?  
 2 A. That is correct.  
 3 Q. Now this says reattached Versa valve. What does that  
 4 mean?  
 5 A. At this moment just reading this I would have to  
 6 assume that a portion of the attaching apparatus, which in this  
 7 case would be bolts, has come loose and that I either  
 8 reinstalled and tightened the valve, or I should say retightened  
 9 the fasteners, or perhaps replaced with a different locking nut  
 10 or washer at that point in time.  
 11 Q. Okay.  
 12 With the Versa valve loose would that cause any safety  
 13 issues?  
 14 A. In my opinion, no.  
 15 Q. Why not?  
 16 A. I don't feel it could have -- I don't recall it ever  
 17 being completely free of its mount. At that point in time there  
 18 is no way, even with the way it's plumbed, which is air plumbing  
 19 to the rear of it, there is no way that I could conceive it to  
 20 be able to fall and strike the handle and activate the valve.  
 21 Q. Go to the next page. It's Bates labeled MDB 258.  
 22 It's a work order dated July 2, 2014 for equipment number 6775  
 23 and it says work performed by Pat. Is that your handwriting,  
 24 Pat?  
 25 A. That is my handwriting.

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1 Q. Can you tell me what is going on in this work order?  
 2 A. Troubleshoot ABS light coming on.  
 3 Q. What is an ABS light.  
 4 A. Antilock braking system indicator light.  
 5 Q. Why was the ABS light coming on?  
 6 A. The ABS light will illuminate any time that the ECU,  
 7 the ABS electronic control unit senses an issue with the ABS  
 8 system, whether it be a broken wire or no continuity to one of  
 9 the sensors or a bad sensor, a multitude of issues.  
 10 It appears in this particular work order that I had  
 11 two wires that were damaged going to the front sensors and I  
 12 replaced them.  
 13 Q. Okay.  
 14 Do you know how they were damaged?  
 15 A. I don't recall exactly, but probably some sort of  
 16 abrasion.  
 17 Q. When you are conducting that inspection trying to  
 18 figure out what is causing the ABS light to come on are you  
 19 inspecting other wires at the same time to try to look for the  
 20 source of the problem?  
 21 A. Yes, you always do a visual inspection.  
 22 Q. If you had seen any other problems with the wiring you  
 23 would have noted it and corrected it?  
 24 A. That is correct.  
 25 Q. So it's fair to say that on July 2, 2014 you didn't

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1 see any other problems with the wiring?  
 2 A. I did not.  
 3 Q. So the next page is MDB maintenance 244 and that is  
 4 about five days later on July 7th, 2014 and that is the day that  
 5 there was an unauthorized release; is that correct?  
 6 A. I believe so.  
 7 Q. Okay.  
 8 And this is a work order, looks like prepared by Scott  
 9 and performed by Scott, and it says install lockout device for  
 10 Versa valve. Did you assist him with installing the lockout  
 11 device for the Versa valve on 6775, if you can recall?  
 12 A. Pardon?  
 13 Q. Did you assist him in installing the lockout device?  
 14 A. I don't believe so, but I may have.  
 15 Q. Okay.  
 16 Go to the next page, MDB maintenance 246. It's a work  
 17 order dated 7/8/2014 and it says performed by Pat. Do you see  
 18 that?  
 19 A. I do.  
 20 Q. Is that your handwriting on this work order?  
 21 A. That is my handwriting.  
 22 Q. Now, this is the day after the unauthorized release;  
 23 correct?  
 24 A. I believe so.  
 25 Q. And what is going on in this work order?

1 A. This particular work order it appears that the ABS  
2 light had illuminated indicating another issue with ABS and this  
3 circuitry, which was BU-1, was a fault. I traced the circuit to  
4 an extension cable that either apparently had a break in it or  
5 something, was no longer communicating with the ECU and I  
6 replaced the cable and cleared the codes from the ECU.

7 Q. Does this indicate to you that 6775 was being used on  
8 July 8th to haul loads?

9 A. Would you repeat the question, please?

10 Q. Right.

11 Based on the fact that you were performing this work  
12 on this trailer 6775 on July 8th, 2014, does that suggest to you  
13 that Dan, who signed the work order, had been using that trailer  
14 to haul loads on July 8th, 2014?

15 A. Not necessarily. It could be an old work order.

16 Q. So this would be an old work order?

17 A. Not an old work order, but that day may have been  
18 assigned to us.

19 Q. Okay.

20 So when you prepare -- when a person prepares a work  
21 order do they put the day that they prepare it on the work order  
22 or is there someplace else that they would note --

23 A. Not necessarily. Sometimes it's the date that the  
24 work is performed and completed or began and completed. As far  
25 as preparing the work order, me, the date I start to work on it

1 Q. Why would you need to do that?

2 A. More than likely it had indicated it was no longer  
3 functioning properly. Pressure protection valve protects the  
4 tractor from loss of air from equipment used downstream.

5 MS. WOELFEL: All right.

6 You can put that exhibit away and mark this one next in  
7 order.

8 (Exhibit 8 was marked.)

9 BY MS. WOELFEL:

10 Q. This is a series of work orders for equipment number  
11 5693, which is Scott Palmer's -- the truck that Scott Palmer was  
12 driving when he had his inadvertent dump on July 7th, just to  
13 give it context.

14 On the first page of this, MDB maintenance 000277, it  
15 looks like the work was performed by you, Pat. Is that your  
16 handwriting on this document?

17 A. It does appear to be, yes.

18 Q. Tell me what is happening with this work order,  
19 please?

20 A. In this particular work order it's troubleshoot  
21 intermittent first trailer gate function.

22 Q. What does that mean?

23 A. That means it either wasn't functioning or wasn't  
24 functioning properly.

25 Q. Did you figure out why it wasn't functioning properly?

1 is the date that I have the information that it needs to be  
2 repaired and, therefore, that is why that date is on there.

3 Q. Okay.

4 A. It could have been brought to the someone's attention  
5 the day before.

6 Q. Okay.

7 Go to the next page. This is MDB maintenance 249.  
8 It's a work order dated September 16th, 2014. It says performed  
9 by Pat. Is that your handwriting, Pat?

10 A. Yes.

11 Q. Can you tell me what is happening in this work order,  
12 please?

13 A. It appears that there was an air leak at the first  
14 gate cylinder and at this point in time the QR valve, which is  
15 called a quick release valve on each end of the cylinder was  
16 leaking. At that point I removed it, cleaned the diaphragm,  
17 which is one of the major functions of the QR valve, reinstalled  
18 it, and I'm certain if I said okay then I tested it to make sure  
19 that it was no longer leaking.

20 Q. Okay.

21 Go to the very last page of this exhibit, MDB 327.  
22 It's a work order dated February 29, 2016 for 6775. It states  
23 that you are installing a pressure protection valve for gate air  
24 tank?

25 A. Correct.

1 A. It appears to me that there was a wire that wasn't  
2 secured properly in the plug, within the 4-way plug. It appears  
3 that I replaced that 4-way plug. I may have found either a  
4 broken screw or something along those lines that caused me to  
5 want to replace the plug.

6 Q. When you replace a plug you normally discard the plug  
7 that you have taken off of the unit?

8 A. I do.

9 Q. Go to the next page. It's March 23rd, 2015. It looks  
10 like work was performed by you. Is that your handwriting?

11 A. That is my handwriting.

12 Q. And can you tell me what is happening in this work  
13 order?

14 A. It says gate not working with switch. It appears when  
15 I checked it out they were working. The 4-way plug from the  
16 tractor to the trailer ground had some corrosion so I replaced  
17 the 4-way plug and also noticed feedback at plug traced to a  
18 light wire in the dash and unplugged the jumpers, recommended  
19 rewiring the switches.

20 MS. WOELFEL: Okay.

21 I'm going to hand you another stack of documents.

22 (Exhibit 9 was marked.)

23 BY MS. WOELFEL:

24 Q. This is all related to equipment number 6778, and 6778  
25 is the rear trailer of the three trailer set that Mr. Palmer was

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1 pulling when he had his inadvertent dump.  
 2 The first page is MDBMTSUP94. This work order is  
 3 dated July 17th, 2014. What is B and L?  
 4 A. That is my term for brake and lube, which is  
 5 inspecting the brakes and lubricating the trailer.  
 6 Q. Okay.  
 7 The next page -- let's actually go to the page after  
 8 that, which is MDB maintenance 336. This is work from  
 9 December 1st, 2014 performed looks like by you, Pat. Is that  
 10 your handwriting?  
 11 A. Yes.  
 12 Q. And this says you're reattaching the safety pin to the  
 13 Versa valve on this date. Why were you doing that?  
 14 A. This particular pin is the pin that physically blocks  
 15 the valve handle.  
 16 Q. Is this the pin that Scott Palmer fabricated?  
 17 A. The pin was not fabricated. It was purchased. The  
 18 pin is the blocking portion. The fabricated part was attached  
 19 to the trailer. The pin has to be able to move independently,  
 20 which we attached cables to it so if it were to slip out of the  
 21 operator's hands it won't fall and be lost or discarded.  
 22 In this particular instance what I did was, in fact,  
 23 drill a hole in the mount and attached a cable to the pin so  
 24 that it could not be lost. It may have been lost. This  
 25 particular incident it may have fallen out or Scott was

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1 concerned that it may get lost.  
 2 Q. So the safety pin is the pin that prevents the Versa  
 3 valve from opening?  
 4 A. It's the one you physically push into the blocking  
 5 mechanism.  
 6 Q. And that pin needed -- basically what you were doing  
 7 here was creating a way that it could not fall out, is that what  
 8 you're saying?  
 9 A. No, that it could not be lost.  
 10 Q. That it could not be lost. So it could still fall  
 11 out, but it would be attached to the trailer?  
 12 A. It could be removed and dropped.  
 13 Q. Okay.  
 14 Could it come out on its own?  
 15 A. In my opinion?  
 16 Q. Yes.  
 17 A. No.  
 18 Q. Then why would you need to attach something that would  
 19 prevent it from coming out or getting lost if it couldn't come  
 20 out on its own?  
 21 A. As the operator is dumping that has to be removed. If  
 22 he is over the grizzly and it slips out of his hand that pin is  
 23 no longer available to him.  
 24 Q. And if he lost the pin in the grizzly would he be able  
 25 to operate that belly dump trailer?

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1 A. Yes.  
 2 Q. Without the pin he could?  
 3 A. Yeah.  
 4 MS. WOELFEL: Let's take a quick break. I might be  
 5 done.  
 6 (A recess was taken.)  
 7 MS. WOELFEL: I am going to pass the witness at this  
 8 time. So thank you for your cooperation and I believe Ms.  
 9 Shreve is going to ask you some questions.  
 10  
 11 EXAMINATION  
 12 BY MS. SHREVE:  
 13 Q. Mr. Bigby, my name is Paige Shreve and I represent  
 14 Versa Products Company and I have some questions for you.  
 15 I just wanted to verify prior to working at MDB you  
 16 had never done any maintenance on belly dump trailers; is that  
 17 correct?  
 18 A. That is correct.  
 19 Q. And prior to your employment at MDB you had never done  
 20 any maintenance on Versa valves; is that correct?  
 21 A. Pardon?  
 22 Q. Prior to working at MDB you had not done any  
 23 maintenance on Versa valves; is that correct?  
 24 A. That is correct.  
 25 Q. After the -- Strike that.

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1 Do you know when the July 2013 incident occurred where  
 2 there was an inadvertent belly dump on the highway in  
 3 Mr. Koski's truck?  
 4 A. What is the question?  
 5 Q. Do you know what the specific date was in July of 2013  
 6 of the first intentional belly dump?  
 7 MR. BROWN: Object, misstates. Do you mean  
 8 unintentional?  
 9 MS. SHREVE: Did I say intentional?  
 10 MR. BROWN: That's what I heard.  
 11 BY MS. SHREVE:  
 12 Q. The unintentional belly dump.  
 13 A. I do not recall the date.  
 14 Q. Do you recall if the trailer, the truck and trailer  
 15 was in service the day after the July 2013 unintentional belly  
 16 dump?  
 17 A. I don't recall specifically, but I do not believe so.  
 18 Q. Okay.  
 19 I'm just trying to narrow down the date with the  
 20 service dates.  
 21 After the July 2013 incident do you recall anyone  
 22 taking any pictures of the truck or trailer?  
 23 A. Of the which?  
 24 Q. The truck and trailer after the July 2013?  
 25 A. Any photographs?

1 Q. Yes.  
 2 A. I do not recall seeing anyone take photographs.  
 3 Q. How about the July 2014 incident on Mr. Koski's truck  
 4 or trailer?  
 5 A. On that date I do not recall any photographs being  
 6 taken.  
 7 Q. Do you recall any within that week of the incident  
 8 being taken?  
 9 A. I do not.  
 10 Q. Okay.  
 11 After the July 2013 incident did you notify anybody  
 12 from Versa valve regarding the unintentional dump?  
 13 A. I personally did not.  
 14 Q. How about after the July 2014 incident did you notify  
 15 anyone from Versa valve regarding the unintentional dump?  
 16 A. No.  
 17 Q. Earlier you testified that you did an inspection of  
 18 the truck and trailer, Mr. Koski's, after the July 2014  
 19 incident; is that correct?  
 20 A. That's correct.  
 21 Q. And if I recall correctly you indicated that you did  
 22 tests trying to create the short and also checked the air  
 23 pressure; is that correct, after the July 2014 incident?  
 24 A. On the July 2014?  
 25 Q. Yes.

1 A. I believe we tried to do some investigation into it,  
 2 but not as much as we did in the 2013.  
 3 Q. The 2013 you did more investigation?  
 4 A. Yes.  
 5 Q. So it's the '13 that you did trying to create the  
 6 short and check the air pressure and stuff like that; is that  
 7 correct?  
 8 A. That is correct.  
 9 Q. Did you ever drive the truck around to try to get the  
 10 inadvertent dumping to occur or was it all just stationary?  
 11 A. In the yard I did. I did not take it on the highway.  
 12 Q. What about after the July 2014 incident, did you do  
 13 any driving with it to try to create an inadvertent dump?  
 14 A. I did not.  
 15 Q. Was it your position as in charge of maintenance for  
 16 MDB to ensure that the drivers properly inspect their vehicles  
 17 each morning?  
 18 A. No.  
 19 Q. Who is responsible for that?  
 20 A. I would make an assumption it would be the general  
 21 manager, Tracy Shane at that time.  
 22 Q. And if a driver does do an inspection and they notice  
 23 something wrong, do they come and notify you or do they notify  
 24 somebody else?  
 25 A. Typically they are supposed to notify either -- well,

1 it would be Tracy Shane or Scott Palmer and then they would in  
 2 turn notify me. However, if I were in the yard they could  
 3 notify me of an issue.  
 4 Q. Are there any records that are kept that the driver  
 5 hands you if they are in need of something, of any maintenance  
 6 done to it if they find something wrong during their inspection?  
 7 A. I'm not understanding your question.  
 8 Q. Is there any paperwork that is filled out by the  
 9 driver that they give to you if they notice something is wrong  
 10 during their inspection?  
 11 A. There is what is considered a DVIR, which is a driver  
 12 vehicle inspection report.  
 13 MS. SHREVE: So I will do this as the next exhibit as  
 14 10.  
 15 (Exhibit 10 was marked.)  
 16 BY MS. SHREVE:  
 17 Q. Is this what you were referring to as an DVIR?  
 18 A. That's correct.  
 19 Q. And are these DVIRs handed to you or are they given to  
 20 Tracy and Scott?  
 21 A. They are typically turned into Scott.  
 22 Q. Does he ever pass them along to you?  
 23 A. He passes along the information necessary to make  
 24 repairs.  
 25 Q. But not the actual document?

1 A. No.  
 2 Q. What type of records do you usually keep when you're  
 3 doing any maintenance to any of the trucks or trailers?  
 4 A. The records that I maintain?  
 5 Q. Yes.  
 6 A. Just the work order.  
 7 Q. Do you keep any handwritten notes at all when you're  
 8 doing any maintenance?  
 9 A. I do not.  
 10 Q. When you installed the Versa valve in July 2013 was  
 11 that your first time installing a Versa valve?  
 12 A. I would say yes.  
 13 Q. How did you know how to install it on the trailer?  
 14 A. By watching and duplicating the installation that was  
 15 already in place and the installation on other trailers. It's a  
 16 fairly straightforward appearing and simple installation in my  
 17 opinion.  
 18 Q. So you looked at the one that was already installed  
 19 and then looked at other trailers to see how it was installed  
 20 and that is how you based your installation; is that correct?  
 21 A. Yes.  
 22 Q. Would you say you're a qualified and knowledgeable  
 23 person and understand how the Versa valve product should be  
 24 installed and operated?  
 25 A. I would say I was, yes.

1 Q. And why do you believe that you have that -- you're a  
 2 qualified, knowledgeable person about how the Versa valve  
 3 products are installed and operated?  
 4 A. It's a general knowledge of mounting pneumatic  
 5 plumbing, duplicating what has been installed in the factory,  
 6 some wires and air line and bolts. I didn't find it to be too  
 7 complicated.  
 8 Q. Correct me if I'm wrong, earlier you testified that  
 9 you did not look at any paperwork regarding installation of the  
 10 Versa valve; is that correct?  
 11 A. That is correct.  
 12 Q. Have you ever looked at any paperwork regarding how to  
 13 operate the Versa valve?  
 14 A. I have not.  
 15 Q. Okay.  
 16 When you do your typical inspections, I believe you  
 17 said it occurs weekly or every other week, something like that,  
 18 do you ever test the Versa valve during that inspection?  
 19 A. I don't typically test its function, no.  
 20 Q. Have you ever had to -- prior to working at MDB have  
 21 you ever rewired trailers before?  
 22 A. Yes, I have.  
 23 Q. Is the rewiring of the trailers that you performed the  
 24 same type of rewiring on the belly dumps that you performed?  
 25 A. The same type of wiring?

1 Q. Okay.  
 2 Does MDB require you to have any special license or  
 3 certificates in order to perform the maintenance on their trucks  
 4 or trailers?  
 5 A. No.  
 6 Q. Does MDB require you to do any sort of retraining or  
 7 updated training each year to perform maintenance on their  
 8 trucks and trailers?  
 9 A. No.  
 10 Q. Earlier I believe you testified that you have your  
 11 theory of atmospheric conditions in the area that could cause  
 12 the inadvertent dump; is that correct?  
 13 A. I'm sorry, you had your --  
 14 Q. I'm sorry.  
 15 If I recall correctly earlier you testified that you  
 16 have a theory of atmospheric conditions in the area that could  
 17 have caused an inadvertent dump; is that correct?  
 18 A. That is correct.  
 19 Q. And I believe you testified that there is -- there  
 20 could be a static charge that could energize the magnetic coil  
 21 of the valve, am I correct in what you stated earlier?  
 22 A. That sounds to be correct.  
 23 Q. So would that charge go to the electrical wiring that  
 24 would be connected to the Versa valve, am I correctly  
 25 understanding what you mean?

1 Q. Do you rewire the trailer of a belly dump the same way  
 2 you would rewire the other trailers that you performed rewiring  
 3 on?  
 4 A. Yes, except for the exception there weren't any Versa  
 5 valves on those trailers, yes, standard wiring procedure.  
 6 Q. And did someone teach you how to do that rewiring?  
 7 A. Pardon?  
 8 Q. Did someone teach you how to do the rewiring of the  
 9 trailer to the Versa valve?  
 10 A. Yes, over the years I've had journeyman mechanics  
 11 while I was an apprentice, yes.  
 12 Q. Earlier I believe you testified that you made the  
 13 decision to purchase the Versa valve in July of 2013; is that  
 14 correct?  
 15 A. That is correct.  
 16 Q. Is there a reason why you decided to purchase the  
 17 Versa valve from Eng's?  
 18 A. Main reason we had an account there and it was known  
 19 that they had the Versa valves in stock.  
 20 Q. Did you ask anyone at Eng's about any other valve to be  
 21 used on the trailer other than the Versa valve you purchased?  
 22 A. I did not.  
 23 Q. Is there a reason why you did not?  
 24 A. Mainly is that was as built and that was the valve  
 25 that the manufacturer chose to install.

1 A. That would be an assumption, but not having enough  
 2 equipment to test the coil I don't know where it could  
 3 potentially enter to the coil to allow it to open the valve.  
 4 Q. Is there another way electricity can enter into the  
 5 coil other than through electrical wires?  
 6 MR. BROWN: Objection to the extent it calls for  
 7 speculation, beyond his knowledge.  
 8 BY MS. SHREVE:  
 9 Q. That you're aware of?  
 10 A. Can you charge your cell phone on one of those pads?  
 11 Yes.  
 12 Q. Thank you.  
 13 So the valve, you believe, can get electricity without  
 14 going through the electrical wires then; is that correct?  
 15 A. That is a potential.  
 16 Q. Okay.  
 17 Earlier you testified when we were talking about the  
 18 maintenance records, you said sometimes the dates on the  
 19 maintenance records are not always the date that you receive --  
 20 it's brought to someone's attention that it needs work done; is  
 21 that correct?  
 22 A. That is correct.  
 23 Q. What is the typical time frame between when someone is  
 24 informed that a truck or trailer needs repair and then the work  
 25 order is performed?

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1 A. To my knowledge it's typically within a day.  
 2 Q. Okay.  
 3 During your 2013 inspection of the subject truck and  
 4 trailer, 6775, did you find any defect with the Versa valve?  
 5 A. No, I did not.  
 6 Q. How about for your inspection during July 2014 after  
 7 the subject incident, did you find any defect with the Versa  
 8 valve on trailer 6775?  
 9 A. I did not.  
 10 Q. After the July 2013 incident on trailer 6775 did you  
 11 find that there was any design defect with the Versa valve?  
 12 MR. BROWN: Objection, foundation, speculation.  
 13 THE WITNESS: To my knowledge, no.  
 14 BY MS. SHREVE:  
 15 Q. And then the same again for after the July 2014  
 16 incident on trailer 6775 did you discover any design defects  
 17 with the Versa valve?  
 18 MR. BROWN: Same objections.  
 19 THE WITNESS: To my knowledge, no.  
 20 BY MS. SHREVE:  
 21 Q. If you will go to Exhibit Number 2, please. I'm going  
 22 ask that you turn to MDBMAINT000321. The work order date should  
 23 be December 1st, 2014. Do you see that?  
 24 A. That's correct.  
 25 Q. We were discussing this earlier and it says an

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1 accumulator on the Versa valve is not functioning so you  
 2 replaced the Versa valve; correct?  
 3 A. That is correct.  
 4 Q. You also indicated that you did not test the  
 5 accumulator, did I understand your testimony earlier?  
 6 A. I didn't have a way of testing the accumulator. When  
 7 I reached the conclusion that it potentially was the accumulator  
 8 that's when the decision to replace the valve was made.  
 9 Q. Why did you come to that assumption that it was the  
 10 accumulator?  
 11 A. By the air, the activation and the path of the air and  
 12 checking to make sure that we had current running to our coil at  
 13 that point in time it reached the position of the Versa valve as  
 14 to not be functioning properly. When I stated it was possibly  
 15 the accumulator typically that seems to be the most common issue  
 16 is the accumulator doesn't hold air and when the valve is  
 17 commanded open there is no air to open the valve.  
 18 Q. So you had trouble pushing the accumulator in?  
 19 A. Pardon?  
 20 Q. Did you have trouble with the accumulator pushing it  
 21 in or did you have trouble with the valve not having air in it?  
 22 I'm just trying to understand.  
 23 A. There was air to the valve. It just wasn't  
 24 functioning. It wasn't closing when you took the electricity  
 25 away from it. It wasn't closing because my opinion was there

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1 was no air on the other side of the accumulator to close the  
 2 valve. When we replaced the valve everything functioned  
 3 properly with no other repair.  
 4 Q. So there was air in the accumulator -- there was air  
 5 in the Versa valve, but just when you hit the accumulator it  
 6 didn't --  
 7 A. There was air in the system that should have allowed  
 8 the valve to operate properly and the valve did not.  
 9 Q. And did you try to open it and it wouldn't open?  
 10 A. We could physically operate the valve, but it wasn't  
 11 closing with the switch.  
 12 Q. So it worked when you were physically doing it, just  
 13 not with the switch then; is that correct?  
 14 A. Correct.  
 15 Q. Okay.  
 16 If you can go to Exhibit 3, please. I'm going to go  
 17 to MDB 273, please. This one looks like the work order was for  
 18 12/2/2015 on equipment number 5694 and here you replaced the  
 19 4-way plug, you pulled out the wires and reattached wires and  
 20 tested okay.  
 21 Can you explain to me what you did here?  
 22 A. Yes, the wires on the 4-way plug from the tractor  
 23 apparently to the trailer had been pulled out of the back of the  
 24 plug for whatever reason and I replaced the plug and reattached  
 25 the wires and tested it.

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1 Q. Does that happen often that the wires for the 4-way  
 2 plug can be pulled out?  
 3 A. Pardon?  
 4 Q. Does that happen often that the wires on the 4-way  
 5 plug can be pulled out?  
 6 A. Not often, but it can be done.  
 7 Q. So in those instances you just will reattach the wires  
 8 or fix the wires if there is any damage to it?  
 9 A. Pardon?  
 10 Q. So in those instances you will just reattach the wires  
 11 to the 4-way plug or fix them if for some reason the wires are  
 12 damaged?  
 13 A. Correct.  
 14 Q. I'm going to go to Exhibit 5. Actually I apologize,  
 15 let's go to Exhibit 6. If you can go to MDBMAINT000240.  
 16 This is dated 6/30/2014 and earlier you testified it  
 17 was your handwriting and it said reattached Versa valve. I  
 18 believe earlier you testified you believed it was for a  
 19 retightening of the valve on the trailer; is that correct?  
 20 A. That is right, yes.  
 21 Q. When you were just retightening something do you  
 22 usually say tightened or do you say you reattached something?  
 23 MR. BROWN: Objection, argumentative.  
 24 THE WITNESS: Perhaps I would say tighten.  
 25 ///

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1 BY MS. SHREVE:  
 2 Q. So it's possible, then, something could have occurred  
 3 that the Versa valve you had to actually reattach it to the  
 4 trailer?  
 5 A. I suppose that's possible, but I don't recall that. I  
 6 don't recall a Versa valve coming loose completely from the  
 7 trailer.  
 8 Q. Could there have been another reason other than it  
 9 coming loose that you would reattach it, like you were  
 10 inspecting it or cleaning it or something like that?  
 11 A. Potentially it may have been removed by someone else  
 12 and someone asked me to reattach it. That's possible.  
 13 Q. Okay.  
 14 Let me just look over my notes. I may be done.  
 15 Were you aware of any specifications that Versa  
 16 required regarding the installation of the product?  
 17 A. No.  
 18 MR. BROWN: Objection, foundation.  
 19 BY MS. SHREVE:  
 20 Q. If you were not aware of the specifications did you  
 21 contact them to ask them about them?  
 22 MR. BROWN: Objection, foundation.  
 23 THE WITNESS: I did not.  
 24 BY MS. SHREVE:  
 25 Q. If a truck and trailer are disconnected for

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1 maintenance or repairs is it your responsibility to check the  
 2 connections going from the truck to the trailers when they are  
 3 reattached?  
 4 A. Yes, if I'm the one that reconnects them, yes.  
 5 Q. If you're not the one reconnecting them whose  
 6 responsibility is that?  
 7 A. It would be the person making the coupling and the end  
 8 result would be the end driver.  
 9 Q. So if you had to do maintenance and you reattached  
 10 them you would check the electricity going from the truck to the  
 11 trailer?  
 12 A. Correct, on turn signals and such.  
 13 Q. Would you check it for the Versa valve?  
 14 A. Not always, no.  
 15 MS. SHREVE: I think that is actually all I have. So  
 16 I will pass the witness.  
 17 Anyone on the phone?  
 18 MS. QUIGLEY: I don't have any questions.  
 19 MR. BUNDICK: I don't have any questions either.  
 20 MS. WOELFEL: I don't have any follow-up questions.  
 21 So I think that your deposition will conclude and thank you  
 22 so much for your time.  
 23 (The deposition concluded at 3:30 p.m.)  
 24  
 25 --oOo--

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1  
 2 CERTIFICATE OF DEPONENT  
 3 PAGE LINE CHANGE  
 4 \_\_\_\_\_  
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 15 \*\*\*\*\*  
 16  
 17 I, PATRICK BIGBY, deponent herein, do hereby certify and  
 18 declare under penalty of perjury the within and foregoing  
 19 transcription to be my deposition in said action; that I have  
 20 read, corrected and do hereby affix my signature to said  
 21 deposition.  
 22  
 23 \_\_\_\_\_  
 24 PATRICK BIGBY, Deponent  
 25

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1  
 2 CERTIFICATE OF REPORTER  
 3 I, JANET MENGES, Certified Court Reporter, State of  
 4 Nevada, do hereby certify:  
 5 That I reported the deposition of PATRICK BIGBY,  
 6 commencing of Monday, April 10, 2017, at 11:30 a.m.  
 7 That prior to being deposed, the witness was duly sworn by me to  
 8 testify to the truth. That I thereafter transcribed my said  
 9 shorthand notes into typewriting and that the typewritten  
 10 transcript is a complete, true and accurate transcription of my  
 11 said shorthand notes. That prior to the conclusion of the  
 12 proceedings, the reading and signing was requested by the  
 13 witness or a party.  
 14 I further certify that I am not a relative or employee of  
 15 counsel of any of the parties, nor a relative or employee of the  
 16 parties involved in said action, nor a person financially  
 17 interested in the action.  
 18 In witness whereof, I hereunto subscribe my name at Reno,  
 19 Nevada, this 20th day of April, 2017.  
 20  
 21 \_\_\_\_\_  
 22 JANET MENGES, CCR #206  
 23  
 24  
 25