

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 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 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 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 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 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 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 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 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 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 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 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 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

Page 33

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?

Page 34 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?	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
Page 35 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 37 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

Page 38

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,

Page 39

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.

Page 40

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

Page 41

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?

Page 42 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	Page 44 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
Page 43 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?	Page 45 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

Page 46 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?	Page 48 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
Page 47 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?	Page 49 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	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 51 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 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?

Page 54

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?

Page 55

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?

Page 56

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.

Page 57

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 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 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 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

Page 62

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

Page 64

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.

Page 63

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,

Page 65

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.

Page 66 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?	Page 68 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
Page 67 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	Page 69 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.

Page 70 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	Page 72 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?
Page 71 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	Page 73 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?

Page 78

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?

Page 79

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.

Page 80

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.

Page 81

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.

Page 82 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.	Page 84 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.
Page 83 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.	Page 85 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

Page 86

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?

Page 88

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

Page 87

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

Page 89

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.

Page 90 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	Page 92 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?
Page 91 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.	Page 93 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

Page 94

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

Page 96

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?

Page 95

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.

Page 97

1 A. I do.
2 Q. And it's with Engs 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 Engs when it was
6 ready?
7 A. Correct.
8 Q. How do you pronounce this company?
9 A. I believe it's Engs.
10 Q. So going back to work order MDB 015, do you know if
11 Engs 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

Page 98 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	Page 100 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
Page 99 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.	Page 101 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?

Page 102

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

Page 104

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?

Page 103

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.

Page 105

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

Page 106

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

Page 108

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.

EXAMINATION

11 BY MS. SHREVE:

12 Q. Mr. Bigby, my name is Paige Shreve and I represent
13 Versa Products Company and I have some questions for you.

14 I just wanted to verify prior to working at MDB you
15 had never done any maintenance on belly dump trailers; is that
16 correct?

17 A. That is correct.

18 Q. And prior to your employment at MDB you had never done
19 any maintenance on Versa valves; is that correct?

20 A. Pardon?

21 Q. Prior to working at MDB you had not done any
22 maintenance on Versa valves; is that correct?

23 A. That is correct.

24 Q. After the -- Strike that.

Page 107

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?

Page 109

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?

Page 110

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.

Page 111

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,

Page 112

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?

Page 113

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.

Page 114

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?

Page 116

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?

Page 115

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.

Page 117

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?

Page 118 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	Page 120 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.
Page 119 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	Page 121 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 ///

Page 122	Page 124
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	1 2 CERTIFICATE OF DEPONENT 3 PAGE LINE CHANGE 4 5 6 7 8 9 10 11 12 13 14 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
Page 123 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--	Page 125 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

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Jacqueline Bryant
Clerk of the Court
Transaction # 6077749 : csulezic

EXHIBIT 5

4845-3057-6394.1

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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 Case No. CV15-02349
CAROL FITZSIMMONS, husband and Department No. 10
wife, Plaintiffs,

vs.

MDB TRUCKING, LLC; et al.,
Defendants.

AND RELATED THIRD-PARTY MATTERS
AND CONSOLIDATED CASE.

CONTINUED DEPOSITION OF PMK OF MDB TRUCKING

SCOTT ALEN PALMER

March 7, 2017

Reno, Nevada

Volume II

REPORTED BY: CONSTANCE S. EISENBERG, CCR #142, RMR, CRR
Job No. 378331

Page 2		Page 4	
1	A P P E A R A N C E S	1	INDEX
2	For the Plaintiff:	2	EXAMINATION
3	(Appearing telephonically)	3	
4		4	SCOTT ALAN PALMER
5	BRADLEY, DRENDEL & JEANNEY	5	EXAMINATION BY MS. SHREVE
6	BY: SARAH MARIE QUIGLEY, ESQ.	6	EXAMINATION BY MS. WOELFEL
7	6900 S. McCarran Blvd, Ste. 2000	7	
8	Reno, Nevada 89509	8	EXHIBITS
9	775-335-9999	9	DESCRIPTION
10	Fax 775-335-9993	10	NUMBER
11	Sarahquigley@bdjlaw.com	11	
12		12	EXHIBIT 8 Work orders, Equipment No. 5693
13	For MDB TRUCKING, LLC, & DANIEL KOSKI:	13	EXHIBIT 9 Work orders, Equipment No. 6777
14	THORNDAL, ARMSTRONG, DELK, BALKENBUSH & EISINGER	14	EXHIBIT 10 Work orders, Equipment No. 6778
15	BY: BRIAN M. BROWN, ESQ.	15	EXHIBIT 11 Invoice, ENGS Motor Truck Co.
16	AND THIERRY BARKLEY, ESQ. (a.m. session)	16	EXHIBIT 12 Warnings/Versa Products
17	6590 S. McCarran Blvd., Suite B	17	EXHIBIT 13 Invoice, Western Nevada Transport
18	Reno, Nevada 89509-6112	18	EXHIBIT 14 Equipment lease
19	775-786-2882	19	EXHIBIT 15 SMS inspection reports
20	Fax 775-786-8004	20	EXHIBIT 16 Koski employment file
21	Bmb@thorndal.com	21	EXHIBIT 17 Driver's vehicle inspection reports
22		22	EXHIBIT 18 Inspector qualifications, certification
23	For RMC LAMAR HOLDINGS, INC.:	23	EXHIBIT 19 Work orders, Equipment 6777, MDB 388, 394, 400
24	MCDONALD CARANO WILSON LLP	24	EXHIBIT 20 Work orders, Equipment No. 6775
25	BY: JESSICA L. WOELFEL, ESQ.	25	Note: Original Exhibits retained in binder at Sunshine Litigation Services.
	100 W. Liberty Street, Tenth Floor		
	Reno, Nevada 89501		
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	BY: PAIGE S. SHREVE, ESQ.		
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	Fax 702-893-3789		
	Paige.Shreve@lewisbrisbois.com		

Page 6 1 again? 2 A No. 3 MS. SHREVE: Okay. Perfect. 4 So we will begin with the next exhibit, which is 5 Exhibit 8. And this will be the work orders for Equipment Number 6 5693, which will be the -- I guess we're labeling it the sand 7 truck, so which would be your truck that you drove that day. 8 THE WITNESS: Okay. 9 (Exhibit 8 marked for identification.) 10 BY MS. SHREVE: 11 Q So we'll do the same thing, kind of that we did 12 yesterday with these work orders. Please just state the date of 13 the work order and what was done with this work order. 14 A Okay. The date is August 5th, 2014. The work order is 15 for Truck 5693. 16 And it's troubleshoot intermittent first trailer gate 17 function, found wire not secured, replaced plug with -- oh, 18 Phillips plug. 19 So the mechanic, Pat, put a new four-way plug on the end 20 of the cord on the tractor. 21 Q Similar to the four-way plugs that we discussed 22 yesterday? 23 A Uh-huh, exactly the same. 24 Q So then we'll go to the next one, which is MEMORANDUM 62. 25 Can you please tell me the date and what this work order is for.	Page 8 1 A It would -- it should, yes. Did it happen? I'm not 2 sure. 3 Q Okay. We'll go to the next work order, which is 4 MEMORANDUM 68. Can you please tell me the date on this work order 5 and what occurred. 6 A The date of the work order is May 18th, 2015, for 7 Truck 5693. It says replace VVA sensor connector and add coolant. 8 Q And what is the VVA sensor connector? 9 A I actually remember this particular event because I'm 10 the one that wrote it up. 11 It would have been -- the truck would have come with a 12 "check engine" light on. We would have hooked the computer to it. 13 It would have gave us a code, I think it's 95, which indicates the 14 variable valve actuator sensor has a high or low voltage. 15 And Pat determined that it was the connector at the end 16 of the wire going into the sensor. 17 This is on the engine. 18 Q Okay. 19 A This is on the valve train internal to the engine under 20 the valve cover. 21 Q Okay. Perfect. Let's go to the next order, which is 22 MEMORANDUM 83. Can you please tell me the date completed on this 23 work order and what occurred. 24 A This is on November 29th, 2015; Truck 5693. And I did 25 this work order. And I replaced the seven-way plug at the trailer
Page 7 1 A The date is March 23rd, 2015, for Truck 5693 again. 2 Troubleshoot, gate not working with switch and also adjust clutch. 3 Gates were working when checked out. Four-way plug from 4 tractor to trailer ground had some corrosion. Replace four-way 5 plug. 6 Also noticed feedback at plug, traced to light wiring in 7 dash. Unplugged jumpers, recommend rewiring switches. He put a 8 new four-way plug and also adjusted the clutch. 9 Q What is meant by noticed feedback at plug, traced to 10 light wiring at dash? 11 A I believe on that particular truck -- actually, I'm not 12 sure. 13 I think that particular truck had lights in the dash 14 that told you whether the switch is on or off, and it might have 15 been some sort of a feedback between the light and the plug. 16 Q And when you say "the switch is on or off," what switch 17 are you specifically talking about? 18 A Okay. One of the dump switches for one of the trailers, 19 whether it be the first, the second or the third trailer. 20 Q Okay. And does this indicate whether -- it says 21 recommended rewiring switches. Does it indicate whether there was 22 a rewiring of switches? 23 A It does not indicate that on this particular work order. 24 Q When you recommend rewiring switches, does it usually 25 happen after or -- no, I guess.	Page 9 1 end of the seven-way cord. 2 Q Okay. Again, this is -- 3 A Just another seven-way. 4 Q -- the seven-way plug that we've seen in previously in 5 other work orders? 6 A Yes. 7 MS. SHREVE: All right. We will go on to the next 8 exhibit, which will be Exhibit 9. 9 (Exhibit 9 marked for identification.) 10 BY MS SHREVE: 11 Q And this is in regard to Equipment 6777, which would be 12 the second trailer on the sand truck that we're calling it -- 13 A That is correct. 14 Q -- that you were driving that day. 15 A That is correct. 16 Okay. This is February 20th, 2014; Trailer 6777. 17 Troubleshoot air loss. 18 They found the rear gate cylinder on this trailer -- the 19 gate -- meaning the cylinder that opens up the gates -- leaking, 20 bypassing air at the QR valve. 21 He disassembled the cylinder, put a packing kit in it, 22 reinstalled the cylinder and tested it, and it cured the air leak. 23 Q Okay. We will go on to the next one, if you can tell me 24 the date completed on this one and what occurred, please. 25 A This is on April 16th, 2014; Trailer 6777. Versa valve

Page 10

1 handle loose, and air spring action on lever not working
2 correctly.
3 Remove Versa valve, disassemble, found accumulator rubber
4 bad. Swapped accumulator with one from another valve. Clean the
5 inside of valve and accumulator, oil with air tool and reassemble.
6 Also adjust handle not to tighten. Test. All okay.
7 Q Okay. On this one, it says that you removed and
8 disassembled the Versa valve, correct?
9 A Correct.
10 Q And it says you swapped the accumulator with another
11 valve?
12 A The rubber inside the accumulator.
13 Q Okay. And do you know which valve you switched it out
14 with?
15 A No.
16 Q Do you keep records of which one you would have switched
17 it out with?
18 A No. It would have been a valve that would have been
19 removed. It's probably a used valve that had been sitting around
20 in the shop, might not have even been our valve.
21 Q Would it have been a Versa valve?
22 A Oh, absolutely, yeah.
23 Q When you take valves, Versa valves, out of your -- out
24 of a trailer, what do you do with them? Do you keep them, or do
25 you throw them away?

Page 11

1 A Well, we haven't had too many that we've taken off. In
2 fact, this is actually contrary to what I said yesterday where we
3 don't repair them. Apparently, I forgot about this.
4 This is actually -- this accumulator valve is actually
5 attached to the side of the Versa valve. So I guess I didn't
6 think about it as being actually taking a Versa valve apart.
7 But I guess it would be considered a part of the Versa
8 valve. It's not part of the main spool of the Versa valve, in
9 other words.
10 Q How many Versa valves -- you just testified that you
11 haven't taken many off. How many would you say you've taken off
12 of trailers at MOB?
13 A Other than the two that we took off for --
14 Q Yes, other than the two that you took off -- that the
15 experts took off for testing of the valve.
16 A Yes, other than those, I don't think we took off more
17 than one or two.
18 Q Could you know which trailer you would have taken those
19 valves off of?
20 A I would say the only one that I know for sure of, since
21 my time there, was the one taken off of 6775 and replaced with a
22 new valve in October -- October -- I think it was August of 2013,
23 that first incident.
24 In fact, that might be the valve that I took the
25 accumulator rubber out of, because we saved that valve.

Page 12

1 Q Do you recall seeing any other Versa valve around other
2 than the one that was taken off of 6775 from the -- around
3 August 2013?
4 A Do I remember seeing any other valves around in our
5 shop?
6 Q Yes, that could have possibly been one that you would
7 have used.
8 A I don't recall. I don't think so.
9 Q Okay. All right. I'm going to go to the next one. I'm
10 going to come back later and ask some more on that one, but I'll
11 move to the next work order, which is MOBSAINT 000321.
12 Can you tell me the date completed on this one and what
13 occurred.
14 A December 1st, 2014; Equipment Number 6777 again.
15 Troubleshoot gates not closing with switch. Found accumulator
16 Versa valve not functioning. Replaced Versa valve.
17 Okay. There's another one I must not have remembered.
18 Q So would this be the same Versa valve that was in the
19 previous work order we just spoke about, the MOBSAINT 315?
20 A No, this would be the new Versa valve.
21 Q So was the Versa valve, then, replaced -- because --
22 sorry to go back -- strike that.
23 To go back to the previous one, MOBSAINT 315, it does
24 not appear that you actually replaced the Versa valve. It
25 appears, from my understanding, that you did some maintenance on

Page 13

1 it; is that correct?
2 A That is correct, changed the rubber in the accumulator
3 portion of the valve.
4 Q So then on the MOBSAINT 321, before you replaced the
5 Versa valve -- is that the same Versa valve --
6 A Oh, yes, this -- I'm sorry. Yes. I would imagine that
7 it probably still had a problem with it not -- not sealing
8 correctly. So we just put a new Versa valve on it at that time.
9 Q And it looks like this order was -- I know it says it
10 was performed by Pat, but it was, I guess, maybe requested by you;
11 is that correct?
12 A Yes.
13 Q Do you recall how you became aware of this issue?
14 A I would have become aware of it from the driver or I
15 might have been the driver. I would have to go back and look at
16 the records to see who was driving the truck right before this
17 date.
18 That, either way, whether it was myself or another
19 driver, a driver would have said the gates are opening with the
20 switch, but they are not closing with the switch, which,
21 generally, means the accumulator is not holding air.
22 So seeing as how we already tried to fix it once, we
23 just -- I told Pat just replace it, put a new valve on it.
24 MS. SHREVE: Okay. All right. And I'm probably going
25 to come back to these when I have additional questions, but for

Page 14

1 now, we'll just continue down the work order.
 2 (Exhibit 10 marked for identification.)
 3 BY MS SHREVE:
 4 Q All right. So we're now going to go to Exhibit 10,
 5 which is Equipment Number 6778, which would be the trailer that
 6 you were driving on the day of the subject incident that had sand
 7 in it which spilled on the highway.
 8 Is that correct?
 9 A Yes.
 10 Q So the first one is MOBMSUP 94. Can you please tell me
 11 the date and explain what "B & L" means on your work orders.
 12 A July 17th, 2013, is the date of the work order. And
 13 it's for Equipment Number 6778 performed by Pat.
 14 And as you can see, the boxes "inspect" and "lube" are
 15 checked. And he writes B & L, which is a synonym for inspection,
 16 but he puts brake and lube.
 17 Essentially, he's inspecting the brakes and lubing it,
 18 same thing.
 19 Q Perfect.
 20 We'll go to the next one, MOBMSUP 99. Can you please
 21 tell me the completed date and what occurred on this day.
 22 A Okay. The date is October 25th, 2013; again,
 23 Trailer 6778. Replaced four-way plugs, replace four-way plugs and
 24 sockets on trailers.
 25 Q Okay. Again, this is the same four-way plugs --

Page 15

1 A Yes.
 2 Q -- that we talked about?
 3 A Yes.
 4 Q Let's go to the next one, MOBMSUP 000336. Can you
 5 please tell me the completed date on this one and what occurred.
 6 A December 1st, 2014; Trailer 6778. And Pat reattached
 7 the safety pin to Versa valve.
 8 This would have been something that I would have told
 9 him. Basically, the safety pin that locks the handle on the Versa
 10 valve from opening, there's a safety wire that attaches it to the
 11 trailer that keeps -- so you don't lose it when you remove it, was
 12 broken.
 13 So he just put a new safety cable on there so we don't
 14 lose the pin.
 15 Q Okay. So can we go to the next one, which is
 16 MOBMSUP 107. And can you tell me the date on this one and what
 17 occurred, please.
 18 A October 23rd, 2015; Trailer 6778. Reseal front gate
 19 cylinder. Remove cylinder, replace barrel and seals, reinstall
 20 and tested okay.
 21 So we moved the front gate cylinder off of the gates,
 22 disassembled it, but a new barrel on or two, put a new seal kit in
 23 and reassembled.
 24 Q Okay. When you say "the gates," what gate are you
 25 specifically talking about?

Page 16

1 A The bottom of the gates, the gates that open up to dump
 2 the load.
 3 Q Okay. Okay. And that's the last one for that exhibit.
 4 That's all the maintenance records for right now. I'm
 5 going to switch gears a little bit.
 6 And if I am correct, there were three unintentional
 7 dumpings that occurred since you -- or, while at MOB that you are
 8 aware of.
 9 A Yes. One happened about a week before I came to work
 10 there and two happened while I was there.
 11 Q Okay. And for each of them, did you have to fill out --
 12 does MOB require any kind of a report to be filled out about the
 13 dumping of these trailers?
 14 A No.
 15 Q Do you have to --
 16 A Are you talking about an internal report?
 17 Q Yes.
 18 A No.
 19 Q Do you have to fill out an external report?
 20 A Not that I know of.
 21 Q Do you notify the client as to, I guess, why their load
 22 didn't arrive on time?
 23 A Oh, absolutely.
 24 Q Okay. And how do you notify them?
 25 A Well, all these happened when Tracy Shane was

Page 17

1 dispatching. He would have just called and told them. I think we
 2 talked about that yesterday. One of the tags was changed then.
 3 Q So it would be typical to change the tag if there was a
 4 dump --
 5 A Yes.
 6 Q -- to reflect --
 7 A Yes.
 8 Q When the incident occurred in July 2013, did you -- did
 9 MOB notify anyone from Versa about the incident that occurred?
 10 A Not to my knowledge, no.
 11 Q Now about the subject incident on July 7th, did they
 12 notify -- did MOB notify anyone from Versa valve in regards to the
 13 gravel truck or trailer?
 14 A No, I do not believe so.
 15 Q And then the same question --
 16 MR. BROWN: You are talking about, obviously, at the
 17 time that it occurred?
 18 MS. SHREVE: At the time that it occurred, yes.
 19 Obviously, they now are aware, but at the time that it occurred.
 20 THE WITNESS: No I don't think so.
 21 BY MS SHREVE:
 22 Q Other than this lawsuit, has MOB notified Versa of the
 23 incident that occurred on July 7th, 2014?
 24 A I do not believe so.
 25 Q The same question is going to be, again, for the sand

Page 18

1 truck that you were driving on the day of the subject incident,
 2 did anyone from NDB, at the time of the incident or right after
 3 the incident, notify Versa of what occurred?
 4 A No, I do not believe so.
 5 Q And then other than this lawsuit, did they -- did NDB
 6 notify Versa of what occurred?
 7 A No, I do not believe so.
 8 I do know that I have personally called Versa and tried
 9 to get ahold of somebody to talk to me about it, and they always
 10 act like they don't know anything, they have never heard of this
 11 happening before. So --
 12 Q And when you say you personally called, as an employee
 13 of NDB?
 14 A Oh, yeah. Yes.
 15 Q Okay.
 16 A But not specifically to any of these specific -- I
 17 didn't -- didn't notice them about these specific incidences.
 18 Q Okay. So can you tell me when you called,
 19 approximately?
 20 A I don't recall.
 21 I do remember calling Versa and saying I would like to
 22 talk to somebody about this, and they put me in touch with
 23 somebody. And they said, yeah, we never heard of this happening
 24 before.
 25 So -- and I know other people have called them, and

Page 19

1 pretty much -- I just kind of figure we're on our own in that
 2 area.
 3 Q Do you -- did this phone call happen before the
 4 August 2013 incident?
 5 A No.
 6 Q Did this phone call happen before the July 7th, 2014,
 7 incident?
 8 A Possibly. I don't know.
 9 Q How many times did you call Versa?
 10 A Probably just once.
 11 Q Okay. And do you recall who you spoke with?
 12 A No.
 13 Q Do you recall what you specifically said to them?
 14 A Basically, that we've had -- that the industry out here
 15 have had a lot of gates opening, and if they -- if they know
 16 anything about anything that they can do to help us with it.
 17 And they responded that they didn't really know anything
 18 about it.
 19 Q Okay. You just testified that you had a -- you've had a
 20 lot of gates opening. Are you aware of other gates opening?
 21 A When I say we've had a lot of gates opening, I'm saying
 22 in this area, other companies.
 23 Q Are you aware of other companies that have had gates
 24 opening?
 25 A Absolutely.

Page 20

1 Q What are the other companies?
 2 A Capurro Trucking, Lakeside Specialized Transportation.
 3 I'm not sure if Harco Company -- actually, it's Harco Trucking
 4 now. I'm not sure if they have.
 5 I'm trying to think of the other companies.
 6 I can't think of them off the top of my head.
 7 Q And how do you have knowledge of gates opening at other
 8 companies?
 9 A News travels fast. And you can still drive out on the
 10 highways and see all the loads sitting on the side of the highway.
 11 So it's not hard to imagine.
 12 One of them actually happened -- one of Lakeside's loads
 13 they lost actually happened when they were hauling for us.
 14 Q And when did that occur?
 15 A That would have been early 2013. I'm assuming. I'm
 16 just guessing at that.
 17 Q And did you have any conversations with anyone from
 18 these companies about the openings of the truck -- or trailer?
 19 A I've spoken to people at these companies about it, yes,
 20 not in an official manner, but --
 21 Q Do you recall who you spoke with specifically in regards
 22 to these incidents?
 23 A No.
 24 Q Do you recall what they said about the incidents that
 25 occurred?

Page 21

1 A The only -- the conversation would have been what are
 2 you guys doing about solving the problem. And everybody,
 3 basically, is in the same position we are where nobody knew what
 4 to do. That was the conversation.
 5 Q Did anybody -- did anyone indicate as to what they
 6 believe caused the dumping?
 7 A They did not indicate what caused it. They only
 8 indicated nobody knows what's causing it.
 9 Q Did they indicate whether they investigated it?
 10 A No. Oh -- no, I'm sure they did, but they did not
 11 indicate that.
 12 Q So your conversation that you had when you called
 13 somebody at Versa, did they direct you to contact anybody else?
 14 A No. I talked to somebody. I got the impression they --
 15 my advice that I got from people, when I said I was going to call
 16 them, they said you are not going to get an answer from them. And
 17 that was pretty much how I felt when I talked to them.
 18 Q And do you know who told you that you wouldn't get an
 19 answer from Versa?
 20 A Oh, people in the industry, like -- Pat, like, works
 21 with them. They are not going to say anything.
 22 And after talking to them, I mean, what are they going
 23 to say, yeah, we have a problem with these valves, sure, we know
 24 all about it. I mean, what are they going to say?
 25 You know, without -- it was a somewhat informal

Page 22 1 conversation. 2 Q So Pat Bigby is one of the people -- 3 A Uh-huh. 4 Q -- that said that to you? 5 MR. BROWN: Say "yes" or "no," please. 6 BY MS. SHREVE: 7 Q Yeah, can you -- 8 A Oh. 9 MR. BROWN: Say "yes" or "no." 10 THE WITNESS: Oh. Yes. 11 BY MS. SHREVE: 12 Q And do you know anybody -- can you recall any other 13 names? 14 A No. 15 Q So Pat Bigby is the only one you recall saying that? 16 A Yes, that I recall. 17 Q Do you know if Pat Bigby called Versa? 18 A No, I don't believe so. 19 Q Did he give you any explanation as to why he believed 20 that, I guess, Versa wouldn't give you any information? 21 A I believe the point he was trying to get across is they 22 are not going to admit to anything. 23 Q Did he indicate why he felt that way? 24 A No. 25 Common sense, I would imagine.	Page 24 1 they just as soon don't want to say anything. I mean, I don't 2 think they were hiding anything, but they just -- 3 Q What gave you the impression that they -- or actually, 4 strike that. 5 What do you mean by they didn't want to say anything? 6 A I just got the impression after talking to them -- I 7 mean, I didn't push it that hard. I just tried to talk to 8 somebody about seeing if I could get some information from 9 somebody about if they have anybody looking into this or if they 10 had any problems in the country where they can give me some 11 insight on what to do. 12 And they pretty much didn't offer up any help. They 13 didn't seem that they were -- maybe the guy I talked to just 14 didn't really know that they were having problems or if there was 15 a problem. 16 But I left it at that. I didn't really push it that 17 hard, because at that particular time, I still don't -- we still 18 didn't know what was causing this. 19 Q Do you know what phone number you called from Versa? 20 A Oh, I do not remember. I probably looked it up on 21 Google. 22 Q Do you know which department you would have called? 23 A No. 24 Q Did you specifically tell them about any of the 25 incidents that you -- that MSB had experienced?
Page 23 1 Q But to your knowledge, he didn't call Versa himself? 2 A I don't think he did, no. 3 Q Are you aware of anybody that did call Versa besides 4 yourself? 5 A I'm speculating, maybe Lakeside or Capurro called them. 6 I'm not sure. 7 I have no idea if they did. 8 Q So no one specifically told you that they reached out to 9 Versa about -- 10 A That's correct. 11 Q Did you send Versa Valve a letter or any other 12 communication other than that one phone call? 13 A No. 14 Q Okay. And you don't recall the day, correct, that you 15 called Versa? 16 A No. 17 Q And you don't recall who you spoke with from Versa? 18 A No. 19 Q I'm sorry, what exactly -- what specifically do you 20 remember that Versa said to you when you called them? 21 A I don't remember exactly. All I know is, it was 22 somewhat of an informal call. I thought I would give it a shot, 23 call and see if I could talk to somebody, if anybody knows 24 anything about this. 25 And I -- I pretty much got the impression that they --	Page 25 1 A No. 2 Q Did you ask them in regards to what type of valve should 3 be used on a trailer? 4 A No. This was a couple of years ago, so I'm having a 5 hard time exactly recalling. 6 But I do know I was going through a process of trying to 7 investigate this, and I do remember calling them. That's all -- 8 basically, that's all I remember. And I remember the phone call 9 that just really didn't get me any information. 10 Q Okay. And you said you went through a process of 11 investigating this. What was the process you went through? 12 A Oh, I did some Internet searches to see if I could find 13 any other instances around the country of gates opening, and I 14 didn't really -- I didn't really find anything. 15 That didn't really lead to any -- any -- any insight 16 into what was going on. 17 Q Okay. Other than Internet searches, what else did you 18 do to investigate? 19 A I talked to some of the other people. 20 Q And do you recall -- 21 A That was probably later in 2015 that I did that. 22 Q That you did the investigating into it? 23 A Yes. 24 Q Okay. 25 A I don't remember what day -- what time it was, actually.

Page 26

1 Q Okay. And when you said you called people, do you
2 remember the you called?

3 A No.

4 Q Would they have been other trucking companies?

5 A Yes, competitors.

6 Q So other than the Internet searching and making phone
7 calls to the competitors, did you do anything else in
8 investigating?

9 A No, I do not believe so.

10 Pretty much after the 2014 incident, we pretty much gave
11 up on figuring out why it opened. We put the gate locks in, and
12 at that point, it becomes not an issue on why they opened, because
13 they can't open now.

14 So that would -- you know, so everything I did would
15 have been prior to that, which would have been almost three years
16 ago.

17 So a lot of it is informal. Just when you talk to
18 somebody, you know, initially, you say, hey, what are you guys
19 doing, do you have any problems, you know. It's just informal.

20 So I don't remember exactly what I would have talked
21 about it to them about.

22 Q Okay. So are you saying this investigation would have
23 occurred before the 2014 incident. Is that what you were saying
24 there?

25 A No, it would have been after.

Page 27

1 Q Okay.

2 A I don't know. I don't know exactly, you know, the
3 timeline. It would have been before or after. It could have been
4 either one. I just know it's been something that I've always been
5 curious about.

6 Q Okay. Did you do any investigation after the 2013
7 incident?

8 A Yes.

9 Q Okay. What did you do after the 2013 incident?

10 A Just talked to some of the people in the industry. I
11 think that's probably when I called Versa.

12 I don't know. I don't think anybody called Ranco. I
13 don't really remember too much about it because I never really
14 received any valuable information from anything I investigated.

15 Q So you said you did not call Ranco. Is that --

16 A I don't believe I did, no.

17 Q Do you know if anybody else did?

18 A I don't think so.

19 Q Do you know for a fact that the unintentional openings
20 on other trucks or other trailers occurred with a Versa valve?

21 A Yes.

22 Q And how do you know that?

23 A Just common knowledge I suppose. All the trailers that
24 are in this town, almost -- I would say 98 percent of them have
25 Versa valves on them.

Page 28

1 Q So no one specifically told you with certainty that that
2 trailer had -- that the trailers had Versa valves on them, the
3 ones that had --

4 A I don't recall that, but I knew they were all Ranco
5 trailers and I'm pretty sure all Ranco trailers have Versa valves.

6 Q How do you know they were Ranco trailers?

7 A Just because that's the type of trailers that these
8 companies operate.

9 Q In Ranco the only type of trailer that --

10 A Manufacture --

11 Q -- that has the bally dump?

12 A No.

13 Q What are the other manufacturers, other than Ranco?

14 A I'm sorry?

15 Q Other than Ranco, what are the other manufacturers that
16 the trailers could have been?

17 A I can't even think of any other ones that these other
18 competitors operate. Pretty much everybody runs Ranco in this
19 area.

20 Q And that are other valves other than Versa valves that
21 could have been on --

22 A I know Wabco makes a valve, but I haven't seen any of
23 those in use since -- for 20 years, too much, you know. Many
24 newer trailers don't usually come with those. And it is possible,
25 but not likely.

Page 29

1 Q Do you know what models of the Versa valves were on all
2 of the trailers that did unintentional dumping?

3 A I can't say for certain, but I would be almost sure they
4 are the exact valve that we have on our trailers.

5 Q And why would you be almost sure about that?

6 A Because that's what all the trailers in this area come
7 with.

8 I've been doing this for 30 years, and pretty much
9 everybody runs the same valve.

10 There's only two different configurations I've seen in
11 this area for Versa, and they are both identical. One just
12 happens to be a -- mounts on a manifold, and one is a direct
13 mount.

14 But they are the same -- same design valve. Just the
15 way they mount, it's only two different.

16 Q So in your 30 years, have you seen any other valve on a
17 trailer than -- other than the Versa valve?

18 A Yes.

19 Q Do you see a lot of them, a lot of -- in your past 30
20 years of experience, seen a lot of other valves, other than Versa
21 valves on trailers?

22 A Not a lot in percentage to the Versa valves, no, not in
23 the last, say, 15 years.

24 Q So what would be your estimate of the percentage that
25 have Versa valves?

Page 30 1 A Currently in operation? 2 Q That you've seen in your 30 years that operate it. 3 A Oh, maybe -- how many percentage -- what's the 4 percentage of Versa valves or the other valves? 5 Q The Versa valves. 6 A I would say in all the years I've been doing this, 7 probably 90 percent. 8 Q And you said in about 30 years you've been doing this, 9 or 20? Sorry. 10 A I've been doing this since '80 -- 1980 probably. So 11 that would be what, 35 years. 12 Q So in your 35 years, you've seen approximately 13 90 percent of the trailers have Versa valves on them? 14 A Yes. 15 Q And in your 35 years, you are aware, based on your 16 testimony yesterday, of, roughly, a dozen unintentional openings 17 that have occurred? 18 A That's at least. 19 Q Is that number more? 20 A It could be. I mean, we're talking about ones that I've 21 had firsthand knowledge of. 22 Q Yeah. 23 A Ones I've seen. And there are also ones that you know 24 that happened. You've seen evidence. You know that they 25 happened.	Page 32 1 before? 2 A Yes. 3 Q Okay. And on the ones you've seen, how did you know 4 these were Versa valves on the trailer? Did you see the Versa 5 valves? 6 A Actually, yes. 7 Q And you also said there's times you see evidence of a 8 dumping. 9 A Yes. 10 Q What type of evidence do you see? 11 A When you drive out the highway and you see big rocks on 12 the side of the road that you know somebody was hauling in to 13 Nevada Cement, for instance, that don't belong on the side of the 14 highways, because the accident -- it was accidentally dumped on 15 the side of the road and NDOT came along and pushed it off. 16 And there's still evidence of it sitting there. The 17 rock is still sitting there on the side of the road ten years 18 later, because they don't remove it, they just push it off the 19 side of the road into the borrow pit. 20 Q Is there any way that rock could come on the side of the 21 road other than an unintentional dumping? 22 A Not that particular rock. 23 Q Why is that? 24 A It's clinkers from the cement plant, coming from a 25 specific location. I mean, somebody would have had to dump it
Page 31 1 So we're talking about a different -- ones I've 2 personally actually seen happen, just a few of them, but ones that 3 I've -- I have firsthand knowledge of, there's probably at least a 4 dozen. 5 Q When you say "a few," how many do you consider to be a 6 few, because I know some people -- 7 A Three or four. 8 Q Okay. And you said you have firsthand knowledge from -- 9 about a dozen; is that correct? 10 A Uh-huh. 11 Q In your 35 years? 12 A Yes. 13 Q Okay. And how did you get that firsthand knowledge of 14 those dozen? 15 A I've seen -- driven by where they have dumped the loads 16 on the highway. I've been following trucks that dump loads in 17 front of me on the highway. 18 I've been associated with three of them that -- with our 19 company. I've seen evidence of, you know, other companies that 20 have actually -- I mean, you could still go out on the highways 21 and see where the asphalt is still in the middle of the highway 22 five years later. 23 You can still see evidence of where it was dumped. And 24 you hear about it right away. 25 Q Okay. You said you've seen trailers dump on the highway	Page 33 1 there. I can't imagine somebody intentionally dumping it there. 2 Q But that's possible? 3 A Very, very unlikely. 4 Q But possible? 5 A Yes. 6 And the cars that drove over the top of it and wiped out 7 their oil pans probably wouldn't be too happy that the guy did it 8 on purpose. 9 Q I would hope he wouldn't, but it's -- anything is 10 possible. 11 A Yeah. 12 Q And so, say, the dozen in your 35 years that you are 13 aware of, do you know who manufactured those trailers? 14 A I've seen Fruehauf trailers that have dumped. I've seen 15 Beall trailers that have dumped. I've seen Ace -- I believe 16 Ace -- maybe not Ace. 17 Q And in all of these that you have firsthand knowledge 18 of, do you know the manufacturer of the truck that was pulling the 19 trailer? 20 A The majority of them would have been Peterbilts. 21 Q And of these dozen in your 35 years, are you aware of 22 how many trailers were being pulled by the truck? 23 A I knew that one for sure was one trailer, a semi 24 trailer. And all the rest of them were at least two trailers. 25 Q Do you know approximately how many were two versus

Page 34

1 three?

2 A The only one I have firsthand knowledge of that are

3 three trailers are the ones that we dumped. Not that many people

4 run three trailers.

5 Q Do you ever run more than three trailers?

6 A No.

7 Q Okay. On the ones that had two trailers, do you know of

8 whether it was the first or second trailer that was -- caused the

9 dump?

10 A No, I don't recall that, other than the one that I know

11 that dumped in front of me on the highway was the rear trailer.

12 Q Okay. So that's the only one that you actually saw that

13 there was a Varea valve on?

14 A Yes.

15 Q Do you recall who manufactured that truck?

16 A Peterbilt.

17 Q Do you recall who manufactured that trailer?

18 A Ranco, Ranch Manufacturing. I'm not sure. They changed

19 names a few times, but Ranco trailer is what it is, yes.

20 Q Do you recall then that was?

21 A No, I do not.

22 Q Do you recall if it was before 2013?

23 A Yes, it was.

24 I believe it was.

25 Q So was it before you were employed with MDB?

Page 35

1 A I think it was, yes.

2 MS. SHREVE: Do you mind if we take a break for a second

3 and go off the record.

4 (A discussion was held off the record.)

5 MS. SHREVE: Let's go back on the record again.

6 BY MS. SHREVE:

7 Q Mr. Palmer, you understand you are still under oath

8 after this break, correct?

9 A Yes.

10 Q I'm just going to do a couple more questions in regards

11 to the dumps that you have seen or are aware of.

12 Now, in your 35 -- roughly, 35 years of experience, how

13 many trucks would have been driving, that you would have seen --

14 like how many trucks a day drive in Nevada, carrying trailers

15 of -- bally dump trailers?

16 A On an average day?

17 Q Yes.

18 A Are you saying, like, in this area, how many a day?

19 Hundreds of them.

20 Q Hundreds of them?

21 A Yes.

22 Q And then are hundreds of them driven every day, or is it

23 five days a week, like Monday through Friday, or is it seven days

24 a week?

25 MR. BROWN: I'm going to just object as to foundation.

Page 36

1 I understand you are just trying to get a feel.

2 But you can answer if you can. So go ahead.

3 THE WITNESS: Are you specifically talking about trucks

4 configured with bottom dumps?

5 BY MS. SHREVE:

6 Q Yes.

7 A Yes, I would say there are hundreds of trucks in the

8 Western Nevada, Northern Nevada area that travel hauling materials

9 daily, five, six days a week.

10 Q Okay. So in your past 35 years, there's been -- trucks

11 are driving, approximately 100 a day, six days a week, for the

12 past 35 years then, roughly?

13 A That's a good -- yes.

14 Q So I can't do math that quick, but it's a lot of trucks?

15 A Yes.

16 Q And with all of those bally dump trucks, you are only

17 aware of 12 times that this occurred?

18 A I wouldn't necessarily say that. You mean my personal

19 knowledge of it?

20 Q Yes, that you are aware of an unintentional bally dump

21 opening.

22 A Personally, yes, I only know of 10, 15, 20, something

23 like that. But that's not -- yeah, that's all I personally would

24 know about.

25 Q Right. So your personal knowledge of the three that

Page 37

1 occurred at MDB, correct?

2 A Uh-huh.

3 MR. BROWN: Asked and answered.

4 BY MS. SHREVE:

5 Q The one that you actually observed have a bally dump on

6 the highway, correct? You observed one bally dump on the highway;

7 is that correct?

8 A I've seen, actually, two. I've seen one in California

9 dump as well. Maybe I'm getting off track here.

10 Q I'm just going over the ones that you say you have

11 knowledge -- you testified that you had knowledge of unintentional

12 bally dumps occurring, correct?

13 A Yes.

14 Q I'm trying to understand your knowledge of the bally

15 dumps that occurred.

16 A Yes.

17 Q Okay. You had said there was three that you are aware

18 of from MDB. And earlier, you testified you actually observed one

19 occur. Is it more than one that you actually observed?

20 A Yes.

21 Q Okay. How many have you actually observed in your 35

22 years?

23 A Are we talking about actually occurred while it's

24 happening?

25 Q Yes, that you actually observed the bally dump opening

Page 38 1 and the items in the truck come out. 2 A Two. 3 Q Where did these two incidents occur that you just spoke 4 about that you actually observed the belly dump opening and the 5 items that were in the trailer come out of the trailer? 6 A One of them occurred on Interstate 80 going eastbound at 7 the top of Patrick Hill, so just about a quarter of a mile west of 8 the Patrick exit, Interstate 80. 9 Q Do you recall approximately what year that happened? 10 A No, I do not. 11 Q Was it before 2013? 12 A It would be a guess, but I would say more than likely. 13 Q Were you working at MDS at the time of that? 14 A I do not think so. 15 Q And what was the make of this truck that was pulling the 16 trailers? 17 A Peterbilt. 18 Q How many trailers was it pulling? 19 A Two. 20 Q What -- do you know the makes of the trailers? 21 A Yes. 22 Q How do you know the make of the trailers? 23 A I could see them. 24 Q What were the make of the trailers? 25 A Ranco.	Page 40 1 Q Okay. Do you recall what valves were on that truck? 2 A They appeared to be Versa valves. 3 Q So you don't know for sure, you just -- or did you see 4 it, that it was a Versa valve, in fact? 5 A Well, I remember driving by and looking at the trailer 6 and trying to discern whether it was a Versa valve, and it did 7 appear to be a Versa valve, yes. 8 Q Okay. Why were you trying to discern if it was a Versa 9 valve? 10 A Because we have -- this was after the first incident we 11 have. So we're always -- everybody is always trying to figure out 12 what's going on, what happened, why did this guy dump his load, 13 what happened. 14 Q Okay. So just to recap, we have -- to make sure we're 15 not missing any, we have the three from MDS and the two you 16 actually observed which we just spoke about on 80 eastbound and 17 then the one in December 2013, correct? 18 A Yes. 19 Q Did you observe any other ones of the actual belly dump 20 opening and -- 21 A No. 22 Q So in your 35 years, hundreds of trucks being driven, 23 you've only actually seen it occur twice, but you have knowledge 24 of three times at MDS, so a total of five times of what you 25 actually observed in your time at MDS; is that correct?
Page 39 1 Q And what were the valves on the trailers? 2 A Versa. 3 Q And how do you know they were Versa? 4 A Two reasons. One, I actually saw the valve. And the 5 other reason is that all the Ranco trailers owned by 6 Lakeside Specialized Transportation have Versa valves on them, to 7 my knowledge. 8 Q Okay. And was it the first or second trailer that had 9 the belly dump on this specific? 10 A Second trailer. 11 Q And then what was the second incident you actually 12 observed occur where the belly dump opened up and the items in the 13 trailer dumped on the ground? 14 A Okay. That would have been probably December 2013. It 15 would have -- on Highway 99 heading southbound near -- south of 16 Woodland, California, near Woodland, California. 17 Q Okay. And what was the make of this truck? 18 A I do not recall that. 19 Q What was the make of the trailers? 20 A I do not recall that. 21 Q How many trailers? 22 A Two. 23 Q Do you recall if it was the first or second trailer that 24 dumped? 25 A I believe it was the second trailer.	Page 41 1 MR. BROWN: Objection, asked and answered. 2 BY MS. SHREVE: 3 Q Is that correct? 4 A It is correct. 5 Q Okay. 6 A But I think it's a little skewed because I'm not 7 watching the other hundred trucks every day. I'm just -- I can 8 only watch so many trucks a day, so I can't be everywhere, or I 9 might have seen all the other ones open. 10 Q Right. But that's what you've seen? 11 A Yes. 12 Q So when you -- how many times have you installed a 13 Versa? 14 A Personally? 15 Q Yes. 16 A Probably ten or more times. 17 Q How many times has a Versa valve been installed at MDS? 18 A Four to five times. 19 Q And who was installed those valves? 20 A I believe Pat Bigby installed them all. This is since 21 my time there. 22 Q And have you ever installed a Versa valve at MDS? 23 A I do not believe I did. 24 Q Would anybody else other than Pat Bigby install a 25 valve -- or, Pat Bigby and yourself install a Versa valve as a

Page 42

1 trailer?

2 A I don't believe so, not after my time there.

3 Q What sort of information would an MOB employee need to
4 know when they are installing a new Versa valve on a trailer?

5 MR. BROWN: Well, object, vague, overbroad.

6 Answer if you can.

7 BY MS. SHREVE:

8 Q I can re-ask it if you need me to.

9 A I'm not sure what you are asking. You would need to
10 know that it needs to be replaced and replace it.11 Are you talking about what does he -- how -- what does
12 he need to know how to do it?13 Q Yes. So I'm talking specifically with just installing a
14 valve on to the trailer.15 Is there any specific knowledge you would need to know
16 to install a valve, a Versa valve?17 A If you are asking me is it difficult or is it highly
18 technical to install a valve? No, it's not. It's very easy.19 Q So there's no training that you would need to have on
20 installing a valve, a Versa valve?21 A You wouldn't want to let somebody install it that's not
22 a mechanic. So if you have your 20, 30 years experience as a
23 mechanic, yes, you could do it. It's very simple.24 Q Okay. And why is it that you wouldn't want someone
25 other than a mechanic installing the Versa valve?

Page 43

1 A No difference than you wouldn't want anybody working on
2 your car that's not a mechanic. I mean, if they are not
3 mechanically inclined, you don't want them.4 Q So a mechanic would need to know specific information of
5 how to install a Versa valve?

6 A They would have to have basic mechanical knowledge.

7 Q Okay. So then would it be fair to say that you wouldn't
8 need anything other than basic mechanical knowledge to install a
9 Versa valve?

10 A It would be fair to say that, yes.

11 Q Do you know who designed this system that -- in which
12 the Versa valve is a component of?

13 MR. BROWN: Objection, vague, foundation.

14 THE WITNESS: Can you rephrase that --

15 BY MS. SHREVE:

16 Q Sure.

17 A -- maybe a little bit differently.

18 Q What is the Versa valve connected to?

19 A The Versa valves that we have installed on our trailers
20 operate the gates that open and close to dump your load, hooked to
21 the air cylinders and the air supply tank.22 Q Okay. So do they work as a system, the Versa valve with
23 the hose and the tank, then, to open the gate?24 A I don't know if it's a specifically designed system, but
25 I guess they work in concert with each other, yes.

Page 44

1 Q So who installed the Versa valve on Trailer 6775 in
2 August 2013?

3 A Pat Bigby.

4 Q Had he ever installed a Versa valve prior to the
5 installation of that valve on August of 2013?6 A I'm quite certain that he has, but I can't testify that
7 for sure he has; that he's worked with other companies that have
8 Versa valves, so I'm sure, along the course of his experience, he
9 has done that.10 Q Do you know if he was provided any training on
11 installing the Versa valve?

12 A I do not think so, no.

13 Q Have you ever provided any training on installing a
14 Versa valve?

15 A No.

16 Q So after the incident that occurred on July -- in
17 July 2013, who made the decision to purchase a new valve to put in
18 Trailer 6775?

19 A We're talking about the 2013 incidence?

20 Q Correct.

21 A That was before I came to work there, where I believe
22 Tracy Shane was the manager at the time and Pat Bigby was the
23 mechanic. Pat Bigby would have said we're going to put a new
24 valve on it, and Tracy said okay and ordered the valve.

25 Q And who determined what valve to -- in 2013, after the

Page 45

1 2013 incident, who determined what valve to replace the Versa
2 valve with on the 6775 trailer?

3 A Do you mean which model valve?

4 Q Which model, which brand. Who determined which -- what
5 valve they were going to use to replace the Versa valve that was
6 on Trailer 6775?

7 A It would have been Pat Bigby.

8 Q And why was it determined to -- obtain that.

9 What valve was purchased to install on Trailer 6775
10 after the 2013 -- July 2013 incident?11 A It would have been a Versa valve with the same model
12 number and part number that was currently installed on the
13 trailer.14 Q And why was it decided to use that, to purchase that
15 Versa valve to install it on the trailer?

16 A Why was it -- can you repeat the question, please.

17 Q Sure.

18 Why was it determined to purchase the Versa valve that
19 was the same as the one that was on Trailer 6775?20 A You mean why did we replace it with the exact same model
21 number that was on the trailer?

22 Q Yes.

23 A A couple of reasons.

24 One is, as I said before, almost every trailer in this
25 area has a Versa valve to control the gates. So therefore, the

Page 46

1 suppliers that you go to, to purchase valves from, stock the Versa
2 valve. They wouldn't stock any other type of valve.

3 The other reason is, a Versa valve bolts on. There are
4 some modifications you have to make to adapt a different valve to,
5 say, the system that's already in place.

6 And that would liken it to, you know, why would you buy
7 a Toyota fender for your Toyota if -- when you smash your fender.
8 You are going to buy what -- what -- keep what the car came with,
9 is what you are going to replace the part with. You'll go back to
10 what it came with standard.

11 Q How do you -- do you know that the Trailer 6775 was
12 built with a Versa valve in it?

13 A I don't know. I would assume that it was, yes.

14 Q Do you have any records that it was?

15 A No, I don't have any of the original purchase records or
16 the build sheet on that particular trailer.

17 Q Do you know if the Versa valve on Trailer 6775 had been
18 replaced prior to the July 2013 incident, between the time it was
19 manufactured and then?

20 A No, I do not know, have knowledge of that.

21 Q Is the Versa valve used with a compressed air system?

22 A Yes.

23 Q Is the Versa valve used with an industrial hydraulic
24 fluid system?

25 A I guess you could say that, yes.

Page 47

1 Q Can you explain to me the procedure on how to replace a
2 Versa valve on a trailer as was done on 6775.

3 MR. BROWN: Can you identify the topic in the 30(b)(6)
4 notification that this would fall under?

5 MS. SHREVE: Sure. One second.

6 Well, it would be maintenance, service and repairs of
7 how to -- how he repaired the Versa valve on to the trailer, or
8 maintenance.

9 MR. BROWN: How he installed it on it?

10 MS. SHREVE: I mean, that would be in your maintenance.
11 He has maintenance records of installing the new --

12 MR. BROWN: Right.

13 MS. SHREVE: -- valve, correct?

14 MR. BROWN: I mean, it seems to me you are asking his
15 personal knowledge, almost as, like, an expert witness, as opposed
16 to -- as to the person most knowledgeable within MDB Trucking.

17 I'll go ahead and let you answer the question.

18 MS. SHREVE: And Number 12 is MDB's installation of the
19 valve on the trailer. So I'm not asking as to personal knowledge,
20 I'm asking as how MDB installed this valve on the trailer.

21 MR. BROWN: Okay.

22 THE WITNESS: So the question is, how do you physically
23 replace the valve, how would we have physically replaced the
24 valve?

25 ///

Page 48

1 BY MS. SHREVE:

2 Q Yes.

3 A This particular valve has three mounting bolts. You
4 unbolt -- you remove the air lines from the valve, remove the
5 electrical connection to the solenoid, and then you unbolt the
6 three bolts and you remove it. It's that simple.

7 And then you reverse that process to install a new one.

8 Q Okay. So can you explain how MDB installed the new
9 Versa valve on Trailer 6775.

10 A After the removal of the old valve?

11 Q Yes.

12 A We would have just bolted the new valve on and then
13 taken the fittings off of the original valve, install those into
14 the new valve, hook the hoses up to the fittings and connect the
15 wires back to the solenoid and, you know, tighten the three bolts
16 up that hold the Versa valve to the trailer.

17 Q When MDB installed the Versa valve on Trailer 6775, did
18 you have to check the pressure of the system when you are
19 installing it?

20 A Yeah, after you install the valve and test it, yes, you
21 would have to check to make sure there's -- everything is working
22 correctly.

23 Q Did MDB check the pressure of the Versa valve before
24 they installed the new one on Trailer 6775?

25 A Did we check the pressure before removed the old valve?

Page 49

1 Q Yes.

2 A I think so. I'm sure there was no problem, though.

3 Q Did MDB check the filtration of the system before
4 installing the Versa valve?

5 A I'm not sure if we did or not. It's something that we
6 do routinely. All there is, is a water separator on there that
7 filters out water, if it gets any water in there, and that's
8 usually never a problem.

9 Q Did MDB check that before replacing the valve on
10 Trailer -- before removing the valve on 6775?

11 A I don't think so. We would have checked it prior to
12 that under routine maintenance, yes, but not immediately prior to
13 removing the valve.

14 Q Did you check it immediately after you installed the
15 valve on 6775?

16 A Well, I can't testify to what Pat Bigby did, but, yes,
17 I'm sure he would have. That's standard routine.

18 When you hook it all back up, you check the oiler, make
19 sure the oiler has got oil in it, the filter is clean, it has
20 pressure and everything operates correctly.

21 Q Would there be any records to indicate this occurred?

22 A I don't think so.

23 Q Does MDB have knowledge regarding the specifications of
24 Versa's product in regard to temperature?

25 A I have read those before in the literature that's

Page 50

1 supplied with the Versa valve, but I could not tell you what those
2 are right now.

3 Q Does Pat Bigby know it, since he was the person that did
4 the installation? And we're talking specifically about the
5 installation of -- MDB's installation of the Versa valve on
6 Trailer 6775.

7 A Yes, he would have known at that time.

8 Q How about the specifications for the pressure for the
9 Versa valve for installing it on 6775?

10 MR. BROWN: I'm going to object to the extent it calls
11 for speculation.

12 THE WITNESS: I would imagine he did. If it's in the
13 literature, he would have known that, reading the literature
14 before installing the valve.

15 BY MS. SHREVE:

16 Q Are you the person most knowledgeable about the
17 installation of Versa valve 6775 on the subject trailer?

18 A In 2013?

19 Q Yes.

20 A I would say I have equal knowledge to what Pat has, but
21 I didn't actually install it.

22 Q Okay.

23 MR. BROWN: He's also been disclosed as a fact witness,
24 Pat Bigby, as the one that has replaced it. And he is the most
25 knowledgeable here to talk about the policies and procedures in

Page 51

1 general, business acumen. So -- MDB, in regard to the maintenance
2 issue.

3 MS. SHREVE: And I'm talking about Number 11, which says
4 MDB's installation of the product on 6775, is what I'm
5 specifically talking about. Knowing the specifications for the
6 Versa product for installing it, is what I'm speaking about.

7 MR. BROWN: Right. I understand. I'm just making a
8 record that we're complying with the 30(b)(6) and our knowledge of
9 fact witnesses as well.

10 MS. SHREVE: I'm sorry, I'm going to ask you to repeat.
11 What was the last question that I had asked?

12 (The last question and answer were read by the reporter.)

13 BY MS. SHREVE:

14 Q How about specifically, Versa's specifications regarding
15 lubrication of the valve when installing it on Trailer 6775?

16 This goes to Versa's -- sorry. This goes to MDB's
17 knowledge of --

18 MR. BARKLEY: Which category, Counsel?

19 MS. SHREVE: Number 11, installation of the Versa valve.

20 MR. BROWN: No, that's the decision to purchase subject
21 valve.

22 MS. SHREVE: Oh, sorry. Do I have the wrong number?

23 Maybe it's 12. Sorry, I wasn't finished with my question.

24 MR. BROWN: I know.

25 MS. SHREVE: Sorry, it's Number 12, not 11.

Page 52

1 MR. BARKLEY: Okay. I will note for the record that 12
2 does not talk about specifications of the manufacturer.

3 MR. BROWN: I guess what you are asking him -- are you
4 asking him if he can quote all the specifications of every Versa
5 product that he could install in the truck without looking at the
6 documents? I mean, is that what you are asking him?

7 MS. SHREVE: I'm asking him if, during the installation
8 of the Versa valve on Trailer 6775, whether there was knowledge of
9 the specifications of temperature, and the second was pressure.
10 This one is now lubrication.

11 MR. BROWN: Okay.

12 MS. SHREVE: So it's in regards to the installation, if
13 they --

14 MR. BROWN: Okay. I understand.

15 MS. SHREVE: Okay?

16 BY MR. BROWN:

17 Q So I'll go back.

18 So for the installation of the -- for the installation
19 of the Versa valve on Trailer 6775, the person installing the
20 product know the specifications of the Versa product in regards to
21 the lubrication?

22 A If, in fact, the literature spelled that out in the
23 Versa product box when we received the valve, then the person that
24 installed the valve would have known that.

25 When I say the person -- I'm specifically talking about

Page 53

1 Pat Bigby. And I'm making the assumption based on the fact that
2 he does things the same way I do them, and I -- we read the
3 instructions.

4 So if there's anything in there about the pressure or
5 the oil or whatever, he would have known that.

6 Q Okay. I'm going to ask the same question in regards to
7 the filtration. I'm guessing your answer would be the same as
8 well?

9 A The same, yes.

10 However, I don't know that it would have made any
11 difference whether you knew it or not. I mean, you are replacing
12 a valve with the same valve that came off it.

13 So you are not -- if I put a new alternator on the car
14 that's identical to the one that came off the car, I'm assuming it
15 was engineered correctly to be on the car to begin with. That's
16 somewhat of an assumption I'm making when I'm putting the new one
17 on.

18 MS. SHREVE: Okay. So I'm going to go back to actually
19 purchasing the Versa valve that was installed on Trailer 6775.

20 And I'm going to mark this as Exhibit 11.

21 (Exhibit 11 marked for identification.)

22 BY MR. BROWN:

23 Q So this is Bates number MDB 016. Can you tell me what
24 this document is.

25 A It is an invoice from ENGS Motor Truck Company, dated

Page 54 1 July 31st, 2013. And it's for the purchase of a side port Versa 2 valve. And this would have been the valve that we would have put 3 on Trailer 6775 after the first incidence in 2013. 4 Q Is there anywhere on this invoice that indicates that 5 this was the valve that was put on Trailer 6775? 6 A There's a purchase order number, customer order number, 7 6775. 8 Q Okay. And so your customer order is reflective of what 9 equipment number the purchase is for? 10 A Yes. 11 Q Okay. Earlier, you testified that it was decided to 12 purchase the Versa valve because that is what was on it, correct, 13 previously? 14 A Yes, that is what I testified to earlier, yes. 15 It's also that's what we want. That's -- yeah, we want 16 Versa valve. I mean, there's no reason why we don't want to put 17 back on what was on there. 18 Q Was this the first time that a Versa valve was purchased 19 from MOB -- that MOB purchased a Versa valve? 20 A I have no idea. 21 Q And where was the Versa valve purchased from? 22 A Are you talking about who did we purchase it from? 23 Q Yes. Who did MOB purchase the valve from? 24 A ENGS Motor Truck Company. 25 Q How did you decide to purchase the Versa valve from	Page 56 1 Q At this particular time. 2 A Probably three or four times a week. 3 Q Did you or did MOB ask ENGS Motor Company about 4 purchasing another valve, other than the Versa valve? 5 A No. 6 Q Did MOB ask ENGS Motor Truck Company about purchasing a 7 different type of Versa valve? 8 A A different model number of Versa valve? 9 Q Yes, a different model. 10 A No, we did not. 11 Q And why did you not ask ENGS Motor -- or, why did MOB 12 not ask ENGS Motor Truck Company about purchasing a different 13 model number of a Versa valve? 14 A More than likely, because this has been the standard 15 valve I've seen used for all -- for 35 years I've been around. 16 And that's what everybody uses, and that's what people stock and 17 sell, and that more than likely, we would not have thought about a 18 different style of Versa valve. 19 Q Okay. 20 A The availability of a different style. 21 Q At the time of the purchase of this Versa valve, was MOB 22 aware of any other models of the Versa valve that would have fit 23 in the Trailer 6775? 24 A Prior to the purchase of this valve? 25 Q Yes.
Page 55 1 ENGS Motor Company? 2 A Because at the particular time, they were our prime 3 supplier and they stocked the valve. And we called them, and they 4 said, yeah, we have one in stock, we'll send it over. 5 Q So you've dealt the ENGS Motor Truck previously? 6 A Yes, for many years, yeah, since 2010. 7 Q Do you still do business with ENGS Motor Company or 8 Motor Truck Company? 9 A Yes, but they are no longer really in the parts 10 business. So we don't -- they have a limited parts -- they don't 11 do that much parts -- outside part sales now, but we do still do 12 business with them on occasion. 13 Q When did they stop providing as many parts, I guess? 14 A About six months ago, I think they downsized. 15 Q And who do you deal with at ENGS Motor Truck Company? 16 A Personally, I deal with Clayton or Jake. 17 Q Does Clayton have a last name? 18 A I'm sure he does. 19 Q Do you know it? 20 A No. 21 Q What about Jake? 22 A I don't know what Jake's last name is either, no. 23 Q How often does MOB purchase products from ENGS Motor 24 Truck Company? 25 A Currently or at this particular time?	Page 57 1 A Can you repeat the question. 2 Q Sure. 3 A Are you specifically talking about MOB Trucking or 4 myself? 5 Q Yes, you're -- to clarify, you are speaking on behalf of 6 MOB Trucking, so any knowledge that MOB Trucking would have 7 through its employees or whoever it would be. 8 A No, I don't think MOB Trucking knew this. 9 Q Were you aware, then, of another model of Versa valve 10 that would fit in the trailer at this time? 11 A No. I'm just aware of other -- I just -- I'm aware of 12 the vast array of valves that Versa produces and the 13 configurations it can be ordered in for different applications. 14 But as far as I know, this is the valve that is used for 15 bottom dump trailers. 16 Q Is this still the valve that is used, to your knowledge, 17 for bottom dump trailers? 18 A I would say it is still a valve used for bottom dump 19 trailers. 20 Q So is there another valve, then, that is used for bottom 21 dump trailers? 22 A Is there another Versa valve? 23 Q Yes. 24 A Yes, another model of Versa valve that's used for bottom 25 dump trailers, yes.

Page 58

1 Q When did you become aware of this other model that is
2 used on bottom dump trailers?
3 A In 2014.
4 Q Do you know when in 2014?
5 A April?
6 Q So you were aware of this prior to the July 7th, 2014,
7 incident that occurred?
8 A That a different model Versa valve was available?
9 Q Yes.
10 A I should -- well, I would say that prior to that, yes, I
11 did know of trailers that came with a different style valve, yes,
12 similar style valve, but slightly different, yes.
13 Q Do you know the style number, by chance?
14 A Oh, no, I do not.
15 Q I was thinking you probably didn't have that
16 memorized --
17 A No.
18 Q -- but figured I would ask.
19 When MOB purchased the valve on August 1st, 2013, did
20 the valve come with any, I guess, literature with it?
21 A I can't speak for that particular valve. But the valves
22 I've seen, other valves I've opened up in the box that were still
23 sealed in the box, had literature in them, yes.
24 Q Was this valve still sealed in the box when you
25 received -- when MOB received the valve?

Page 59

1 A I can't say it was. I would imagine it was, but I can't
2 say.
3 Q Do you know of anyone who would have knowledge of that?
4 A I don't think so. I don't think anybody would remember
5 that.
6 Q If the Versa valve did come sealed in a box and it came
7 with literature, would you keep that -- would MOB keep that
8 literature?
9 A No, not in 2013.
10 Q Does MOB usually keep the literature that comes with the
11 product that they have?
12 A If it comes with a service or repair manual or a parts
13 manual, we would keep that. But most everything we do is online.
14 So, now, with the Internet, all these manuals are
15 available online. So if you have a problem, you need to work on
16 something later, you can always -- you have easy access to it from
17 the different manufacturers.
18 So instead of having a whole library of paper or
19 literature that you are trying to find something, it's much easier
20 just to have your catalogs online.
21 So, no, we would not keep the stuff.
22 Q Okay.
23 A Finding it would be kind of a chore when you needed it,
24 so --
25 Q And I just want to clarify. If it was service or

Page 60

1 maintenance, you said you would keep it?
2 A Oh, if something comes with an actual maintenance
3 manual, we would keep it. But if it just comes with installation
4 instructions, we've already installed it, we are done with that.
5 Q Did this Versa valve product come with any maintenance
6 or service instructions?
7 A I don't recall.
8 Q Okay. If it did, would MOB have that?
9 A Not from this original valve, no.
10 Q Okay. Why would they not keep it from this one, if you
11 just testified that you would keep service and maintenance
12 manuals, or that MOB would keep service and maintenance manuals?
13 A Okay. If it did come with that, then we would have
14 saved it, but I do not believe it did.
15 Q Okay. What about warranty information regarding the
16 Versa valve, did it come with any?
17 A I do not recall.
18 Q If you purchased -- if MOB purchases a product, do they
19 keep a copy of the warranty information, if it comes with one?
20 A I would say that sometimes.
21 Q What are the occasions that would be the "sometimes"?
22 A I would imagine, how much the item cost. If it's a
23 starter that costs \$200 and comes with the warranty information,
24 no, we don't save that. Trying to get warranty on a starter,
25 yeah, good luck.

Page 61

1 So it's not really an issue for us to actually keep the
2 warranty information.
3 Q Okay. So what would, then, be, I guess -- if you are
4 indicating it's based off, likely, the dollar amount, what would
5 be the dollar amount to where you would keep a warranty?
6 A I don't know, maybe a couple of thousand dollars. I
7 guess it would be an item-by-item basis, depending on what it is.
8 I mean, generally, all of our vendors take care of the
9 warranty information. So if it's got a 90-day warranty, we call
10 up the dealer, and they say, yeah, well, how long is my warranty
11 on it, 90 days. Okay, well, it's within 90 days, take care of the
12 warranty for you.
13 It's not something we have got to deal with the
14 manufacturer, so it's not something we are all that concerned
15 about.
16 Q When you say you call the dealers, are the dealers the
17 company that manufactured it or the company you purchased the
18 product from?
19 A For instance, ENGS Motor Truck Company --
20 Q Uh-huh, yes.
21 A -- if we bought this Versa valve and it failed, which,
22 highly unlikely, but if it failed within a couple of weeks, we
23 call them up and they get us another one.
24 They would take care of the warranty. We would never do
25 anything about it. So we don't deal with factory warranties too

Page 62

1 much.
 2 Q So then if this product did come with a warranty, you
 3 would not have kept it?
 4 A No, I seriously doubt it.
 5 Q Does MDB read the warranties that come with their
 6 products?
 7 A Once again, I don't think so.
 8 Q Does MDB read any of the warnings that would come with
 9 their product?
 10 A Yes.
 11 MS. SHREVE: With the product.
 12 I am going to do the — our next exhibit, which would be
 13 Number 12.
 14 (Exhibit 12 marked for identification.)
 15 BY MS SHREVE:
 16 Q This is MDB 722.
 17 This was a document that was produced by MDB regarding
 18 warranty of the Versa valve.
 19 Does this document look familiar to you?
 20 A Yes, it does.
 21 Q Did you — did MDB read this document prior to
 22 installing the Versa valve on the subject Trailer 6775 in
 23 August 2013?
 24 MR. BROWN: Objection, lack of foundation.
 25 THE WITNESS: I seriously doubt that we did, because

Page 63

1 this is dated same date. This particular one is dated July
 2 of 14th, it appears. So it would have been — it would have been
 3 this — whatever Versa was putting in their valve at the time.
 4 I don't know if it was this exact one at that particular
 5 time. You would have to show me the one that came with that, for
 6 me — but, yes, this looks familiar to every one I've ever read.
 7 I don't know about the exact language. Maybe in July
 8 '14, they changed the language.
 9 BY MR. BROWN:
 10 Q Okay. So this did not come with the Versa valve that
 11 was purchased on August 1st, 2013?
 12 A I do not think so.
 13 Q Okay.
 14 A I think it came with one of the other valves that we
 15 purchased.
 16 Q Okay. And you kept this in regards to a different valve
 17 that you purchased then; is that correct?
 18 A Yes. I mean, Versa could provide — maybe Versa could
 19 provide me with the one that came with the one in 2013, because
 20 I — it could be the same as this. I don't know.
 21 Q Yeah, I —
 22 A Yeah, I'm not asking you to do that. I'm just saying —
 23 Q Yeah, I don't know. That's why I was asking you whether
 24 the Versa valve actually came packaged. We don't know that.
 25 A I don't know that. I can't imagine it would not come

Page 64

1 packaged.
 2 Q Is there a reason why you would have kept this one, but
 3 not the one from the purchase of the August — was it 1st, 2013?
 4 A No, other than the box, I still have the box for that.
 5 Q Okay. Is there a reason you kept the box for this one?
 6 A It probably had the old valve stuck in it. That's the
 7 only thing I can think of.
 8 Q And was that valve purchased through EMS — or
 9 EMS Motor Truck Company?
 10 A I don't believe so.
 11 You are talking about the —
 12 Q The valve that came with this.
 13 A I do not think so, no.
 14 Q Do you know who you would have purchased it from, if it
 15 wasn't EMS Motor Truck Company?
 16 A I believe it was purchased through Peterbilt Truck Parts
 17 and Equipment Company.
 18 Q Is there a reason you would have purchased it through
 19 them, instead of EMS Motor Truck Company?
 20 A The reason would be, if you call up EMS and they say
 21 no, we don't have one and you call up Peterbilt and they say yeah,
 22 we have one, and we need one, because we need to replace it today.
 23 So that would be the reason.
 24 Q When you purchased your parts, do you purchase them new?
 25 A All of our parts?

Page 65

1 Q If you were — when you purchase Versa valves, do you
 2 purchase Versa valves new?
 3 A Oh, yes. Yes.
 4 Q Do you know who originally owned Trailer 6775?
 5 A No.
 6 If I understand the question, you mean who originally
 7 purchased it?
 8 Q Yes, who originally — I'm sorry.
 9 A Maybe I do. Maybe Western Nevada Transport is who we
 10 purchased it from. I do believe they bought them new, but I can't
 11 say for sure.
 12 Q When you say you purchased them from —
 13 A Well —
 14 Q — lease — do you mean who you lease it from? Is
 15 that —
 16 A Yeah, let me restate that, when SKS purchased them from
 17 WNT and leased them to MDB Trucking.
 18 I do believe that Western Nevada Transport is the
 19 original owner of those trailers, but I could be wrong. I'm just
 20 making that assumption.
 21 Q MDB leased Trailer 6775 from Western Nevada Transport,
 22 correct?
 23 A For a period of time, yes.
 24 Q Did MDB lease 6775 brand-new?
 25 A No.

Page 66 1 Q Does MOB have the history of Trailer 6775 prior to 2 leasing the trailer? 3 A Are you talking maintenance records? 4 Q Maintenance records, yes. 5 A No. I do not have them. 6 Q Did MOB inquire as to any of the maintenance that 7 occurred on Trailer 6775 prior to leasing the trailer? 8 A Did we inquire about that when we leased them or at any 9 time? 10 Q When you first leased the -- 11 A I do not know. I wasn't there at that particular time. 12 But I would imagine -- we purchased them from 13 Western Nevada Transport, and they do maintenance and they -- the 14 same way we do it. They are a reputable company. I'm sure they 15 were maintaining them correctly. 16 But when we first leased them, we would have went 17 completely through them, make sure they are fit for service. 18 Q If Western Nevada would have provided MOB with 19 maintenance records of the trailers prior to leasing it, would MOB 20 keep those records? 21 A Well, yes. 22 Q Does MOB have any of those records? 23 A No. 24 MS. SHREVE: I'm going to go to the next exhibit. 25 Let's do Exhibit 13.	Page 68 1 Q Okay. So the truck was separate from the trailers? 2 A The transaction to purchase it -- 3 Q Yes. 4 A -- from SKS? Yes. 5 MS. SHREVE: All right. I'm going to go to -- actually. 6 Can we take another break? 7 (A discussion was held off the record.) 8 MS. SHREVE: Never mind. We're not going for a break. 9 Are you guys still there on the phone? 10 MR. BUNDICK: Yeah. 11 MS. QUIGLEY: Yeah. 12 MS. SHREVE: Are we still on the record? 13 So I'm going to do this next exhibit, which will be 14 Exhibit 14. 15 (Exhibit 14 marked for identification.) 16 BY MS. SHREVE: 17 Q This is MOB 726 through 731. Will you take a moment and 18 look at this. 19 Does this look familiar to you? 20 A Yes. 21 Q And what is this document? 22 A This is an equipment lease agreement between 23 SKS Corporation and MOB Trucking, LLC. 24 Q And how long is this lease for? 25 A Looks like it's a 12-month lease.
Page 67 1 (Exhibit 13 marked for identification.) 2 BY MS. SHREVE: 3 Q This is MOB 723. Have you seen this document before? 4 A Yes, I have. 5 Q What is this document? 6 A It's an invoice from Western Nevada Transport to 7 SKS Corporation for the purchase of two sets of Ranco trailers. 8 And these would be our Trailers 6773, 6774, 6775, 6776, 6777, and 9 6778. 10 Q Do you lease the truck that pulls the trailer separate 11 from the trailers? 12 Like, does -- sorry, strike that. That's kind of a bad 13 question. 14 Who owns Truck -- 15 A 5694? 16 Q Yes. I'm confusing all the numbers. 17 A SKS Corporation. 18 Q Okay. 19 MR. BUNDICK: Can you say that name again. I'm sorry, I 20 didn't hear it. 21 MS. SHREVE: SKS Corporation. 22 BY MR. BROWN: 23 Q Did SKS Corporation purchase the truck from 24 Western Nevada Transport? 25 A No.	Page 69 1 Q Did MOB renew this lease after the 12 months? 2 A I would imagine so, yes. 3 Q Does MOB keep records of all of their lease agreements? 4 A I would say yes. 5 Q Does MOB have a lease agreement for Trailer 6775? 6 A We do have -- there is an equipment lease. Are you 7 asking for the particular document? 8 Q Would MOB have retained the lease agreement document? 9 A Its actual document? 10 Q For Trailer 6775. 11 A We should have, yes. If I'm not mistaken, we could not 12 produce that; is that correct? 13 Q Correct. 14 A Okay. So it got lost or -- apparently. I don't know. 15 Q So you don't have that lease agreement -- or, MOB does 16 not have -- 17 A I do not have it, no. 18 Q Who -- strike that. 19 Does SKS Corporation perform any maintenance on the 20 trailers MOB leases? 21 A No. 22 Q Does SKS Corporation ask for any documents from MOB 23 regarding any maintenance and repairs done on the trailers that 24 they lease? 25 A Not specifically. But MOB Trucking and SKS Corporation

Page 70 1 are owned by -- have the same common ownership, so the records are 2 easily available to them. 3 Q So if SES Corp. wanted to have any records regarding the 4 maintenance on a trailer that was leased, they could just pull it 5 from MOB? 6 A Exactly, yes. 7 Q Did SES Corp. provide MOB with any suppliers' or 8 manufacturers' warranties that come with the trailer or the 9 trailers leased? 10 A No. 11 Q Does MOB typically lease their trailers? 12 A Yes. 13 Q Does MOB lease all of their trailers from 14 SES Corporation? 15 A To my knowledge, yes, they do. 16 Q Does Equipment Number 5695 -- is it always connected 17 with Trailer 6773, 6774 and 6775? 18 A I think you said 5695. I think you mean -- 19 Q 5694. 20 A Yeah. Is it always connected with those trailers? 21 Q Yes. 22 A No. 23 Q When is it not connected to those trailers? 24 A When it's pulling another trailer, getting worked on. 25 Q How often does it occur that it pulls -- that Truck 5694	Page 72 1 incident to present day, would the percentage be the same, about 2 40 percent of the time, it's disconnected, or less or more? 3 A Probably more. 4 Q And why would it be more? 5 A It has to do with what particular driver would be 6 assigned to that truck. So if that particular driver is, say, a 7 bottom dump type driver, like Mr. Koski was -- I mean, that's, 8 basically, what he did most of the time -- then you keep that 9 truck under those trailers. 10 But if you get somebody that maybe has more transport 11 experience or -- you know, then they might be assigned to it less, 12 because they are doing other things, as -- yes. 13 Q Are Trailer 6773, 6774 and 6775 always connected? 14 A Not always. 15 Q When are they not connected? 16 A Well, they wouldn't be connected if you are working on 17 them. And it is possible that we would unhook the back two 18 trailers and run the front trailer by itself. 19 Q Would you ever run the -- just the back two trailers? 20 A No, not possible, not practically possible, no. 21 Q Okay. I'm going to go back to Exhibit 2. 22 MR. BROWN: I'm sorry, Counsel, did you say Exhibit 2? 23 MS. SHREVE: Yes. 24 BY MS. SHREVE: 25 Q Would Trailer 6773, 6774 or 6775 run with a truck other
Page 71 1 pulls trailers other than 6773, 6774 and 6775? 2 A Over the course of a year, say, or you are talking about 3 during a certain time frame, like, of the accident, or are you 4 talking about in general, like, overall? 5 Q So we'll go per month. 6 So in a month, is it typical for Truck 5694 to run with 7 or to pull 6773, 6774 and 6775? 8 A In the summertime, during the busy season, it's typical 9 for it to be hooked to that primarily. And other times of the 10 year, it could be hooked to an end dump, a flatbed. It could do 11 all sorts of different things. 12 And even during the summer, summertime, it can be 13 unhooked, hooked to an end dump. 14 This is normal course of business for us, trucks 15 switching trailers. 16 But that truck is specifically, I would say, assigned to 17 those trailers. That's what it would primarily pull, yes, that -- 18 probably 60 percent of the time. 19 Q So since -- strike that. 20 Between the July 2013 incident and the July 2014 21 incident, how many -- approximately what percentage, if you want 22 to do percentage, percentage a month would Truck 5694 be 23 disconnected from Trailers 6773, 6774 and 6775? 24 A I would say we disconnect it 40 percent of the time. 25 Q And then the same would go for the July 7th, 2014,	Page 73 1 than 6 -- 5694? 2 A Yes. 3 Q If -- strike that. 4 Okay. We'll go to Exhibit 2, MOB 483. 5 Yeah, you can pull that off. 6 Would this be a time that all three trailers, 6773, 6774 7 and 6775, were not run together? 8 Or, can you read the truck number and then the trailer 9 numbers for -- on this daily driver sheet. 10 A This is Daniel Koski's log sheet for July 16, 2013. And 11 he has written down Truck 5691 and Trailer 6774 and Trailer 6775. 12 But I would have no idea why that would be. 13 If in -- well, no, I do not have any idea why that would 14 be. I've never seen this since I've been to work there. 15 Q So it's not typical to run 6774 and 6775 without 6773? 16 A Correct, and also not behind a transfer truck. But I 17 guess you could do it. 18 I don't know if he was actually operating that day. I'm 19 not sure what he did. I can't really read this. There's a bill 20 of lading, the shipping document for that day. So I'm not sure 21 what happened. 22 Q Okay. 23 A But it is technically possible to run it behind. 24 Technically possible, it's not practical. 25 Q Okay. From July 2013 to the subject incident on

Page 74

1 July 7th, 2014 -- again, you can give me percentages --
 2 approximately how many times a month are Trailers 6773, 6774 and
 3 6775 disconnected, or were they disconnected?
 4 A From 5694 or any --
 5 Q From each other.
 6 A Oh, two percent possibly.
 7 Q So not very often?
 8 A No. Very rare.
 9 Q Now about from the subject incident of July 7th, 2014,
 10 until the present, how often has Trailer 6773, 6774 and 6775 been
 11 disconnected?
 12 A Probably the same, five percent.
 13 I mean, I could be wrong. There are times when we run
 14 the front trailer by itself, and in 2014, we might have ran it
 15 five percent of the time.
 16 Q Okay.
 17 A But it's not a common configuration.
 18 Q If you perform maintenance on any of those trailers, do
 19 you disconnect them?
 20 A No, not generally, not normal maintenance, not
 21 preventative maintenance.
 22 The only time we unhook them, if we want to put it in
 23 the shop and close the doors, because it won't fit in the shop
 24 without disconnecting it.
 25 Q So with the maintenance records, if there was

Page 75

1 maintenance done on any of these trailers and it indicates it was
 2 done in the shop, then the trailer would have been -- the trailers
 3 would have been disconnected?
 4 A Depends on what time of the year it is. In the
 5 summertime, you just pull it in the shop, work on it, pull it out.
 6 Wintertime, snowing outside, they probably disconnect,
 7 more than -- if you have more than a little bit of work to do on
 8 the trailer, they disconnect it, bring it in the shop and close
 9 the doors.
 10 Q Is there any way to determine whether or not the trailer
 11 was disconnected when the maintenance was performed?
 12 A No.
 13 Q Okay.
 14 MS. WOELFEL: Take a break? It's 12:02.
 15 MS. SHREVE: We'll go off the record.
 16 (A recess was taken.)
 17 MS. SHREVE: Can we go back on the record.
 18 BY MS. SHREVE:
 19 Q Mr. Palmer, you understood you are still under oath
 20 today, correct?
 21 A Yes.
 22 Q So in regards to the July 2013 incident that occurred --
 23 A Uh-huh.
 24 Q -- did anyone from MDS consult Versa or reach out to
 25 Versa to ask what Versa valve they should purchase to replace the

Page 76

1 valve that was on the truck --
 2 MR. BROWN: Objection, asked and answered.
 3 BY MS. SHREVE:
 4 Q -- 6775?
 5 A No, we did not. Didn't think there was a need to,
 6 especially considering the brand-new trailers were coming with the
 7 same valve. So they are still shipping the same valves on the
 8 same trailers, so I would imagine that's still the standard
 9 de facto valve.
 10 Q I'm going to go back to Exhibit Number 9. So it's the
 11 work orders on Equipment 6777.
 12 A Okay. Thank you.
 13 Q Earlier, you testified that you were aware of a
 14 different Versa valve model that Versa used. I believe you said
 15 in April 2014, you were aware of a different Versa valve.
 16 A That was the first time I seen one installed on a bottom
 17 dump trailer, yes, something different.
 18 Q So if you look at MDS-INST 000321.
 19 A Okay.
 20 Q And this is dated December 1st, 2014. And this
 21 indicates that the -- you replaced the Versa valve, correct?
 22 A Correct.
 23 Q Did you -- did MDS ever contact Versa to inquire about
 24 the difference in the Versa valve model that you were aware of and
 25 the one that was purchased to replace this Versa valve?

Page 77

1 A Do you mean in regards to before purchasing this valve
 2 to replace the valve on this trailer?
 3 Q Yes, to replace.
 4 A No, because the valve -- we had already installed a
 5 lockout device on the valve, our own version of a lockout device.
 6 So there's no reason to purchase a valve that was
 7 different. We already had the lockout device in place at this
 8 particular instance. This was after we put the lockout devices on
 9 there.
 10 Q And so then that's the reason why you chose that valve
 11 as well to purchase to replace the Versa valve that was already on
 12 that trailer?
 13 A Is that why, because we already had a lockout device in
 14 place?
 15 Q Yes. Was that your -- strike that. Let me rephrase.
 16 Why did you decide to purchase the same Versa valve to
 17 replace the one on Equipment Number 6777 on -- for this
 18 December 1st, 2014, replacement?
 19 A Because that's the valve -- I think I stated before that
 20 that's the valve that people stock, so that's the standard valve
 21 that people use.
 22 And we had already installed a lockout device for that
 23 style of valve, so we just went back to that valve.
 24 Q Okay. Thank you.
 25 Earlier, you testified that there are times that you

Page 78 1 have disconnected Trailer 6773, 6774 and 6775 from each other 2 after the July 14th -- or, July 7th, 2014, incident; is that 3 correct? 4 A Yes. 5 Q And when you reconnect those trailers, do you do any 6 testing on the Versa valves to make sure that they open or close? 7 A We would perform the same routine as we would for a 8 pre-trip inspection. So you would hook it up, make sure 9 everything is properly connected, all the lights work, the 10 trailers build air. 11 And you -- I think I said before, it's up to the driver 12 to decide whether he wants to test the functionality with the 13 switches in the cab. 14 But I, myself, I just make sure the gates open manually 15 and there's air pressure to the gates and make sure they're 16 closed. And that's how you test it. 17 Q Then you would test on the trailer after it has been 18 connected? 19 A Yes. You don't want to put it back on the road if it's 20 not going to work. 21 Q Does MDB have any written policies regarding the 22 operation of the trucks? 23 MR. BROWN: I'll object, vague as to "operation." 24 Go ahead. 25 THE WITNESS: Does MDB -- yeah, MDB specific?	Page 80 1 Q When do you believe the policy or a handbook of some 2 sort that -- regarding the operation of the trucks came about from 3 MDB? 4 A I became aware of a policy and procedures manual that 5 was implemented in 2016. I don't know that -- I can't tell you 6 specifically if it tells you -- how much detail it goes into the 7 actual operation of the truck, how to operate the switches or that 8 kind of stuff. 9 I know it specifically tells you to -- that the trailers 10 are equipped with lockout devices, and they must be -- trailers 11 are -- the Versa valves are -- have a lockout device and they must 12 be attached at all times. 13 Q Okay. And then I was going to ask for trailers, but you 14 kind of touched on the trailers as well. 15 A Right. 16 Q So would the trailers be the same as the truck? Would 17 it be one policy and procedure? 18 A Yes, just one, yes. 19 Q If there wasn't any sort of policy and procedure 20 regarding operation of the truck, how would an employee know how 21 to operate a truck? And I'm just talking specifically the truck. 22 A Are you talking about operating the truck in the 23 capacity of dumping the trailers, or are you talking about just 24 generally operating a truck? 25 Q Generally operating a truck in 2013, July of 2013.
Page 79 1 BY MS. SHREVE: 2 Q Yes. Does MDB have any policy and procedures on how to 3 work a truck, like, drive it, the switches, all of that? 4 MR. BROWN: I'm going to object, vague, overbroad. 5 Do you understand the question? 6 THE WITNESS: I do. 7 I was able to find a policy and procedures manual. Did 8 you get a copy of that, or no? I don't know if I -- 9 MS. SHREVE: I did not. 10 THE WITNESS: Did I -- 11 MR. BROWN: It wasn't one of the ones that Thierry gave 12 you or that I gave you? 13 MS. SHREVE: Huh-uh. This is -- 14 THE WITNESS: But that's what we use currently. We 15 just -- you are talking about during this particular time or now? 16 BY MS. SHREVE: 17 Q I'm talking about at that particular time. 18 A I do not believe so, no. 19 MR. BROWN: I'm going to just say, can we say 2013, 20 2014. There's, I think, three different times. 21 BY MS. SHREVE: 22 Q July 2014. 23 A I do not believe so, no. 24 Q How about July 2013? 25 A No, I do not believe so.	Page 81 1 A Well, all of our drivers are properly licensed with 2 CDLs, and they are certified. I mean, they have CDLs and they 3 have to have proper endorsements to drive doubles, triples. 4 And we don't hire drivers that don't have experience. 5 So they have to provide you with at least a couple years, three 6 years of experience doing what we do. 7 Q Okay. 8 A And then you do a -- you know, you do go on a road trip 9 with them, make sure that they know how to operate the vehicle 10 properly. 11 Q Okay. How does MDB explain to its employees how to 12 operate the belly dump of the trailers? 13 MR. BROWN: I'm going to object again. Overbroad. 14 BY MS. SHREVE: 15 Q How do you operate the belly dump of the trailer? 16 A Depends on what kind of job you are on. 17 If you are on a job that requires dumping with the 18 switches, then you would just pull on to the job. When the dump 19 man tells you where to dump, you lift up the cover and dump the 20 switch. 21 How do we actually tell the driver that? He's trained 22 on that verbally. And most all the drivers have years of 23 experience doing this. 24 Q So if you act -- if you are going to activate the belly 25 dump with a switch, you just lift up the switch?

Page 82

1 A You lift up the safety cover. The switch is underneath
2 it. The cover is to keep you from accidentally activating it by
3 bumping it. And then you push up on the switch.

4 It's like you are turning on a light, headlights, or
5 whatever. And that activates the solenoid on the valve, and it
6 operates the gates.

7 Q Now -- if you were going to do it manually, how do you
8 activate it manually?

9 A You just -- which is what we do most of the time. You
10 stop the truck where you are going to dump, get out, and just move
11 the lever by hand.

12 There is an accumulator valve on the valve that you push
13 in initially to keep the hand valve, the operating valve from
14 springing back so you can control the gates to keep them in a
15 semiopen position, because we dump in -- we call it a grizzly,
16 which is like a hopper, so we can't dump it too fast.

17 We have to open the gates up, crack them open, like,
18 maybe a foot or two and control that by hand. It's easier to
19 control it after you push the accumulator in to release the
20 trapped air pressure in the valve.

21 Q Okay. Then if you are going to close the valve, how do
22 you close it?

23 A Just pull the handle closed.

24 Q Okay.

25 A It closes the gates. And you visually check to make

Page 83

1 sure the gate is closed. And you can hear them closed. It's
2 not -- they are right there, two feet away.

3 Q Do you have to wait any certain amount of time after you
4 close it to reopen it again?

5 A The only time -- you only have to wait -- are you
6 talking about hand?

7 Q Yes.

8 A You only have to wait -- you are only limited by your
9 air supply.

10 So if you open the gates and close them in enough time,
11 it's going to lower your air pressure and you have to wait for the
12 air pressure to build back up. But other than that, you can open
13 them up right away.

14 Q How do you know if the air pressure is built back up?

15 A The gates won't open, or you can also look at the
16 gauges. All our trailers have gauges. You can see right there if
17 it doesn't have enough air pressure.

18 Q Does MDS have any policy and procedure regarding
19 securing the cargo it carries in their bally dump?

20 A We do now. This particular point, that I know of.

21 Q In July 2013.

22 A Not that I know of. I don't know if there was one, a
23 written one in effect.

24 But it's common knowledge. Everybody knows how to make
25 sure -- you know, all of our trailers are equipped with shed

Page 84

1 plates and the proper fenders. So when you go to the pit, the
2 loader puts the material in the hopper, doesn't load the rest --
3 you know, he doesn't spill it over the ends.

4 Q Was there a policy and procedure in place in July 2014
5 regarding making sure that the cargo in the bally dump trailers is
6 secure?

7 A Is what?

8 Q Was there a policy and procedure in place in July 2014
9 to make sure that the cargo is secure?

10 MR. BROWN: Object, foundation.

11 THE WITNESS: Not a written policy, I don't think. It
12 was all verbal training.

13 BY MS. SHREVE:

14 Q And so what would be the verbal training that MDS would
15 provide?

16 A Well, if the loader operator -- are you talking about
17 keeping the load from blowing out, or are you talking about
18 keeping the load from spilling out? I'm not sure I completely
19 understand. Just secure in general?

20 Q Yeah, secure in general, make sure the load does not
21 come out of the trailer, whether it comes out from the top,
22 bottom, side.

23 A Well, it's pretty easy. It's not rocket science.

24 I mean, you go out to the pit. The loader puts the
25 material into the hopper. For some reason, some gets spilled out,

Page 85

1 then you would -- after you get off the scale, you get out and you
2 brush it off.

3 I can't remember the last time that happened, not in
4 this area.

5 Q Is there anything, as a driver, that the driver does to
6 make sure the material inside the trailer is secure when driving,
7 not just at the loading?

8 A Not while driving, no. Nothing -- there's nothing
9 special he has to do. Stays in the trailer. He's going down the
10 road.

11 After you leave -- after you leave the scale, if you are
12 hauling sand, you got to go under the water rack and water your
13 load down to make sure it doesn't blow.

14 I mean, I'm not sure if that's what you are looking for.

15 Q Does MDS require their drivers to inspect their load
16 after they have picked it up to make sure the contents inside the
17 trailer is secure from --

18 A Yes.

19 Q -- coming out of top, bottom, sides?

20 A Yes. Yes. It's the driver's responsibility.

21 Q And what does MDS require their drivers to do in this
22 inspection after the contents in the trailer has been loaded, to
23 make sure that nothing comes out from the top, bottom or sides of
24 the trailer?

25 A Then MDS requires their drivers to make sure their gates

Page 86 1 are closed, which that's pretty standard in order to get loaded. 2 They are not going to load the trailer if the gates are open. 3 They can't. 4 And if you are looking to make sure that there's not any 5 rock spilled over the ends of the side boards, I guess, like I 6 say, that doesn't -- it hardly ever happen. 7 And as far as coming to town, we've just got to make 8 sure you water your load down if it's sand, something that blows. 9 And they all do that. 10 Q Does MOB require its drivers to check the pressure 11 gauges on the valve, the Verco valve? 12 A Yes. 13 Q And how often do they require that to be checked? 14 A Well, they check it every time they dump, that you can, 15 yeah. 16 Q Do they check it after the trailer is loaded with 17 whatever contents they are picking up? 18 A No. 19 Q Have you ever been told not to inspect a load that 20 you've just -- 21 A No. 22 Q Are you aware of any -- is MOB aware of any government 23 policies regarding securing your load? 24 A I just know that it's the company or the driver's 25 responsibility to make sure you secure your load.	Page 88 1 gate chains. 2 Q Gate chains. I just want to make sure we're speaking of 3 the same thing, so I'll call them gate chains. 4 A Sure. That's fine. 5 Q Does MOB have any policy regarding the gate chains, of 6 when to use them? 7 A No. 8 The purpose of the chains -- the trailers that we have, 9 the chains are -- the purpose of the chains are to limit the size 10 of the windrow. They are not designed to keep the gates from 11 coming open. 12 Q Were these gate chains on Trailer 6775 on the day of the 13 subject incident? 14 A Yes. 15 Q Were these gate chains on Trailer 6776 on the day of the 16 subject incident? 17 A Yes. 18 Q Can putting the gate chains -- I'm trying to think of 19 how to word this correctly. Strike that. 20 Does placing the gate chains on the belly dump prevent 21 the belly dump -- can it prevent the belly dump from opening, if 22 it is -- if it is manually activated? 23 A Okay. The chains are always attached to the trailer, 24 and all you have to do is shorten the links of it. 25 And if you shorten it up as short as you can get it,
Page 87 1 Q How does MOB ensure that its employees follow the 2 procedure of making sure their load is secure after they have -- 3 the trailer has been loaded? 4 A How do we ensure that? 5 Q Yes. 6 A I don't -- 7 Q Does MOB do anything to ensure that their drivers secure 8 their load after contents have been poured into the trailer? 9 MR. BROWN: Objection, foundation. 10 THE WITNESS: Well, short of following the drivers 11 around to ensure, there's not much you can do, other than if they 12 don't secure it, you can fire them or write it up. 13 Like I say, that stuff doesn't happen. Everybody 14 polices everybody out there. So our driver -- you know, all of 15 our drivers are looking out for everybody else, even other 16 companies. 17 BY MS. SHREVE: 18 Q Are there chains on trailers that can be used to secure 19 the belly dump so it doesn't open or so that it opens a certain 20 width versus fully open? 21 A Yes. 22 Q What do you refer -- what would you call those chains? 23 I don't know the proper terminology of it, so that's why I'm 24 trying to -- 25 A I'm not sure what you call them. I just call them the	Page 89 1 it's still not going to keep it from completely -- it's not 2 completely going to prevent it from opening. 3 It's going to narrow it down how much it can open, maybe 4 only a few inches, but they are not designed as a lockout device. 5 They are designed to -- as a way to limit the size of the windrow 6 when you are doing road construction. 7 Q Are you aware of -- is MOB aware of any government 8 regulations requiring the chains to be shortened to help secure 9 their load? 10 A No. 11 Q Has MOB ever suggested to any of their drivers to 12 shorten the chains to help prevent the inadvertent opening of the 13 belly dump? 14 MR. BROWN: Objection, foundation. 15 THE WITNESS: I haven't, and I don't think anybody has. 16 Like I say, I don't think it would do any good, but maybe. I 17 don't know. 18 BY MS. SHREVE: 19 Q Have you ever had -- have you ever seen a belly dump 20 trailer have the chains shortened while driving their truck? 21 A That's kind of a broad question, because, you know, I've 22 hauled wet concrete in bottom dump trailers and you have to put 23 chains and binders on there to keep the gates from opening. But 24 that's specific to that particular haul. 25 As far as what we do, no, I've never seen anybody -- I

Page 90

1 don't see a reason for doing it. If you think there's a way for
 2 the gates to come open, that's not the way to stop it.
 3 Q What would be the way to stop it?
 4 A If you are concerned with the gates opening up by the
 5 valve, then we put a lockout device on the valve.
 6 Q So would shortening the chains on the belly dump be
 7 another way to ensure that the full -- the belly dump doesn't open
 8 completely?
 9 A Oh, yes. That's what they are designed for, yes.
 10 Q Are you able to still drive the truck with the chains
 11 shortened?
 12 A Yes.
 13 Q Are you aware -- or, is MOB aware of any regulations
 14 requiring a pin, a lockout pin on a Valve valve?
 15 A No, not in Nevada. I mean, there might be some state
 16 regulations, but none that I know of.
 17 Q Let's go to -- you briefly touched upon this. Does MOB
 18 require its drivers to have certain certifications or special
 19 license in order to drive their trucks?
 20 A Yes. They have to have a commercial driver's license,
 21 Class A, doubles, triples endorsements. And along with that,
 22 other qualifications that go along with that are medical card,
 23 clean driving record, whatnot.
 24 Q How about for employees that perform maintenance on the
 25 trucks and trailers?

Page 91

1 A Is there any certification that's required?
 2 Q Yes.
 3 A It's not an employment requirement. It's not a
 4 requirement of employment. You have to have experience and
 5 knowledge in this area, and you also have -- but if they do
 6 actually perform annual inspections, they have to be certified.
 7 Q But for regular routine maintenance and repairs, there's
 8 no -- MOB doesn't require any specific certifications or licenses?
 9 A No.
 10 MS. SHREVE: Okay. I'm going to go to the next exhibit,
 11 which is 15.
 12 (Exhibit 15 marked for identification.)
 13 BY MS. SHREVE:
 14 Q So this is MOB 007 through MOB 10. Have you seen this
 15 before?
 16 A Have I seen this specific document before?
 17 Q Yes.
 18 A I don't think -- I'm not sure.
 19 Q Are you familiar with what this document is?
 20 A Yes.
 21 Q And what is this?
 22 A It's part of the SMS, Safety Measurement System, part of
 23 Federal Highway, FMCSA.
 24 Q And do you keep records of these documents?
 25 A I suppose, on occasion, I do.

Page 92

1 Q If you flip to MOB 008.
 2 A Okay.
 3 Q What do all of these inspection date numbers, state
 4 plates -- what are all of these?
 5 A These are inspections of vehicles for whatever, for --
 6 performed by law enforcement, it looks like.
 7 Q And do you get copies of these inspections?
 8 A Oh, yes, I do. Yes.
 9 Q And do you have copies of these inspections?
 10 A At this particular point in time?
 11 Q Yes. Does MOB.
 12 A Probably. They are also available online, are they not?
 13 I don't --
 14 Q No.
 15 A Oh.
 16 Q I would request that you search for these, and if you
 17 have them, please provide them to your attorney.
 18 MR. BROWN: The ones that match up with these, on this
 19 document?
 20 MS. SHREVE: Well, we had requested everything through
 21 the present from -- I believe it was June 30th through the
 22 present. And --
 23 MR. BROWN: What did you call these?
 24 MS. SHREVE: The SMS system.
 25 And this document -- I was told this was everything

Page 93

1 through the present, but this document, obviously, is
 2 April 2014 -- or April 4th. You understand.
 3 So I would just request that. And we don't have actual
 4 copies of the inspection report at all. It was just this.
 5 MR. BROWN: We'll see what we can find.
 6 MS. SHREVE: Perfect. Thank you.
 7 THE WITNESS: I don't think I ever was asked for those.
 8 BY MS. SHREVE:
 9 Q If you can just look to see and provide to your
 10 attorney, I would appreciate that.
 11 So let's go down to -- it looks like on 7/7/2014 --
 12 A Okay.
 13 Q That's the day of the specific incident.
 14 It looks like there was an inspection done on the
 15 subject truck; is that correct?
 16 MR. BROWN: It's on the next page.
 17 THE WITNESS: Oh, you are on Number 9? I'm sorry.
 18 MS. SHREVE: No, on Number 8.
 19 MS. WOELFEL: It's five lines down. If you look at the
 20 inspection date, start at the top and go five.
 21 THE WITNESS: I see the 7/7, yes. What's it
 22 specifically that you are asking for?
 23 BY MS. SHREVE:
 24 Q Is that -- for the subject truck and trailer on the day
 25 of the incident, the subject incident?

Page 94 1 A Are we talking about the driver that's — 2 Q The gravel truck on July 7th, 2014. 3 A 2014? 4 Q Yes. 5 A I'm assuming it is. I mean, I don't have a license 6 plate number to match up with the 5694, but I'm assuming it is. 7 I'm not denying it. I certainly wouldn't say it's not. 8 Q I would — in your responses to requests for 9 interrogatories, it was indicated that 502618 is the license plate 10 for the truck. I'll represent that to you. 11 A Sure. 12 Q So what exactly — what, I guess, violations were given 13 to the truck on the day of the subject incident? It looks like it 14 reads above, if I am correct. 15 A I'm having a hard time reading this as far as which way 16 it goes. 17 Q Okay. And then I guess the best might be to wait until 18 we get the actual inspection reports to be able to go into detail 19 about it. 20 MR. BROWN: I guess so, because I'm unaware of what 21 these descriptions are for. 22 BY MS. SHREVE: 23 Q So if we — 24 A Yeah, because page 2 of 4 is missing, correct? 25 MS. SHREVE: Well, we would request page 2 as well. So	Page 96 1 Q Okay. Where was the load that was picked up on the day 2 of the July 7th, 2014, incident? 3 A It was picked up at Paiute Quarry, Paiute — it's Cemex 4 Paiute aggregate quarry in Wadsworth, Nevada. 5 Q Is it "Cemex"? 6 A "Cemex," yeah, C-e-m-e-x. 7 Q So if I just call it "Cemex," would you understand we're 8 talking about that specific location? 9 A No. 10 Q How would you like me to phrase it? 11 A Paiute. 12 Q "Paiute"? 13 A Yes. That's what we call it. 14 Q Is there a policy, when picking up a load at Paiute, 15 regarding whether the driver gets out of the truck or stays in the 16 truck to manually access the lever, the switch? 17 A No, that's nothing to do with the loading site. Paiute 18 is where we load the load. So he would not have anything to do 19 with operating the valve at the time of loading. 20 Q So can you take me through the process of loading the 21 truck at Paiute. 22 So you would drive, obviously, there, and you pull in. 23 A For the most part, what happens is, when the truck 24 initially goes to the pit, you have to go to the scales and tare 25 in, get your light weight.
Page 95 1 we will request that and revisit that to go — to see what 2 occurred on that day. 3 BY MS. SHREVE: 4 Q Okay. We're going to get away from this document and 5 just request that you look for those documents. 6 A Okay. 7 MS. WOELFEL: And I'll just — if you are able to look 8 for those before we resume tomorrow — because I think we're going 9 to have you back tomorrow — that would be great, if possible, 10 Brian, because we might need to ask Mr. Koski questions about that 11 document as well. 12 MR. BROWN: We'll try. 13 MS. SHREVE: I was going to say, if not, we would like 14 to reserve the right to bring him back to ask about that. 15 BY MS. SHREVE: 16 Q Where do you — are there more than one location to pick 17 up a load, that MDS picks up loads from? 18 A Yes. 19 Q How many different locations are there? 20 A Are you talking about in Nevada? California? 21 Q For — does MDS, the Nevada location, pick up loads in 22 other states other than Nevada? 23 A Yes. I mean, there are 25 different locations we would 24 pick up from. 90 percent of our business probably comes out of 25 just a few locations.	Page 97 1 It's not something that's required every day, but if you 2 are going there for the first time, you get your light weight. 3 And then they find out how much your legal with weight 4 is and they put that in the computer. 5 And then subsequently, you go out into the pit, and you 6 tell them what you are picking up, rock or sand. And he tells you 7 where they are loading — what part of the pit they are loading 8 from, and then you get loaded. 9 You tell him. He knows how much you can haul, because 10 everybody hauls similar amounts. 11 So if you are loading sand, they might put two buckets 12 on the front, two buckets in the middle trailer, and one bucket in 13 the back trailer. 14 Then he follows you up to the scales and tops you off at 15 the scales while he's watching the scale to make sure you are not 16 overweight. 17 And if, for some reasons, he messes up and gets you 18 overweight, they make you go trim your load. They can't — their 19 system won't allow them to print an overweight ticket. 20 Q How do you know what the legal weight is for your truck 21 and trailer? 22 A We measure it and use a formula provided to us by NDOT, 23 Nevada Department of Transportation. 24 Q And do you know what the legal weight is for Equipment 25 Number 5964 with Trailers —

Page 98 1 A Yeah, 5694, 6773, 6774. It would be 129,000 pounds, 2 gross weight. 3 Q Does each trailer have a specific load weight? 4 A A limit? Yes. 5 Q And how do you know what that limit is? 6 A By how many axles it is. You have to go by the same 7 formula, how many axles do you have versus your bridge, meaning 8 your distance in axle spacings. 9 Q And what is the load limit for 6773? 10 A You are talking about net weight, or are you talking 11 about gross weight? 12 The truck -- I would say it's legal at about 13 75,500 pounds, the truck and the trailer with its load on. 14 Q What about Trailer 6774? 15 A It's legal to 40,000 pounds as a trailer by itself. 16 Q And what about 6775? 17 A Same thing. 18 Q 40,000? 19 A Yes. 20 Q Does that include -- I'm sorry, just to clarify -- the 21 weight of the trailer itself? 22 A Yes, that's the gross weight. That's the maximum gross 23 weight allowed. 24 Q Do you know how much Trailer 6775 weighs? 25 A I would be guessing, somewhere around 9,500 pounds.	Page 100 1 80-. You would be overweight. 2 Q Would it be possible if your -- would there be any way 3 of knowing that the second trailer -- do you measure your second 4 and third trailer together, then -- wait, strike that. 5 How do you measure the second and third trailer? You 6 said the truck and first trailer are measured together, correct? 7 A Yes. As you drive along the scale, you can look at the 8 scale. It has got a digital readout. You can see what you weigh. 9 So if it's 75,000, then you know your next two trailers 10 can't possibly be 80,000. You would be 150-some thousand pounds. 11 So in order to be 129-, they are way underweight. They 12 probably only have 30- and 30- in them. 13 And if you are trying to say -- you are trying to get 14 at can one trailer be way overloaded and the other trailer be, 15 say, empty, I don't think the material could physically -- you 16 could fit that much material physically in one trailer to overload 17 it that much. 18 These are small, small trailers. 19 Q Yeah, that was my question. 20 A Yeah. 21 Q You can overload them. 22 A You can overload them, but not -- not to the point of 23 40,000 pounds. 24 Q So are there no records kept as to the weight per 25 individual trailer of what it's hauling?
Page 99 1 Q Does MCB weigh its trailer? 2 A No. 3 Q How does the loader know how much to put in each trailer 4 if there's three trailers? 5 A Because he does this all day long, so he's familiar with 6 it. 7 If he went out there with a set of trailers that he 8 never saw before and he told them I'm legal at 129,000, he would 9 say, well, we'll start off with -- you are loading rock, two and a 10 half in the front and two in one and see how -- until he figures 11 how much to put in you. 12 Q So does he weigh the trailers individually? 13 A No, not the loader operator. 14 But when you come across the scale, when you first come 15 on, you have your semi, you've got your tractor. And your first 16 semi trailer come on the scale first, you can see how much you 17 weigh. 18 And in reality, there's no way for the next two trailers 19 to weigh what they are legally capable of hauling because you 20 would be overweight. 21 So each trailer by itself has more carrying capacity as 22 an individual trailer. But when you put them all together, your 23 length and your bridge loss lower the overall gross weight of the 24 vehicle. 25 You can't -- in other words, you can't haul 40-, 40- and	Page 101 1 A No. 2 Q Is a driver required to check in with MCB at any time 3 throughout the day? 4 A Only if he needs something or he has a problem. 5 Q Is a driver required to contact MCB when they pick up a 6 load? 7 A No. 8 Q How about when they drop off a load? 9 A No. 10 Q I'm going to go back to Exhibit Number 2. 11 A Is that from yesterday? 12 Q Yes. 13 Are these the driver's daily logs provided to MCB every 14 day a driver drives? 15 A Yes. They turn them in every day. 16 Q I was looking through the driver's logs that were 17 produced, and I did not see any driver's log from the day of the 18 2000 -- July 2013 incident. 19 I know -- we're not sure on the date. I think based on 20 the interrogatory responses, I'll represent to you that MCB said 21 in one area, it was July 5th, and another one, July -- I believe 22 it was 30th. 23 A The day of the first incident? 24 Q Yes, the July 2013 incident. 25 A Okay.

Page 102 1 Q And there also seems to be a lot missing here and there. 2 Do you know if you provided all the driver's logs that MDB has, to 3 your attorney? 4 A So are these all of the logs that we produced, or these 5 are just a sampling of the logs that we produced? 6 Q I have the rest of them right here. I went through all 7 of them, and these are the ones that I pulled out that were around 8 either right before or right after the time of the incident -- 9 A Okay. 10 Q -- for '13 and '14. I can give you all of them to look 11 at if you would like to review them. 12 A Oh, no, I just -- because there is a lot missing here. 13 So that's why I'm wondering if these are just the ones you have 14 questions on. 15 Q Yes, these are just a sample of them that I took out 16 that were around the subject incident. I have the rest of them 17 that was produced here. 18 A I thought -- didn't we look at these yesterday, though, 19 the ones from that day? 20 MR. BROWN: I thought so. 21 BY MS. SHREVE: 22 Q We looked at them from 2010. I'm talking about the 2013 23 incident. 24 A Oh, okay. 25 Q And there was nothing after -- the 2014 incident is the	Page 104 1 correct? 2 A Yes. 3 Q When was Mr. Koski hired? 4 A I would have to go look. I would have to look that up. 5 2013, I believe. 2012? I don't know. I don't have it right off 6 the top of my head. 7 Q Do you know who hired him? 8 A Yes, Tracy Shane. 9 Q And what qualifications did Mr. Koski have before he was 10 hired by MDB? 11 A He worked for numerous trucking companies as a CDL 12 driver, hauling aggregate and dump trucks, similar to what we do. 13 He had a CDL, medical card, proper endorsements. 14 Q Okay. I'm sorry, I wasn't having this as an exhibit, 15 but I'm just going to pull it out to help refresh your memory in 16 regards to Mr. Koski's employment. 17 A I'm guessing it was 2012. 18 MS. SHREVE: Hold on one second. 19 I don't have copies of this, but we can get copies made? 20 This will be Exhibit 16, and it is the employment file of 21 Mr. Koski that was produced by MDB. It's MDB 683 through 691. 22 MS. WOELFEL: Do you want me to make quick copies right 23 now? 24 MR. BROWN: Yes. 25 MS. SHREVE: We can go off the record for a second.
Page 103 1 last one that was produced. There's nothing past 2014 that was 2 produced. 3 A I believe that's all that was requested, or at least of 4 me. Do you want -- 5 MR. BROWN: We'll find them. If they didn't get 6 produced, we'll get them. 7 THE WITNESS: You wanted all of them through a certain 8 time? 9 MS. SHREVE: Yes. Yeah, through the present. That was 10 the request. Well, yes. 11 MR. BROWN: I don't have their request in front of me, 12 but we'll find it. 13 MS. SHREVE: We'll talk about that. 14 THE WITNESS: Are you talking about for the specific 15 trucks or the driver? 16 MS. SHREVE: It was for the trucks and the trailer, not 17 driver specific, but it was the trucks and trailer. 18 THE WITNESS: Okay. 19 MS. WOELFEL: Paige, is it okay if we take a five-minute 20 break right now? 21 MS. SHREVE: Sure. We can go off the record. 22 (A recess was taken.) 23 MS. SHREVE: We can go back on the record. 24 BY MS. SHREVE: 25 Q Mr. Palmer, you understand you are still under oath,	Page 105 1 Sorry about that. 2 (A recess was taken.) 3 (Exhibit 16 marked for identification.) 4 MS. SHREVE: We're going to go back on the record. 5 BY MS. SHREVE: 6 Q So off the record, I handed you a document that was 7 produced as Mr. Koski's employment file. We have marked this as 8 Exhibit 16. 9 Does this reflect your recollection of when Mr. Koski 10 was hired? 11 A Yes and no. I'm somewhat confused by the dates on here 12 that I'm reading, if I'm not -- if I'm reading them correctly. 13 Q Okay. What -- 14 A Date of application, I'm reading that as August 8th, 15 2010. Is that what everybody looks like they see? 16 Q That is what I see, yes. 17 A But then you go down to the bottom here, he's got an 18 accident on 5/13, 2011. So I know that can't be true. 19 And then you go to the next page or the third page, and 20 it says he worked for a couple of companies up until 2012. 21 So I'm assuming that this is 6/8/2012 when he filled out 22 the application. 23 Q I will help you. How about, go to MDB 689. 24 A Yes, I saw that. I-9 form -- 25 Q So this way --

Page 106

1 A -- was also signed also on 6/8/2012. So provided that
 2 the I-9 form was filled out properly at the time that he was
 3 hired, that was his hire date.
 4 Q And who does it say is the representative from MDB?
 5 A Tracy Shane.
 6 Q And what's the date there?
 7 A 6/8/2012.
 8 Q So safe to say that, likely, he was hired on June 8th,
 9 2012?
 10 A Yes.
 11 Q When Mr. Koski was hired, what training did he undergo?
 12 A He would have went underwent the normal training
 13 procedures that we train our drivers on, on how we expect them to
 14 operate in accordance with our values, as far as you are expected
 15 to do proper pre-trip inspections, you are expected to obey the
 16 traffic laws.
 17 You are trained on where you are going to -- you know,
 18 how to haul the material that we haul, how to fill out the
 19 paperwork, how to dump the material what -- at the place. And
 20 this is all done hands-on.
 21 Q Okay. And how long does this training -- how long would
 22 this training have lasted?
 23 A It usually lasts one to two days, full days.
 24 Q Did he -- was he provided any other training other than
 25 from MDB, like any outside company?

Page 107

1 A Not after he was hired by us, no. Well -- no.
 2 Q Did Mr. Koski receive any company policies or handbooks
 3 when he was hired?
 4 A I'm not sure if he received the Federal Motor Carrier
 5 green book, they call it. I'm not sure if he received that.
 6 There's no record in his file that says he received it.
 7 Q Okay.
 8 A So I'm not sure.
 9 When you say "other training," I mean, he went to MSHA
 10 training. I mean, that's really nothing to do with driving a
 11 truck, but --
 12 Q What training was that?
 13 A MSHA, Mine Safety Health Administration training. He
 14 did three days of training with that so he could get on to mine
 15 sites, but that's really nothing to do with driving a truck.
 16 Q Okay. Any other training, whether it was related to
 17 driving the truck or not?
 18 A No.
 19 This is an individual that's known to us, known to
 20 Tracy Shane. I've known him for 25 years. Everybody knows he has
 21 driven trucks his whole life. So he's got experience. You put
 22 him in the truck, you can see that he can do the job.
 23 Q You said you've known Mr. Koski for over 25 years?
 24 A I have, yes.
 25 Q And how have you -- how did you first meet Mr. Koski?

Page 108

1 A First time I met him, he was driving for Rainbow Rock.
 2 And we had a yard right next to Rainbow Rock, so he used to cut
 3 through our yard every day. So I've known him since at least
 4 1994.
 5 Q So you've known him in the truck driving capacity, I
 6 guess?
 7 A Absolutely.
 8 So everybody -- the word of mouth is he's a good driver.
 9 Everybody knows he is a good driver, that kind of thing. That's
 10 how -- that's how you know a driver.
 11 Q Okay.
 12 A By his reputation.
 13 And you also work with him. You are out there driving
 14 with him on days.
 15 Q Okay. After Mr. Koski was employed through when --
 16 actually, strike that.
 17 Is Mr. Koski still employed by MDB?
 18 A No.
 19 Q How long ago did he stop working for MDB?
 20 A I believe he stopped working for us sometime around
 21 January, February of 2015.
 22 Q Okay. And why does -- how come he no longer works for
 23 MDB?
 24 A From my understanding, he had some sort of a mini stroke
 25 and that -- he was off work for a while.

Page 109

1 He actually came in from the job and said he felt dizzy
 2 and left, and they took him to the hospital. He ended up having
 3 sort of a mini stroke, and he hasn't been the same since. So he
 4 decided to retire.
 5 Q And do you recall when that was?
 6 A That would have been around January, February of 2015,
 7 to the best of my recollection.
 8 Q So Mr. Koski retired from MDB; is that correct?
 9 A Yes.
 10 Q So from the time he started until when he retired in,
 11 roughly, January or February 2015, was Mr. Koski ever provided any
 12 additional company policies or handbooks or training manuals?
 13 A Not from my knowledge. I mean, not that I can say for
 14 sure, I should say. He may have, but I don't -- I can't prove
 15 that he was.
 16 Q How did MDB decide to assign truck --
 17 A 5694.
 18 Q -- to Mr. Koski?
 19 A That was just the truck that probably would have been
 20 available at the time. We may have just recently purchased it,
 21 and he -- he was next in line to get that truck and that -- he
 22 started driving that truck and he liked it, so you just keep him
 23 in there.
 24 Q Did Mr. Koski drive any other trucks?
 25 A Oh, yes.

Page 110 1 Q What other trucks did he drive? 2 A I'm sure he would have driven just about every one of 3 our trucks at one time or another. 4 Q So was Truck 6590 -- 5 A 5694. 6 Q -- 5694 specifically assigned to Mr. Koeki, or could 7 other drivers drive it? 8 A It was assigned to him, yes, but that doesn't mean 9 somebody else couldn't drive it. I drove it quite a bit. 10 Q And when did you drive it? 11 A I drove it -- I have driven it off and on since I've 12 been there, you know. But there have been times when I would 13 drive it for maybe a month while he was driving another truck. 14 Q And would you drive it with Trailers 6773, 6774 and 15 6775? 16 A Most of the time if I was, in fact, hauling aggregate 17 and bottom dumps, but not necessarily. 18 Q Other than yourself and Mr. Koeki, did anybody else 19 drive Truck 5694? 20 A Yes. 21 Q Who else drove, between July 2013 and the present? 22 A Oh, gosh. It's probably been ten different drivers or 23 more drive it. 24 Q From July 2013 to the present, has any other driver 25 pulled Trailer 6773, 6774 and 6775 other than Mr. Koeki?	Page 112 1 A Immediately after it happened? 2 Q After you spoke with Mr. Koeki and he told you that the 3 truck dumped on the road. 4 A Well, we did. That's when we replaced the Versa valve 5 on the back trailer and did all of the wiring -- did a few wiring 6 changes in the truck. But, yes, we did do that inspection and did 7 some revamping of things. 8 Q Was Mr. Koeki disciplined for his -- for his actions on 9 the day of the subject incident of July 7th, 2014? 10 A No. 11 Q Did you speak with Mr. Koeki on the day of the subject 12 incident? Did someone from MDB speak with him? 13 A Yes. 14 Q Did someone from MDB inspect the truck on the day of 15 this incident? 16 MR. BROWN: Objection, asked and answered. 17 THE WITNESS: I don't believe we actually inspected the 18 truck. That was the day we put the lockout devices on it. And 19 they haven't had a problem since, so yeah. 20 BY MS. SHREVE: 21 Q Did the subject truck and trailer -- you just indicated 22 that you put the lockout device on the day that it occurred. 23 So did the truck -- was the truck and trailer -- truck 24 and trailer in service the following day, since it had the 25 lockout device on it?
Page 111 1 A Yes. 2 Q How many different drivers? 3 A Oh, probably half a dozen. 4 Q Was Mr. Koeki subject to any discipline in regards to 5 the July 2013 incident? 6 A No, he was not. He didn't do anything wrong as far 7 as -- no. 8 Q Did MDB do any investigation in regards to Mr. Koeki's 9 actions on that day? 10 MR. BROWN: Objection, asked and answered. 11 THE WITNESS: We spoke with him, and we were sure that 12 he wasn't the cause of the accident, or the cause of the spill of 13 the rock. I shouldn't say the accident; the incident. 14 BY MS. SHREVE: 15 Q And what did he say in regards to the July 2013 incident 16 when you spoke with him? 17 A That he was just driving down the road and the gates 18 opened. 19 Q Did MDB do any inspection in the truck after the 20 July 2013 incident? 21 MR. BROWN: Objection, asked and answered. 22 THE WITNESS: Are you talking about, did we inspect the 23 truck after it happened? 24 BY MS. SHREVE: 25 Q Yes.	Page 113 1 A I believe so, yes. I think it was critical that we had 2 them back in service the next day. 3 Q I'm going into some of your knowledge about the sand 4 truck, which was the truck you were driving on the day of the 5 subject incident. 6 A Okay. 7 Q So can you just explain to me the process of your day on 8 that day, July 7th, 2014, like from when you got to work. 9 MR. BROWN: I'm just going to object. He has already 10 answered this about what time he got there. 11 But you can tell her again. 12 THE WITNESS: If I remember correctly, the truck and the 13 trailers were already hooked together the night before. 14 So I came to work at 4:45 a.m., proceeded to do my 15 pre-trip inspection on the truck and the trailers, make sure 16 everything is working, and left the yard at 5 o'clock and headed 17 to the Palute pit. 18 If I remember right, my load time that day was 5:31. 19 And the reason it's 5:31 is specifically to show the two trucks 20 loading at 5:30, which order for them to load up. 21 If you just put both of them at 5:30, then nobody knows 22 which -- who to load in front of. So I'm 5:31, that means you 23 load behind the guy at 5:30. That's all that means. 24 BY MS. SHREVE: 25 Q Okay. And what load did you pick up that day?

Page 114 1 A I believe I went to Paiute quarry, picked up 2 three-quarter concrete rock and took it to Cemex Concrete, the 3 Cemex Concrete batch plant in Reno. 4 Q And if you want to look at Exhibit Number 2, it's 5 MCB 679 and MCB 681. It appears to be your driver's timesheet and 6 bill of lading. 7 A What numbers, 479? 8 Q 679. 9 A Oh. Okay. It's in Exhibit 2. Yeah, it's in that one. 10 Oh, these are all 400 numbers. 11 MR. BROWN: I was telling him. He'll eventually get 12 there. 13 BY MS. SHREVE: 14 Q I think it might be the last one in that exhibit or 15 close to it. 16 A Oh, here we go. 17 MR. BROWN: Yeah, go back a little. Keep going that 18 way. They are before those. 19 THE WITNESS: Okay. 20 BY MS. SHREVE: 21 Q So 679 and 681 appear to be your sand truck, the sand 22 truck you were driving. 23 A Yes. 24 Q I think this will help you in referencing. 25 A Okay.	Page 116 1 sign the ticket, grab my copy of it and leave. 2 Q Okay. Before your truck was loaded at 5:28, does the 3 loader check your belly dump to ensure that it is closed? 4 A No. He probably would see it if it was open in the 5 daytime, but in the dark, he wouldn't notice it — probably would 6 not notice it. 7 But if it was open, it would just dump on the ground, 8 and within a few minutes, you would be getting yelled at on the 9 CB. 10 Q Does he check the pressure gauge on the Verma valve? 11 A No. 12 Q After your truck is loaded, do you inspect — do you 13 inspect your trailers to see if the belly gates are closed? 14 A Yeah, I do a visual as I'm walking to the scale house. 15 It would be pretty obvious. You could see if the gates are open 16 as you are walking by the trailers. Yeah. 17 Q So on the first load that you had, you did a visual 18 inspection of — 19 A Yes. 20 Q — of it. Okay. 21 Did you — during your first load, did you visually look 22 at the pressure gauges on the first — 23 A No. 24 It really doesn't take a whole lot of pressure to keep 25 the gates closed once they are loaded. And for some reason, if
Page 115 1 Q So you arrived to pick up your load. 2 A I arrived at 5:28 a.m. 3 Q Okay. And what did you pick up that day? 4 A My first load, I picked up concrete rock. So I arrived 5 at the pit at 5:28 a.m. and left the scales with my weight slip at 6 5:51 a.m. 7 Q Okay. And how does the individual loading your truck go 8 about — how did he load your trailer that day? 9 A Okay. Seeing how I already have a tare weight and they 10 only require you to get a new tare weight not that often, maybe 11 every couple of months, I just come in the pit, go around the back 12 of the scales where the rock is located. 13 And when it's my turn to load, I pull up. And he knows 14 to put two and a half buckets in the front trailer. I pull up, 15 puts a bucket and a half or something like that in the second 16 trailer, pull up and puts, like, one bucket in the back trailer. 17 Now, depending on if there's another rock truck behind 18 me and whether he'll follow me up to the pit — up to the scale 19 and top me off, or he'll load the next truck and top us both off 20 at the same time. 21 Probably what happened is, I was the only truck there. 22 So he brings up another half a bucket. I pull on to the scale, he 23 watches the scale, and as soon it gets to 129,000 pounds, he 24 stops. 25 She prints the ticket in the scale house. I go in and	Page 117 1 you don't have any air pressure, you are going to know it right 2 away. It's going to open up on you as soon as he puts the first 3 load bucket on. 4 So in all my years, I've never seen a truck leave the 5 scales with the gates open. By that time, somebody has already 6 alerted them, hey, what are you doing, your gates were open when 7 you were loading. 8 So, no, I do not visually check the air pressure on 9 every load. 10 Q So then after you were loaded — and you departed, it 11 looks like, at 5:51, correct? 12 A Yes. 13 Q Where did you go when you departed? 14 A I went to the Cemex Concrete batch plant located in 15 Reno. I arrived there at 6:27 a.m. 16 Q And when you arrived, what did you do? 17 A When you arrive at the plant — this particular plant, 18 you go around the plant counterclockwise. So you head up the ramp 19 on — I guess that would be the north side of the plant. 20 You honk your air horn twice to let them know that you 21 are there so he can turn the belt on. 22 So when you pull around the back of the plant and you 23 position your first trailer over the grizzly, the belts are 24 already on, and you can get out and dump the rock and have it 25 start going up — up the belt, because by the time you get to the

Page 118

1 second and third trailer, if the belts aren't on, your last
2 trailer won't fit.

3 Q So when you arrived, did you -- I'm talking specifically
4 your -- the first time at 6:27 a.m., did you unload the belly dump
5 of the first trailer?

6 A Uh-huh.

7 Q And how did you unload that?

8 A The way I do it is, I pull on to the grizzly so that the
9 gates are straddling the grizzly. This is where a driver can
10 actually use his switch to open the gates.

11 But you can't open the gates wide open and have the
12 whole load go in there. It makes a mess. You can open it and
13 close it, but I don't see anybody doing it.

14 I physically get out of the truck and walk back there
15 and use the hand valve to dump the trailer by hand.

16 Q Okay.

17 A And also, that gives -- then especially when it's dark
18 in the morning, then you know for sure you are over the center of
19 the grizzly. You only have a few inches front or back to be
20 centered on the grizzly.

21 If you are too far forward or back, you spill the
22 material off where the grizzly isn't. And the loader has to come
23 over there and push it into the grizzly.

24 So I visually check to make sure I'm in the correct
25 place and so open the gates by hand about halfway, and you just

Page 119

1 kind of let the rock flow in there.

2 Q Uh-huh. So you -- just clarifying, you open the lever
3 so that the belly gate only opens halfway; is that correct?

4 A Yes. You start cracking it open. The gate starts
5 slowly opening. When it gets about halfway, you pull the Versa
6 valve back into the neutral position so the gates stay in the
7 same -- they don't start to close or open, they stay right there,
8 right where you set them.

9 Q Okay. So when you are dumping your first load, did
10 you -- you didn't -- just trying to clarify.

11 The belly dump wasn't completely open as far as it could
12 go; is that correct?

13 A Not when you first start opening it, no.

14 Q When -- do you ever open it fully?

15 A Oh, yes. As soon as it -- as soon as you see the
16 majority of the rock came out, then you open it all the way so
17 that the gates are all completely open.

18 And then you can pull the Versa valve back closed
19 momentarily, push it back open momentarily. And that kind of
20 shakes the gates and makes sure there are no rocks. If there is
21 any rock left over in there, they will come out. Then you close
22 all the gate all the way.

23 And as you are doing this, you are watching the air
24 pressure gauge. For me, you are curious, make sure you've got
25 enough air pressure, but generally, there's plenty of air

Page 120

1 pressure.

2 Q So on the first load, you ended up opening it fully,
3 closing it, opening it again, is that correct, to shake out the
4 rest? Is that how I understood it?

5 A No. You open up halfway, let the rock come out until
6 the majority of it comes out. Then you open up all the way, then
7 you just barely start to close it, and open it, just a couple of
8 inches.

9 If you close it all the way, then open it all the way
10 back up again, now you would be out of air, not that it would hurt
11 anything, but that's -- at that point.

12 Q And then did you close that before you pulled up to
13 unload your second?

14 A Oh, yeah.

15 Q And did you do the same thing with your -- the second
16 trailer as you did with the first?

17 A Exactly the same thing.

18 Q And did you do the exact same thing for the third
19 trailer?

20 A Yes.

21 Q So now that you've unloaded your truck, what did you do
22 next?

23 A Left the plant, went back to Paiute and got another
24 load.

25 Q When you arrived at Paiute, did you check to see if

Page 121

1 your -- if the gates were open?

2 A No.

3 Q Did you check the pressure gauges?

4 A No.

5 Q Did the person loading the truck, to your knowledge,
6 check?

7 A No.

8 Q Okay. So you arrived, you said -- so it looked like
9 7:05, correct?

10 A Yes.

11 Q So tell me what happened once you arrived.

12 A Okay. On the -- somewhere along the line between -- I
13 can't remember if it was on my dispatch or somebody told me after
14 I hauled my first load, but somebody switched me to sand, which is
15 very common.

16 You switch to sand, rock, sand, rock, depending on what
17 bin is getting full or what they need.

18 So I get back, and I announced on the radio, 5693 back,
19 back in the pit, getting sand this time, to make sure they update
20 their computer, so that when you leave the pit, your weight slip
21 says sand on it, not rock, because then that messes up their
22 inventory.

23 So then you go to a different portion of the pit, which
24 is where they load the sand. And he loads the sand. And you do
25 the same way you did the rock. Slightly different configuration

Page 122

1 on how many buckets he puts in because of the weight of the sand,
2 but the same scenario.

3 Q Okay. And then after your sand was all loaded, did you
4 check to see if your gates were closed?

5 A No.

6 Q Did you check the pressure?

7 A No.

8 It's an assumption that they are closed. I mean, if
9 they weren't closed, you would be stuck in the pit. So, I mean --
10 yeah.

11 Q And then, so after you were loaded, what -- what
12 happened next?

13 A After I went across the scale, got my weight slip, went
14 and headed into town, did the exact same thing as the first load
15 went there.

16 The only thing different is, when you get there with
17 sand, you don't honk your horn so they can turn the belt on,
18 because the grizzly, you dump in -- you pull up, straddle the
19 grizzly, you get out, you turn the belt on yourself.

20 Q Okay. And with this load, did you manually use -- did
21 you use the manual lever to open the belly dump?

22 A Yes.

23 Q Did you do that for all three trailers?

24 A Yes.

25 Q And did you open it in the same manner as you did with

Page 123

1 the first load?

2 A Yes.

3 Q Did you ensure that all trailers were closed prior to
4 leaving?

5 A Yes.

6 Q Did you check the pressure on all three trailers?

7 A Yeah. I mean, when you are -- the valve -- the air
8 pressure gauge is within a few inches of the valve, so you are
9 looking at it as you are closing it. It's pretty hard not to.

10 Q Okay. And so after you were unloaded, what did you do
11 next?

12 A This is on the second load?

13 Q Yeah, the second.

14 A I went back to Paiute, got another load of sand, the
15 same as I always do -- or, I mean, the same as the first two
16 loads, went, repeated the same procedure to go back, get another
17 load of sand.

18 Q All right. And when you arrived to get this load, did
19 you check the belly dumps to see if they were closed?

20 A No.

21 Q Did you check the pressure gauges?

22 A No.

23 Q Did you check the connections between the trailers?

24 A No.

25 Q Did you do any inspection of your truck or trailers?

Page 124

1 A Well, I would have had to stop before I got to the pit
2 to do all of this because you are not allowed, your truck, in the
3 pit. So in order to do the inspection, you have to stop somewhere
4 outside the property to do this.

5 Q So did you stop -- prior to picking up the 8:31 load,
6 did you stop somewhere to do the inspection on it?

7 A No.

8 Q Did you stop any time between your first concrete load
9 at 5:28 and your second or your third sand pickup at 8:31 to
10 inspect your truck --

11 A No.

12 Q -- and trailers?

13 A No.

14 Q So your truck was loaded with the sand. After your sand
15 was in the truck -- in the trailers, did you do any inspection on
16 the trailers, after it was loaded?

17 A Just the visual inspection. As you are walking to the
18 scale house, you are always -- visual it -- I am, as a driver,
19 always visually inspecting what you have, make sure you don't have
20 a flat tire. You look at the tires.

21 You are sitting on the scale and you've got a big pile
22 of sand underneath your trailer, it would be pretty obvious.

23 Q So you say you do your visual inspection. Do you have a
24 routine visual inspection that you do?

25 A I mean -- me, personally?

Page 125

1 Q Yes.

2 A Yeah, I'm always looking at my equipment as I'm walking
3 by it.

4 Q Do you have kind of a mental checklist of --

5 A Yes. Uh-huh, yeah.

6 Q And what does your mental checklist include of your
7 visual inspection?

8 A Well, when you are loading out at the pit, you can see
9 what the loader operator is doing. You can tell if he's not
10 putting the material in there correctly.

11 So, for some reason, you see him doing something weird
12 back there, like, it's a different loader operator, maybe you get
13 out, walk by there and do a more thorough check.

14 But for the most part, you are just looking to make sure
15 everything looks right.

16 It's like looking at your gauges in your truck. You get
17 used to what everything is supposed to look like, and if something
18 is out of place, then it catches your eye.

19 Q So you did your visual inspection after you had your
20 load when you were walking?

21 A Uh-huh.

22 Q And then -- and you didn't notice anything in your
23 visual inspection?

24 A No.

25 Q And then what occurred?

Page 126

1 A I left the pit and headed to Reno to dump at the same
2 Cemex Concrete plant.
3 Q Okay. And did anything occur on your drive to the
4 plant?
5 A When I got to town, I received a phone call from
6 somebody that says, "Hey, did you lose a load of sand?"
7 And I said, "I don't think so."
8 At that particular point, I was able to move the
9 steering wheel slightly to the right and back to the left, and I
10 could see the back trailer.
11 I could see the back gate was wide open on the back
12 trailer. And I said, "Oh, crap, I guess I did," at which time, I
13 reached over -- first of all, I looked over to see if my switch
14 was on, which it wouldn't. It wouldn't possibly be on, but that's
15 the first thing I checked.
16 And then I lifted up the cover for the rear trailer,
17 turned the switch on and back off again, and that closed the
18 gates.
19 Q Okay. So you first looked over in the --
20 A Visually inspected the switches to make sure the covers
21 were down.
22 Q And were the covers down?
23 A Yes.
24 Q Okay. And then I'm going to actually back up a second.
25 Where were you when you got notified of this?

Page 127

1 A I was at Vista Boulevard heading into town. I'm not
2 sure what exit that is. 21?
3 Q Do you know approximately how long it had been since you
4 had left?
5 A Twenty minutes.
6 Q So it would be fair to say around 9 o'clock is when you
7 were notified?
8 A Yes.
9 Q And do you recall where you pulled over?
10 A I didn't pull over.
11 Q Oh, I'm sorry. I thought you said you pulled over. So
12 you were inspecting when you were driving?
13 A Well, if you are going down the road and you look in
14 your mirror, you cannot see the gates.
15 But if you turn your wheel just slightly to the right
16 and back to the left, the back trailer will move over like this,
17 move over six inches and back six inches. And when it moves back,
18 you can see the gate and you can see it's open.
19 Q Okay.
20 A And that's when I reached over, opened it, turn the
21 switched on, turned it off. And that energizes the solenoid and
22 closes it, even though who knows why it was open.
23 At that point, there was no reason for me to pull over.
24 I just went to the plant.
25 Q Okay. And when you arrived at the plant, what did you

Page 128

1 do?
2 A Just dumped my load like normal and then headed to the
3 yard, because at that particular point, I think I heard already
4 about Dan Koski's incident.
5 Q And when you got to the third trailer, did you open the
6 third trailer?
7 A No. I mean, it was empty.
8 Q And how did you know it was empty?
9 A Well, when you are going down the road and the gates are
10 wide open, there's no chance of there even being so much as a
11 pebble in there now, after it has been bouncing down the highway
12 for 20 miles.
13 I mean, there's just no chance. It's open all the way.
14 Q So you didn't check?
15 A Oh, no.
16 Q Did you look at the lever of the Versa valve on the
17 third trailer?
18 A Yeah.
19 Q What was the position of the lever?
20 A At this point, it was closed.
21 Q So it was down?
22 A Out.
23 Q Or --
24 A It's hard to say. Out.
25 Q Let's see if we can -- we'll go to Exhibit 3, which is a

Page 129

1 picture of the Versa valve, just visually, to make sure we have
2 the same understanding.
3 So MEB 004. Okay.
4 A As you can see in this picture, the Versa valve, the
5 handle points down. If you push the valve in towards the center
6 of the trailer, it opens the trailer, and then if you pull it all
7 the way out towards you, it closes the trailer.
8 Q So what was the position of the lever?
9 A It was in the "out" position after I got to the plant.
10 Q Did you touch the lever at all --
11 A I don't --
12 Q -- to see if you could -- if there was any resistance in
13 pushing it in?
14 A I think I did.
15 Q Okay. And what did you find?
16 A I think there was resistance in it, meaning the
17 accumulator did have air in it.
18 Q Did you look at the air pressure gauge?
19 A I believe so.
20 Q And what did the air pressure gauge indicate?
21 A I'm sure it had better than a hundred pounds of air.
22 Q So then after -- strike that.
23 After you left the drop-off location, what did you do
24 next?
25 A Went to the yard, our yard, MEB's yard.

Page 130

1 Q And what occurred at the yard?

2 A Well, after doing a cursory inspection at plant, seeing

3 if there's nothing obviously wrong with the valve, with the

4 plumbing or the wiring, nothing -- there's nothing that was

5 broken, going to the yard, looking at it there, there's no obvious

6 thing that -- once again, there's nothing obvious that pointed to

7 why this thing opened, I decided to put the truck out of service

8 and to fabricate the lockout devices.

9 Q Did you tell anyone about what occurred with your truck

10 and trailer?

11 A No. Everybody already knew it.

12 You are talking about did I tell my supervisor at the

13 time?

14 Q Yes.

15 A Yeah, he already knew it. Yes, I talked to him about

16 it.

17 Q How did he already know?

18 A Because everybody -- news travels fast. I'm sure

19 everybody in Northern Nevada knew somebody lost a load, as soon

20 as -- you know.

21 Q So there's a lot of gossip going around?

22 A Yes.

23 Q And at that time, had you heard about Daniel Koski's

24 load?

25 A Yes.

Page 131

1 Q And did you speak with anyone regarding your load and

2 his load both occurring that day?

3 A Well, my immediate contact was Pat Bigby. And I just

4 said, you know, I'm putting these trailers out of service, I'm

5 going to fabricate these, and that's what I'm going to do, because

6 it's just -- we had already been through this the year before. We

7 couldn't find anything wrong. We still can't explain why it

8 happened.

9 So we just decided to go the -- this route, where his --

10 make it so the handle cannot move.

11 Q At any point, did you guys -- or, did anyone from MDS

12 suggest maybe shortening of the gate chains just as a safety

13 precaution to ensure that it wouldn't -- the belly gates would not

14 fully open?

15 A After this issue or before this issue?

16 Q Any time -- I guess any time after January -- or, sorry,

17 July 2013.

18 A Maybe somebody suggested it. I'm not sure. I wouldn't

19 have suggested it, because, like I say, it's not a positive

20 lockout device.

21 Some of the Ranco trailers have a way to do that, but

22 our back two trailers don't have a way of doing that.

23 Q Do you have an idea of who may have suggested shortening

24 the gates?

25 A Oh, everybody has got their ideas about how to solve

Page 132

1 problems. So it could have been, I don't know, the driver.

2 Tracy Shane might have said -- I don't know.

3 Q Did anyone implement that?

4 A I don't know. I never did. As a driver, I never did

5 it.

6 Q Okay. Would shortening the gate chain help ensure that

7 the belly gate clamp wouldn't fully open?

8 A Oh, yes.

9 Q So that would be a way to help secure your load from

10 unloading, I guess, fully?

11 A I suppose it could. I mean, it could help, yes.

12 MS. SHREVE: Can we take a short break so I can just do

13 a quick review over my notes to make sure that I don't have

14 anything else.

15 MS. WOELFEL: Sure.

16 MS. SHREVE: We're going to go off the record.

17 (A recess was taken.)

18 MS. SHREVE: So we'll go back on the record.

19 BY MS. SHREVE:

20 Q Mr. Palmer, you understand you are still under oath,

21 correct?

22 A Yes.

23 MS. SHREVE: So next, I'm going to hand to you, which is

24 Exhibit 17. This was brought to us today by your counsel.

25 (Exhibit 17 marked for identification.)

Page 133

1 BY MS. SHREVE:

2 Q Yesterday and possibly today as well, you testified that

3 the -- that your drivers provide vehicle inspection reports when

4 they do their inspection. Is that correct?

5 A At the time of this happening, our drivers --

6 MS. SHREVE: Can you repeat my question to him. Sorry.

7 (The question was read by the reporter.)

8 THE WITNESS: That was correct up until the point that

9 they changed the law.

10 BY MS. SHREVE:

11 Q Okay. What is the -- what law was changed?

12 A The requirement to fill out the DVIRs is now only

13 required to fill it out if there's a defect noted.

14 Q Okay. And when was that change?

15 A I don't know, approximately a year and a half ago.

16 Q And what was required prior to the law change?

17 A You had to fill out a DVIR every day regardless of if

18 there is a defect or not.

19 Q So approximately a year and a half ago, that was changed

20 to only if the driver noted some sort of defect, correct?

21 A Correct.

22 Q Okay. And so that you brought to us today is what a

23 Driver Vehicle Inspection Report is for MDS that would be filled

24 out?

25 A Correct, even though, if you look at that, it says

Page 134

1 "Morrison Trucking" at the top. I don't know if you noticed that.

2 Q I did. I was going there next to ask, why do your
3 vehicle inspection reports say "Morrison Trucking"?

4 A Apparently, Tracy Shane wanted to use these inspection
5 reports that somebody gave him. And drivers were crossing out
6 "Morrison Trucking" and writing "MOB Trucking" on there instead.
7 But, apparently, whoever filled these out did not do that.

8 Q Okay. So have you always had the Morrison Trucking --

9 A Oh, we had them for a while. Now, we don't. Now, we
10 have ones that say "MOB Trucking."

11 Q Okay.

12 A If you know Tracy Shane, he don't like to throw anything
13 out.

14 Q So like to recycle.

15 Is MOB at all related to Morrison Trucking?

16 A No.

17 Q And so everything on this vehicle inspection report, is
18 this everything that is done daily that's inspected?

19 A Are you talking about the check boxes?

20 Q Yes, all the boxes. Is that everything listed that is
21 to be inspected every day?

22 A That is a guideline that, my guess, J.J. Keller puts on
23 there for you to go by. But there are other things that we check
24 that aren't on here, and things that are on here that we don't
25 check because they don't apply to our vehicle.

Page 135

1 Q What are things that are not on here that you would
2 check?

3 A Oh, you check your gates to make sure that they are
4 properly closed. You check to make sure your safety pins are
5 inserted on your hitches, on your transfer trucks. You're making
6 sure your valves are open to your back trailers, on your multiple
7 sets of trailers.

8 And there's also -- you are looking for all kinds of
9 things.

10 Basically, what the drivers are following are the
11 guidelines put forth by the commercial driver's license pre-trip
12 inspection, and this just helps them remember some of that stuff
13 as they are doing it.

14 Q And would this be the same inspection that's conducted
15 at the end of the day as well for the driver?

16 A Yes. So it's the same inspection done in the morning,
17 pre-trip and post-trip, almost identical. And this is turned in
18 at the end of the day.

19 And your driver can fill it out any time during the day
20 or at the end of the day. It doesn't have to be filled out in the
21 morning. It has to be completed and turned in at the end of the
22 day as part of his post-trip inspection.

23 As you can see on this first one, on August 19th, 2015,
24 the driver didn't even sign it. I'm not sure which driver it was
25 that day, but he filled it out at 3:00 p.m., which, I imagine, is

Page 136

1 at the end of the day.

2 Q Okay. So one of these, if I'm correct, then, in
3 understanding, it's not filled out in the morning, just in the
4 afternoon; is that correct?

5 A Correct. You are required to do the inspection in the
6 morning, but you don't actually fill out -- it's not required to
7 fill out the inspection report until the end of the day.

8 You can -- you fill that out in the morning if you want.
9 But if something else breaks during the day, you can add it to it
10 and then turn it in.

11 Q So if you had discovered something in your initial
12 inspection, would you note it on here and just wait until your
13 final inspection at the end of the day?

14 A Yes. I would note it on here.

15 Q You would add?

16 A Yeah.

17 Q Was that a "yes"? Sorry.

18 A Yes, sorry.

19 Q Is that typical for most of MOB's drivers, to note
20 something on their inspection vehicle report in the morning if
21 they noticed it?

22 A Uh-huh, yes, it would be.

23 MS. SHREVE: Go to the next exhibit, which would be
24 Exhibit 18.

25 (Exhibit 18 marked for identification.)

Page 137

1 BY MS. SHREVE:

2 Q These were provided to me this morning from your
3 counsel, I guess you pulled for me last night.

4 Can you explain to me what these are.

5 A The first one I'm looking at is the brake inspector
6 qualifications, certification.

7 It's set forth by the USDOT rules, Federal Motor Carrier
8 Safety Administration, that in order to work on the brake system
9 of a vehicle, you have to be certified, qualified by your
10 employer.

11 So this would be my employer, MOB Trucking, certifying
12 me, based on my 30 years experience, to do brake.

13 Q Okay.

14 A Required brake maintenance and repair.

15 Q Okay. And then what about the second page?

16 A The second one is similar. It's just this one is an
17 inspector qualification certification, which is required for me to
18 perform annual inspections under the Code of Federal Regulations,
19 that I'm qualified.

20 It just certifies that I'm qualified, and they checked
21 that.

22 I think this is in response to something you asked
23 yesterday, if I had any certifications to do this, yes.

24 Q Yes. I appreciate it.

25 Are there any other certifications that you have other

Page 138

1 then these two that you have provided today?

2 A I mean, I have other -- not provided by my employer, I

3 do not think so. I have air-conditioning certifications to be

4 able to perform air-conditioning work on a commercial vehicle.

5 Q Any other certifications in regards to performing any

6 repair work or maintenance on these vehicles?

7 A I don't think so.

8 MS. SHREVE: I think that's all the questions I have

9 right now. I reserve the right to ask some more after other

10 counsel continues.

11 So at this moment, I would pass the witness.

12 MS. WOELFEL: Great. Thank you.

13 MS. SHREVE: Do you want to take a break and switch?

14 MS. WOELFEL: No, we can get started. I'll just try to

15 speak up.

16 If you can't hear me, let me know.

17 THE WITNESS: Okay.

18

19 EXAMINATION

20 BY MS. WOELFEL:

21 Q My name is Jessica Woelfel. I represent RMC Lamar.

22 I'll get through as much as I can today, then we'll pick

23 back up tomorrow morning, just depending where we are.

24 So I want to go back to, just really quickly, Exhibit 17

25 that you were just looking at, the Driver Vehicle Inspection

Page 139

1 Report.

2 A Can you explain something for a second.

3 Q Sure.

4 A RMC Lamar, is that the parent company to Ranco, or is

5 that the company who purchased Ranco? I'm not sure who --

6 Q That's the company that sold to Dragon. So that's --

7 A Okay. Just in relation to Ranco trailers?

8 Q Yes, manufacturer of the trailer, original manufacturer.

9 Okay. With respect to this trailer -- this is Trailer

10 Number 6775 on the first page -- the remarks here -- well, first

11 of all, can you tell me who the mechanic's signature is on this

12 document, first page of Exhibit 17?

13 A Are you talking about the --

14 Q First page of the Driver's Vehicle Inspection Report.

15 A Oh, that would be my signature, that the defects were

16 corrected.

17 Q Okay. And the remarks were that the cab switch is not

18 opening the gate. What does that mean?

19 A That means that the switch inside the cab, that has the

20 cover on that you open to activate the trailer to dump it with the

21 electric solenoid, was not operating, something that -- the

22 trailer was not being -- you cannot operate from the truck cab.

23 It doesn't necessarily mean it was the switch, it

24 just -- it could be the wiring between the switch and the valve.

25 Somewhere along the lines, it wasn't working, wasn't operating.

Page 140

1 Q So there was a wiring issue that was preventing the

2 switch from operating the gate?

3 A Correct.

4 Q How did you correct that problem?

5 A I believe I unplugged the four-way from the front of the

6 front trailer, cleaned it, put it back in and it worked.

7 Q And you used the same four-way?

8 A Yes.

9 Q And cleaning that four-way fixed the problem?

10 A Yes, because when you clean it, you are also -- if it

11 gets any kind of corrosion on it whatsoever, the switch -- it's

12 not really corrosion, it just -- basically, you are just cleaning

13 it with a wire brush and spreading the prongs out slightly and

14 plugging it back in and it worked.

15 Q Is that a pretty typical issue where you would have some

16 sort of corrosion or debris in one of those plugs that would

17 prevent or that would cause some sort of a malfunction in the

18 wiring?

19 A It's possible. When I say "corrosion," that's probably

20 a bad choice.

21 It's more of oxidation of the brass. It doesn't make

22 good contact. So you have to get in there and clean it with a

23 wire brush.

24 Q Do you do any type of regular inspections of the wiring

25 to check for those types of issues, or do you just wait until a

Page 141

1 driver brings it to your attention that a cab switch isn't

2 working?

3 A When they come in for the routine inspections, we check

4 to make sure that the wire is in place and the wire is not --

5 everything looks mechanically correct, in other words, it's not

6 broken, the wire is not broken, the four-way plug is not

7 physically broken.

8 But we do not unplug and clean it every time we check it

9 off, no.

10 Q Do you ever, in the annual inspection, unplug and clean

11 and check the wires at that point?

12 A On the annual inspection? I would -- I don't think so,

13 no.

14 It -- you have to understand the nature of these plugs,

15 and you change them all the time anyway because of damage. And

16 so --

17 Q Okay. So going all the way back --

18 A Okay.

19 Q -- to the very beginning, I want to go to when MDS first

20 leased the Trailer 6775 from Western Nevada Transport.

21 A Okay.

22 Q Do you know what year MDS first leased Trailer 6775?

23 A I believe it was 2012.

24 Q Can you tell me how MDS came to work with Western Nevada

25 Transport to lease trailers and vehicles?

Page 142 1 A I believe that -- well, being in the industry for so 2 long, myself and Tracy Shane know the owners of Western Nevada 3 Transport, or have known them for probably 35 years. 4 So everybody knows everybody. And he probably called 5 Tracy, says hey, I've got these trailers I want to get rid of, 6 yeah. 7 Q Do you know when that relationship began between MCB and 8 Western Nevada, what year that they first started working 9 together? 10 A Officially? 11 Q Officially. 12 A Probably when they leased the trailers. 13 Q For the first time, was that in 2012? 14 A Probably. 15 I mean, we probably had a working relationship before 16 that where we would haul for them and they would haul for us. But 17 as far as leasing trailers, I think that was the first time that 18 any of that happened, yes. 19 Q 2012 was the first time? 20 A I'm pretty sure, yes. 21 Q Okay. How old was Trailer 6775 at the time of the 22 initial lease? 23 A I would have to look and see what the year of the 24 trailer is. I'm pretty sure it's a 2002 or something like that. 25 So it would have been ten years old, I believe.	Page 144 1 it was or was not original? 2 A No. 3 Q And I don't remember if you answered this question or 4 not, but does MCB have any of the maintenance documents from 5 Western Nevada Transport in relationship to Trailer 6775? 6 A No, we do not. 7 Q Does ERS have any of those documents? 8 A No. 9 Q Now, when Trailer 6775 was first leased, can you tell us 10 what efforts MCB made to evaluate the condition of the electrical 11 connections on the trailer? 12 A At the beginning, I wasn't there at the time, but the 13 routine would have been the same as what it was after I became 14 employed there. 15 We completely go through them, check all of the wiring, 16 probably replaced all the plugs that even remotely look like they 17 were old. 18 Q Okay. When you say "check all of the wiring," what do 19 you mean by that? Describe in detail for me what your process -- 20 what your standard process would be. 21 I understand that you weren't there in 2012. 22 A Well, you do a visual check on the wire, the ones -- the 23 wiring that you can see. There's a lot of wire on a Ranco trailer 24 that's hidden. You cannot see it. 25 So without pulling it completely out of the trailer,
Page 143 1 Q Okay. 2 A To the best of my knowledge. 3 Q Do you know what the condition of the trailer was at the 4 time MCB initially leased 6775? 5 A I think it was in good condition. 6 Q Okay. Do you know if the wiring was original? 7 A I believe the wiring was original. 8 Q Okay. Why do you believe that? 9 A Because the wiring was original when we first started 10 working on them. 11 Q Did you -- or, do you know if MCB made any inquiries as 12 to any changes or modifications that were made to 6775 by 13 Western Nevada in the ten years before MCB leased? 14 A I do not believe we did. I think we just did our own 15 inspection on the trailer to make sure everything was mechanically 16 correct before we put them in service. 17 Q So you don't know for sure if the wiring was original or 18 not? 19 A No, I can't say that for sure, no. 20 Q Same thing with respect to the valves, the Versa valve 21 that was on 6775. 22 Do you have any confirmation at all that that was an 23 original valve that was placed on 6775 when it was manufactured? 24 A No, I can't say for certain. 25 Q Have you seen any documents whatsoever indicating that	Page 145 1 it's hard -- it would be hard to inspect every aspect of the 2 wiring. 3 Q So I'm just going to stop you there. 4 Do you know if you pulled the wiring out to inspect it 5 when you first received Trailer 6775? 6 A No, we did not. 7 Q Have you, since having -- leasing the trailer in 2012, 8 pulled the wiring out of those hidden locations to inspect the 9 wiring? 10 A We pulled it out and replaced it. 11 Q In 2013? 12 A I believe so. 13 Q Outside of that time in 2013, do you ever conduct 14 inspections during your annual inspection where you do a visual 15 inspection of the hidden wiring? 16 A No. 17 Q So I had interrupted you. You were describing the 18 process of checking the wiring, and you said that you conduct a 19 visual inspection at first. 20 And so can you go on to explain the next of the process. 21 A Well, the process would be that you look at the trailer. 22 And, like I said, there's very little wire that's actually 23 exposed. 24 So -- but you would look to see that there's any damage 25 to any of that wire where it goes into the side of the trailer,

Page 146

1 which would be a rub point. You check that.
 2 You check seven-way and the four-way connection in the
 3 front of the trailer, make sure that the plug looks good, check it
 4 in the back of the trailer.
 5 Now, you do have cords that go between the trailers.
 6 Those, you check. You pull out the seven-ways and the four-ways,
 7 make sure that they are all -- they all look good. You put it all
 8 back together.
 9 But the main thing you are looking for when you are
 10 testing the lights is the lights work and you don't have a ground
 11 issue. Then, generally, you don't have -- generally, you don't
 12 have to look any farther.
 13 Q Okay. All right. And then with respect to regular
 14 maintenance on the electrical system, we kind of touched on that,
 15 but you said that you would do a visual inspection when the
 16 trailer came in on your regular kind of multi-week inspections.
 17 A Uh-huh.
 18 Q Is that a "yes"?
 19 A Yes. I'm sorry. Yes.
 20 Q And then you would -- when somebody would bring it to
 21 your attention that there was a problem with a connection, you
 22 might pull a plug, replace a plug or check for debris or
 23 correction, correct?
 24 A Yes.
 25 Q And then during your annual inspections, what would you

Page 147

1 do with respect to the electrical system on the trailer?
 2 A We would go through the same process. We don't
 3 actually -- I mean, it's not like we pull all the wiring out. I
 4 mean, we're talking a major project. We are talking a two-day
 5 project to pull all the wiring out.
 6 We wouldn't do that in every trailer if it didn't show
 7 any signs of malfunctioning.
 8 Q Okay. When MDS first leased Trailer 6775 in 2012, do
 9 you know if they had it repainted?
 10 A No, we did not. To my knowledge, I do not believe we
 11 had it painted.
 12 Q Have you repainted any of your trailers since 2012?
 13 A No.
 14 Any of our trailers?
 15 Q Yes.
 16 A Oh, boy, I think we have. Not any of these trailers.
 17 Q Tell me, when you do repaint a trailer, do you remove
 18 any components from the trailer before you do a repaint?
 19 A If we were to repaint a trailer, we would remove a lot
 20 of components, lights, fenders, tires, wheels, that sort of
 21 things.
 22 Q And none of the trailers at issue that we've been
 23 discussing, 6773, 6774, 6775, none of those have been repainted --
 24 A No.
 25 Q -- since MDS has leased those trailers?

Page 148

1 A Absolutely -- no, they have not. There's no evidence --
 2 they have not been repainted.
 3 Q Okay. Now, SKS is owned by the same owner of MDS; is
 4 that correct?
 5 A That's correct.
 6 Q Is there any difference in ownership?
 7 A It's a different structure. One is a limited liability
 8 company and -- each of them being a member.
 9 Q Correct.
 10 A And the other one is -- SKS is a corporation where
 11 Travis Bonanno was the president and Karl Bonanno, I think, is the
 12 secretary-treasurer.
 13 Q So it's Travis Bonanno and Karl Bonanno, correct?
 14 A Yes.
 15 Q And they are -- are they the sole members of
 16 MDS Trucking?
 17 A Yes.
 18 Q Are they the sole shareholders of SKS?
 19 A Yes. As far as I know, the last time I looked.
 20 Q Now, you mentioned yesterday that you report to a person
 21 named Terry Davis?
 22 A Yes.
 23 Q What company does he work for?
 24 A He's officially employed by Bonanno Concrete, but I
 25 think he works for both Bonanno Concrete and MDS Trucking.

Page 149

1 Q Do you know what his job title is?
 2 A Now, on his email, it says "safety coordinator."
 3 Q How long has he worked with Bonanno Concrete and/or MDS?
 4 Can you tell me approximately when he started working with MDS?
 5 A Approximately a year ago.
 6 Q So can you narrow that down a little bit more? Are we
 7 talking about approximately March of 2016, or -- is that your best
 8 recollection of when Terry Davis started working with MDS,
 9 approximately March 2016?
 10 A Yeah, that sounds about right, yes.
 11 Q Now, you said he was working with Bonanno Concrete
 12 approximately two years ago; is that correct?
 13 A Yes.
 14 Q Okay. How long have you had to report to Terry Davis?
 15 MR. BROWN: Object to foundation.
 16 Go ahead.
 17 THE WITNESS: I'm sorry.
 18 BY MS. WOELFEL:
 19 Q Do you report to Terry Davis?
 20 A I communicate to him.
 21 Q How often do you communicate with him?
 22 A A couple times a week, two or three times a week,
 23 sometimes three or four times a day, depends on what we're doing.
 24 Q And what types of issues do you communicate with
 25 Terry Davis about?

Page 150

1 A He takes care of some of the safety things at
2 MDB Trucking and safety policies. If I have questions about
3 workers' comp or drug testing, supervisory training, that sort of
4 thing, he gets involved in.

5 Q What type of safety policies is Terry Davis involved in
6 with respect to MDB?

7 A I'm not sure.

8 Q You mentioned you talk to him about safety policies and
9 whenever he's involved in safety policies and that his role is
10 safety coordinator.

11 Can you describe more fully what his role entails for
12 MDB as a, I guess, quote, unquote, "safety coordinator"?

13 A I believe on his title, it's safety coordinator of
14 Bonanno Concrete. I'm not sure what his title is at MDB Trucking.
15 But because he's a safety coordinator at Bonanno Concrete, he does
16 help me with safety issues at MDB Trucking.

17 Q What type of safety issues does he --

18 A Our weekly safety meetings, that sort of stuff, OSHA
19 training, MSHA training.

20 Q What kind of weekly safety meetings do you have?

21 A We just have weekly, like, tailgate topics, I guess you
22 could call that.

23 Q Does that involve sort of gathering up all your drivers?

24 A Sometimes, yeah.

25 Q Well, describe for me a typical weekly safety meeting.

Page 151

1 A Sometimes it's hard to get all of our drivers together
2 at the same time because they all start at different times. And
3 so there's a tailgate meeting type topic that we discuss, and I
4 discuss it with them as I see them, or in groups of -- smaller
5 groups of people.

6 Q Do you have a written agenda for these weekly meetings?

7 A I'm not sure.

8 Q You don't know if you have a written agenda or not for
9 these safety -- weekly safety meetings?

10 A I'm not sure what you mean by "written agenda."

11 Q Do you write down what you are going to discuss at these
12 weekly tailgate safety meetings?

13 A Yeah. Yes.

14 Q And what do you do with the documents where you write
15 down the topics for discussion at your weekly safety meetings? Do
16 you save those?

17 A Yes.

18 Q Do you have a file that includes all of those?

19 A Yes.

20 Q Okay. How long have these weekly safety meetings been
21 taking place?

22 A A couple of months on this particular one. We used to
23 do a different type of weekly safety meetings when Tracy was
24 there.

25 Q What type of safety meetings, if any, were in place in

Page 152

1 July of 2013?

2 A Would have been the same weekly safety meetings, but the
3 topics would have come from a different agency, I suppose you
4 could call it.

5 Q Okay. At the weekly safety meetings, would you discuss
6 any safety issues that have been noted by your drivers that might
7 impact other drivers and things of that nature?

8 A I think those are mostly covered one on one with
9 drivers.

10 Q So, for example, when there was the dump of Mr. Rankin's
11 truck in July of 2013, would that topic have been discussed at one
12 of these weekly safety meetings and, you know, discussion of
13 safety measures? Would you have had that conversation in one of
14 these weekly safety meetings?

15 A No.

16 MR. BROWN: Objection, foundation.

17 Go ahead.

18 THE WITNESS: I'm sorry.

19 BY MS. WOELFEL:

20 Q So, you would not have?

21 A That wouldn't have been part of the topic of the weekly
22 safety meetings. That would have been in addition to that.

23 Q Okay. And can you tell me if there was a conversation
24 had with drivers or staff kind of to pull everybody together to
25 talk about this incident and how to move forward from the incident

Page 153

1 in July of 2013?

2 A Everybody -- at that point, everybody knows what's going
3 on. Everybody knows his trailer opened.

4 Everybody knows that the other trailers were opening up
5 on the highway at the same time, Lakeside, Capurro. There's a lot
6 of people have trailers opening up. Everybody in town knows about
7 it, and this is a problem. This is an industry problem that we're
8 having.

9 Q Okay. So in July --

10 A So we don't believe it's a safety issue specific to one
11 of our drivers, it's an industrywide problem. So everybody is
12 aware of this, and everybody has taken as much precaution as they
13 can to keep this from happening.

14 Q Okay. And so in July of 2013, this was a problem in the
15 industry that MDB was aware of and discussing?

16 MR. BROWN: Objection, foundation.

17 Go ahead.

18 BY MS. WOELFEL:

19 Q Is that what you are testifying to?

20 A Yes, specific -- yes, specific to certain manufacturers
21 of valves on certain manufacturers of trailers, yes.

22 Q And you are saying specific as to certain manufacturers
23 of valves and certain manufacturers of trailers. Who are you
24 referring to there?

25 A I'm speaking of Ranco and Versa Valve.

Page 154

1 Of course, that's not entirely fair to say that only
2 Ranco trailers would open up, because 98 percent of the trailers
3 in this town are Ranco trailers.

4 So, of course, if you are going to have a problem, it's
5 going to be a Ranco trailer. So I can't really say -- I'm not
6 just pointing my fingers at Ranco trailer, but --

7 Q Okay. And so you've testified that this is sort of a
8 general thing that MGB was aware of in or around July of 2013,
9 that there had been some dumps that had occurred.

10 What, if any, safety measures did MGB implement to
11 address those issues in July of 2013 to prevent future dumps, July
12 or August of 2013?

13 A In July, after that happened to us in July of 2013, the
14 measures we took were to rewire the trailers, put the new Versa
15 valve on, rewire the truck. And we had no issues whatsoever for a
16 year.

17 And the truck that I drove never -- or that -- the
18 trailer that I had behind my truck on the same day never had an
19 issue, ever. Why have an issue at the same time on the same date
20 at a similar location on that day? We don't know.

21 So we did everything that we could possibly do to
22 inspect these, mechanically and electrically, to see if there's
23 any problem that could possibly cause this to happen.

24 We -- nobody really can explain to -- explain why this
25 was going on.

Page 155

1 Q Okay. Did you inspect every other MGB truck in July and
2 August of 2013 to see if any of those trucks had any issues with
3 the wiring or the valves?

4 A We inspected every trailer that had a valve and every
5 truck that would have pulled those trailers, yes.

6 Q In 2013?

7 A Yes, and found no problems.

8 Q And found no problems.

9 Did you get from Mr. Mosk, after the July 2013
10 incident -- did you have him write a written report of what
11 occurred with respect to that incident?

12 A I do not think so.

13 Q When you -- when MGB did change the wires after the July
14 of 2013 incident, did it pull the entire wiring system?

15 A Yes.

16 Q 100 percent of the wires in 6775?

17 A Yes, we did.

18 Q None of the previous wires were left or spliced or
19 connected, it was an entirely new wiring system?

20 A Correct.

21 Q And my understanding from your testimony is that there
22 was also a new master switch installed in the truck after the
23 July 2013 incident. Is that correct?

24 A Yes, that is correct.

25 Q What types of wiring changes -- or, what has to be done

Page 156

1 in order to install an entirely new switch into the truck? Do
2 they have to do rewiring in the vehicle to make that work?

3 A On this particular truck, I -- as with most trucks, even
4 if they come from the factory, get their power source off of one
5 of the hot wires under the dash that would be hot, unswitched. In
6 other words, it's hot all the time, even if the key is off.

7 There are numerous wires that you can find in the
8 factory wiring loom that's hot. And that would go to the supply
9 of the first switch, which would then be jumpered to the supply of
10 the second switch, which would be jumpered to the supply of the
11 third switch.

12 And then each of the delivery terminals of those
13 switches, we wired to the respective gate valve on Trailers 1, 2
14 and 3.

15 Q Okay.

16 A And what Pat Bigby did, which I'm not sure if he
17 installed the master switch, but the master switch was put in.
18 And the wire, the hot -- the positive wire is run straight from
19 the switch to the battery, fused.

20 And so therefore, if there's any sort of feedback that
21 you are getting in the factory loom is now eliminated. None of
22 this actually changed anything, but they were just doing it for
23 peace of mind.

24 Q When you replaced the wiring in Trailer 6775, did you
25 test the wiring in 6773 and 6774 at the same time?

Page 157

1 A I think we replaced the wiring in all three trailers at
2 the same time.

3 Q Okay. So the wiring was completely replaced in 6773,
4 6774 and 6775?

5 A I believe so, at least the back two trailers for sure.
6 I believe all three trailers were done. I worked on them for
7 probably three days, you know. It's quite the job.

8 Q Okay. And what did you do with the wire that you pulled
9 from 6773, 6774 and 6775? Did you test or keep or just throw
10 away? What did you do with those wires?

11 A We either scrapped it or threw it away. Did we test it?
12 No. Did we visually inspect it? Yes.

13 Q Did you see anything in your visual inspection of the
14 wiring?

15 A Did I see anything abnormal?

16 Q Anything abnormal.

17 A I wouldn't say there was anything abnormal on the actual
18 wire.

19 With the way it was wired, the way the routing of the
20 wiring and how -- some of the -- was kind of hokey, the way they
21 would run the dump switch wire back into the seven-way junction
22 box and use that -- a fuse that's -- on the front of the seven-way
23 receptacle, there are fuses.

24 And apparently, Ranco likes to take -- disable one of
25 those fuses and use it as a fuse for the dump.

Page 158 1 So the wire -- which is, actually, you know, to us, is 2 unacceptable to run the wire for the dump wire through the 3 seven-way and use that as -- so we thought that was very unusual, 4 so we eliminated that completely. 5 So the four-way wires simply go straight to the Versa 6 valve. They don't go in through the seven-way at all. 7 Q Did you think there was anything with respect to the way 8 that the wiring was routed that led to the inadvertent dump on 9 July 7th, or whatever it was, July 2013? 10 A I wouldn't say there was, like, a smoking gun there, 11 like, there was something obvious that would have caused it, no. 12 Q And you did not maintain that wiring at all? 13 A No. We would have thrown it away. 14 Q Okay. And then you modified the way that the wiring was 15 run when you repaired it; is that correct? 16 A Correct. 17 Q Did you modify the way that the wiring had previously 18 run in any other manner, other than what you just described to me? 19 A No. We just kept the seven-way and the four-way wires 20 separated from each other. 21 Q Okay. In July 2013, was SWS the owner of the trailer or 22 was Western, do you recall? 23 A I believe Western Nevada Transport was still the 24 owner -- 25 Q In July 2013?	Page 160 1 it -- I mean, it didn't malfunction mechanically. 2 Q Did you know where the Versa valve -- the old Versa 3 valve that was removed was kept or stored? 4 A It would have been kept in our parts room, but I don't 5 think I could identify it, if we have more than one there. 6 Q Does MDS still have that Versa valve? 7 A I don't know. 8 I know we have a couple of Versa valves laying around 9 there in different states of repair, you know. 10 But we share the shop with WNT, and they have Versa 11 valves. So, you know, we share parts or whatever as far as if 12 somebody needs a used part. 13 So there's no way I could identify which valve it was. 14 Q So you share a workshop with Western Nevada Transport? 15 A We do now, yes. 16 Q When did you start sharing that shop with them? 17 A 2014. 18 Q What month? 19 A January. 20 Q Do you label the parts that belong to you versus the 21 parts that belong to WNT? 22 A No. They have their side of the shop with their parts 23 room, we have our side of the shop with our parts room. So it's 24 pretty easy to figure out whose is what. 25 Q Okay. Did you alert the ownership about the July 2013
Page 159 1 A -- and we were leasing them directly from them. 2 Q Did you notify Western of the inadvertent dump in July 3 of 2013? 4 A Once again, I didn't have to notify them. Everybody 5 knows. They knew, yes. I didn't notify them, but they already 6 knew. Everybody knows this already. 7 Q Is there any documentation relating to notification of 8 Western of the 2013 dump? 9 A No. 10 Q Do you know who notified Western of the dump in 2013? 11 A No. 12 Q And you testified that the Versa valve, at the end of -- 13 after the dump in 2013 was also replaced. 14 And I believe you said that MDS kept the old Versa valve 15 that it removed; is that correct? 16 A I'm assuming that we kept it, because we don't throw 17 that kind of stuff out. Plus, we would keep it for spare parts or 18 whatever, even though we generally never reuse them. 19 But we don't like to throw that kind of stuff out. 20 Q Did you run any tests on the Versa valve that was 21 removed? 22 A No. 23 Q Or did MDS run any tests? 24 A No. There's really no reason to test any of the stuff, 25 because we know why -- I mean, we know it opened electrically, so	Page 161 1 release? 2 A Are you talking about ownership of -- 3 Q Of MDS. 4 A Oh, yes. 5 Q Do you know what their response was or their direction 6 was in response to finding out that there had been a release in 7 July of 2013? 8 A Yeah, make sure it doesn't -- I mean, figure out what's 9 going on. 10 Q And did they instruct you to investigate the problem and 11 try to figure out the cause of the incident? 12 A Yes. 13 Q And you said that you were confident -- or, I believe 14 you said you were confident that it was a Versa valve failure that 15 led to this; is that correct? 16 A No, I don't think that's the correct -- I don't think 17 that's what I said. 18 I think I said that -- I believe that what caused this 19 is the Versa valve inadvertently becoming energized by a manner 20 other than by our truck, but it was definitely energized 21 electrically. 22 Q And how could it have become inadvertently electrolyzed 23 by a manner that's not through your truck? 24 And we are talking about July of 2013 right now. 25 A Okay. We can talk about that day or any of the days.

Page 162

1 That's the \$64,000 question.

2 That's what everybody is trying to figure out, is after
3 the 2014 incident, when we put the lockout devices on, other
4 companies followed suit, put the same lockout devices on all their
5 trailers because they were afraid of it happening again.

6 But there are still trucks — a lot of trucks running
7 around with out lockout devices on there. So for them, I guess,
8 it could just be a matter of time before it happens to them. I'm
9 not sure. It's just —

10 Q So what I hear you saying is that it's your
11 belief that in July of 2013, there was some other electrical
12 reason why the Versa valve was changed, other than the truck, but
13 your investigation could not identify what that was?

14 A Yes.

15 Q Now, you started in August of 2013 with MDE; is that
16 correct?

17 A Yes.

18 Q Was — and you participated in the rewiring project at
19 this time, correct?

20 A Shortly thereafter.

21 Q Had the rewiring project already been underway when you
22 first started?

23 A The wiring of the tractor, the switches in the truck had
24 been done.

25 Q So the master switch project had already been worked on

Page 163

1 and completed when you started?

2 A Yes.

3 Q And then you participated in rewiring the three
4 trailers?

5 A Yes. Yes.

6 We were trying to be as proactive as we could. When I
7 came to work there, I got right up to speed on what was going on.

8 They told me what — the steps they took. I talked to
9 them about what I thought. And we proceeded from there to try to
10 do whatever we could do to keep this — to see if we could find
11 what the problem is.

12 Q And prevent it from occurring again?

13 A And we thought we did do that, yes, because it was a
14 year before it happened again.

15 Q Did you suggest your pinning system in August of 2013
16 when you were assisting in the rewiring and investigation?

17 A No.

18 Q Why not?

19 A I don't even think it was an idea of mine yet.

20 Q Okay.

21 A For the most part, our operation, which allows our
22 drivers to dump in a grizzly where you have to get out every time
23 and you can get out manually to do it, it's not a nuisance to pull
24 the pin.

25 But if you are doing highway construction and you are

Page 164

1 dumping shoulder material or base rock on the highway, you are
2 going from the pit to the job and you've got to dump, you don't —
3 they don't want you out of the truck, taking your pins out, out
4 there on the highway, every load.

5 So for the most part, it's having the gate manually —
6 having a manual lockout on the gate is somewhat of an
7 inconvenience that — at the time, I didn't think it was — it
8 just didn't seem like that was a workable solution, to try to come
9 up with a lockout device at that time.

10 Q Is that the same thing with respect to the gate chain
11 along the bottom, that would be — would create a nuisance or more
12 work for the driver to put that on and take that off?

13 A "A nuisance" is probably a poor choice of words.

14 If you look at these trailers, they are short trailers.

15 They only have about a foot between the tires and the gates. So
16 to crawl over there and chain these gates is a real chore. And
17 it's actually a safety issue to try to get in there and chain
18 these gates.

19 So to crawl under there and do this every load would
20 be — I don't think that would be a workable solution.

21 Q Why would it be a safety issue?

22 A Because you can barely fit under the gates back there.
23 You have to crawl under the truck.

24 So unless you pull over to the side of the road and
25 chock your truck and — I mean, it's hard to get under there. So

Page 165

1 you would have to do it every load, yeah.

2 Sooner or later, you are going to get somebody hurt,
3 stuck under there, whatever. There are things you can hit your
4 head on.

5 Q So it sounds like using those at any time would create a
6 safety issue.

7 Can you describe for me — I mean, do you not have your
8 employees use those chains at all?

9 A I've never used them at MDE Trucking, and I don't think
10 anybody else has either.

11 But the deal is with that, if you — if you are going to
12 use them the way they are designed to be used, you would get to a
13 job site that's dumping base rock, and the dump guy would tell
14 you, you know — he would give you a visualization of the way he
15 wants the chains set up.

16 And you go out there and you set them once in the
17 morning, you are done. Every load you come back, they are set
18 already. You don't have to get out every time, chain and unchain
19 them, chain and unchain them.

20 You just do it one time in the morning, and you are
21 done. And if you are going back to the same job, you leave them
22 the same way for the next day.

23 Q Have you ever used the chains as part of a — driving
24 the truck and doing a load?

25 A At MDE Trucking?

Page 166

1 Q At any time in your 35-year career, have you utilized
2 that chain system?

3 A Oh, yes, extensively, but not to keep the gates from
4 opening, to keep the gates -- to restrict the opening of the
5 gates, yes --

6 Q Okay. So you have used them --

7 A -- for the size of windrow they want on a job site, yes.

8 Q Have you ever been injured in putting the chains on or
9 off?

10 A All the trailers that I have ever chained are semi
11 trailers that have ten feet between the axles and the gates. So
12 you walk under the trailer and you chain them.

13 These are short trailers. They have -- it's only,
14 like -- you can barely get your head in there to chain them.

15 Q So my question is, have you ever been injured setting up
16 the chaining device --

17 A No.

18 Q -- under a truck?

19 A No.

20 Q Are you aware of any other employee that you've worked
21 with being injured setting up a chain device underneath a bally
22 dumpster?

23 MR. BROWN: Objection, foundation.

24 THE WITNESS: I don't know of any.

25 ///

Page 167

1 BY MS. WOELFEL:

2 Q Okay. So going to the July 2014 release, my
3 understanding is that Mr. Koski contacted MDS while he was at the
4 site of the dump and he had pulled over; is that correct? He had
5 contacted them to advise them that this incident in July of 2014
6 had occurred?

7 A Yes.

8 Q And do you know who he spoke to?

9 A Tracy Shane.

10 Q Okay. And do you know if anybody requested that
11 Mr. Koski take any photos or do any documentation of the truck or
12 the site of the dump?

13 MR. BROWN: Objection, foundation.

14 THE WITNESS: Okay. The site of the event was a mile
15 back down the road. So it would be pretty hard for him to walk
16 down the freeway a mile to take pictures, especially while they
17 are waiting for fire and rescue to arrive.

18 He's on the side of the road, talking to a
19 Highway Patrol officer at the time. I don't think that would be
20 the time for Mr. Koski to be to do an independent investigation of
21 what happened.

22 BY MS. WOELFEL:

23 Q So my question is, did anybody from MDS ask him to take
24 any photos or document the truck?

25 A At the scene of the accident?

Page 168

1 Q At the scene of the accident.

2 A Well, the truck was not at the scene of the accident.

3 Q Well, the truck pulled over to the side of the road.

4 A No, he was not asked to do that.

5 Q Okay. Thank you.

6 Did you test the electrical system of any of the three
7 trailers that were involved in this incident upon its return to
8 the yard?

9 A No.

10 Q Why not?

11 A There was no need to.

12 Q Why was there no need to?

13 A Because we put lockout devices on there, which prevents
14 the gates from opening.

15 We had already rewired the trailers completely. We had
16 already checked the trailers out extensively.

17 At this point, we felt that putting a lockout device was
18 the best way to prevent this from happening again. And so far, it
19 has been two and a half years and we haven't had a problem.

20 Q So when you were -- when the truck came back to the
21 yard -- and you said you had already rewired the trailer
22 completely, you are talking about the rewiring that took place one
23 year ago?

24 A Yes.

25 Q And there was no inspection of the electrical system

Page 169

1 after July of 2014?

2 A No, not -- not in direct relation to that incident, no.

3 Well, I shouldn't say that. We didn't do that
4 inspection. The forensic -- the people -- the scientists and
5 forensic people came out and did a complete inspection, all -- a
6 year later, or whatever it was, a year and a half later.

7 Q After the lawsuit had been filed?

8 A Yeah.

9 Q And the wiring system in the trailers, the subject
10 trailers, is it your statement that the wiring system was exactly
11 the same as the wiring system that was installed in July of 2013?

12 A To the best of my knowledge, yes, it was. I don't
13 think -- we never -- we didn't make any modifications to it, no.

14 Q No modifications to it outside of changing plugs?

15 A Maybe -- exactly, something like that, yes.

16 Q Okay. Did you save the plugs that you changed after the
17 July 2014 event until the time that the forensic inspection,
18 electrical inspection had occurred?

19 A No.

20 Q What did you do with the plugs or any plugs that you
21 changed on the subject trailers?

22 A We throw them in the garbage after that, yeah.

23 Q Did you do any testing -- outside of creating this pin
24 system, did you do any testing to the Vacuum valve to see if it was
25 malfunctioning in any way?

Page 170

1 A No, other than visual inspection of making sure it was
2 mechanically sound, which means that it's still in place, the
3 handle is still in place, there's no damage to it, it's still
4 operating correctly, it's just got a pin in there now.
5 Q Okay. Did you take a written statement from Mr. Koski
6 after the July of 2013 release?
7 A I don't believe so.
8 MS. SHREVE: Take a rest room break?
9 MS. WOELFEL: Sure. Take a five-minute rest room break.
10 That's fine.
11 MS. SHREVE: We can go off the record.
12 (A recess was taken.)
13 MS. WOELFEL: Okay. We can go back on the record.
14 BY MS. WOELFEL:
15 Q Can you tell me if anybody was injured in relationship
16 to the July 2013 dump incident?
17 A To my knowledge, nobody was injured.
18 Q And, obviously, there were some injuries with respect to
19 July of 2014, or alleged injuries, which is why this lawsuit has
20 occurred.
21 A Yes. Yes.
22 Q Was MOB aware of those injuries on -- or the alleged
23 injuries, on the day that the incident occurred?
24 A Oh, yes, definitely.
25 Q Was MOB concerned that they might get sued on the date

Page 171

1 of the incident?
2 MR. BROWN: Objection to the extent it calls for
3 speculation.
4 You can answer.
5 THE WITNESS: The sentiment in the company was everybody
6 was concerned for the people that got hurt, and everybody really
7 actually felt bad because we thought we tried everything to keep
8 this from happening.
9 And, yeah, I don't think anybody talked about getting a
10 lawsuit. I don't think that was ever even a topic.
11 BY MS. WOELFEL:
12 Q Who -- did you think that it was a possibility that MOB
13 might be involved in litigation as a result of the incident?
14 MR. BROWN: Objection to the extent it calls for
15 speculation, asked and answered.
16 THE WITNESS: No, I didn't think anything about that,
17 no. I mean --
18 BY MS. WOELFEL:
19 Q Did you -- I'm sorry, you can go ahead and finish.
20 Did you have any discussions with ownership or --
21 A Terry Davis?
22 Q Yes, thank you.
23 -- or Terry Davis?
24 MR. BROWN: Don't.
25 THE WITNESS: Oh, sorry.

Page 172

1 MR. BROWN: Just kidding.
2 THE WITNESS: I don't think Terry -- I wasn't talking to
3 Terry Davis at that -- I don't even think he was working there at
4 that particular time. I'm not sure.
5 BY MS. WOELFEL:
6 Q Was there a go-between between you and ownership before
7 Terry Davis arrived?
8 A Okay. At 2014, Tracy Shane was the manager.
9 Q Okay. And would Tracy talk directly with the two
10 owners?
11 A With the owner, with Travis Bonanno. Kari wasn't that
12 involved with the business. It would be Travis Bonanno. And he
13 would talk with him directly, yes.
14 Q And once Travis left, is that when Terry Davis came
15 onboard?
16 A Travis? No, Travis is still around, he's just kind of
17 too busy with the concrete stuff. So I think Terry helps him out
18 as sort of his right-hand man type of thing, I think his position
19 is sort of, yeah.
20 Q Are you aware of any conversations amongst the ownership
21 and/or management related to the possibility of litigation involving
22 this accident after July 2014?
23 MR. BROWN: Objection, vague as to time.
24 Go ahead.
25 THE WITNESS: No, there was no talk about that. Nobody

Page 173

1 was talking about that.
2 BY MS. WOELFEL:
3 Q Was there any instruction or discussion regarding
4 preserving the evidence after this incident occurred on July 7th
5 of 2014?
6 A No. Once again, we didn't think it -- we did not think
7 it was an issue.
8 I think the Highway Patrol came out and did an
9 inspection as well after this happened.
10 Q When did the Highway Patrol do their inspection?
11 A I might be misspeaking here, but I believe they did --
12 came out the following day, did a cursory inspection. I'm not --
13 follow-up to their --
14 Q And did they come to the yard to do that inspection?
15 A I think so, yes.
16 Q Were you there when this inspection occurred?
17 A Possibly not. I might have been out driving that day.
18 Q Do you know who was there when this inspection occurred?
19 A If it did, in fact, occur, which I'm not sure -- like I
20 said, I believe it did -- Tracy Shane would have been there, and
21 Pat Bigby would have been there.
22 Whether they participated in it or they just let the
23 Highway Patrol do their job, I'm not sure.
24 Q Do you have any documents in MOB's possession related to
25 this inspection by the Highway Patrol?

Page 174 1 A I would have to look and see if there is. 2 Q And I would ask that you take a look, and if you do have 3 anything -- 4 A Yes. 5 Q -- to turn it over to your attorney. 6 Are you aware of any findings by the Highway Patrol in 7 regards to this inspection? 8 A No. 9 Q When -- after July 7th of 2014, when did you finish 10 making your pinning system? 11 A I finished in the same day. 12 Q And -- that was fast. 13 A On -- on the subject trailer. 14 Q On the subject three trailers. 15 A Actually, I'm not sure. I did one whole set the first 16 day. And I don't remember if it was my set or his set. 17 Q And a set is a set of three? 18 A Yes. 19 Q Okay. 20 A So after that incident happened, no bottom dumps left 21 the yard to haul material without the lockout device in place. 22 But they were all done within a day or two of this incident. 23 Q And you manufactured that lockout system? 24 A I did the majority of them, yes. I think Pat Bigby made 25 one for a trailer that -- yes, I think he made one.	Page 176 1 I knew of a different valve that had the lockout 2 capabilities. But at that particular point, I can make the 3 bracket and get the trailer back on the road right now, versus 4 buying it, \$700 valve, and replacing all the valves. And it would 5 do the same thing. So, no. 6 If, in fact, the Versa valve had failed -- in hindsight, 7 if I would have known about this, '13, we would have done it then 8 probably. I don't know. 9 Q Are you aware of a dump involving Capurro Trucking 10 sometime in 2012 or 2014? 11 A Uh-huh. 12 Q Is that a "yes"? 13 A Quite a few of them, yes. It was actually maybe even 14 before that time, 2010, '11, '12. Seems to me I remember quite a 15 few. 16 Q Are you aware of any litigation against 17 Capurro Trucking? 18 A Huh-uh, no. I think there might have been, but it's 19 just rumor. It would be a rumor if I said something. 20 Q When had you heard that rumor? 21 A Oh, I don't know. I don't know that anybody was 22 injured. I just know there were some cars that got damage to 23 them. 24 Q And you heard about that incident shortly after it 25 occurred?
Page 175 1 Q And you designed the lockout system? 2 A Yes. 3 Q Did you have to drill or do anything to the Versa valve 4 to make that pinning system work? 5 A No, no modifications at all to the Versa valve. You 6 don't even have to -- you don't even have to remove the Versa 7 valve to put it in place. You do nothing to the Versa valve 8 whatsoever. 9 You just slide the bracket around the handle, mark where 10 the hole is going to be drilled for the safety pin, take it back 11 off, drill the pin, put it back -- drill the hole for the pin, put 12 it back, bolt it on, and you are done. 13 Q So you remove the Versa valve -- 14 A No, did not remove the Versa valve. 15 Q You did not remove the Versa valve at all? 16 A No. You fabricate the bracket, you install it -- you 17 drill holes on the trailer where -- below the Versa valve, mount 18 it, figure out where the hole is going to go for the -- behind the 19 handle, mark it, take that bracket back off, drill the hole, put 20 it back on, then you are done. 21 Q Was there discussion on whether to purchase a different 22 Versa valve for the subject trailer, 6775, after the July 7th, 23 2014, dump? 24 A No, because -- I don't know if I should elaborate on 25 this.	Page 177 1 MR. BROWN: Objection, foundation. 2 THE WITNESS: Well, like I say, news travels fast. 3 Everybody knows it immediately. Everybody starts calling people 4 and say, hey, did you hear so-and-so lost a load on the highway. 5 Everybody knows it right away because it's really 6 something that actually concerns everybody. 7 BY MS. WOELFEL: 8 Q How long -- you said you've been in the trucking 9 industry for approximately 35 years; is that correct? 10 A Well, since 19 -- late '70s, yes. 11 Q How -- when did you start working with belly dump 12 trailers? 13 A First time I ever used a belly dump trailer was probably 14 1980. 15 Q And have you used them consistently throughout your 16 career since then? 17 A Yeah, off and on, between driving and management 18 positions and mechanical positions, yes. 19 Q And have the belly dump trailers that you've worked with 20 always been Ramco trailers? 21 A No. 22 Q What other types of belly dump trailers have you worked 23 with? 24 A Fruehauf, Cook, Utility, Beall, I'm sure -- Midland. I 25 mean, I'm sure I'm missing some. Trail King, Load King.

Page 178

1 Q Okay. I'm going to show you some documents.
 2 A Okay.
 3 MS. WOELFEL: Jump into some documents.
 4 And I apologize to the folks on the phone because I
 5 don't have -- I didn't circulate these earlier.
 6 (Exhibit 19 marked for identification.)
 7 BY MS. WOELFEL:
 8 Q So Exhibit 19 is a document that's Bates-labeled MOB 388
 9 on page 1, 394 on page 2, and 400 on page 3. If you look at the
 10 top, they all relate to Equipment Number 6777.
 11 Do you see that?
 12 A Yes.
 13 Q And can you tell me which piece of Equipment 6777 was or
 14 is.
 15 A I believe 677 -- well, I don't believe it. 677 is the
 16 front -- is the middle trailer of the set that I was pulling on
 17 subject day, July 7th, 2014.
 18 Q Okay. And if we look at the first page of the page that
 19 is Bates-labeled MOB 388, on the work order, it is by you?
 20 A Uh-huh.
 21 Q Scott, that's you, correct?
 22 A Yes.
 23 Q Is there any other person named Scott that works for
 24 MOB?
 25 A No. The work order is made up by me, but the work was

Page 179

1 performed by myself and Pat.
 2 Q Okay. And there's a section on each of these work
 3 orders for total time, and I've noticed that most of them are
 4 blank.
 5 Is that to indicate the time it took to perform the work
 6 order or the maintenance that needs to be performed?
 7 A That's what -- that's what that's for, yes, but we don't
 8 generally use that.
 9 Q Why not?
 10 A Because we don't allocate time to a particular piece of
 11 equipment.
 12 And the way we do it, we do it with a separate timesheet
 13 that has got all the trailer numbers and the time it took the --
 14 the mechanic worked on each trailer.
 15 Q So I just want to make sure I understand that you are
 16 saying.
 17 Are you saying that on your timesheet -- for example, if
 18 I wanted to know how long it took you to perform the work that is
 19 indicated on the December 1, 2013, work order, I could figure that
 20 out by looking at your timesheets; is that correct?
 21 A You could. Presently, you could. When this -- November
 22 of 2013, you would not be able to, no.
 23 Q Why not?
 24 A Because that wasn't -- that's not the way we filled our
 25 timecards out then.

Page 180

1 Q When did you make this change to your timecards such
 2 that I would be able to allocate your time working on maintenance
 3 issues?
 4 A I think -- I believe it was January of 2015 that we
 5 changed timecard formats.
 6 Q Why did you change your timecard formats in
 7 January 2015?
 8 A Because somebody in the office wanted to start figuring
 9 out how much it was costing to work maintenance-wise on each piece
 10 of equipment, but it never really came about.
 11 But that's where -- how it started.
 12 Q Okay. All right. So looking at the first page of this
 13 work order -- and can you read the first -- or read what is listed
 14 or written in under where it says "Additional."
 15 I don't see anything checked on the top. It says
 16 "Additional," and then you have something written. Can you read
 17 that for me.
 18 A Yes. It says rewire trailer to meet MOB standards.
 19 Replace lights with LEDs.
 20 Q Okay. What are MOB standards? What does that mean,
 21 that you are rewiring this trailer to meet MOB standards?
 22 A Our standards is to wire the trailer in conjunction with
 23 FMCSA rules and proper techniques, I would suppose.
 24 Q Okay. You said in conjunction with something,
 25 something, something rules --

Page 181

1 A Federal Motor Carrier Safety Administration rules.
 2 Q Okay.
 3 A That would -- that would apply probably to -- more to
 4 ABS system than anything else where they require certain type --
 5 gauge of wire for ABS brakes, that sort of thing.
 6 Q So can you describe for me what you did here to rewire
 7 this trailer to meet MOB standards.
 8 A We installed junction boxes at the front of the trailer
 9 to eliminate the seven-way and the four-way plugs at the front of
 10 trailer, so they could be hard wired in.
 11 I don't -- we installed all new four-way and seven-way
 12 cable on the draw bar and plugs on the draw bar, installed new
 13 three-way wire from front to rear.
 14 Installed junction box at rear of trailer to isolate
 15 wires to dump valves. Replaced all lights with LEDs.
 16 Q So what you just described, that would be considered MOB
 17 standards with respect to the wiring of the trailer?
 18 A Yes, to -- yes, the type of wiring we did, you know, and
 19 the techniques that we used to do it.
 20 Q Would you do this to every trailer so that you ensured
 21 that it met MOB standards?
 22 A Not if it already met MOB standards. If it already met
 23 our standards to begin with, then we wouldn't rewire the trailer,
 24 no.
 25 Q Does any part of this work that you described involve

Page 182 1 pulling the wire, the hidden wiring? 2 A Yes. 3 Q Okay. So does this mean that -- so how do you know if a 4 new trailer that you've leased meets MDE standards, unless you 5 pull the wiring and inspect how it's been wired in the first 6 place? 7 A Well, we wouldn't know that. 8 Q So do you require every new trailer that you lease? 9 A No. That's usually for used trailers. 10 New to us? 11 Q New to you. 12 A Yes. No, but when you look at the wires that are -- if 13 you are looking at the wiring that you can see and it doesn't meet 14 our standards, then now is the time to start looking, digging 15 deeper and start pulling all the wiring out and putting it in 16 correctly. 17 Q Okay. So if you see exposed wiring that doesn't meet 18 MDE standards -- 19 A Yes. 20 Q -- then your standard procedure -- MDE standard 21 procedure is to pull all of the wiring in the trailer and rewire 22 it; is that correct? 23 A Or we would bring it up to our standards. 24 It wouldn't necessarily mean we had to pull an all the 25 wiring out, but generally -- it might entail that.	Page 184 1 misspeaking, but I do believe you can go down and buy a brand-new 2 Ranco trailer that still doesn't meet our standards, but so be it. 3 BY MS. WOELFEL: 4 Q And this is your personal standards? 5 A Yeah. So it doesn't necessarily mean -- 6 Q That there's a defect in the product? 7 A Exactly. 8 Q Okay. What gauge of wire do you use when you are 9 rewiring? 10 MR. BROWN: Objection, foundation. 11 BY MS. WOELFEL: 12 Q Let's talk about 6777. 13 MR. BROWN: Same objection. 14 THE WITNESS: What gauge of wire do we use? 15 BY MS. WOELFEL: 16 Q Yes. 17 A That's kind of a broad question. There are multiple 18 gauges in the trailer. 19 Q Okay. What types of gauges are in the trailer, and a 20 trailer like 6777? 21 A For instance, the four-way wire is four wires in a 22 casing, and they are all 14-gauge. 23 Q Okay. What other types of wire? 24 A The seven-way cable, that is your main -- that's your 25 main lights, turn signals, brake lights, ABS, ground, we use only
Page 183 1 But I do remember this specific trailer where the 2 seven-way cable going from the seven-way at the front of the 3 trailer to the back was spliced. 4 Somebody had spliced it from ABS to non-ABS seven-way 5 cord, which does not meet law, the federal law guidelines, or our 6 standards. 7 Q Okay. 8 A So that is what brought us to the conclusion to rewire 9 the trailer. 10 Q And can you tell me when MDE first leased Trailer 6777. 11 A I believe it was December or late October maybe of 2012, 12 I believe. 13 Q Okay. And so was this trailer in operation for almost a 14 year before it was rewired to meet MDE standards? 15 A Yeah. Well, it wasn't -- yeah, until we determined that 16 it didn't meet MDE standards. 17 Q Okay. 18 A That's sort of a generic term that I use when I wrote 19 the work order up. It doesn't necessarily mean we have a specific 20 standard that we go by. 21 Q Are these standards written out? 22 A No. They are just in my -- Pat and I's head. We know 23 how we do things. 24 MS. SHREVE: The next two are also in Exhibit 9. 25 THE WITNESS: And I do believe -- I don't want to be	Page 185 1 ABS cable. 2 When I say it meets ABS standards, it means it's got an 3 8-gauge ground, 10-gauge stop light, and the rest are 12-gauge. 4 Q Okay. And that would be -- the type of casing in, you 5 just said Equipment Number 6777, would that be the case -- 6 A Yes. 7 Q -- in 6775? 8 A Yes. Yes. 9 MS. WOELFEL: I'm sorry, my exhibits are in a little bit 10 of a mess here. I'm looking for a specific one. 11 Let's go ahead and mark in next in line. 12 I'll apologize in advance if there are any duplicates. 13 I tried to prevent that from occurring, but it's certainly a 14 possibility. 15 (Exhibit 20 marked for identification.) 16 BY MS. WOELFEL: 17 Q Exhibit 20 is a series of documents that all relate to 18 Equipment Number 6775. And these are Bates-labeled MDE 239, 240, 19 246, 253, 256, 258, 262 and 15. 20 And I just want to walk through these -- each of these 21 quickly. 22 And Equipment Number 6775 is the subject trailer that 23 Mr. Koeki was driving that inadvertently opened; is that correct? 24 A That is correct. 25 Q And on July 18th, 2013, can you -- look like this is a

Page 186

1 work order prepared by Pat; is that correct?

2 A Pardon?

3 Q This is a work order that was prepared by Pat, is that

4 correct, so far as you can tell?

5 A You know, actually, it was prepared by his wife.

6 Q I was going to say it's really nice handwriting.

7 A He must have had a bunch of them to do and took them

8 home and dictated them, I guess. But it is Pat's work order, yes.

9 Q And the work was performed by Pat?

10 A Yes.

11 Q And can you describe for me the work that was performed

12 here.

13 A Troubleshoot air leak at the gate control valve.

14 Q Do you know if this work order was before or after the

15 July '13 dump incident, because there's some confusion as to the

16 date. So I'm wondering if you know whether this work order is

17 from before that incident or after that incident.

18 A Well, it's kind of a loaded question.

19 MR. BROWN: Well, ask -- listen to what she said, do you

20 know. And all you can say is yes or no, whether you know or not.

21 THE WITNESS: Well, if you are saying is it after the

22 July 13th incident, then, yeah, for sure, it's after the July 13th

23 incident.

24 BY MS. WOELFEL:

25 Q No. Well, I'm not -- the July 2013 incident. So let me

Page 187

1 clarify.

2 THE WITNESS: Oh, oh, I see. Okay.

3 MR. BROWN: There you go. We don't know when it is.

4 BY MS. WOELFEL:

5 Q I'm not trying to trick you.

6 A Oh, no, no, I know that.

7 Q So my question is, we know that a dump occurred sometime

8 in July of the year 2013 involving Equipment 6775, correct?

9 A Yes.

10 Q Okay. We don't know the exact date that that occurred,

11 but we have a work order in front of us, MOB 239, that's dated

12 July 18 that discusses an air leak at a gate control valve.

13 A Uh-huh, yes.

14 Q My question for you is, did this occur -- or is this

15 work order from before that incident or after that incident, if

16 you know?

17 A I don't know for sure, but I believe it was done before

18 the incident. I believe that the incident -- the first incident

19 with the bottom opening inadvertently was the end of the month in

20 July, so I believe this was done before.

21 Q Okay. Can you tell me what was done to fix this

22 problem.

23 A Pat found the O-rings on the oiler and water separator

24 leaking. Tried to repair with O-rings, removed units, bypassed

25 air lines, plumbed solid with pipe fittings, reinstalled, tested

Page 188

1 for leaks, okay.

2 Q Now, this handwriting, we established, is not Pat's.

3 His wife is writing this, it looks like.

4 A I think so, yes.

5 Q Where is his wife getting information? Is Pat making

6 notes? Is he just telling her what he did? Do you have any idea

7 where she's getting the information that's included on this

8 document?

9 A She is probably getting it from his notes. This is

10 exactly -- this looks exactly like what Pat would have written if

11 he wrote it.

12 It doesn't look -- I mean, it doesn't look -- I

13 understand what he did, what he was -- so whether she wrote it or

14 he wrote it, I think it's the same -- same thing, yes.

15 Q Do you usually keep handwritten notes on something other

16 than a work order when you are performing work on one of the MOB

17 trucks or trailers?

18 A I don't know if he does. I think he does. I do, just

19 so you don't forget to write the mileage down or the part number

20 or something like that, and then when you go to do your work --

21 sit down to do your work order, you have it in front of you, fill

22 out your work order, throw the paper away, you don't need it now.

23 Q So you throw away your handwritten notes once you fill

24 out the work order. Is that your testimony?

25 A Yes.

Page 189

1 Q Go down to the next page --

2 A Can I make a clarification? This actually wasn't the

3 gate control valve that we were working on. You guys do know

4 that, right?

5 Q Sure, you can make that clarification.

6 A Yeah, we weren't actually working on the gate control

7 valve, which would be the Versa valve. We were actually working

8 on the oiling system that's the head of it, yeah.

9 Q Thank you for that clarification.

10 Okay. So on to the next page, which would be MOB 240,

11 and this work order is dated 8/1/2013. And it says date

12 completed, 8/2/2013, for Equipment 6777.

13 Do you see that?

14 A Yes.

15 Q Is this Pat's handwriting?

16 A Yes, it is.

17 Q And this says investigate unintentional gate opening.

18 So this is the work order to deal with the unintentional gate

19 opening that occurred at the end of July 2013; is that correct?

20 A That is correct.

21 Q And the total time is not filled out. And was it your

22 testimony that there's no way to figure out how much time it took

23 to fix this problem?

24 A I could only guess.

25 Q Now, this is the work order for repairing the toolbox,

Page 190

1 is that correct, to rewire?

2 A This, no. I think it's to rewire the truck. He might
3 have actually done something to the trailer. I'm not sure.

4 Q Can you actually take a look and tell me what this work
5 order is for.

6 A Okay. This was -- his notes was investigation --
7 investigating unintentional gate opening. So he replaced the
8 Versa valve and rewired dump valve circuit from valve to truck.

9 Q What does that mean -- stop you there -- "rewired dump
10 valve circuit from valve to truck"? Can you describe where those
11 components are.

12 A So what he did was, he made sure that the wiring from
13 the batteries of the truck went to the switches, and from the
14 switches in the four-way through -- directly to each Versa valve
15 on each trailer without going through any other wiring, any --
16 it's not -- inclusive in any other wire. It's separate from all
17 other -- all other portions of the trailer.

18 Q Okay. So what you are saying is, the wire from the
19 truck, he switched the wiring so that it went straight from the
20 truck -- the battery directly to the Versa valve?

21 A No, from the battery directly to the switches in the
22 truck, and from there, directly to each Versa valve, instead of
23 going through the seven-ways.

24 Q So before we were speaking, we talked about how you
25 completely rewired the three trailers --

Page 191

1 A Yes.

2 Q -- in response to this incident, correct?

3 A I believe so.

4 Q Is this the work order for the rewiring?

5 A No, not for the complete trailer.

6 Q Okay. That would be a different work order?

7 A Yes. If -- yeah, it would be.

8 Q Okay. And what's reflected on this work order does
9 not -- does not discuss or identify the work that you did in
10 rewiring the three trailers, 6773, 6774 --

11 A No.

12 Q -- and 6775?

13 A No.

14 Q On to the next document, and that's a work order dated
15 February 15th, 2014, for Equipment Number 6775.

16 And can you tell me what this -- first of all, you can't
17 identify who performed this work because there's no name; is that
18 correct?

19 A That is correct. When -- I can identify it by his
20 handwriting.

21 Q That looks like Pat's handwriting, too?

22 A It is Pat's handwriting. And, apparently, he didn't
23 even put the date on, because that's my handwriting for the date.

24 Q And it says "replace four-way socket and plug"; is that
25 correct?

Page 192

1 A Yes.

2 Q And what did you do with -- or, what do you typically do
3 with the four-way socket and plug that you remove?

4 A Throw them away.

5 Q Do you know why you had to remove or replace the
6 four-way socket and plug here?

7 A Now, once again, if there's any issues with wiring,
8 something not making contact, we replace -- these are pretty
9 high-maintenance items. We replace them, rather than try to clean
10 them or whatever. We just replace them.

11 Q Next one is June 4th, 2014. Again, no name on the
12 bottom. But does that look like Pat's handwriting to you, or is
13 that your handwriting?

14 A It's got a little of both. It looks like it's got
15 Tracy's handwriting, my handwriting and Pat's -- or, no, Tracy's
16 handwriting and Pat's handwriting -- and my handwriting, yes.

17 Q And the work order, it says by -- I think that says
18 Scott?

19 A Yes, by Scott, but Pat wrote "by Scott," meaning I'm the
20 one that brought it to his attention and told him, hey, we need to
21 fix this.

22 Q Describe to me what this work order entails.

23 A The trailer came in to the yard. Driver would have
24 noticed -- let us know by filling out a DVIR, which we may or may
25 not have at this particular time, that the ABS light was on,

Page 193

1 indicating a malfunction in the ABS system on the trailer.

2 Q And so what did you do to repair that?

3 A Pat would have hooked up our computer to it, figured out
4 what was wrong with it, diagnosed it, found that the YE-1 wire was
5 broken, which is one of the wires going from the modulator to one
6 of the four wheels, wheel ends.

7 And he temporarily repaired the broken wire, spliced it,
8 which you are really not supposed to do, but it does work. And
9 then he replaced it on -- two days later when the new one came in.

10 Q Next page is 6775 on 6/30, 2014, and I believe we
11 touched upon this one earlier in your testimony.

12 A Yes.

13 Q Since the last time -- I think you touched upon it
14 yesterday -- do you have any idea what this work order is about?

15 A No. In fact, this morning, I pulled this work order out
16 before coming here and went over it with Pat Bigby.

17 Q Okay. Tell me what you guys discussed.

18 A And he says the only thing he can think of is the bolts
19 were loose and he tightened up the bolts.

20 Q On the Versa valve?

21 A Yes. That's the only thing he could think of.

22 Q Did he have any personal recollection of it, or was he
23 just kind of speculating as to what it could possibly --

24 A I think he was speculating, yes.

25 Q What else did you chat with Pat about this morning

Page 194

1 before your deposition? Did you talk about anything else with
 2 respect to your testimony the day before?

3 A Oh, no. No.

4 Q Did you get any more clarification or talk through any
 5 other issues?

6 A Huh-uh.

7 MR. BROWN: Is that a "no"?

8 THE WITNESS: Huh?

9 MR. BROWN: Is that a "no"?

10 THE WITNESS: Oh, yeah, no, we did not. We had other --
 11 other projects we were trying to figure out before I had to take
 12 off to go to deposition. So, no.

13 BY MS. WOELFEL:

14 Q So the only item that you discussed with Pat related to
 15 your testimony or sought clarification from him this morning was
 16 on the document that's Bates-labeled MDB 256; is that correct?

17 A Yes, that's correct.

18 Q Did you talk to any person other than Pat this morning,
 19 you know, about seeking clarification or checking on the stuff
 20 that you had testified about?

21 A No, I did not talk to anybody.

22 Q All right. Next page, MDB 258, date on there is
 23 July 2nd, 2014. What's going on with this work order?

24 A Same trailer again, came in with ABS light on again. He
 25 would have done -- gone through his typical diagnostics test,

Page 195

1 hooking the computer to it, found both sensors wires to the front
 2 sensors damaged, replaced both wires.

3 Q And with respect to the wires that he removed, he would
 4 have thrown those away, correct?

5 A Yes.

6 Q Next page, MDB 262, that is the work order that was
 7 completed on July 8th, 2014. Can you tell me what's going on with
 8 this one.

9 A Okay. Apparently, six days later, came back with the
 10 ABS light on again, did the same troubleshooting and found BU-1
 11 circuit fault. Traced circuit to the extension cable, replaced
 12 cable and cleaned or cleared codes.

13 Q Okay.

14 A This time, he found the problem with the extension
 15 cable.

16 Q So the first fix on July 2nd didn't repair the problem.
 17 It looks like the repair that Pat did six days later found the
 18 source of that issue?

19 A I would say that he replaced the sensors, and the sensor
 20 wires go to an extension that goes the rest of the way. So
 21 apparently -- replacing both sensor wires didn't fix it or just a
 22 coincidence that the extension cable was also broken. But, yeah.

23 Q And with respect to the items he replaced, he would
 24 throw the ones he removed away; is that correct?

25 A Yeah. No, we do not have those.

Page 196

1 Q You don't keep those?

2 A No.

3 Q For any purpose.

4 Okay. And then the next page -- it's actually out of
 5 chron order here and we have discussed it. It's a repeat. Ignore
 6 that one.

7 A Okay.

8 MS. WOELFEL: It's 5 o'clock right now. Why don't we
 9 break and pick it up in the morning.

10 THE WITNESS: Okay.

11 MS. WOELFEL: And we'll shoot to have you done by
 12 noontime. We'll do our best to make it happen. Okay?

13 THE WITNESS: Okay.

14 MS. WOELFEL: Thank you very much.

15 THE WITNESS: Yes. Thank you.

16 MS. SHREVE: Bye, everyone on the phone.
 17 (The proceedings concluded at 4:59 p.m.)
 18 -c00-

Page 197

REPORTER'S CERTIFICATION

1

2

3 I, CONSTANCE S. EISENBERG, a Certified Court Reporter in
 4 and for the State of Nevada, do hereby certify;

5 That on Tuesday, March 7, 2017, at the hour of 9:45 a.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 197, 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

22

23

24

25

ERRATA SHEET

2
3
4
5 I declare under penalty of perjury that I have read the
6 foregoing _____ pages of my testimony, taken
7 on _____ (date) at
8 _____ (city), _____ (state),
9
10 and that the same is a true record of the testimony given
11 by me at the time and place herein
12 above set forth, with the following exceptions:
13

14	Page	Line	Should read:	Reason for Change:
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ERRATA SHEET

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17				

18 Date: _____

Signature of Witness

19
20 _____
21 Name Typed or Printed
22
23
24
25

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
Electronically Filed
Jan 18 2019 08:40 a.m.
Consolidated with Case No. 75321, 76395, 76396
Elizabeth A. Brown
Clerk of Supreme Court

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

JOINT APPENDIX VOLUME 2 OF 18

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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MDB Trucking, LLC

INDEX

Tab	Document	Date	Vol	Pages
1	MDB Trucking LLC's Cross-Claim against Versa Products Company Inc.	06/15/2016	1	AA000001-AA000008
2	MDB Trucking LLC's Third Party Complaint (Remmerde)	06/22/2016	1	AA000009-AA000017
3	Versa Products Company Inc.'s Motion to Dismiss MDB Trucking LLC's Third Cause of Action for Implied Indemnity Pursuant to NRCP 12(b)(5) (Fitzsimmons)	06/27/2016	1	AA000018-AA000064
4	Versa Products Company, Inc.'s Answer to Plaintiffs Ernest Bruce Fitzsimmons And Carol Fitzsimmons' First Amended Complaint and Cross-Claim against MDB Trucking, LLC; Daniel Anthony Koski	06/29/2016	1	AA000065-AA000076
5	MDB Trucking LLC's Joint Opposition to Versa Products Company Inc.'s Motions to Dismiss (Fitzsimmons)	07/14/2016	1	AA000077-AA000084
6	Versa Products Company Inc.'s Motion to Dismiss MDB's Trucking LLC's Third Cause of Action for Implied Indemnity Pursuant to NRCP 12(b)(5) (Remmerde)	07/19/2016	1	AA000085-AA000113
7	Versa Products Company Inc.'s Reply in Support of Motion to Dismiss MDB Trucking LLC's Third Cause of Action for Implied Indemnity Pursuant to NRCP 12(b)(5) (Fitzsimmons)	07/25/2016	1	AA000114-AA000123
8	MDB Trucking LLC's Opposition to Versa Products Company Inc.'s Motion to Dismiss MDB Trucking's LLC Third Cause of Action for Implied Indemnity Pursuant to NRCP 12(b)(5) (Remmerde)	07/29/2016	1	AA000124-AA000133
9	Versa Products Company Inc.'s Reply in Support of Motion to Dismiss MDB Trucking LLC's Third Cause of Action for Implied Indemnity Pursuant to 12 (b)(5) (Remmerde)	08/08/2016	1	AA000134-AA000144
10	MDB Trucking LLC's Cross-Claim Against RMC Lamar and Versa Products Company Inc. (Bible)	08/15/2016	1	AA000145-AA000151

11	Versa Products Company Inc.'s Motion to Dismiss MDB Trucking LLC's Third Cause of Action for Implied Indemnity Pursuant to 12(b)(5) (Bible)	09/08/2016	1	AA000152-AA000179
12	MDB Trucking LLC's Opposition to Versa Products Company Inc.'s Motion to Dismiss (Bible)	09/26/2016	1	AA000180-AA000188
13	Versa Products Company Inc.'s Reply In Support of Motion to Dismiss MDB Trucking LLC's Third Cause of Action for Implied Indemnity Pursuant to NRCP 12(b)(5) (Bible)	09/28/2016	1	AA000189-AA000199
14	Order on Versa Products Company Inc.'s Motion to Dismiss MDB Trucking LLC's Third Cause of Action for Implied Indemnity Pursuant to NRCP 12 (b)(5) (Fitzsimmons)	10/19/2016	1	AA000200-AA000208
15	Amended Order on Versa Products Company Inc.'s Motion to Dismiss MDB Trucking LLC's Third Cause of Action for Implied Indemnity Pursuant to NRCP 12 (b)(5) (Remmerde)	10/19/2016	1	AA000209-AA000218
16	Versa Products Company, Inc.'s Motion for Summary Judgment Against MDB Trucking LLC's Cross-Claims (Fitzsimmons)	05/01/2017	2	AA000219-AA000392
17	Versa Products Company, Inc.'s Motion to Strike MDB Trucking LLC's Cross-Claim pursuant to NRCP 35 or in the Alternative for an Adverse Jury Instruction (Fitzsimmons)	05/15/2017	3	AA000393-AA000516
17-1	Continued Versa Products Company, Inc.'s Motion to Strike MDB Trucking LLC's Cross-Claim pursuant to NRCP 35 or in the Alternative for an Adverse Jury Instruction (Fitzsimmons)	05/15/2017	4	AA000517-AA000640
18	Versa Products Company, Inc.'s Motion to Strike MDB Trucking LLC's Cross-Claim pursuant to NRCP 35 or in the Alternative for an Adverse Jury Instruction (Remmerde)	05/15/2017	5	AA000641-AA000873

19	Versa Products Company, Inc.'s Motion to Strike MDB Trucking LLC's Cross-Claim pursuant to NRCP 35 or in the Alternative for an Adverse Jury Instruction (Bible)	05/15/2017	6	AA000874-AA000983
19-1	Continued Versa Products Company, Inc.'s Motion to Strike MDB Trucking LLC's Cross-Claim pursuant to NRCP 35 or in the Alternative for an Adverse Jury Instruction (Bible)	05/15/2017	7	AA00984-AA001118
20	Errata to Versa Products Company, Inc.'s Motion to Strike MDB Trucking LLC's Cross-Claim Pursuant to NRCP 37	05/16/2017	8	AA001119-AA001121
21	MDB Trucking LLC's Opposition to Versa Products Company, Inc.'s Motion to Strike (Fitzsimmons)	06/02/2017	8	AA001122-AA001155
22	Declaration By David R. Bosch, Ph.D in Support of MDB Trucking LLC's Opposition to Versa Products Company, Inc.'s Motion to Strike (Fitzsimmons)	06/02/2017	8	AA001156-AA001161
23	Versa Products Company, Inc.'s Reply to MDB Trucking LLC's Opposition to Versa Products Company, Inc.'s Motion to Strike	06/12/2017	8	AA001162-AA001170
24	MDB Trucking LLC's Opposition to Versa Products Company, Inc.'s Motion for Summary Judgment Against MDB Trucking LLC's Cross-Claims (Fitzsimmons)	07/07/2017	8	AA001171-AA001343
25	Versa Products Company, Inc.'s Reply in Support of Motion for Summary Judgment Against MDB Trucking LLC's Cross-Claims	07/14/2017	9	AA001344-AA001438
26	Transcript of Motion Hearing	08/29/2017	9	AA001439-AA001557
27	Versa Products Company, Inc.'s Motion for Summary Judgment Against MDB Trucking LLC's Cross-Claim	09/01/2017	10	AA001558-AA001589
28	MDB Trucking LLC's Opposition to Versa Products Company, Inc.'s Motion for Summary Judgment re: Damages and Request for Judicial Notice	09/21/2017	10	AA001590-AA001660

29	Order re: Versa Products Company, Inc.'s Motion to Strike	09/22/2017	10	AA001661-AA001666
30	Versa Products Company, Inc.'s Reply in Support of Motion for Summary Judgment re: Damages and Request for Judicial Notice	09/28/2017	10	AA001667-AA001676
31	MDB Trucking LLC's Supplemental Brief in Opposition to Versa Products Company, Inc.'s Motion to Strike (Fitzsimmons)	10/12/2017	10	AA001677-AA001685
32	Transcript of Evidentiary Hearing	10/13/2017	11	AA001686-AA001934
32-1	Continued Transcript of Evidentiary Hearing	10/13/2013	12	
33	Exhibits to Transcript of Evidentiary Hearing	10/13/2017	12	AA001935-AA001969
34	Order Granting Versa Products Company, Inc.'s Motion to Strike MDB Trucking LLC's Cross-Claim (Fitzsimmons)	12/08/2017	12	AA001970-AA001983
35	Notice of Entry of Order Granting Versa Products Company Inc.'s Motion to Strike MDB Trucking LLC's Cross-Claim (Fitzsimmons)	12/28/2017	12	AA001984-AA002002
36	Versa Products Company, Inc.'s Motion for Attorneys' Fees and Costs Pursuant to NRCP 37 and 68 (Fitzsimmons)	01/05/2018	13	AA002003-AA002203
36-1	(Continued) Versa Products Company, Inc.'s Motion for Attorneys' Fees and Costs Pursuant to NRCP 37 and 68 (Fitzsimmons)	01/05/2018	14	AA002204-AA002319
37	Versa Products Company Inc.'s Verified Memorandum of Costs (Fitzsimmons)	01/05/2018	14	AA002320-AA002398
38	Errata to Versa Products Company, Inc.'s Motion for Attorneys' Fees and Costs Pursuant to NRCP 37 and 68	01/10/2018	14	AA002399-AA002406
39	MDB Trucking LLC's Motion to Retax and Settle Versa Products Company, Inc.'s Verified Memorandum of Costs (Fitzsimmons)	01/16/2018	14	AA002407-AA002425

40	Order Granting Versa Products Company Inc.'s Motion to Strike MDB Trucking LLC's Cross-Claim (Remmerde)	01/22/2018	14	AA002426-AA002444
41	Order Granting Versa Products Company Inc.'s Motion to Strike MDB Trucking LLC's Cross-Claim (Bible)	01/22/2018	15	AA002445-AA002463
42	MDB Trucking LLC's Opposition to Versa Products Company, Inc.'s Motion for Attorneys' Fees and Costs Pursuant to NRCP 37 and 68	01/25/2018	15	AA002464-AA002474
43	Notice of Appeal (Case No. CV15-02349)	01/29/2018	15	AA002475-AA002477
44	Versa Products Company, Inc.'s Opposition to MDB Trucking LLC's Motion to Retax and Settle Costs (Fitzsimmons)	02/02/2018	15	AA002478-AA002492
45	Versa Products Company, Inc.'s Reply in Support of Motion for Attorneys' Fees and Costs Pursuant to NRCP 37 and 68 (Fitzsimmons)	02/05/2018	15	AA002493-AA002499
46	Notice of Entry of Order Granting Versa Products Company Inc.'s Motion to Strike MDB Trucking LLC's Cross-Claim (Bible)	02/08/2018	15	AA002500-AA002625
47	Versa Products Company, Inc.'s Motion for Attorneys' Fees and Costs Pursuant to NRCP 37 and 68 (Bible)	02/09/2018	15	AA002524-AA002625
48	Versa Products Company, Inc.'s Motion for Attorney Fees and Costs Pursuant to NRCP 37 and 68 (Remmerde)	02/09/2018	16	AA002626-AA002709
49	Versa Products Company, Inc.'s Verified Memorandum of Costs (Remmerde)	02/09/2018	16	AA002710-AA002718
50	Versa Products Company, Inc.'s Verified Memorandum of Costs (Bible)	02/09/2018	16	AA002719-AA002744
51	MDB Trucking LLC's Reply in Support of Motion to Retax and Settle Versa Products Company Inc.'s Verified Memorandum of Costs (Fitzsimmons)	02/12/2018	16	AA002745-AA002753
52	MDB Trucking LLC's Motion to Retax and Settle Versa Products Company, Inc.'s Verified Memorandum of Costs (Bible)	02/20/2018	16	AA002754-AA002765

53	MDB Trucking LLC's Motion to Retax and Settle Versa Products Company, Inc.'s Verified Memorandum of Costs (Remmerde)	02/20/2018	16	AA002766-AA002770
54	MDB Trucking LLC's Opposition to Versa Products Company Inc.'s Motion for Attorney Fees and Costs Pursuant to NRCP 37 and 68 (Bible)	03/01/2018	16	AA002771-AA002789
55	MDB Trucking LLC's Opposition to Versa Products Company Inc.'s Motion for Attorney Fees and Costs Pursuant to NRCP 37 and 68 (Remmerde)	03/01/2018	16	AA002790-AA002808
56	Versa Products Company, Inc.'s Opposition to MDB Trucking LLC's Motion to Retax and Settle Costs (Remmerde)	03/08/2018	16	AA002809-AA002826
57	Versa Products Company, Inc.'s Opposition to MDB Trucking LLC's Motion to Retax and Settle Costs (Bible)	03/08/2018	17	AA002827-AA002885
58	Notice of Appeal (Case No. CV16-00976)	03/08/2018	17	AA002886-AA002888
59	Notice of Appeal (Case No. CV16-01914)	03/08/2018	17	AA002889-AA002891
60	Versa Products Company Inc.'s Reply to MDB Trucking LLC's Opposition to Its Motion for Attorney's Fees and Costs Pursuant to NRCP 37 and 68 (Bible)	03/12/2018	17	AA002892-AA002898
61	Versa Products Company Inc.'s Reply to MDB Trucking LLC's Opposition to Its Motion for Attorney's Fees and Costs Pursuant to NRCP 37 and 68 (Remmerde)	03/12/2018	17	AA002899-AA002905
62	MDB Trucking LLC's Reply to Opposition to Motion to Retax Costs (Remmerde)	03/19/2018	17	AA002906-AA002910
63	MDB Trucking LLC's Reply to Opposition to Motion to Retax Costs (Bible)	03/19/2018	17	AA002911-AA002917
64	Transcript of Motion Hearing	04/06/2018	17	AA002918-AA003000
65	Order on Motion for Attorneys' Fees and Costs and Motion to Retax and Settle Costs (Fitzsimons)	06/07/2018	18	AA003001-AA003012

66	Order on Motion for Attorneys' Fees and Costs and Motion to Retax and Settle Costs (Remmerde)	06/07/2018	18	AA003013-AA003022
67	Order on Motion for Attorneys' Fees and Costs and Motion to Retax and Settle Costs (Bible)	06/07/2018	18	AA003023-AA003033
68	Notice of Entry of Order on Motion for Attorneys' Fees and Costs and Motion to Retax and Settle Costs (Fitzsimmons)	06/13/2018	18	AA003034-AA003050
69	Notice of Entry of Order on Motion for Attorneys' Fees and Costs and Motion to Retax and Settle Costs (Remmerde)	06/13/2018	18	AA003051-AA003065
70	Notice of Entry of Order on Motion for Attorneys' Fees and Costs and Motion to Retax and Settle Costs (Bible)	06/13/2018	18	AA003066-AA003081
71	Notice of Appeal (Case No. CV-15-02349)	07/13/2018	18	AA003082-AA003084
72	Notice of Appeal (Case No. CV16-00976)	07/13/2018	18	AA003085-AA003087
73	Notice of Appeal (Case No. CV16-01914)	07/13/2018	18	AA003088-AA003090
74	Notice of Cross-Appeal (Fitzsimmons)	07/24/2018	18	AA003091-AA003093
75	Notice of Cross Appeal (Bible)	07/24/2018	18	AA003094-AA003096
76	Notice of Cross Appeal (Remmerde)	07/24/2018	18	AA003097-AA003099

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9 PRODUCTS COMPANY, INC.

10
11 DISTRICT COURT
12 WASHOE COUNTY, NEVADA

13 ERNEST BRUCE FITZIMMONS and
14 CAROL FITZSIMMONS, Husband and
Wife,

15 Plaintiffs,

16 vs.

17 MDB TRUCKING, LLC, et. al.

18 Defendants.

19 AND ALL RELATED CASES.

Case No. CV15-02349

Dept. 10

DEFENDANT/CROSS-
CLAIMANT/CROSS-DEFENDANT
VERSA PRODUCTS COMPANY, INC.'S
MOTION FOR SUMMARY JUDGMENT
AGAINST DEFENDANT/CROSS-
CLAIMANT/CROSS-DEFENDANT MDB
TRUCKING, LLC'S CROSS-CLAIMS

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22 COMES NOW Defendant/Cross-Claimant/Cross-Defendant VERSA PRODUCTS
23 COMPANY, INC., by and through its attorneys of record, Josh Cole Aicklen, Esq., David
24 B. Avakian, Esq. and Paige S. Shreve, Esq., of the law firm LEWIS BRISBOIS
25 BISGAARD & SMITH, LLP, and moves this Court for an Order granting Summary
26 Judgment in its favor as to MDB TRUCKING, LLC's Cross-Claims against it.
27
28

1 This Motion is based upon NRCP 56; the Memorandum of Points and Authorities;
2 the affidavit of David B. Avakian, Esq.; the exhibits attached hereto; and any other
3 evidence the Court may entertain at the Hearing on this Motion.

4 DATED this 1st day of May, 2017

5 Respectfully submitted,

6 LEWIS BRISBOIS BISGAARD & SMITH LLP

7
8
9 By /s/ David B. Avakian

10 JOSH COLE AICKLEN
11 Nevada Bar No. 007254
12 DAVID B. AVAKIAN
13 Nevada Bar No. 009502
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17 Las Vegas, Nevada 89118
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19 Claimant/Cross-Defendant VERSA
20 PRODUCTS COMPANY, INC.
21
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AFFIDAVIT OF DAVID B. AVAKIAN, ESQ. IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

DAVID B. AVAKIAN, ESQ., being first duly sworn, deposes and states as follows:

1. I am a Partner at LEWIS BRISBOIS BISGAARD & SMITH LLP, and am duly licensed to practice law in the State of Nevada.

2. I am competent to testify to the matters set forth in this Affidavit, and will do so if called upon.

3. I am an attorney of record representing Defendant/Cross-Claimant/Cross-Defendant VERSA PRODUCTS COMPANY, INC. in the subject lawsuit currently pending in Department 10 of the Second Judicial District Court for the State of Nevada, Case Number CV15-02349.

4. Attached hereto as Exhibit 1 is a true and correct copy of MDB's Cross-Claim.

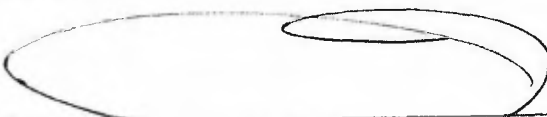
5. Attached hereto as Exhibit 2 is a true and correct copy of the Deposition Transcript of MDB's PMK, Scott Palmer, Volume III.

6. Attached hereto as Exhibit 3 is a true and correct copy of the Deposition Transcript of Tracy Shane.

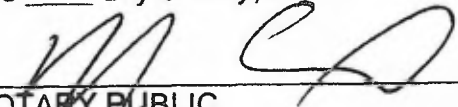
7. Attached hereto as Exhibit 4 is a true and correct copy of the Deposition Transcript of Patrick Bigby.

1 8. Attached hereto as Exhibit 5 is a true and correct copy of the Deposition
2 Transcript of MDB's PMK, Scott Palmer, Volume II.

3 FURTHER AFFIANT SAYETH NAUGHT.

4 
5 _____
6 DAVID B. AVAKIAN, ESQ.

7 SUBSCRIBED AND SWORN to before me
8 this 1st day of May, 2017.

9 
10 _____
11 NOTARY PUBLIC
12 In and for said County and State



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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 Defendant/Cross-Claimant, MDB TRUCKING, LLC ("hereinafter referred to as
4 "MDB"), has brought Cross-Claims¹ against VERSA PRODUCTS COMPANY, INC.
5 (hereinafter referred to as "VERSA"), in which it asserts a contribution claim against
6 VERSA for a personal injury claims brought by Plaintiffs, Ernest Fitzsimmons and Carol
7 Fitzsimmons ("Fitzsimmons"); Angela Wilt ("Wilt"); Rosa, Benjamin, Cassandra and
8 Natalie Robles ("Robles"); Sonya Corthell ("Corthell"); Beverly, Patrick and Ryan
9 Crossland ("Crossland"); Olivia and Naykyla John ("John"); Kandise Baird ("Kins"); James
10 Bible ("Bible"); and Geneva Remmerde ("Remmerde") (collectively referred to as
11 "Plaintiffs"). See, MDB's Cross-Claim against VERSA, a true and correct copy attached
12 hereto as Exhibit 1. Plaintiffs were driving westbound on IR80 when a semi-trailer driven
13 by Daniel Koski and owned by Cross-Claimant MDB spilled gravel on the freeway,
14 causing multiple automobile accidents and the injuries alleged by the Plaintiffs. MDB's
15 contribution claim is based on its allegation that the inadvertent gravel dump was due to
16 an alleged "defect" with the VERSA valve on the subject trailer.

17 In discovery, MDB admitted that the VERSA valve did not have any product defect
18 or design defect. MDB also admitted that it did not purchase the subject valve directly
19 from VERSA and it did not consult VERSA on which valve to purchase. Finally, MDB
20 admitted that it installed the VERSA valve without consulting VERSA.

21
22
23 ¹ There are a total of nine different lawsuits filed by the Plaintiffs. All except for two of the above mentioned
24 lawsuits have been consolidated for discovery and trial purposes. The remaining two cases, James Bible
25 (CV16-01914) and Geneva Remmerde (CV16-00976), have been consolidated for discovery purposes
only. VERSA is named as a direct defendant in all nine cases, except for Remmerde. VERSA is only a
Third-Party Plaintiff/Defendant in that case.

26 In all nine of the above mentioned lawsuits, MDB filed cross-claims/third-party action against VERSA
27 for Indemnity and Contribution. VERSA filed a Motion to Dismiss MDB's Indemnity claim against VERSA in
all nine cases. The Court granted VERSA's Motions leaving MDB with a cross-claim for contribution only
28 against VERSA.

1 the commencement of the action or after service of a motion
2 for summary judgment by the adverse party, move with or
3 without supporting affidavits for a summary judgment in the
4 party's favor upon all or any part thereof.

5 . . .

6 (c) Motion and proceedings thereon. . . The judgment sought
7 shall be rendered forthwith if the pleadings, depositions,
8 answers to interrogatories, and admissions on file, together
9 with the affidavits, if any, show that there is no genuine issue
10 as to any material fact and the moving party is entitled to
11 judgment as a matter of law...[.]

12 . . .

13 See, NRCP 56(a) and (c).

14 When a motion for summary judgment is made and supported by the facts
15 appearing in the record, a party "may not rest upon the mere allegations of his pleading,
16 but must, by affidavit or otherwise, set forth facts demonstrating the existence of a
17 genuine issue for trial." Garvey v. Clark County, 91 Nev. 127, 130, 532 P.2d 269, 271
18 (1975). The United States Supreme Court, through its interpretation of the identical
19 federal rule for summary judgment, has held that entry of summary judgment is required
20 when the opposing party fails to identify facts supporting the elements of his claim for
21 relief. See, Celotex Corp. v. Catrett, 477 U.S. 317, 322, 106 S.Ct. 2548 (1986).

22 The Nevada Supreme Court has made it clear that summary judgment cannot be
23 regarded as a disfavored procedural device, and must be granted when the
24 circumstances warrant. See, Wood v. Safeway, Inc., 121 Nev. Adv. Op. No. 73, 121 P.3d
25 1026, 1031 (2005). In Wood, the Nevada Supreme Court stated:

26 While the pleadings and other proof must be construed in a
27 light most favorable to the nonmoving party, that party bears
28 the burden to "do more than simply show that there is some
metaphysical doubt" as to the operative facts in order to avoid
summary judgment being entered in the moving party's favor.
The nonmoving party "must, by affidavit or otherwise, set forth
specific facts demonstrating the existence of a genuine issue
for trial or have summary judgment entered against him." The
nonmoving party "is not entitled to build a case on the
gossamer threads of whimsy, speculation and conjecture."

1 See, Wood v. Safeway, Inc., 121 Nev. Adv. Op. No. 73, 121 P.3d 1026, 1031 (2005)
2 (internal citations omitted).

3 The Nevada Supreme Court has eliminated the "slightest doubt" standard and held
4 that the party opposing a motion for summary judgment must show facts sufficient to
5 demonstrate that a reasonable jury could find that the party has sufficient evidence to
6 prove each element of his claim. Id. After adequate time for discovery, if the plaintiff fails
7 to make a showing sufficient to establish the existence of an element essential to their
8 case, then the court must summarily enter judgment against them. See, Celotex Corp. v.
9 Catrett, 477 U.S. 317, 322-23, 106 S.Ct. 2548 (1986); see also, NGA #2 Ltd. Liab. Co. v.
10 Rains, 113 Nev. 1151, 946 P.2d 163 (1997).

11 Lastly, it is well-established under Nevada law that a party cannot avoid summary
12 judgment by contradicting prior sworn testimony with a subsequent self-serving affidavit.
13 See, Aldabe v. Adams, 81 Nev. 280, 282, 402 P.2d 34 (1965) ("[A] genuine issue of
14 material fact may not be created by the conflicting sworn statements of the party against
15 whom summary judgment was entered.");² see also Bank of Las Vegas v. Hoopes, 84
16 Nev. 585, 586, 445 P.2d 937 (1968) (conflicting statements by plaintiff do not create
17 genuine issue of fact for purposes of NRCP 56); Nutton v. Sunset Station, 357 P.3d 966,
18 976, 131 Nev. Adv. Rep. 34 (Nev. App. 2015) ("The general rule is that a party cannot
19 defeat summary judgment by contradicting itself in response to an already-pending
20 NRCP 56 motion.").

21 In other words, a party's attempt to muddy the waters with an affidavit that
22 contradicts his prior sworn testimony does not present a "genuine" issue of fact.
23 Accordingly, MDB is bound by its PMK's deposition testimony, during which he conceded
24 candidly and truthfully that MDB investigated the inadvertent dumping and determined
25 there was no product defect or design defect with the VERSA valve. See, Deposition
26

27 ² Aldabe was overruled on other grounds by Siragusa v. Brown, 114 Nev. 1384, 1393, 971 P.2d 801
28 (1998).

1 Transcript of Scott Palmer Vol. III, a true and correct copy attached here to as Exhibit 2 at
2 P. 97:16-25;98:1-17.

3 As such, MDB cannot meet the burden of proof on its claim for contribution against
4 VERSA for injuries alleged by Plaintiffs, because MDB has no evidence to raise a
5 genuine issue of material fact that there was no defect with the VERSA valve. Since
6 MDB's own witnesses admit there was no defect with the VERSA valve, MDB cannot
7 meet its burden of proof that any damages Plaintiffs may recover at trial were caused by
8 VERSA. As a consequence, VERSA is entitled to summary judgment as a matter of law.

9 **B. VERSA CANNOT BE FOUND LIABLE ON MDB'S CONTRIBUTION CLAIMS**
10 **BECAUSE PLAINTIFFS WERE NOT INJURED BY A VERSA VALVE**

11 Where strict product liability is alleged, a plaintiff must still prove his or her case.
12 Shoshone Coca-Cola Bottling Co. v. Dolinski, 82 Nev. 439, 443 (1966). Strict liability does
13 not prove causation nor does it trace cause to a defendant. Ginnis v. Mapes Hotel Corp.,
14 86 Nev. 408, 413 (1970). The plaintiff must prove that his injury was caused by a defect
15 in a product and that such defect existed when the product left the hands of the
16 defendant. Shoshone Coca-Cola Bottling Co., at 444. In order to avoid summary
17 judgment, Plaintiff needs to submit evidence to establish a prima facie case using
18 depositions, interrogatories, admissions or affidavits. When a motion for summary
19 judgment is made and supported as provided in this rule, the adverse party may not rest
20 upon the mere allegations of his pleading, but he must, by affidavit or otherwise, set forth
21 facts demonstrating the existence of a genuine issue for trial. Garvey v. Clark County, 91
22 Nev. 127, 130 532 P.2d 269, 271 (1975); Bird v. Casa Royale W., 97 Nev. 67, 70, 624
23 P.2d 17, 19 (1981).
24
25

26 MDB has made a claim for contribution alleging that VERSA is partly or wholly
27 responsible for any damages incurred by Plaintiffs as a proximate result of defect in the
28 VERSA valve at the time of manufacturing or by negligent design. MDB bases this

1 allegation on its allegations that: 1) VERSA manufactured a product that would cause a
2 belly dump gate to inadvertently activate; 2) VERSA had a safer design available in the
3 stream of commerce in or before 2002; and 3) that VERSA model should have been
4 installed in 2013 on the subject trailer. See, MDB's Cross-Claim, P. 3:17-24 Exhibit 1.
5 However, MDB's own testimony proves that: 1) there was not a defect with the subject
6 VERSA valve; 2) MDB did not consult VERSA or the company from which it purchased
7 the subject valve from regarding other possible models; and 3) MDB installed the subject
8 valve without any training or knowledge regarding the installation of a VERSA valve.
9 Thus, MDB's own admissions prove there is no triable issue of genuine fact.

11 1. There Was No Defect in the Subject VERSA Valve

12 After the subject incident, MDB's manager Tracy Shane and MDB's mechanics,
13 Patrick Bigby and Scott Palmer, inspected the subject truck and trailer in an effort to
14 determine the cause of the inadvertent dumping. See, Tracy Shane Deposition
15 Transcript, a true and correct copy of which is attached hereto as Exhibit 3 at P. 83:24-25;
16 84:1-4. Scott Palmer, Tracy Shane and Patrick Bigby all testified there was not a defect
17 with the subject VERSA valve.

18 Specifically, Scott Palmer testified:

19
20 Q. I'm going to ask you the same question again for after the July
21 2014 incident on Trailer 6775. Did MDB in their investigation after
22 the dump-- again, this is right after, not since litigation-- did MDB
find any defect with that Versa valve?

23 MR. PALMER: No. That remained in service until such time litigation
24 started.

25 Q. And on that same trailer, the same Versa valve, did MDB in their
26 investigation right after the subject incident -- again, pre-litigation,
right after -- did MDB discover any design defect with the Versa
valve?

27 MR. PALMER: No. But, once again, we weren't looking for any sort of
design defects or functionality defects. It worked.

28 Q. Okay.

1 MR. PALMER: To the best of our knowledge it still worked.
2 Q. So it worked as you expected it to work, then?

3 MR. PALMER: Well, at that -- yeah. I would imagine. After that time
4 we had lockout devices in there so we wouldn't be able to tell if it
5 inadvertently opened after that incident, but as far as I know, we
6 could find nothing wrong with the valve.

7 See, Exhibit 2 at P. 97:16-25;98:1-17.

8 Mr. Bigby testified similarly:

9 Q. How about for your inspection during July 2014 after the subject
10 incident, did you find any defect with the Versa valve on trailer
11 6775?

12 MR. BIGBY: I did not.

13 Q. And then the same again for after the July 2014 incident on trailer
14 6775 did you discover any design defects with the Versa valve?

15 MR. BIGBY: To my knowledge, no.

16 See, Patrick Bigby's Deposition Transcript, a true and correct copy attached hereto as
17 Exhibit 4 at P.118:6-19.

18 Tracy Shane testified that the subject valve did not have a defect and confirmed
19 that Patrick Bigby and Scott Palmer did not find a defect, too:

20 Q. Did Pat or Scott -- Following July 2014 for trailer 6775 did Scott or
21 Pat inform you that they found any type of defect with the Versa
22 valve?

23 MR. SHANE: They could not find any defect as far as I recall.

24 Q. So following July 2014 on trailer 6775 did Scott or Pat inform you
25 that they found any type of design defect with the Versa valve?

26 MR. SHANE: No, we found no such flaw.

27 Q. Okay. Did you personally find any design defect with the Versa
28 valve following the July '14 incident on equipment number 6775?

MR. SHANE: No.

See, Exhibit 3 at P. 84:25;85:1-12.

1 Additionally, MDB kept the same Versa valve in use on the trailer until it was
2 removed in November 2016 in the subject litigation. See, Exhibit 3 at P. 84:19-24. MDB
3 would not have allowed a defective valve to remain in service, to potentially cause
4 another accident.

5 Accordingly, because MDB's PMK and the two MDB employees who investigated
6 the subject incident all testified under oath that there is no defect with the subject VERSA
7 valve, VERSA is entitled to summary judgment on MBD's claim for contribution.

8
9 2. MDB Did Not Seek VERSA's Advice When Purchasing the Subject Valve.

10 MDB's cross-claims allege that MDB purchased the subject valve from VERSA
11 and VERSA should have provided its customers a different valve. First, contrary to
12 MDB's allegations, VERSA did not directly sell MDB the subject valve. See, Deposition
13 Transcript of Scott Palmer Vol. II, a true and correct copy attached here to as Exhibit 5 at
14 P.54:23-24. MDB purchased the subject valve from ENGS Motor Truck Company. Id.
15 Secondly, when MDB purchased the subject valve, it never spoke to ENGS Motor Truck
16 Company regarding the purchase of any other valve or any other type of VERSA valve.
17 Id. at P. 56:3-18. Further, MDB's witnesses testified that they never contacted VERSA
18 directly to inquire about other valve options because the subject valve is the standard
19 valve used. Id. Therefore, VERSA could not have known that it "should have provided
20 MDB a different VERSA valve model."

21 MDB testified as follows:

22 Q. Did you or did MDB ask ENGS Motor Company about purchasing
23 another valve, other than the Versa valve?

24 MR. PALMER: No.

25 Q. Did MDB ask ENGS Motor Truck Company about purchasing a
26 different type of Versa valve?

27 MR. PALMER: A different model number of Versa valve?

28 Q. Yes, a different model.

 MR. PALMER: No, we did not.

1
2 Q. And why did you not ask ENGS Motor -- or, why did MDB not ask
3 ENGS Motor Truck Company about purchasing a different model
4 number of a Versa valve?

5 MR. PALMER: More than likely, because this has been the
6 standard valve I've seen used for all -- for 35 years I've been
7 around. And that's what everybody uses, and that's what people
8 stock and sell, and that more than likely, we would not have
9 thought about a different style of Versa valve.

10 Id. Likewise, MDB's mechanic, Patrick Bigby testified:

11 Q. Did you have any discussions with anybody else at MDB about
12 what type of Versa valve to purchase in order to replace the one
13 that you had removed?

14 MR. BIGBY: No.

15 Q. So if you placed the order then it would have been your decision
16 on which Versa valve to order?

17 MR. BIGBY: Yes.

18 Q. Did you look at any other types of Versa valve when you were
19 making a decision on what to purchase?

20 MR. BIGBY: No.

21 See, Exhibit 4 at P.96:9-18.

22 Therefore, VERSA is entitled to summary judgment against MDB's contribution
23 claim, because MDB admits that the subject valve was the only valve it decided to
24 purchase and MDB did not consult VERSA or anyone else regarding the purchase of the
25 subject valve.

26 3. MDB Installed the Subject Valve on the Subject Trailer

27 Lastly, VERSA did not install the subject valve on the trailer and was not consulted
28 on the installation of the valve. MDB had its mechanic Patrick Bigby install the subject
valve on the trailer. See, Exhibit 5 at P. 44:1-3. Patrick Bigby had never installed a
VERSA valve prior to the subject valve. Further, Patrick Bigby testified that he did not
have any training by MDB nor anyone else regarding the installation of the VERSA valve:

Q. Were you the person that installed the Versa valve once it - once
you received the new one?

1 MR. BIGBY: Yes.

2 Q. Had you ever installed a Versa valve before coming to work at
MDB?

3 MR. BIGBY: No.

4 Q. Did you receive any training with respect to the installation of the
Versa valve?

5 MR. BIGBY: No.
6

7 See, Exhibit 4 at P. 58:2-10.

8 No only did MDB's mechanic not have any prior experience or knowledge
9 regarding the installation of a VERSA valve, he did not read any manuals or instructions
10 prior to installing it on the subject trailer:

11 Q. So you did not read any manuals prior to installing it?

12 MR. BIGBY: I did not.

13 Id. at P. 58:14-16.

14 Q. Okay. And when you went and picked it up and then did you
15 notice when you opened the package for the Versa valve that
there was any written documentation include with it?

16 MR. BIGBY: . I would have to say that there probably was.

17 Q. Did you read it before you replaced the Versa valve?

18 MR. BIGBY: I did not.

19 Q. Did anyone assist you in installing the new Versa valve?

20 MR. BIGBY: I do not believe so.

21 Id. at P. 97:14-23.

22 By MDB's own admission, MDB installed the subject valve without reading the
23 directions on installation of the product and did not consult VERSA regarding the
24 installation of the same. Consequently, MBD's claims for contribution based on VERSA's
25 alleged "defective valve" cannot be proved based upon the undisputed evidence.

26 ///

27 ///

28 ///

1 IV. CONCLUSION

2 Based on the foregoing, VERSA respectfully requests that the Court grant
3 summary judgment in favor of VERSA and against MDB on all claims contained in MDB's
4 Cross-Claim against VERSA.

5 AFFIRMATION

6 Pursuant to NRS 239B.030, the undersigned hereby affirms that this document
7 filed in this court does not contain the social security number of any person

8 DATED this 1st day of May, 2017

9 Respectfully submitted,

10 LEWIS BRISBOIS BISGAARD & SMITH LLP

11
12
13 By /s/ David B. Avakian

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LIST OF EXHIBITS

- Exhibit 1 MDB's Cross-Claim
- Exhibit 2 Deposition Transcript of MDB's PMK, Scott Palmer, Volume III
- Exhibit 3 Deposition Transcript of Tracy Shane
- Exhibit 4 Deposition Transcript of Patrick Bigby
- Exhibit 5 Deposition Transcript of MDB's PMK, Scott Palmer, Volume II

1 CERTIFICATE OF SERVICE

2 I hereby certify that on this 1st day of May, 2017, a true and correct copy
3 of DEFENDANT/CROSS-CLAIMANT/CROSS-DEFENDANT VERSA PRODUCTS
4 COMPANY, INC.'S MOTION FOR SUMMARY JUDGMENT AGAINST
5 DEFENDANT/CROSS-CLAIMANT/CROSS-DEFENDANT MDB TRUCKING, LLC'S
6 CROSS-CLAIMS was served via U.S. Mail addressed as follows:

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19 ROSA ROBLES; BENJAMIN ROBLES;
20 NATALIE ROBLES; CASSANDRA
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Clerk of the Court
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EXHIBIT 1

4845-3057-6394.1

AA000236

1 3860
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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,

Case No. CV15-02349

Dept. No. 15

11 Plaintiffs,

12 vs.

13 MDB TRUCKING, LLC; RMC LAMAR
14 HOLDINGS, INC.; VERSA PRODUCTS
COMPANY, INC.; DANIEL ANTHONY
15 KOSKI; ABC Corporations I-X, Black and
White Companies, and DOES I-XX,
16 inclusive,

17 Defendants.

18 AND RELATED CROSS-CLAIM AND
19 THIRD PARTY COMPLAINT.

20
21 MDB TRUCKING, LLC'S CROSS-CLAIM AGAINST RMC
22 LAMAR HOLDINGS, INC. (fka RANCH MANUFACTURING COMPANY)
AND VERSA PRODUCTS COMPANY, INC.

23 Defendant and Cross-Claimant, MDB Trucking, LLC, by and through its counsel of
24 record Thorndal Armstrong Delk Balkenbush & Eisinger hereby brings its cross-claim against
25 Cross-Defendants RMC Lamar Holdings, Inc. (fka Ranch Manufacturing Company) and Versa
26 Products Company, Inc.

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DELA BALKENBUSH
& EISINGER
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1 FIRST CLAIM FOR RELIEF

2 (General Allegations)

3 1. That Defendant/Cross-Claimant MDB Trucking, LLC was at all relevant times a
4 Nevada limited liability company authorized to conduct business within the state of Nevada.

5 2. That Cross-Defendants DOES 1-10 and BLACK AND WHITE COMPANIES are
6 sued herein under fictitious names and capacities of said Defendants are not known by Cross-
7 Claimant, who ask leave of this court to amend this Cross-Claim to set forth same as they
8 become known or ascertained.

9 3. Cross-Defendant RMC Lamar Holdings, Inc. (fka Ranch Manufacturing
10 Company) was at all relevant times hereto a Colorado corporation engaged in the business of
11 designing and manufacturing trailers and semi-trailers and placed same into the stream of
12 commerce and was doing business in the State of Nevada.

13 4. Cross-Defendant Versa Products Company, Inc. was at all relevant times hereto a
14 New Jersey Corporation engaged in the business of designing and manufacturing pneumatic air
15 solenoid valves specifically for bottom dump trailers and gate activated controls and placed into
16 the stream of commerce and was doing business in the State of Nevada.

17 5. A First Amended Complaint was filed on May 19, 2016 in the Second Judicial
18 District Court, Case No. CV15-02349, Department 15 in which the Plaintiffs Ernest Bruce
19 Fitzsimmons and Carol Fitzsimmons prayed for damages against Defendant MDB Trucking,
20 LLC alleging negligence with regard to an accident which occurred on July 7, 2014 where a
21 Ranco trailer owned by MDB Trucking, LLC spilled a load of gravel causing an accident and
22 injury which are claims presented by Plaintiffs.

23 6. That upon information and belief, the Ranco trailer was activated inadvertently
24 causing the gates of the semi-trailer to release the subject load of gravel on the highway and was
25 defective in part or in whole as designed by Defendant RMC Lamar Holdings, Inc. (fka Ranch
26 Manufacturing Company) (also known by the trade name and trademark Ranco).

27
28
TIMOTHY A. ADAMS
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1 7. Cross-Defendant RMC Lamar Holdings, Inc. manufactured the subject Ranco
2 trailer in 2002 under the vehicle brand Ranco with vehicle identification number
3 1R9BP45082L008431 Idaho Plate #TE3528.

4 8. Cross-Claimant MDB Trucking, LLC was the last purchaser and end user of the
5 subject Ranco trailer.

6 9. On or about July 7, 2014, the Ranco trailer that left Cross-Defendant's control as
7 designed, assembled and manufactured by the Cross-Defendant was unreasonably dangerous and
8 defective in one or more of the following respects:

9 a. The semi-trailer was designed, assembled, and manufactured and/or
10 configured in such a manner that the Versa solenoid valve would activate inadvertently allowing
11 the gates to open and release the load carried by the trailer; and,

12 b. That the Ranco trailer was designed, assembled, manufactured, and/or
13 configured in such a manner that the Versa Valve was not equipped with a safety lock to prevent
14 inadvertent activation allowing the gates to open.

15 c. That Versa Valve manufactured an alternate safer design available in 2002
16 including a manual lock system.

17 10. On or about July 7, 2014, that Versa Valve solenoid control as a component to the
18 Ranco trailer was unreasonably dangerous and defective in one or more of the following respects:

19 a. The Versa Valve solenoid valve would activate inadvertently allowing the
20 gates to open and release the load carried by the trailer; and,

21 b. Versa Products Company, Inc. had a safer design available in the stream of
22 commerce on or before 2002 which employed a manual lock safety design that should have been
23 provided to its end use customers in lieu of the Versa Valve installed both at the time of the
24 manufacturer in 2002 and/or as a standard maintenance replacement in 2013.

25 ///

26 ///

27 ///

28 ///

1 11. That to the extent Plaintiffs were injured as a proximate result of the unreasonably
2 dangerous conditions and defects at the time of manufacturing or negligent design, such is a
3 direct and proximate result of the negligence of the Cross-Defendants; and, any negligence that
4 exists as alleged by Plaintiffs is expressly denied. Cross-Defendants were actively negligent and
5 Cross-Claimant was passively negligent.

6 12. That Cross-Defendants breached a duty of care owed to the Cross-Claimant and
7 Cross-Defendants are required to indemnify and hold Cross-Claimant harmless with respect to all
8 the allegations and liabilities set forth in the Complaint filed in this matter.

9 13. Cross-Claimant has placed Cross-Defendant RMC Lamar Holdings, Inc. on notice
10 of the claims pending in this matter prior to initiation of litigation.

11 14. That Cross-Claimant has been required to expend costs and attorneys' fees in
12 defending the negligence claims in the First Amended Complaint on file herein and for
13 prosecuting the instant Cross-Complaint.

14 FIRST CLAIM FOR RELIEF

15 (Implied Indemnification as to RMC LAMAR)

16 15. Cross-Claimant repeats and realleges each and every allegation contained in
17 paragraphs 1-14 above as if more fully set forth herein.

18 16. Cross-Claimant is therefore entitled to complete indemnity against RMC Lamar
19 Holdings, Inc. with respect to all allegations or liabilities set forth in the First Amended
20 Complaint on file in this matter.

21 17. That Cross-Claimant is therefore entitled to total costs and fees expended in the
22 defense of the claims of negligence in this matter as well as prosecution of this Cross-Complaint.

23 SECOND CLAIM FOR RELIEF

24 (Contribution as to RMC LAMAR)

25 18. Cross-Claimant repeats and realleges each and every allegation contained in
26 paragraphs 1-17 above as if more fully set forth herein.

27 THORNDAL ARMSTRONG
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27 ///

28 ///

1 19. Cross-Claimant is entitled to contribution from Cross-Defendant RMC Lamar
2 with respect to any settlement, judgment, awards, or any other type of resolution of the claims
3 brought forward by the Plaintiffs in their First Amended Complaint on file herein.

4 20. Cross-Claimant is therefore entitled to all costs and fees expended in the defense
5 of claims of negligence in this matter as well as prosecution of the Cross-Complaint.

6 THIRD CLAIM FOR RELIEF

7 (Implied Indemnification as to VERSA)

8 21. Cross-Claimant repeats and realleges each and every allegation contained in
9 paragraphs 1- 20 above as if more fully set forth herein.

10 22. Cross-Claimant is entitled to complete indemnity against Versa Products
11 Company, Inc. with respect to all allegations or liabilities set forth in the First Amended
12 Complaint.

13 23. That Cross-Claimant is therefore entitled to all costs and fees expended in the
14 defense of claims of negligence in this matter as well as prosecution of the Cross-Complaint.

15 FOURTH CLAIM FOR RELIEF

16 (Contribution as to VERSA)

17 24. Cross-Claimant repeats and realleges each and every allegation contained in
18 paragraphs 1-23 above as if more fully set forth herein.

19 25. Cross-Claimant is entitled to contribution from Cross-Defendant Versa Products,
20 Company, Inc. with respect to any settlement, judgment, awards, or any other type of resolution
21 of the claims brought forward by the Plaintiffs in their First Amended Complaint on file herein.

22 26. Cross-Claimant is entitled to all costs and fees expended in the defense of the
23 claims for negligence in this matter as well as prosecution of the Cross-Complaint.

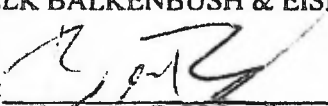
24 WHEREFORE, Cross-Claimant demands judgment against Cross-Defendants as follows:

- 25 1. For implied indemnification with respect to all negligence claims brought against
26 Cross-Claimant in this matter;
27 2. For contribution with respect to all negligence claims brought against Cross-
28 Claimant in this matter;

- 1 3. For attorneys' fees and costs expended in this matter; and
2 4. For such other and further relief as this Court deems just and proper in the
3 premises.

4 DATED this 15 day of June, 2016.

5 THORNDAL ARMSTRONG
6 DELK BALKENBUSH & EISINGER

7 By: 

8 Katherine F. Parks, Esq., State Bar No. 6227

9 Brian M. Brown, Esq., State Bar No. 5233

10 Thierry V. Barkley, Esq., State Bar No. 724

11 6590 S. McCarran Blvd., Suite B

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13 Attorneys for Defendant/Third-Party Plaintiff

14 MDB TRUCKING, LLC
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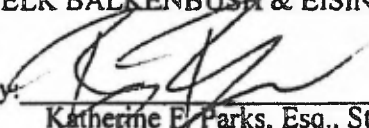
AFFIRMATION

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 15 day of June, 2016.

THORNDAL ARMSTRONG
DELK BALKENBUSH & EISINGER

By: 

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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 MDB TRUCKING, LLC'S
4 CROSS-CLAIM AGAINST RMC LAMAR HOLDINGS, INC. (fka RANCH
5 MANUFACTURING COMPANY) AND VERSA PRODUCTS COMPANY, INC. to be
6 served on all parties to this action by:

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

9 ☒ Second Judicial District Court Eflex ECF (Electronic Case Filing)

10 _____ hand delivery

11 _____ electronic means (fax, electronic mail, etc.)

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

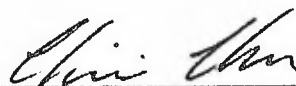
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18 Matthew C. Addison, Esq.
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21
22 Josh Cole Aicklen
23 David B. Avakian
24 Lewis Brisbois Bisgaard & Smith, LLP
6385 S. Rainbow Blvd., Suite 600
Las Vegas, NV 89118
Defendant Versa Products Co., Inc.

25 DATED this 15 day of June, 2016.

26
27 THORNDAL ARMSTRONG
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28 
An employee of Thorndal Armstrong
Delk Balkenbush & Eisinger

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2017-05-01 02:42:08 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6077749 : csulezic

EXHIBIT 2

4845-3057-6394.1

AA000245

1 IN THE SECOND JUDICIAL DISTRICT COURT
2 OF THE STATE OF NEVADA
3 IN AND FOR THE COUNTY OF WASHOE
4 - o 0 o -
5 ERNEST BRUCE FITZSIMMONS and
6 CAROL FITZSIMMONS, Husband
7 and Wife,
8 Plaintiff, Case No. CV15-02349
9 vs. Dept. No. 10
10 MDB TRUCKING, LLC; RMC LAMAR
11 HOLDINGS, INC.; VERSA PRODUCTS
12 COMPANY, INC.; DANIEL ANTHONY
13 KOSKI; ABC Corporations I-X,
14 Black and White Companies,
15 and DOES I-XX, inclusive,
16 Defendants.
17 _____/
18 AND RELATED THIRD-PARTY COMPLAINT,
19 RELATED CROSS-COMPLAINT AND
20 CONSOLIDATED CASE.
21 _____/
22 Pages 1 to 104, inclusive.
23
24 V O L U M E I I I
25 DEPOSITION OF SCOTT ALLEN PALMER
26
27 _____
28 Wednesday, March 8, 2017
29 Reno, Nevada
30
31 JOB NO.: 378334A
32
33 REPORTED BY: CHRISTINA AMUNDSON
34 CCR #641 (Nevada)
35 CSR #11883 (California)

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A P P E A R A N C E S

FOR PLAINTIFFS: (Via telephone)

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Las Vegas, NV 89169

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I N D E X

Volume III, Deposition of SCOT ALLEN PALMER

EXAMINATION BY

Ms. Woelfel

Mr. Bundick

Ms. Shreve

PAGE

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54,99

59

E X H I B I T S

EXH.

NO.

DESCRIPTION

PAGE

Exhibit 21

Work Orders, MDB 196

11

Exhibit 22

Work Order, MDB 356

20

Exhibit 23

Work Orders, MDB 161

23

Exhibit 24

Work Orders, MDB 031

28

Exhibit 25

ENGS Invoice

43

Exhibit 26

MDB Dropped Load of Sand

46

7/7/14

Exhibit 27

Record of Annual Inspection

48

Exhibit 28

Driver/Vehicle Examination

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Report

Exhibit 29

Driver/Vehicle Examination

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Report

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Page 3

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A P P E A R A N C E S (Continued)

FOR RMC LAMAR HOLDINGS, INC:

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ALSO PRESENT: Daniel Koski, Bill Carder

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BE IT REMEMBERED that on Wednesday, March 8,

2017, commencing at 9:30 a.m. of said day, at

McDonald Carano Wilson LLP, 100 West Liberty Street,

Tenth Floor, Reno, Nevada, before me, CHRISTINA M.

AMUNDSON, a Certified Shorthand Reporter, personally

appeared SCOT ALLEN PALMER.

SCOT ALLEN PALMER,

called as a witness in the matter herein,

who, having been previously duly sworn, was examined

and testified as follows:

E X A M I N A T I O N

BY MS. WOELFEL:

Q Good morning, Scott.

A Good morning.

Q All right. My name is Jessica Woelfel and

we'll continue on from yesterday.

A Okay.

Q And you understand that you are still under

oath?

A Yes.

Q And that the same admonitions apply that

have applied over the course of the last two days?

A Yes.

Q Okay. And if you need a break at any time,

Page 6 1 just let me know, okay? 2 A Okay. 3 Q Okay. After we finished yesterday, did you 4 go and search for any other documents at MDB? 5 A No, I did not. I didn't have a chance. By 6 the time I got my work done yesterday, it was pretty 7 late. 8 Q Okay. Did you have an opportunity to speak 9 with anybody other than your attorneys about the 10 deposition yesterday? 11 A No. 12 Q Or this morning? 13 A No. 14 Q Okay. So yesterday we were talking about 15 gate chains underneath bally dumpers. 16 Do you recall that conversation? 17 A Yes. 18 Q Okay. I want to ask you about a similar 19 device. Are you aware of a pinning system that can 20 be on bally dumpers or other types of dump trucks? 21 A Yes. 22 Q Do the lead trailers that MDB uses utilize 23 a pinning system? 24 A Yes, they do. 25 Q Okay. And so was Trailer No. 6773	Page 8 1 objection as to vague and foundation. 2 BY MS. WOELFEL: 3 Q Is the pinning device utilized in the same 4 manner as the gate chains where it can control the 5 size of the opening on a bally dumper? 6 A Yes. 7 Q I'm gonna go back to Exhibit 20. 8 Do you have the original exhibits in front 9 of you, by chance? So if you go to Exhibit 20 at 10 the second page, which is Bates-labeled MDB 240 -- 11 A Okay. 12 Q We talked about this document a little bit 13 yesterday. I just wanted to get a little more 14 detail from you. Under the "Work done" portion it 15 says -- just to lay foundation, this is dated 16 August 2nd, 2013, for Trailer No. 6775. 17 Is that correct? 18 A Yes. 19 Q Okay. And this was the investigation of 20 the unintentional gate opening that occurred in July 21 of 2013. Is that correct? 22 A Yes. 23 Q Okay. And the work that you did is listed 24 under -- or that someone at MDB did is listed under 25 the work done. And one of the items listed says
Page 7 1 utilizing a pinning system? 2 A Yes, it does. Yes. 3 Q Did it have one in July of 2013? 4 A Yes. 5 Q And did it have one in July of 2014? 6 A Yes. 7 Q And is it MDB's policy that the pinning 8 system is activated on the -- I guess the smallest 9 pin lock when MDB drivers are pulling that trailer? 10 A No. 11 Q When you drive a truck and pull a trailer 12 that has a pinning system, do you have the pinning 13 system locked in to prevent opening while you are 14 pulling a trailer? 15 A No. 16 Q Why not? 17 A I don't think that's what it was designed 18 for. 19 Q Would you agree that if you were to drive 20 with a pinning system that it would prevent an 21 inadvertent opening of a bally dumper? 22 A Am I aware of that -- 23 Q Would you agree that -- 24 A Oh, yes, I would. 25 MR. BROWN: I'm going to make a late	Page 9 1 "Isolating dump coil circuit, removed coil hose." 2 You know what, why don't you just read that for me 3 because I'm having trouble reading the second 4 sentence under "Work done." 5 A It appears that it reads as "Isolating dump 6 coil circuit, removed coil case ground from 7 circuit." 8 Q Can you tell me what that means? Can you 9 describe for me the work that was done to isolate 10 the dump coil circuit and then what specifically was 11 done to remove the coil case? 12 A Coil case ground. 13 Q Ground. Yes. Thank you. 14 A I cannot say for certain what he did. 15 Q Do you know why this particular work was 16 done? 17 A Well, it was done in conjunction with 18 preventing it from -- the gate from opening 19 unintentionally. 20 I believe Mr. Bigby removed the wire that 21 goes directly from the case ground to the trailer -- 22 or I think he isolated it from the trailer and wired 23 it directly to -- actually, I'm not sure what he 24 did. 25 Q Okay.

Page 10

1 A I can't really say for sure.
 2 Q You didn't participate in these repairs.
 3 A No. I wasn't -- I actually didn't start
 4 work for them until about a week later.
 5 Q Okay, fair enough. You can put that
 6 exhibit away. If you could grab Exhibit No. 5.
 7 A Okay.
 8 Q Exhibit 5 is a document -- I'm looking at
 9 the first page Bates-labeled MDS maintenance 000144
 10 and the equipment number listed is 6773 and the date
 11 completed is August 11th, 2013. Do you see that?
 12 A Yes.
 13 Q And this would be the lead trailer that Mr.
 14 Koski was pulling in July of 2013. Is that correct?
 15 A Yes.
 16 Q Okay. And this is work that was performed
 17 by you. Is that correct?
 18 A That is correct.
 19 Q Okay. Under the notes it says "Pulled out
 20 unused wire from" -- what's that word?
 21 A "Loom."
 22 Q -- "from loom and disconnected."
 23 Is that right?
 24 A Yes.
 25 Q So it says "Pulled out unused wire from

Page 11

1 loom and disconnected."
 2 Can you describe for me which wire you were
 3 pulling out that was unused and from where?
 4 A Oh, I can't explain where the wire went.
 5 All I know is when I pulled the 7-way receptacle out
 6 of the front of the trailer there was an unused wire
 7 in the loom that didn't go anywhere. It didn't go
 8 to the solenoid, it didn't go anywhere on the
 9 trailer, so I just pulled it out and got rid of it.
 10 Q Do you know what that unused wire was in
 11 there for?
 12 A No idea.
 13 Q Why did you pull it out?
 14 A Well, there's no reason to have it in there
 15 if it's not connected to anything.
 16 Q Was it causing any issue with the trailer?
 17 A No.
 18 Q I'm going to hand you a document I'll mark
 19 as Exhibit 21.
 20 (Deposition Exhibit 21 marked for
 21 identification.)
 22 BY MS. WOELFEL:
 23 Q These are work orders that are
 24 Bates-labeled MDS 196197, 204, 205, and 206, and
 25 they are each for Equipment No. 6774.

Page 12

1 Do you see that?
 2 A Yes.
 3 Q Okay. And 6774 is the second trailer in
 4 the series of three trailers that we've been
 5 discussing. Is that correct?
 6 A Yes, that's correct.
 7 Q So the first work order at the bottom says
 8 "Performed by Pat." And the date of this work order
 9 looks to be July 21st, 2013, with a date completed
 10 of August 2nd, 2013. Do you see that?
 11 A Yes.
 12 Q Do you know if this work order was put
 13 together after the July 2013 dump incident or
 14 before?
 15 A It would appear that it was done after.
 16 Q So would that suggest to you that the
 17 July 2013 inadvertent dump occurred before
 18 July 21st 2013?
 19 A No. I think it's July 31st.
 20 Q Oh, you think that says "July 31st"?
 21 A I would think so.
 22 Q That would make some sense.
 23 A Yes.
 24 Q Thank you for clarifying that. I'm having
 25 trouble reading some of this writing.

Page 13

1 A I am too but I don't think -- I think it
 2 happened July 31st is the date. Yeah.
 3 Q Okay. So your reading on this work order
 4 is the date of the work order which was prepared by
 5 Pat is July 31st, 2013.
 6 A Yes.
 7 Q Okay, thank you. Can you tell me what this
 8 work order is for?
 9 A Okay. He rewired the dump valve circuit
 10 and this sort of is similar to what he did on the
 11 prior work order for 6775, about removing the coil
 12 case ground, and this kind of jars my memory of what
 13 he did.
 14 What he did was removed the ground wire
 15 from the coil that grounds to the trailer, so that
 16 the wires going to the trailer from the truck go
 17 directly from the truck straight to the valve
 18 without having any connection to the trailer --
 19 Q Okay.
 20 A -- because --
 21 Q Go ahead. Why did he do that?
 22 A He did it to prevent back-feeding through
 23 the ground. And on a Ranco trailer -- these
 24 particular Ranco trailers, they are not grounded
 25 through the trailer. There is no ground.

Page 14 1 Q Okay. 2 A There is no ground from the truck directly 3 to the trailer. They're all grounded through the 4 wiring system. 5 Q Okay. So this indicates a complete -- or 6 this describes the complete rewiring job that was 7 done on 6774 after -- or is this a portion of that? 8 A Just a portion of that. Basically he just 9 made sure that the wires, the 4-way wire, which is 10 the wire that comes from the truck to the trailer, 11 went directly to the Versa valve and didn't travel 12 through the grounding, you know, the trailer body 13 itself. 14 Q Okay. Was there any indication that there 15 had been some error or defect with the wiring that 16 had occurred that suggested that Pat should remove 17 and replace this wiring? 18 A No. I think he did this at the same time 19 he did 6774 and 6775 as a result of the inadvertent 20 dumping to make sure that both trailers were wired 21 correctly -- 22 Q Okay. 23 A -- that -- 24 Q Go ahead. I apologize for interrupting 25 you.	Page 16 1 Q Okay. Next page, MDB 197, this is for 2 Equipment No. 6775, 6774 -- actually, why don't you 3 tell me what equipment numbers this is for. 4 A Okay. This is a work order completed on 5 September 15th, 2013, and it's for the set of 6 trailers, 6773, 6774, 6775. 7 Q Okay. Can you describe for me what this 8 work order is for? 9 A Yes. I dropped a set of trailers in and I 10 did a normal inspect and lube of all three trailers. 11 So I inspected the trailers, lubed it, and at the 12 same time I noticed that there were some lights that 13 were possibly unplugged or -- the plugs weren't 14 making good contact so I repaired those. 15 There was ABS brake wire that was -- looked 16 like the wire tie broke on it so I tied that up. 17 And then also I replaced some zerk fittings on the 18 back axle of 6775, three zerk fittings. 19 Q Okay. If we can go to the next page, MDB 20 204, can you tell me what dates this work was 21 performed and on what piece of equipment? 22 A This was performed February 13th, 2014, 23 on Trailer 6774 and Pat worked on it. It says, 24 "Troubleshoot in-op lights on trailer." So the 25 driver said there was lights that were -- one
Page 15 1 A There was no reason to have the coil ground 2 to the trailer considering that the trailer did not 3 get a ground from the truck so, therefore, it's sort 4 of not being used as a ground so he removed it, the 5 circuit. 6 Q Okay. Did MDB maintain any of the wires or 7 coil one grounds that they removed from this 8 trailer? 9 A No. 10 Q Did they throw them away? 11 A Yes. 12 Q Did you do any testing on them at all after 13 they were removed? 14 A No. Basically he didn't really remove -- 15 actually physically remove anything from the Versa 16 valve. He actually just took the wire that was 17 coming from the coil that went to the trailer and 18 disconnected -- there's two wires, one that goes 19 directly and he just wired them together into the 20 grounding system of the truck. 21 Q Okay. I understand. 22 A He didn't actually remove part of the 23 valve. 24 Q Just resired? 25 A Yes.	Page 17 1 particular light wasn't working so he found -- Pat 2 found the male plug at the hitch broken, replaced 3 the plug and tested. So on the rear of 6774 he put 4 in a 7-way plug. Actually, it's kinda hard -- I 5 think he actually did it on the front of 6774. 6 Q Okay. 7 A I'm sorry. The front, a 7-way plug on the 8 front. I think he's talking about the hitch on the 9 back of 6773. 10 Q Okay. Go to the next page. MDB 205, and 11 can you tell me the date of this work order, the 12 equipment number, and what was occurring. 13 A This is February 15th, 2014, Trailer 6774, 14 and he replaced the rear 4-way socket and plug. 15 Q Why? 16 A It probably wasn't making good contact so 17 there was not -- it wasn't -- we were not able to 18 dump 6775 with the switch from inside the cab, so he 19 replaced the 4-way socket and plug. 20 Q Okay. 21 A So its 4-way socket is on the rear of 6775, 22 I believe. He doesn't make a note of where the plug 23 is. 24 Q But you would need that in order to -- 25 A Yeah. The plug is probably on the front of

Page 18 1 6775, he doesn't designate which. 2 Q Okay. And there's no name on the bottom of 3 this sheet indicating who performed the work but 4 you're presuming that it was Pat? 5 A Oh, yeah, it was Pat. Yes. 6 Q Okay. Go to MDS 206, the next page. This 7 looks like it's a work order dated March 1, 2014. 8 Is that right? 9 A Yes. 10 Q For 6774. 11 A Yes. 12 Q And the work order is by you and it looks 13 like the work is performed by you. Is that correct? 14 A Yes. 15 Q And how can you tell me what is indicated 16 on this work order? 17 A The left rear subframe over the rear axle 18 on the left side was cracked from damage caused by a 19 broken spring. 20 Q Okay. So the frame of the trailer was 21 cracked? 22 A The subframe. 23 Q Okay. And it looks like you cut out the 24 damaged area of the frame. 25 A Yes. Had a new piece fabricated and welded	Page 20 1 the trailer. It's not in the subframe underneath 2 the trailer. So we would have -- I would have taken 3 precautions to pull all the hoses out for the brakes 4 and get them out of the way so that welding wouldn't 5 cause damage to those, but there's no actual trailer 6 wiring in that location. 7 Q How far away is the trailer wiring from the 8 location you were working on? 9 A Oh, probably a foot away, and it's enclosed 10 in the side frame rail of the trailer. 11 Q Okay. 12 A In fact, I think it actually is on the 13 opposite side of the trailer in that particular 14 instance. 15 Q All right. I'm going to mark this next. 16 (Deposition Exhibit 22 marked for 17 identification.) 18 BY MS. WOELFEL: 19 Q This is a document Bates-labeled MDS 356 20 and this is -- can you tell me the date of this? 21 A August 5th, 2014. 22 Q Can you tell me the piece of equipment that 23 was being worked on? 24 A It looks like truck 5693. 25 Q Is that the truck that you drove?
Page 19 1 it back into place. So the spring -- we had a 2 spring break, the trailer would now fall down on the 3 top of the spring, so the U-bolt caused a dent into 4 the bottom of the frame, which cracked it, so we cut 5 it out and replaced it. 6 Q How large of an area did you cut out? How 7 large of an area was damaged? 8 A The actual damage area was only a few 9 inches, a couple inches wide. But the piece I 10 fabricated and put in there was probably 6 or 11 8 inches wide by 6 or 8 inches high. 12 Q Okay. Did you pull the main wiring harness 13 on this trailer prior to repairing? 14 A No. There's no wires in that location. 15 Q Okay. Can you tell me exactly where the 16 location is? I'm not sure if I have a photo. I'm 17 trying to get a sense of where precisely the 18 location of this work was on this trailer of. 19 A Okay. It's on the rear of the trailer on 20 the left side about a foot in from the side, so it's 21 actually the subframe. It's not the actual frame of 22 the trailer. It's the subframe that the axle and 23 the springs bolt to. 24 Q Okay. 25 A So the wiring is actually in the frame of	Page 21 1 A Yes. 2 Q Okay. And this is a work order that you 3 filled out? 4 A No. This is a work order that Pat filled 5 out. It was just -- when it says "By Scott" at the 6 top, that means I am the one that brought it to his 7 attention about the repairs. 8 Q Okay. And why did the truck need to be 9 repaired here? 10 A He says that he troubleshooted intermittent 11 first trailer gate function. 12 Q What does that mean? Does that mean that 13 the gate is not opening or closing properly? 14 A I would -- before I read what he actually 15 did to fix it, I would assume that that means that 16 the driver's unable to operate the gate with the 17 switch from inside the truck intermittently, so 18 sometimes he could flip the switch and it would open 19 and sometimes it wouldn't open. 20 Q Do you have a recollection of the truck 21 that you were driving having a switch problem in or 22 around August of 2014? This is shortly after -- a 23 month after your inadvertent dump of the sand truck. 24 A I don't specifically remember this but it's 25 not -- it's not uncommon.

Page 22 1 Q How often did you activate the dumping 2 mechanism from inside the truck? 3 A How often did I? 4 Q Yes. Because my recollection of your 5 testimony is that you would typically operate the 6 Versa valve manually. 7 A Correct. 8 Q So were there some instances where you 9 would operate it from inside the truck? 10 A Yes, but not really in conjunction with 11 dumping it at the plant. 12 Q What would it be in conjunction with? 13 A Well, for instance, when we get back to the 14 yard sometimes you want to clean your trailers 15 out -- say you're gonna go haul gypsum or something 16 that you don't want any rock in and you're hauling 17 rock until you get back to the yard, you unpin your 18 gates, unpin all three gates and then you drive 19 through the yard. 20 And then you would activate the 21 electrically as you're driving through the yard to 22 get any excess rock that might have been left over 23 in there out. So it's not something I typically do 24 when I'm dumping at the plant, but I would do it. 25 And I also make sure my equipment's	Page 24 1 work order? 2 A Not necessarily. 3 Q Okay. 4 A Especially on a routine maintenance. He 5 might have filled it out in advance and handed it to 6 us and said, Go do this, and we just performed the 7 work. 8 Q So this work order is indicative of one of 9 your routine maintenance checks on the trailers? 10 A Yes, uh-huh. 11 Q And would you and Pat typically do those 12 routine maintenance checks together? 13 A Not always, not necessarily. Usually one 14 of us would be doing something else but sometimes we 15 would do it together. 16 Q Next page, 170, can you tell me the date on 17 this work order and what it is for. 18 A This is April 5th, 2014, on Equipment No. 19 6773, and this work was performed by Tracy and it's 20 a federal annual inspection. 21 Q Okay. What does a federal annual 22 inspection involve? Can you describe what Tracy did 23 on this date in detail for me? 24 A I actually believe that we do the -- well, 25 I don't believe it. We actually do do this as a
Page 23 1 working, so whether I do it or not, I would still 2 check to make sure it's working. So I probably just 3 told him, Yeah, it's not working, so he went out and 4 put in a 4-way plug on the back of 5693. 5 Q Okay. And this trailer had the manual 6 lockout that you had designed as of August 5th, 7 2014. 8 A Yeah. Yes, it did. 9 Q Okay. 10 (Deposition Exhibit 23 marked for 11 identification.) 12 BY MS. WOELFEL: 13 Q Okay. This is a series of work orders 14 Bates-labeled MDB 161, 170, 176, and 186 for 15 Equipment No. 6773, and that would be the lead 16 trailer that Mr. Koeki typically pulled. 17 Is that correct? 18 A That's correct. 19 Q Okay. Can you tell me the date of the 20 first work order, MDB 161, and what this work order 21 is for. 22 A August 24th, 2013, for Trailer No. 6773. 23 For some reason, this work order is made out by 24 Tracy and the work was performed by Pat and myself. 25 Q Is it unusual that Tracy would fill out a	Page 25 1 team, so we all go out and do it. But Tracy's 2 actually the lead guy on it so he's the one who 3 fills out the paperwork. 4 Q When you say "we all go out and do it as a 5 team," who is on the team? 6 A Myself and Pat. 7 Q So you, Pat, and Tracy? 8 A Sure, yeah. 9 Q Do you do the annual inspections -- the 10 federal annual inspections for all of the trailers 11 on the same day? 12 A No. 13 Q Okay. 14 A We do one -- annually whenever their 15 particular time comes up. 16 Q Okay. And when that trailer's particular 17 time comes up, the three of you conduct that 18 inspection together. 19 A Yes. 20 Q Okay. So describe for me what you do in a 21 federal annual inspection. 22 A Well, we actually have a federal annual 23 inspection report that we fill out that has all the 24 things you're required to check by law. So we do 25 all that, plus we check -- basically, it involves

Page 26

1 checking lights, brakes, cracks in the trailer,
 2 springs --
 3 Q Okay.
 4 A -- any safety issues that are related to
 5 the trailer.
 6 Q Okay. And I see that this work order has a
 7 total time on the bottom. It says a half.
 8 Does that indicate that the federal annual
 9 inspection took approximately half an hour?
 10 A I would say -- I would assume so for one
 11 trailer, yes.
 12 Q Do you check the wiring in your federal
 13 annual inspection?
 14 A We check the function of the wiring system.
 15 Q Do you open up the plugs and look, you
 16 know, for debris or corrosion to make sure the
 17 connections are good?
 18 A We do where they plug in but we don't
 19 actually physically remove the plugs from the
 20 trailer. But we would unplug where one trailer
 21 plugs to another trailer and check them, yes.
 22 Q Do you look at any of the hidden wiring?
 23 A No. The only time we would do that is if
 24 we found a malfunction in the lights. Then we would
 25 repair -- make the repairs.

Page 27

1 Q Okay. On to the next page, MDB 176, and
 2 can you tell me the date and what was going on with
 3 this work order.
 4 A Yes. This is August 5th, 2014, Trailer
 5 6773. The trailer was inspected and lubed and
 6 replaced the 4-way socket.
 7 Q Why did you need to replace the 4-way
 8 socket?
 9 A They probably found that it was -- the pins
 10 possibly were oxidized. I mean, I'm speculating.
 11 Q But that would be a typical reason why you
 12 would replace a 4-way socket?
 13 A Yeah, or it could be loose. The pins could
 14 be wore slightly.
 15 Q Okay. Next page, MDB 186. Same thing. If
 16 you could tell me the date and what was occurring
 17 here.
 18 A This is the date of December 18th, 2014,
 19 Trailer 6773. The work was performed by myself and
 20 I wrote down "Replace 4-way socket."
 21 Q And that would be probably the same reason
 22 as you explained --
 23 A Yes. And, unfortunately, between these two
 24 work orders it doesn't -- neither one of us
 25 designated whether we were talking about the front

Page 28

1 or rear 4-way socket. On a lead trailer or middle
 2 trailer there'd be a 4-way socket on the front and a
 3 4-way socket on the back, so it's possible one of
 4 these was for the front and one was for the rear.
 5 Q And each of those 4-way sockets that you
 6 replaced you would have thrown away the old ones.
 7 A Yes.
 8 Q I think I have my last set of work orders
 9 that we're going to go through, and I appreciate
 10 your patience in walking through these with me.
 11 Let's mark this as Exhibit 24.
 12 (Deposition Exhibit 24 marked for
 13 identification.)
 14 BY MS. WOELFEL:
 15 Q All right. This is a series of work orders
 16 Bates-labeled MDB 031, 073, 078, 081, 095, 101, 109,
 17 119 and 155 and they all relate to Equipment No.
 18 5694. Can you tell me what Equipment No. 5694
 19 indicates?
 20 A Truck No. 5694 is MDB's truck that is a
 21 2003 Peterbilt that was mainly operated by Daniel
 22 Koski and it was operated by Dan Koski on the two
 23 days that we had inadvertent dumps on the highway.
 24 Q Okay. And the first page, MDB 031, can you
 25 tell me the date of this work order and what was

Page 29

1 occurring here?
 2 A April 13th, 2013, is the date for 5694.
 3 And the work order indicates that Tracy Shane would
 4 have informed Pat that there was a repair issue on
 5 5694 and Pat wrote down that he troubleshooted, "No
 6 power at gate dump 4-way plug."
 7 Q What gate dump 4-way plug is this referring
 8 to?
 9 A Okay. We're still talking about the same
 10 4-way wire system that goes from the tractor all the
 11 way through the trailers so we're talking about the
 12 4-way plug, the 4-way sockets so it's all part of
 13 the same system.
 14 What he's talking about in this particular
 15 instance is the 4-way plug at the end of the 4-way
 16 wire on the tractor itself before it plugs into the
 17 first trailer 6773.
 18 Q Okay.
 19 A So he would have tested it with a test
 20 light and found that with the dump switches in the
 21 activated position would not be providing power to
 22 the 4-way. So, in other words, it wouldn't be
 23 providing power to the trailer when it was plugged
 24 in.
 25 Q Okay. So when he activated the switches

Page 30

1 from inside the cab, there was no power getting to
 2 that first trailer.
 3 A Exactly.
 4 Q Okay. And what was the cause of the lack
 5 of power?
 6 A Okay. He says he "found the switches wired
 7 to light circuit."
 8 Q What's that mean?
 9 A I'm not sure.
 10 Q Okay. What's the next line say?
 11 A "Rewired switches to accessory." I can't
 12 read that. "Wired ground to cab ground." Okay. I
 13 understand that.
 14 Q What's that mean?
 15 A One of the wires -- so there's four wires
 16 in the 4-way system. Three of the wires go to each
 17 of the subsequent bottom of the trailers in the set
 18 and one of the wires is a ground.
 19 So he took the wire that would come out of
 20 the 4-way wire and wired it directly to the ground
 21 inside the cab. I'm not sure why -- if it was not
 22 grounded before, I'm not sure. It doesn't really
 23 spell it out here. It says, "Also rewired 4-way
 24 plug to incorporate third wire for triples." Okay.
 25 Q What does that mean?

Page 31

1 A So, apparently, at the time -- this might
 2 have been prior to us operating that truck with the
 3 set of triples --
 4 Q Okay.
 5 A -- so it's possible that --
 6 Q He was modifying it to work with a set of
 7 triple trailers?
 8 A Instead of just a set of double trailers.
 9 Q So your reading of this is that MDB was
 10 rewiring Truck No. 5694 so that it could pull a set
 11 of triple belly dump trailers?
 12 A Right. That was after he repaired the wire
 13 -- repaired the power issue.
 14 Q Okay. Do you know who drove Truck No. 5694
 15 regularly before Mr. Koski was hired?
 16 A No.
 17 Q And the date of this work order is pretty
 18 shortly after Mr. Koski was hired. Is that correct?
 19 A Yeah. Within 6 months.
 20 Q Okay.
 21 A So, apparently, the way I read that is when
 22 we got the truck, whoever wired it initially or who
 23 we got the truck from, the source of the power for
 24 the switches was inadequate and he modified it so
 25 that the source of the power came from the truck in

Page 32

1 a different manner so it worked.
 2 Q All right. Next page, MDB 073, can you
 3 tell me the date of this work order and what work
 4 was performed.
 5 A The date of the work order is July 26th,
 6 2013, and it's for Equipment No. 5694.
 7 Q Okay.
 8 A And --
 9 Q What does that work order indicate was
 10 occurring?
 11 A "Rewired gate switches," meaning the
 12 switches that operate the bottom inside the cab of
 13 the truck.
 14 Q And that would be the same wires that are
 15 referenced on the April 13th work order?
 16 A Yes, uh-huh.
 17 Q That's a "yes"?
 18 A Yes.
 19 Q Thank you. Why did the gate switches need
 20 to be rewired on this date?
 21 A This was following the first inadvertent
 22 dumping of the material that Dan Koski had so,
 23 apparently, that was actually July 26th. I still
 24 don't -- are we still assuming we don't know the
 25 exact date of that?

Page 33

1 Q So when we were looking at some work orders
 2 earlier you had indicated that you thought --
 3 A Well, I indicated it said "July 31st" but
 4 that doesn't mean that was the date it happened.
 5 I'm just assuming that it was right around the end
 6 of the month.
 7 Q Okay. So as you look at this work order
 8 today, MDB 073, it's your belief that this work
 9 order occurred -- or this work order was for work
 10 that occurred after the inadvertent dump in July of
 11 2013?
 12 A Yes, might have been the same day.
 13 Q Are you certain that this rewiring work was
 14 performed after the dump or could it have been
 15 performed before?
 16 A I'm -- I'm certain that it happened
 17 afterwards and that was the reason that they did
 18 this.
 19 Q Were you working at MDB on July 26th, 2013?
 20 A No.
 21 Q Can you describe for me what work was
 22 performed here?
 23 A Pat installed a master switch in the cab of
 24 the truck and then ran the power and the ground to
 25 the batteries as the source for the switches for the

Page 34

1 bottom dump trailers.

2 A So, now, the source of the power, the

3 ground and the positive, have to go through the

4 master switch so the master switch has to be on in

5 order to provide power now to the three subsequent

6 dump switches.

7 Q Okay.

8 A And I believe -- and I do know for sure

9 that's why they did that, because that's one of the

10 first things they said that they did.

11 Q Was install a master switch?

12 A Yeah. I don't think -- yeah. Yes. That

13 is what they did, yes.

14 Q Okay. And there was also the red covers

15 over the toggle switches that were installed as

16 well. Is that correct?

17 A Yeah. Over the three dump switches that

18 originally had the covers, and then the master

19 switch also has a cover so now there's four switches

20 with covers.

21 Q Okay. So the covers were there in July of

22 2013.

23 A For the three switches.

24 Q Okay, thank you. Next page. This is MDB

25 078. Can you tell me the date of this work order

Page 35

1 and what this was for?

2 A This is on August 19th, 2013, for Truck No.

3 5694.

4 Q That's the date of completion of the work

5 order, correct?

6 A Yes.

7 Q And the work order is dated August 17th,

8 2013.

9 A I'm not sure. It could be August 19th.

10 Q It's hard to tell.

11 A I can't imagine that he would take two days

12 to get around to working on it.

13 Q Okay.

14 A Usually worked on it right away.

15 Q Okay. And go ahead and describe for me

16 what was going on here.

17 A Unfortunately, it doesn't tell me which

18 trailers he was pulling that day but I'm assuming

19 that we can make the assumption that he was pulling

20 the triples. It really doesn't matter which

21 trailers he was pulling.

22 A But he's troubleshooting the "trailer

23 lights flashing, poor ground," which means that if

24 you turn your clearance lights, taillights on and

25 then turn your 4-way flashers and you have a poor

Page 36

1 ground from the truck or through the trailers, it

2 makes the taillights and the marker lights flash

3 with the flashers. They sorta dim at the same time

4 that the turn signals flash and that indicates a

5 poor ground.

6 A So he found there was a poor ground at the

7 pogo stick at the 7-way plug and he replaced the

8 7-way socket and the plug.

9 Q Okay. Next page, MDB 081, can you tell me

10 the date this work was completed and what was going

11 on in this work order.

12 A Okay. This is September -- it looks like

13 September 15th, 2013, for Truck 5694, and this was

14 performed by myself. And at this time it looks like

15 the truck came in for normal inspection and during

16 that time I found a few things wrong with the truck.

17 A So this time we replaced the -- I replaced

18 the 7-way plug on the end of the cord going to the

19 trailer, so that's actually on the other end of the

20 cord that Pat Bigby would have just replaced a month

21 before. It's on the other end of the cord.

22 A So I put a new 7-way on, replaced the

23 pigtail on the left backup light on the back of the

24 trailer -- back of the truck/tractor. Sorry.

25 Adjusted the air suspension to proper height.

Page 37

1 Placed the pigtail on the right backup light and

2 both stop turn tail lamps. Replace the license

3 plate light.

4 A And then the air conditioning was not

5 blowing properly so I pulled out the H -- the heater

6 and air conditioning filter, blew it out, put it

7 back in and then made a note that we actually needed

8 to do a complete disassembly and clean -- and the

9 evaporator and the heater core needs to be cleaned.

10 Also removed the outside temperature gauge and took

11 that in for warranty.

12 Q Was this truck out of service for a while

13 after this particular work order or did it go right

14 back into service?

15 A It went back into work. Everything was

16 fixed properly.

17 Q It seems like there was a lot of work on

18 this truck on this day.

19 A Well, it seems like it's a lot of work but

20 it's only an hour or two worth of work. It's a

21 bunch of miscellaneous housekeeping-type work.

22 Q Okay. Next work order is MDB 095. Want to

23 tell me the date completed and describe what was

24 occurring here.

25 A This is on October 20th, 2013, Truck 5694.

Page 38 1 This work order -- this work was performed by 2 myself. And I replaced the engine brake switch, the 3 on/off switch and also installed a double-pull 4 single-throw switch to disconnect the ground and hot 5 from 4-way. 6 Q On the bottom notes it says "Replacing 7 master switch with DPST switch." What is that? 8 A Double-pull single-throw. 9 Q And "to isolate" -- what's that word? 10 A "Isolate ground from 4-way wire." 11 Q Why don't you read me the entire sentence 12 under "Notes." 13 A Okay. "Replace master switch with 14 double-pull single-throw switch to isolate ground 15 from 4-way when off. Does the same thing as 16 unplugging 4-way cord. Much easier." 17 Q Is that -- why would you do that? 18 A Why would I rewire it? 19 Q Yeah. 20 A Just another one of our continuing ideas of 21 trying to make sure that we don't have any kind of 22 electrical problem. 23 Q Okay. And was this an MOB standard? Did 24 you do this type of rewiring on all of the trucks? 25 A No. The only reason I did that is because	Page 40 1 were performed every 10,000 miles. 2 Q It's probably practically every other day 3 with the way you guys drive. 4 A Yeah, right. 5 Q And it looks like you also replaced a 4-way 6 socket. 7 A Yes. I think we -- I'm not sure if you can 8 see it. We replace a lot of 4-way sockets and 7-way 9 sockets because we don't mess -- you know, if 10 there's any issues whatsoever, we just replace them. 11 I know some companies that try to run them forever 12 but just -- we replace them. 13 Q All right. Tell me about MOB 109. 14 A I believe the date on this is 3/21/2014. 15 Q It looks like that could be a "3" to me as 16 well, so we'll go with it. 17 A Yeah, I think it is. By the mileage it 18 looks like it would be about right. And this is for 19 Truck 5694. Came in for repair. Apparently, I 20 informed Pat what the issue was and he did the work 21 and he replaced the center gate toggle switch cover. 22 Q That red part that covers the toggle 23 switch? 24 A Yes. 25 Q Okay.
Page 39 1 this truck had a master switch in it but the master 2 switch originally -- which I didn't really see a 3 need for the master switch. They did that prior to 4 me coming to work there. 5 But I started thinking as long as there's a 6 master switch that's interrupting the power going to 7 the 4-way, I might as well put a double-pull 8 single-throw switch in there and isolate the ground 9 circuit and the power, the positive and the negative 10 from the cord at the same time when it's off. Just, 11 you know, trying to be proactive and making sure 12 that we didn't have any problems. 13 Q Okay. Let's go to the next page. MOB 101, 14 could you give me the date of completion of this 15 work order and what this work order is for. 16 A November 12th, 2013, Truck 5694. Pat did 17 a PM 1. 18 Q What is that? 19 A Preventative maintenance 1, which would be 20 basically we come in and do an inspection, lube and 21 change the oil and filters, check the air filters, 22 versus a PM 2 where you would actually change the 23 fuel filters and coolant filter. 24 Q And how often are PM 1s performed? 25 A At that particular time we were -- they	Page 41 1 A And resecured deck plate. The deck plate 2 was loose on the tractor. 3 Q Go to the next page, 119. Describe this 4 work order for me. 5 A This is June 25th, 2014, Truck 5694, work 6 was performed by Pat and Dan, evidently, told him 7 there's something wrong. Pat says "Troubleshoot in 8 op turn signals and 4-way flashers." So I'm 9 assuming he means the truck and the trailers had no 10 turn signals for 4-way. 11 "Found low voltage at the switch. Traced 12 to fuse and fuse block. Replaced the fuse. Working 13 now. Unable to determine cause at this time." I 14 would assume that the cause was oxidation of the 15 fuse terminal -- in the fuse terminal and by pulling 16 the fuse out and putting it back in it made contact 17 and, therefore, it started to work. 18 Q All right. Next page, MOB 155, can you 19 tell me the date of this work order and what this 20 involves. 21 A The date is May 19th, 2013. This is for 22 Equipment No. 5694 and Trailer 6773, 6774, and 6775 23 as a unit. 24 This was done by at the time our mechanic's 25 helper, Brandon Jones, and he would have brought the

Page 42 1 trailers around to the shop and went and greased and 2 inspected them. 3 Q So Brandon Jones was the mechanic's helper 4 at this time? 5 A Yes. 6 Q Is he still the mechanic's helper? 7 A No. 8 Q Do you know when Brandon Jones left MDB? 9 A No. He wasn't there very long. He was 10 just basically helping out. 11 Q Okay. And what did Brandon's inspection 12 involve? 13 A Well, as you bring the truck in, you check 14 the belts, lights, you know, windshield wipers. You 15 get under the truck as you're greasing it and you 16 are -- as you're greasing it, you're checking for 17 any damage to any air hoses or anything under the 18 truck. 19 You're checking brake shoes to make sure 20 that they're the right thickness. You're checking 21 for wheel seal leaks and so you're basically doing 22 -- it's almost as involved as doing an annual 23 inspection. You're checking everything. 24 Q Okay. You're checking the wiring? 25 A No. I mean, you're checking the	Page 44 1 for repair work done on our Truck 5694. It looks 2 like the work was performed April 4th, 2013. 3 Q Okay. So you had sent the truck out to 4 ENGS to be worked on? 5 A Yes. 6 Q Okay. So this was not work that was 7 performed in-house? 8 A That's correct. 9 Q And can you tell me why this truck was sent 10 out for repair? 11 A Are you asking me what needed to be fixed 12 or why we would send it out rather than doing it 13 in-house? 14 Q Why would you send it out versus doing it 15 in-house. 16 A This was done prior to my coming to work 17 there. And prior to my coming to work there MDB 18 Trucking didn't have the electronic tools to hook up 19 to the ECM of the trucks to do diagnostics, so they 20 had to take it to either a dealer or somebody that 21 had those tools. 22 Q And when you came onboard, did you have 23 your own tools that you brought with you? 24 A Yes. I have a laptop that has software 25 that requires you hook up to Cummins or Caterpillar
Page 43 1 functionality of the lights. 2 Q Okay. 3 A You're not actually checking the wiring. 4 Q And are you checking the valves during an 5 inspection like this, Versa valves? 6 A You don't actually -- you inspect the Versa 7 valve to make sure it's attached, I mean, but that's 8 usually never an issue. 9 But at this time you would -- if there's 10 any water in the water separator going to the Versa 11 valve, you drain that and then you would fill up the 12 oilers to go into the Versa valves. 13 Q Okay. Go ahead and set this exhibit aside. 14 MS. WOELFEL: Why don't we take a 15 five-minute break. 16 (Recess taken.) 17 MS. WOELFEL: I'm going to mark this next 18 in order. 19 (Deposition Exhibit 25 marked for 20 identification.) 21 BY MS. WOELFEL: 22 Q Scott, I've handed you a document M03 27 23 and 28. Can you tell me what this document is? 24 A This is an invoice from ENGS Motor Truck 25 Company specifically for a repair order, and it's	Page 45 1 engines and do diagnostics. 2 Q Okay. So tell me what work this work order 3 reflects. 4 A It looks like it went in for 5 troubleshooting "Engine running rough." So they 6 hooked up -- it would have been a Caterpillar 7 electronic technician -- and checked for ECM -- 8 checked the ECM for any trouble codes. 9 "Found inactive codes for all six 10 injectors. Run truck" -- it says "Run truck, all 11 codes became active. Check wiring harness. Check 12 okay. Check injectors. All injectors were okay. 13 Check ECM. Found ECM bad" -- I can't really read 14 that. "ECM bad" -- I guess, because it says "Needs 15 new ECM." 16 Q What is "ECM"? 17 A Electronic control module. That would be 18 the computer that's attached to the truck -- to the 19 engine that controls the electronics of the engine. 20 Q Okay. And does it look like the ECM was 21 changed? 22 A No. Well, wait a minute. For some reason 23 it says, "Reinstall drive line with new strap kit. 24 I'm not sure what that's got to do with the engine 25 running rough. I have no idea. But they put one

Page 46 1 new strap kit on the yoke. Maybe they took the 2 drive line out to do this test. I have no idea. I 3 don't know why they would do that. Okay. No. 2, 4 "ECM. Removed wiring from ECM and removed ECM. 5 Installed isolater bushings on the new" -- okay. So 6 they did put a new ECM in. 7 "Installed isolater bushings on the new ECM 8 and installed the ECM. Reinstalled wiring, hooked 9 up to ECM program settings, see customer specs, run 10 truck, check for codes, no codes found. Customer 11 supplied the ECM." 12 Q So MDS supplied its own ECM to ENGS to 13 replace the old ECM with? 14 A That is correct. 15 Q Okay. 16 A That would be because ENGS is not an 17 authorized TEPS dealer for Caterpillar so that we 18 would have had to get the ECM directly from 19 Caterpillar. 20 Q I'll hand you another document. 21 (Deposition Exhibit 26 marked for 22 identification.) 23 BY MS. WOELFEL: 24 Q This is MD 335. It was part of MDS's 25 production. What is this document?	Page 48 1 (Deposition Exhibit 27 marked for 2 identification.) 3 BY MS. WOELFEL: 4 Q This is a document MDS 11 and MDS 12. 5 Can you tell me what page one of this 6 document is? 7 A This is a record of annual inspection form 8 and it's dated April 26th, 2013, and it's for 9 Trailer No. 6775. 10 Q Okay. Can you tell me who performed this 11 inspection -- actually, it says the inspector's name 12 was Tracy Shane. Do you see that? 13 A Yes, I do. 14 Q Okay. I was thrown off because the bottom 15 just says "Shane." 16 A Right. I knew it was Tracy Shane. I just 17 wanted to make sure I was reading in the right spot. 18 Q Okay. And is this the typical form that 19 MDS would fill out for each truck or trailer during 20 the annual inspections? 21 A Yes. 22 Q The second page of the document -- actually 23 not part of the same document. It's just -- I don't 24 know why I have them attached but we'll go with it. 25 It's a Driver/Vehicle Examination Report.
Page 47 1 A This is a portion of an equipment list that 2 only includes the truck that I was -- the truck and 3 trailers that I was driving the day that I had a 4 load inadvertently dump on the highway. So it lists 5 Unit 5693 as the power unit and then a set of 6 Trailer Nos. 6776, 6777, and 6778. 7 Q Do you know who prepared this particular 8 document? 9 A I would have. 10 Q Okay. Why did you prepare this document? 11 A I'm sure I was asked for it by our 12 attorneys. 13 MR. BARKLEY: You don't have to answer that 14 question. That's privileged communication. 15 BY MS. WOELFEL: 16 Q This is not a document that you just sort 17 of maintain in the course of business. 18 A No. I do retain this but not -- this is 19 just a selection of our equipment list. 20 Q Okay. 21 A So I do keep all this information. I just 22 printed out the portion that was related to the -- 23 Q To the July 7th, 2014, dump? 24 A Yeah. The truck that I was driving. 25 Q Okay.	Page 49 1 Have you seen this document before? 2 A I'm pretty sure I have. 3 Q Okay. Can you describe for me what this 4 document is? 5 A This is a Driver/Vehicle Examination Report 6 that is provided by the highway patrol any time your 7 equipment -- any time you're pulled over and your 8 equipment is inspected or the driver is inspected or 9 maybe there's an accident or an incident on the 10 roadway. 11 Q Okay. And is this the Driver/Vehicle 12 Examination Report for the July 2014 inadvertent 13 dump? 14 A Yes. This is for -- the inspection date is 15 July 7th, 2014. This would have been just after 16 the inadvertent dumping when the highway patrol 17 would have contacted -- got in contact with Dan 18 Koski on the side of the highway and then did their 19 inspection. 20 Q Did the highway patrol ever come onto the 21 MDS site to inspect the truck at any other time? 22 MR. BROWN: Objection, asked and answered 23 yesterday. 24 THE WITNESS: I think I testified that I 25 think that they did come to the yard and inspect but

Page 50

1 I can't say for sure. I know after the July 2013
 2 incident they for sure came to our yard. I do
 3 specifically remember seeing them there. But on
 4 this particular time I just have a vague memory of
 5 them coming to the yard and inspecting.
 6 MR. BROWN: It's your record, counsel.
 7 Since those are unrelated, do you want to make them
 8 separate exhibits?
 9 MS. WOELFEL: Yes. Let's make the second
 10 page Exhibit 28. That will be easier.
 11 (Deposition Exhibit 28 marked for
 12 identification.)
 13 MS. WOELFEL: This will be next in order.
 14 (Deposition Exhibit 29 marked for
 15 identification.)
 16 BY MS. WOELFEL:
 17 Q Go ahead and take a look at Exhibit 29.
 18 It's MDS 149. Have you seen this document before?
 19 A I don't believe I have but it's familiar as
 20 far as what it contains.
 21 Q Okay. And based on your review of it right
 22 now, can you tell me what this document is?
 23 A This is another Driver/Vehicle Examination
 24 Report provided to us by the Nevada Highway Patrol
 25 after a roadside inspection or vehicle stop. And I

Page 51

1 believe -- I'm not sure if the date is 08/25/2013.
 2 Is that what it looks like to you?
 3 Q It's difficult to tell. I do not know.
 4 A But either way, there's a check station
 5 that's out at Wadsworth going eastbound on 80. And
 6 every once in a while, say once a month they open it
 7 for a day or so and they pull trucks in there
 8 randomly and they inspect you.
 9 This happened to be a Level 2 walk-around
 10 inspection which means they just walk around the
 11 truck and do just a cursory inspection. They don't
 12 actually crawl under the truck and check brake
 13 measurements and all that kinda stuff. They
 14 basically make sure nothing's obviously wrong. And
 15 this is for Truck 5694 and Trailer 6773.
 16 Q So does that mean that 5694 was only
 17 pulling a single trailer at this time?
 18 A It would seem to indicate that but I don't
 19 think so. I seriously doubt he was just pulling one
 20 trailer out in that area.
 21 Q Would that be unusual, to only be pulling
 22 one trailer?
 23 A Yes, out in that area. I mean, it's
 24 possible. I can't say for sure. He could have
 25 been. I would assume that if the highway patrol

Page 52

1 just put the one trailer on there, that's all he
 2 had.
 3 Q Okay. Now, in your work on Trailer 6775 my
 4 understanding is that you worked on that trailer and
 5 you assisted in the rewiring process of that shortly
 6 after you started working for MDS Trucking.
 7 Is that correct?
 8 A Yes.
 9 Q Okay. And then you would perform some of
 10 the routine maintenance on this trailer over the
 11 course of the next year or so. Is that correct?
 12 A Yes.
 13 Q Okay. In your work on that Trailer 6775,
 14 have you been able to identify any problems with the
 15 way that that trailer was manufactured that you
 16 believe contributed to the unauthorized dump in July
 17 of 2013 or July of 2014?
 18 MR. BROWN: I'm going to object it's beyond
 19 the scope of the 30(b)6 notice and it's asking for
 20 opinion that I don't think is proper of a 30(b)6
 21 witness, to begin with, as opposed to an expert.
 22 MS. WOELFEL: Well, he's here in his
 23 personal capacity as well.
 24 MR. BROWN: So he's here in his personal
 25 capacity and you're asking him for opinion evidence.

Page 53

1 Answer if you have one in your personal capacity.
 2 BY MS. WOELFEL:
 3 Q Do you want the court reporter to read back
 4 the question?
 5 A No. I understood.
 6 Q Okay.
 7 A In my opinion, to be honest --
 8 Q Yes.
 9 A -- no.
 10 Q Okay. Have you been able to -- well, let
 11 me ask you this: If you had identified a problem
 12 with the trailer, would you have authorized it to be
 13 used?
 14 A No, not until it was repaired.
 15 Q In your work on Trailer 6775 have you been
 16 able to identify any problems with the design of the
 17 trailer that you believe contributed to the
 18 unauthorized dumps in either July 2013 or July 2014?
 19 A No.
 20 MR. BROWN: Objection, calls for expert
 21 opinion, calls for speculation, lack of foundation.
 22 BY MS. WOELFEL:
 23 Q Your answer was "no"?
 24 A That is correct. No.
 25 Q If you thought there was a problem with the

Page 54 1 design of the Trailer 6775, would you have allowed 2 it to be used by your drivers? 3 A No. We would have made the necessary 4 repairs. 5 MS. WOELFEL: I don't have any additional 6 questions at this time. I will pass the witness to 7 somebody on the phone, perhaps. 8 Thank you for your time. I appreciate it. 9 MS. QUIGLEY: I don't have any questions. 10 MR. BUNDICK: I do have a question. 11 EXAMINATION 12 BY MR. BUNDICK: 13 Q Mr. Palmer, are you aware that your client 14 has a contribution claim against both Modern and 15 Dragon in this litigation? 16 MS. WOELFEL: Jacob, you're going to have 17 to speak up a little bit and slow down, because some 18 folks are having some trouble hearing. 19 MR. BUNDICK: Can you hear me now? 20 MS. WOELFEL: Yes. 21 BY MR. BUNDICK: 22 Q I just have a few questions. 23 My name is Jacob Bundick and I represent 24 the third-party defendants Modern Group and Dragon 25 LTD. How are you today?	Page 56 1 BY MR. BUNDICK: 2 Q Sure. What facts does MGB have to support 3 the allegations in the third-party complaint that 4 Modern is responsible for contribution for MGB's 5 negligence and/or liability? 6 MR. BROWN: I'll lodge the same objections 7 to foundation and invasion of the attorney-client 8 privilege, and you cannot base your answer on 9 anything that your attorneys have told you. 10 THE WITNESS: I'm not sure I can answer the 11 question. I'm not sure I understand how to answer 12 the question. 13 BY MR. BUNDICK: 14 Q Mr. Palmer, I'm specifically asking, What 15 facts do you have to support MGB's allegations 16 against my client Modern that we are responsible for 17 contribution for MGB's own negligence and/or 18 liability? 19 MR. BROWN: I'm going to object as to -- 20 I'm going to object as to foundation, legal 21 conclusion. I'm also going to direct the witness to 22 continue not to answer based upon any information he 23 has been provided by his attorneys. 24 THE WITNESS: In that case I wouldn't be 25 able to answer the question.
Page 55 1 A Good. How are you? 2 Q Good. Are you aware that your client, MGB, 3 has asserted third-party claims against my client 4 for contribution? 5 MR. BROWN: Objection, foundation. 6 THE WITNESS: Am I aware of that? I think 7 I am, yes. 8 BY MR. BUNDICK: 9 Q Yes. 10 A Yes. 11 Q And what facts does MGB have to support the 12 allegations in the complaint that Modern is 13 responsible for contribution to MGB for its own 14 negligence or liability? 15 MR. BROWN: Objection, calls for 16 speculation, also potentially impacts the 17 attorney-client privilege. 18 BY MR. BUNDICK: 19 Q You can answer the question. 20 MR. BROWN: Hang on a second. You're not 21 to say anything that you know based upon what you've 22 been told by your attorneys. 23 THE WITNESS: Okay. Can you repeat the 24 question, please? 25	Page 57 1 BY MR. BUNDICK: 2 Q I'm going to ask you the same question. 3 What facts does MGB have to support the 4 allegations in the complaint that Dragon is 5 responsible for contribution for MGB's own 6 negligence and/or liability? 7 MR. BROWN: Okay. Objection, asked and 8 answered, same objection. He just said he couldn't 9 answer it. 10 THE WITNESS: I can't answer that question 11 yes or no. 12 BY MR. BUNDICK: 13 Q I'm asking related to my client Dragon. 14 MR. BROWN: Asked and answered now for the 15 third time. I'm directing him not to answer the 16 question at this point, if it's asked the same way 17 and we can move on. 18 BY MR. BUNDICK: 19 Q Mr. Palmer, I would ask that you answer the 20 question. 21 MR. BROWN: I'm directing him not to answer 22 based upon the attorney-client privilege that you've 23 asked the same question now the fourth time and he's 24 given you the answer. He does not know and he's not 25 going to base it on anything --

Page 58

1 MR. BUNDICK: Are you answering for Mr.
2 Palmer, then?
3 MR. BROWN: No. I'm directing my objection
4 to you who has asked the question four times that
5 seeks to invade the attorney-client privilege and
6 he's already answered your question.
7 MR. BUNDICK: I'm not asking him to divulge
8 attorney-client privilege information. I'm asking
9 him what facts outside of anything that he's
10 discussed with you supports the allegation in the
11 complaint that my client Dragon is responsible for
12 contribution to MDB.
13 MR. BROWN: And what's nonresponsive to his
14 answer to that question that he gave already that
15 says that he can't answer that?
16 MR. BUNDICK: He answered that related to
17 Modern, not Dragon, sir.
18 BY MR. BUNDICK:
19 Q Mr. Palmer, is your answer the same for
20 Dragon?
21 A Yes. I don't know the answer to that
22 question.
23 MR. BUNDICK: That's all the questions I
24 have.
25 MS. SHREVE: I do have some followup

Page 59

1 questions but could we break for a second before we
2 start?
3 (Recess taken.)
4 BY MS. SHREVE:
5 Q Mr. Palmer, you understand you're still
6 under oath, correct?
7 A Yes.
8 Q Mr. Palmer, in the July 2013 incident did
9 MDB inspect the electrical connection to the Versa
10 valve?
11 A Before --
12 Q After the July 2013 incident did MDB
13 inspect the electrical connection to the Versa
14 valve?
15 A It's my belief -- well, we changed the
16 Versa valve so we would have hooked up the
17 electrical connection to the new valve.
18 Are you talking about inspecting the
19 connection prior to removing the old valve?
20 Q Yes. Prior to removing the old valve, did
21 MDB inspect the electrical connection to the Versa
22 valve?
23 A I believe they did. I believe it was
24 connected. We didn't find anything wrong but we put
25 a new Versa valve on.

Page 60

1 Q You didn't find anything wrong before you
2 put the new Versa valve on?
3 A Didn't find anything wrong with the
4 electrical connection, no.
5 Q How about in regards to after the July 2014
6 incident on the subject trailer? Did MDB inspect
7 the electrical connection to the Versa valve?
8 A We did a cursory check that we put the
9 lockout devices on there so at that point it became
10 not an issue.
11 Q You said a "cursory check"?
12 A Yes, a visual check. Just, basically, we
13 didn't do a complete investigation into it but we
14 did look to see if the wires were hooked up and
15 nothing looked out of place.
16 Q Can you open the belly dump without a Versa
17 valve?
18 A Are you meaning like a different type of
19 valve or without the valve?
20 Q Without the valve.
21 A If you remove the valve from the trailer,
22 could you open it?
23 Q Yes.
24 A You could manually supply air to it or open
25 the gates manually by pulling them on, I suppose.

Page 61

1 Q Okay. Would pulling on them manually be
2 the only way you could open them without having a
3 Versa valve or a valve on it?
4 A I'm not sure I -- it's a little broad as
5 far as -- the question's a little broad as far as
6 I'm not sure what you're getting at.
7 Q Okay. I'll try to ask it differently for
8 you.
9 If the belly dump does not have a Versa
10 valve on it, can the belly dump open?
11 A So what you're asking is if it had a
12 different manufacturer valve on there or the valve
13 just wasn't in place?
14 Q If it doesn't have a valve on it.
15 A If you took the valve off, you would have
16 no air pressure. Therefore, the gates would
17 probably -- wouldn't stay closed. There'd be no air
18 to keep the gates closed so the gates would be,
19 basically, in neutral.
20 Q Okay. And what happens when the gates are
21 in neutral?
22 A They just kinda hang down, depending on the
23 trailer. Depending on which particular trailer
24 you're talking about, the gates could stay closed.
25 If you pull them open, you could pull them open

Page 62 1 fairly easily. 2 Q So specifically Trailer No. 6775, if it 3 does not -- if I recall what you said, if it doesn't 4 have the air pressure, then it can go to neutral. 5 Is that correct? 6 MR. BROWN: Objection, foundation. 7 THE WITNESS: Well, it takes air pressure 8 to close the gates and to open the gates. So if you 9 took the Versa valve out of the system, there would 10 be no air pressure any longer so the gates would be 11 basically -- there would be no pressure holding it 12 closed or open. It would basically stay where it 13 was. 14 BY MS. SHREVE: 15 Q So if the Versa valve lost pressure then, 16 would the belly gates go to neutral? 17 MR. BROWN: I'll object, lack of 18 foundation, incomplete hypothetical. Probably 19 beyond the scope of the notice. Answer if you can. 20 THE WITNESS: That was probably a poor 21 choice of words as far as "neutral." When I say 22 "neutral," I don't mean the position of the actual 23 gates themselves. I'm saying neutral as far as 24 there's no pressure holding it one way or the other. 25 There's nothing pushing the gates open or closed, so	Page 64 1 Q So how many hoses are attached to the Versa 2 valve -- or in Trailer 6775 when it's installed how 3 many hoses are connected to the Versa valve? 4 A I believe there's five hoses. 5 Q Other than the five hoses, when installing 6 the Versa valve on Trailer 6775 in 2013 did anything 7 else have to be connected to the Versa valve? 8 A Yes. The solenoid that activates the Versa 9 valve to the open position via electricity has to be 10 wired into the 4-way system of the -- the 4-way 11 wiring system of the trailer. 12 Q And is the solenoid that you just spoke 13 about, is that a Versa product? 14 A Yes. 15 Q Okay. Does that solenoid come with the 16 valve that was purchased August 1st, 2013? 17 A Yes. 18 Q All right. So you can correct me if I'm 19 wrong. If I understand it correctly, you connect 20 the 4-way plug to the solenoid -- is that 21 correct? -- when you installed it in July 2013? 22 A No. The 4-way wire comes from the tractor 23 and it goes through all the trailers. And so by the 24 time it gets to the last trailer, you still have the 25 4-way wire running through the system, but there's
Page 63 1 generally the gates would stay in a position they 2 were. 3 BY MS. SHREVE: 4 Q Okay. 5 A More likely if it's loaded than empty. 6 Q Does MDB have to connect the Versa valve -- 7 so we'll talk specifically the 6775 trailer -- did 8 MDB have to connect the Versa valve to anything in 9 order for it to be used on the trailer? 10 MR. BROWN: Object, foundation, vague as to 11 time. 12 BY MS. SHREVE: 13 Q After the July 2013 incident when MDB 14 installed the new Versa valve onto the Trailer 6775, 15 did MDB have to connect the Versa valve to anything 16 in order for it to be used in the trailer? 17 A Yes. The Versa valve would have to be 18 attached to the trailer, bolted to the trailer. And 19 then the air supply line that comes out of the tank 20 and goes to the filter and the oiler then goes to 21 the input of the Versa valve. 22 Then the hoses going to the open and closed 23 positions on each cylinder come out of the Versa 24 solve, so the hoses would have to be attached to the 25 Versa valve in order for it to work.	Page 65 1 only one wire hot in the ground wire in that 2 particular 4-way in the back trailer. So there's 3 two wires that could connect to the solenoid -- 4 Q Okay. 5 A -- the hot wire and the ground wire. 6 Q So when installing the Versa valve on 7 Trailer 6775 in 2013, in order to install it to the 8 trailer, it was bolted down and then five hoses and 9 two wires were connected to the Versa product. 10 A That's correct. 11 Q Okay. Now, you said that there's two wires 12 connected to the last trailer. And it made it seem 13 like -- are there more wires that are connected to 14 the first two trailers, the solenoid in the first 15 two trailers? 16 A No. To clarify that, the 4-way wire has 17 three hot wires -- or hot wires when activated by 18 the dump switches in the tractor and one ground 19 wire. 20 So one of those three hot wires goes to 21 each trailer, so as it goes down the trailer -- and 22 the front trailer would be, say, the green wire and 23 the 4-way system would go to that solenoid. The 24 next one would be the yellow wire and the next one 25 would be the red wire, whatever wiring color

Page 66

1 designation that we use.

2 Q Okay. So I'm just trying to make sure I

3 understand this correctly from how you're explaining

4 it. So there's a 4-way wire that comes from the

5 truck. Is that correct?

6 A Correct.

7 Q And it has three hot, one for each, and one

8 of them is for each trailer, correct?

9 A Correct.

10 Q Do all of those wires travel through each

11 trailer?

12 A Yes. They would have to to get from --

13 yes. Yes.

14 Q Okay. So when you detach a trailer, what

15 happens to that wire if you -- let me rephrase that.

16 When you detach Trailer 6775 from 6774,

17 what happens with the wire that is going to the

18 Versa valve on 6775?

19 A It stays with 6775. It's hardwired from

20 the trailer. The 4-way wire in that trailer into

21 the solenoid where it goes out through the front of

22 the trailer, down the draw bar, there's a plug on

23 the end of that that gets unplugged from the back of

24 6774 and that stays with the trailer. That all

25 stays with 6775.

Page 67

1 Q Okay. Are the five hoses that are

2 connected to the Versa valve, are they Versa valve's

3 products?

4 A I highly doubt it.

5 Q Did those five hoses come with the purchase

6 of the Versa valve on August 1st, 2013?

7 A No.

8 Q The two wires that are attached to the

9 Versa valve, are those Versa product? Are they

10 owned by -- do you know if they manufactured those

11 wires?

12 A I don't know if they manufacture them but

13 they came with the valve, yes.

14 Q Okay. So the two wires that connect --

15 that go through the truck --

16 A Oh, no. I'm sorry.

17 Q Okay.

18 A There's two -- there's a pigtail of two

19 wires coming off the solenoid when you buy it.

20 Q Okay.

21 A And when you splice that into our wiring,

22 that's where it becomes our wiring at that point.

23 Q Okay. So there's two wires on the Versa

24 valve that are attached to the wires that are on the

25 truck or in the truck.

Page 68

1 A Correct.

2 Q Okay. And those wires that are in the -- I

3 don't know if it's in or on, which one it should be

4 -- but in or on the truck, are those Versa Valves'

5 products?

6 A No.

7 Q Earlier you testified that there was a

8 rewiring of Truck 5694 after the July 2013 incident.

9 Before MDB rewires the truck and trailers,

10 is that wiring what is on truck and Trailer 5693 in

11 July 2014? Do you need me to re-word it? That was

12 terrible.

13 A I think I know what you're saying. Are you

14 saying is the wiring configuration of 5693 the same

15 or similar to 5694's wiring prior to the 2013

16 incident?

17 Q Yes. How the wiring was before MDB rewired

18 it in 2013 --

19 A Yes.

20 Q -- is that wiring the wiring that is

21 consistent with Truck 5693 or is it the post-wiring

22 -- the rewiring MDB did that's on Truck 5693?

23 MR. BROWN: I'm going to object. Vague.

24 It may only be vague to me, but I'm lost.

25 THE WITNESS: I think I know what you're

Page 69

1 getting at. Truck 5694, I don't believe, was ever

2 -- I mean, sorry. Truck 5693, I don't believe, was

3 ever rewired. So the wiring on Truck 5694 prior to

4 the rewiring after the first incident in July of

5 2013 would have been similar to the current wiring

6 on Truck 5693.

7 But, you know, no truck is gonna be

8 identical the way they're wired but there is no

9 master switch in 5693 so it would be similar to

10 that, yes.

11 BY MS. SHREVE:

12 Q You said no wiring would be identical.

13 Why is that?

14 A Well, you used to be able to order trucks

15 from the factory with dump switches, and I don't

16 know that you can anymore -- no, I think you can.

17 You can still get them from the factory with dump

18 switches.

19 So some trucks come from the factory with

20 dump switches already installed as an option and

21 some trucks -- well, other trucks that weren't

22 necessarily intended to haul bottom dumps and

23 somebody would retrofit them with switches for

24 bottom dumps. And so depending on where you

25 acquired the truck from and if you got it new or

Page 70 1 used and who originally did the wiring, it could be 2 slightly different. 3 But all of the trucks that I know of all 4 have a similar installation process. All the 5 switches are guarded somehow to keep it from 6 inadvertently activating the switch while you're 7 driving down the road and pretty sure all of them 8 get their power now from un-switch power. 9 BY MS. SHREVE: 10 Q Okay. So if you do not activate the Versa 11 valve on Trailer 6775 manually, am I correct that 12 the only other way to activate it is electrically? 13 Is that correct? 14 A Yes, that is correct. 15 Q Okay. And where does that electricity come 16 from in activating it if you are activating it 17 electrically? 18 MR. BROWN: I'll object, foundation. 19 THE WITNESS: We're still talking about it 20 comes from the -- the power unit, the tractor? Is 21 that what you're -- it comes from whatever truck 22 just happens to be pulling that trailer. That's 23 where the power comes from, via the switches, yes. 24 BY MS. SHREVE: 25 Q So for Trailer 6775 the only way for	Page 72 1 BY MS. SHREVE: 2 Q Okay. So when installing the Versa valve 3 in 6775, if the two wires from the trailer were not 4 attached to the Versa valve, could the Versa valve 5 be activated electrically with the switch? 6 MR. BROWN: I'm going to -- go ahead. 7 THE WITNESS: Can you please clarify when 8 you say "attached to the trailer"? You're talking 9 attached to the trailer wiring? 10 BY MR. SHREVE: 11 Q The trailer wiring, yes. 12 A That would be correct, yes. It could not, 13 not from the tractor, no. 14 Q You said "not from the tractor." 15 Yesterday you testified that MDB shares a 16 shop with Western Nevada Transport since July 2014. 17 Is that correct? 18 A I believe I said -- 19 Q I'm sorry. January 2014. 20 A Yes, that is correct. 21 Q Okay. Could MDB have placed a Versa valve 22 owned by Western Nevada Transport on the trailer 23 inadvertently instead of the one that was purchased 24 on August 1st, 2013? 25 A That would have been prior to this.
Page 71 1 electricity to get to the Versa valve is from 2 activating the switch? 3 MR. BROWN: I'm gonna object, lack of 4 foundation, beyond the scope. You're asking for an 5 expert opinion. 6 THE WITNESS: I can actually answer that 7 question. 8 BY MS. SHREVE: 9 Q I'm going to reask it. When MDB was 10 installing -- strike that. I'll let you answer my 11 previous question. 12 A The answer to that question is no, not 13 necessarily. That's the \$64,000 question. 14 Q Okay. How else can electricity activate 15 the Versa valve that you're aware of? 16 MR. BROWN: Objection, foundation, calls 17 for expert opinion. 18 THE WITNESS: Well, I'm not -- I'm not an 19 expert on electrical fields, but there is a theory 20 that possibly it could be contributed to electricity 21 from static electricity possibly in the trailers, 22 possibly from surrounding areas, electrical storms. 23 We're not sure. But in my opinion that is what 24 could have caused these trailers to open. 25	Page 73 1 Q So no? 2 A Pardon? 3 Q So is that a "no"? 4 A We didn't share the shop with them at that 5 particular time, so no. 6 Q Okay. I'm going to go to Exhibit 17 -- 7 actually, before I reference Exhibit 17, I just 8 wanted to get one more question. 9 When installing the Versa valve in 10 July 2013 on Trailer 6775, if the two wires from the 11 Versa valve were not connected to the wires in the 12 truck, could the Versa valve be activated manually? 13 A Yes. 14 Q Is there any other way that the Versa valve 15 could have been activated if the two wires were not 16 connected to the wires in the truck? 17 MR. BROWN: Calls for speculation, 18 foundation. 19 BY MS. SHREVE: 20 Q That you're aware of, that you have 21 knowledge of. 22 A So the question is, Can it be activated 23 electrically if they're not hooked to the trailer? 24 Q No. The question is if the two wires on 25 the MDB valve are not connected to the two wires in

Page 74

1 the truck, what are the ways the valve can be
2 activated?

3 MR. BROWN: Object, asked and answered.

4 THE WITNESS: If the wires are not
5 connected from the solenoid from the Versa valve to
6 the wiring system of the trailer's tractor, the only
7 other way for us to activate it purposefully is
8 manually.

9 BY MS. SHREVE:

10 Q Okay. Now I'm going to Exhibit 17. This
11 is the Driver/Vehicle Inspection Report.

12 Based on this inspection report, would
13 there be a work order for this?

14 A Are you talking about any --

15 Q Sorry. The first page in the Exhibit 17
16 dated 8/19/2015. This is for Tractor 5694 and
17 Trailer 6775.

18 A There should be one, and I'm assuming there
19 is one, but sometimes it's not always. Certainly
20 there would be a work order. For instance, if --
21 sorry.

22 Q No. Go ahead.

23 A For instance, if somebody writes up that
24 the driver's side load light not working and the guy
25 walks out to the truck and sees the wire unplugged

Page 75

1 and plugs it in, he may not fill out a work order.
2 Just basically you sign it off saying it was fixed.
3 So it is possible that a work order isn't produced
4 on some sort of minor instance like that.

5 Q But this specific one, is this a minor
6 instance that a work order would not be done on?

7 A It could be. I mean, you could go out and
8 the plug might not have been plugged in on one of
9 the trailers so the mechanic plugged it in all the
10 way and then it worked and he may not have filled
11 out a work order. I can't say for sure one way or
12 the other if he did.

13 Q Okay. When you say "plugged in" are you
14 talking about for the cab switch not opening gate?
15 You're saying that if he just went and plugged it
16 in, then that would be the issue and it would be
17 solved and he wouldn't do a work order.

18 Is that correct?

19 A It's possible, yeah.

20 Q Does MDB keep any records for when drivers
21 fill out vehicle inspection reports and they don't
22 actually have to do any, I guess, maintenance to
23 where they would have to fill out a work order?

24 A No.

25 Q The reason I ask that is what has been

Page 76

1 produced there was not a work order for this event
2 or this day --

3 A Okay.

4 Q -- so I'm just trying to make sure that we
5 have all the work orders --

6 A Correct.

7 Q -- since it's my understanding you don't
8 keep all of these Driver/Vehicle Inspection Reports.

9 A Not past a certain time.

10 Q Right, okay. Earlier you testified that
11 you believed the highway patrol did an inspection at
12 the yard following the 2013 incident.

13 Did I understand that correctly?

14 A Yes, I believe so. I might not have been
15 there that day and ...

16 Q And what makes you believe that you think
17 this occurred?

18 A Well, I know that when Mr. Koski lost the
19 first load in 2013 they did come to the yard and do
20 an inspection. I saw them there. So I'm only
21 assuming that that's what happened.

22 I've worked at other companies when there's
23 an accident that somebody was injured in and the
24 highway patrol usually comes by the next day and
25 does a complete inspection of the vehicle. So I'm

Page 77

1 only assuming that that's what happened. That's
2 what I think I heard. But I may not have been there
3 that day and actually witnessed it.

4 Q So you could you see highway patrol come and
5 do an investigation in the yard following the 2013
6 incident.

7 A That is correct.

8 Q Did this occur on the day of the 2013
9 incident?

10 A I believe it was the next day.

11 Q Okay. So were you employed with MDB at
12 that time?

13 A No. But I was around.

14 Q Okay. And why were you around?

15 A Because I was trying to go to work there.
16 I know everybody that works there. So I was in and
17 out of the yard a lot and I remember them -- I
18 wasn't actually employed with them then but I was
19 talking to them about what was going on with these
20 trailers.

21 And I was getting ready to cut -- I had
22 actually given, I think, 2 weeks' notice at my prior
23 job so I was getting ready to come to work there and
24 so I was starting to get involved in the company at
25 that time, yes.

Page 78 1 Q Okay. And do you know if the highway 2 patrol following their investigation provided MDB 3 with any paperwork? 4 A I would imagine they would have. 5 Q Okay. And what would MDB have done with 6 that paperwork? 7 A It would be somewhere in a file, I would 8 imagine. But that would have been Tracy Shane. I 9 could go back and see if I could find it. 10 Q Okay, thank you. Yesterday you testified 11 that you keep handwritten notes -- correct? -- 12 maintenance notes. Sorry. 13 A I wouldn't really say they're notes. It's 14 when you work on a truck and you got oily hands you 15 write everything on a piece of scratch paper and 16 then transfer it to -- when you get done and wash 17 your hands, then you take that information and you 18 transfer it to the work order. 19 Q And does Pat do the same thing as you? 20 A Oh, yeah. 21 Q Do you know if Pat keeps his handwritten, I 22 guess -- 23 A I know that he does not. 24 Q Okay. Are the work orders filled out after 25 the work is complete?	Page 80 1 have just tightened the bolts up. He doesn't 2 remember. He didn't really remember what exactly he 3 did. He was guessing. 4 Q If you were -- if you were just tightening 5 the bolts on something, does MDB indicate they 6 reattached an item versus tightening screws? 7 A No -- oh, yes, yes, I would. I would make 8 that distinction. But it's possible that the bolts 9 were loose and corroded so he removed the bolts and 10 put new bolts in. But it doesn't -- I don't know. 11 I'm speculating. It doesn't show any new bolts 12 installed so I really can't say. 13 Q Okay. Can we go to Exhibit 21, please. 14 A Okay. 15 Q Earlier I believe you indicated that you'd 16 be rewiring the dump circuit because the Trailer 17 6774 did not activate with the switch. 18 A Are we talking about Exhibit MDB 196? 19 Q Oh, strike that. Go to MDB 205. I believe 20 that's where it was spoken about. Sorry about that. 21 If I recall correctly, I believe you 22 testified that you likely would have replaced the 23 4-way socket and plug because Trailer 6774 would not 24 have been activated by the switch would be a reason. 25 Is that correct?
Page 79 1 A Yes. 2 Q Okay. 3 A Well, I take that back. Sometimes 4 depending on what you're doing, sometimes you start 5 your work order. When you start, like, a PM, you'll 6 start your work order and have it on the back of 7 your truck, back of the vehicle, or on a table and 8 you kinda fill it out as you go -- 9 Q Okay. 10 A -- but most of the time it's filled out 11 after the fact. 12 Q I'm going to go to another exhibit. I 13 believe it's -- so Exhibit 7, if you want to open 14 it. Yesterday you indicated that you had a 15 conversation with Pat Bigby in regards to this work 16 order. Is that correct? 17 A Which one? 18 Q Oh, I'm sorry. MDB 000240. Sorry. 19 A Yes, I did. 20 Q And if I recall correctly, yesterday you 21 testified that Pat Bigby indicated that he believes 22 it was just tightening the bolts of the Versa 23 valves. Is that correct? 24 A I think what he told me was that it must 25 have been something to that effect, that he must	Page 81 1 A I would imagine that's the original 2 symptom, yes. 3 Q Okay. And if that was the symptom, can 4 Trailer 6775 still be activated by -- 5 A Yeah. 6 Q -- its own switch? 7 A Yes, it could be. Not necessarily but it 8 could be, yes. 9 Q So it's possible, then, that if the switch 10 isn't working for one trailer, it can still work for 11 a trailer behind it. 12 A Absolutely, yes. 13 Q Is the wiring different for a truck that 14 pulls two trailers versus a truck that pulls three 15 trailers? 16 A I'm not sure. No. I mean, it would -- not 17 really. The truck that normally pulls three 18 trailers would just have two switches instead of 19 three switches and one of the wires in the 4-way 20 just wouldn't be hot for the third trailer. 21 Q So Exhibit 24, MDB 073 -- and this work 22 order is where you referenced that you installed -- 23 that you were assuming it went from a two-trailer to 24 a three-trailer. Is that correct? 25 A No. No. This is the work order that there

Page 82 1 were already three switches in it and they put a 2 fourth switch in it as the master switch. 3 Q So I'm sorry. MCB 31, the page before 4 that, is that where the truck went from wiring for a 5 two-trailer to a three-trailer? 6 A Yes. 7 Q Okay. Does that require more power that 8 needs to be supplied to the 4-way plug if there are 9 three hot wires versus two hot wires? 10 MR. BROWN: Objection, foundation. 11 THE WITNESS: When you say "more power," 12 are you talking about a higher gauge wire that can 13 provide higher amperage to the circuit? Is that 14 what you're referring to? 15 BY MS. SHREVE: 16 Q Earlier you had testified, if I recall 17 correctly, it appeared to me that you were saying it 18 needed -- the truck needed to have more -- there was 19 rewiring because there needed to be more power for 20 three trailers versus two trailers. 21 Did I understand that correctly? 22 A I don't think so. 23 Q Okay. 24 A But to answer your question, you know, it 25 wouldn't require more power or amperage in the	Page 84 1 from the Versa valve through the trailers to the 2 Switch No. 3? 3 A It's not the same wire, no. 4 Q It's a different wire. 5 A Yes. There's two terminals on the switch. 6 One terminal goes all the way to the back trailer to 7 the solenoid and the other terminal goes to one of 8 the terminals on the master switch. 9 And when you put the switch in the on 10 position, that closes the circuit and completes the 11 circuit between those two wires and that's what 12 supplies the actual power to the trailer. 13 Q So from the master switch where does that 14 wire go to? 15 A The wire goes from the other terminal of 16 the master switch -- I would say to call that the 17 input terminal -- and that would go directly to the 18 positive terminal on the battery with an inline 19 fuse. 20 Q Are there any other wirings that go to the 21 battery? Any other wires that go to the battery? 22 MR. BROWN: Objection, vague, foundation. 23 THE WITNESS: Yes. 24 BY MS. SHREVE: 25 Q How many other wires go to the battery?
Page 83 1 circuit. There's already adequate amperage in the 2 circuit to activate all three solenoids. They don't 3 really take a lot of amperage. And you usually 4 would never have all three on at the same time, 5 anyway. 6 Q When MCB did their rewiring of Truck 5694 7 and the reinstallation -- or, sorry, not 8 reinstallation but the installation of the Versa 9 valve in Trailer 6775, where does the wire that goes 10 to the Versa valve go in the actual truck? What 11 connects it from the switch to the Versa valve with 12 the new wiring that was put in place? 13 A Okay. The positive side of the wire that 14 goes to the solenoid that travels down the 4-way 15 through all the subsequent trailers into the 16 tractor, that would go to Switch No. 3, the third 17 one to the right, and that switch would get its 18 power from the master switch. 19 Q Okay. Stop you right there. 20 A Yes. 21 Q So when you say that would get the power, 22 is there another wire that connects from the third 23 switch to the master switch, then? 24 A Yes. 25 Q Okay. Is it the same wire that's coming	Page 85 1 A Well, in that particular truck there's 2 three batteries so there's probably half a dozen 3 wires or more that go to the batteries. 4 Q So does the wiring go to all three 5 batteries from the master switch or does it go to 6 one specific battery from the master switch? 7 MR. BROWN: Objection, vague. 8 THE WITNESS: It would go to one battery 9 terminal on one of the batteries. But they're all 10 connected together on the same -- all the same wire. 11 The wire goes like a jumper wire. It goes 12 from one battery terminal to the next terminal to 13 the next terminal. So it doesn't matter which 14 battery you hook it to. You're actually, in fact, 15 hooking it into all three batteries at the same time 16 because the batteries are connected together. 17 Q And the other wires that are attached to 18 these batteries, where do those wires go to? 19 A Well, you'd have three -- actually, you'd 20 have the jumper wires that go between the batteries 21 and then you'd have two 2-aught positive cables 22 going to your starter and two 2-aught negative 23 cables going to the starter. 24 And then you'd have your main cab power 25 supply for the cab and the motor, everything that

Page 86

1 comes off the batteries, which goes, I think -- I
2 believe it goes to a circuit breaker on the frame
3 rail.
4 Q Okay.
5 A That's all factory wiring, yeah.
6 Q Okay. Now, in regards to the July 2013
7 dump, do you know if MDB was issued, I guess, a
8 D.O.T. violation for that dump?
9 MR. BROWN: Objection, vague.
10 BY MS. SHREVE:
11 Q I'm asking this to try to narrow the date
12 of the July 2013 incident based on Exhibit 15. So
13 I'm just trying to see if it would have received one
14 of the violations to where we could at least narrow
15 down one of the potential dates in July.
16 A Is that the one that's July 26th in that
17 exhibit?
18 Q So this would be Exhibit 15. It's the
19 safety measurement system.
20 A Oh, yes. And what date is there on that?
21 MR. BROWN: Here (indicating).
22 BY MS. SHREVE:
23 Q So in this report it lists dates of
24 violations for the truck.
25 A Okay.

Page 87

1 MR. BROWN: Can you say what page you're
2 looking at for the record.
3 MS. SHREVE: Sorry. MDB 008.
4 THE WITNESS: Okay.
5 BY MS. SHREVE:
6 Q So I'm asking if it would have received a
7 violation to where we would be able to at least
8 narrow some dates down.
9 Because it looks like the subject truck had
10 in July 2013 -- there's two different dates -- or,
11 sorry, three different dates for violations or
12 inspection report numbers.
13 A Yes. They're inspection report numbers.
14 They're not necessarily violations.
15 Q Right. Sorry.
16 A But --
17 Q Would they have an inspection report done
18 on that July 2013 incident?
19 A Yes. Any time the highway patrol stops
20 you, they give you one of those sheets.
21 Q Okay.
22 A I shouldn't say "every time," but I would
23 imagine they do --
24 Q Okay.
25 A -- most times.

Page 88

1 Q So would it be safe to say, then, the
2 July 2013 incident likely would have occurred on
3 July 25th, 2013, July 30th, 2013, or
4 July 31st, 2013, based on those being the only
5 dates in July that the subject truck had a report
6 issued?
7 MR. BROWN: Objection, foundation,
8 speculation.
9 THE WITNESS: First of all, I guess I
10 didn't realize we didn't know the exact date. I
11 probably could have done a little research to figure
12 that out.
13 But based on my reading this report now
14 that's in front of me, it is very hard to figure out
15 if the lines you're looking at are below or above
16 the dates.
17 My opinion from looking at this,
18 July 25th would have been the date that the load
19 was spilled. That would be my best guess, opinion,
20 is July 25th, based on all the other evidence I've
21 looked at here.
22 BY MS. SHREVE:
23 Q Okay. Would you agree that same truck had
24 a report done on July 30th, 2013, and July 31st,
25 2013?

Page 89

1 A Yes, it would have had one done. Yes.
2 Q Okay. If we could go to Exhibit 2, please.
3 Go to MDB 474, please. What is the date of this
4 Driver's Daily Log Sheet?
5 A July 25th, 2013.
6 Q This is one of the dates listed on the
7 report that we just spoke about, correct?
8 A Yes.
9 Q And based off of this sheet, is there
10 anything on here that indicates that this was the
11 day that the dump occurred?
12 A Can somebody refresh my memory about
13 something? I don't know if anybody knows this
14 answer.
15 Q Sure.
16 A On the July 2013 incident was rock dumped
17 that day or sand? Does anybody -- I don't know if--
18 MR. BROWN: I don't think anyone at this
19 table can help.
20 THE WITNESS: All right. Well, based on
21 this report, it doesn't indicate that there was any
22 -- that this is the day but it does indicate that it
23 could be that day.
24 BY MS. SHREVE:
25 Q Now, if you turn that page to MDB 475, does

Page 90 1 this -- it looks like it was for 7/25/2013 for the 2 subject truck and trailer. 3 Does this indicate whether or not this was 4 the day that the trailer had a dump? 5 A Once again, there's nothing on here that 6 actually spells it out that something happened. 7 Tracy at the time didn't make any notes on here, but 8 I do see that he was using that truck and those 9 trailers that day. 10 Q Now, if rock or if something was dumped out 11 of the truck, would there be a note like there was 12 for July 7th, 2014, that the load is less than 13 what was picked up? 14 A You're referring to the scale ticket being 15 changed or whatnot? 16 Q Yes. 17 A You would think so, yes, but not 18 necessarily. He might have called Cemex and said 19 this is what happened and they might have said, oh, 20 don't worry about it. I can't -- I'm speculating 21 but it could have been. I mean, it's possible that 22 we didn't actually make any adjustments to the tag. 23 Q Okay. If you go back to Exhibit 24 and go 24 to MDS 073 -- 25 A Yes.	Page 92 1 certain that the master switch was put in after the 2 dump on the road. So what we're looking at is we 3 can either make the assumption that July 25th was, 4 in fact, the date that he did it. 5 The master switch was put in the following 6 day on July 26th, which sounds probably like the 7 scenario that happened, or this date is incorrect. 8 Q That was going to be my next question, is 9 it possible that the date -- 10 A But I know for a fact that the dump 11 switches were put in -- the master dump switch was 12 put in after his first incident. 13 Q Okay. Now, you're saying it's possible 14 that the date could be incorrect. 15 Could the miles be incorrect as well, then? 16 A No. 17 Q Okay. So if you go to Exhibit 2 -- 18 A So you're putting your detective skills to 19 work here on the mileage, I'm assuming. 20 Q I see. You are assuming correctly. I'm 21 trying to get this down, since we don't know the 22 date. In the event it's later, we don't have to do 23 that. 24 A Right, that's good. 25 Q Okay. So if you go to MDS 471, what's the
Page 91 1 Q -- if this occurred -- since we don't know 2 the actual date and it's possible it could have 3 occurred on July 30th or July 31st -- if this 4 was done prior to the dump, what would be the 5 reasoning behind that? 6 I know you explained that this work 7 order -- you were under the impression it was for 8 before the dump. But now that we know it's possible 9 the dump could have occurred on July 30th or 10 July 31st, why would he have rewired the gate 11 switches? 12 A I'm not -- are you saying that I thought 13 this work order originally was from before? 14 Q Yes. Earlier when you were testifying you 15 were talking about this work order, and you 16 testified that you believed the rewiring occurred 17 after. 18 A Yes. 19 Q But based on the evidence before, it looks 20 like it could have been possible that it occurred on 21 July 30th or July 31st. So this would have 22 occurred, then, before the July 2013 dump. 23 So what would be the reasoning this would 24 have been done? 25 A To my knowledge -- okay. I know for	Page 93 1 date on this daily driver sheet? 2 A Oh, the date on this is July 29th, 2013. 3 Q Okay. And what is the starting odometer on 4 this log sheet? 5 A 396,989 miles. 6 Q Now, is that the same mileage that is 7 listed on Exhibit 24, MDS 073? 8 A Yes, it is. 9 Q Okay. I'll represent to you there is 10 not -- a driver's daily sheet for July 26th was not 11 produced. 12 Now, would that be because the truck was in 13 service that day, if that date of July 26th, 2013, 14 is correct? 15 A The truck was not in service? 16 Q Correct. 17 A That is correct. 18 Q So, then, would it be possible that this 19 date of July 26th, 2013, would be correct if the 20 miles are the same as the starting odometer of 21 July 29th, 2013? 22 A I'm sorry. I was thinking. 23 Q It's fine. So for Exhibit 24, MDS 073, is 24 it possible that the date of 7/26/2013 is correct 25 since the miles of 396,989 is consistent with the

Page 94 1 starting odometer in Exhibit 2, MDB 471, for 2 July 29th, 2013? 3 A That would be the assumption I would make, 4 yes. 5 Q Okay. 6 A And as far as a July 26th truck report -- 7 or daily driver sheet missing? 8 Q And would that be because it was actually 9 getting maintenance performed on it that day? 10 A Well, no. I would say there's one missing 11 because there's a gap in the mileage. 12 Q Okay. 13 A And is it possible I was asked to produce 14 Dan Koski's -- I'm not sure if I was asked to 15 produce -- were we asked to produce Dan Koski's? 16 Q It was for the truck and the trailer. 17 A Okay. There might be a missing truck 18 report that somebody else drove the truck on Friday, 19 yeah. But we have established that yes, July 26th 20 sounds like the right date. 21 Q Okay. Would you drive the truck on the day 22 it is getting serviced? 23 A Oh, yes, definitely. 24 Q Okay. But it is possible that that date of 25 July 26th is correct, then?	Page 96 1 extent that it would call for any type of 2 attorney-client privilege that's occurred since the 3 commencement of the litigation. 4 You understand that? 5 THE WITNESS: Not exactly, but -- 6 MR. BROWN: If you determine there was a 7 defect before the litigation, you can answer the 8 question. But if it's something that I've told you 9 afterwards, you don't need to say. 10 THE WITNESS: Okay. 11 BY MS. SHREVE: 12 Q So in July 2013, right after the incident 13 and your investigation into it -- 14 A Yes. 15 Q -- which would be before this litigation 16 commenced, so your knowledge at that point, did MDB 17 determine that there was any defect with the Versa 18 valve? 19 A The original Versa valves that was 20 installed on that date was actually never tested. 21 That is in my opinion -- in our opinion that there 22 was nothing wrong with the valve. We didn't -- I 23 mean, we didn't actually do a thorough testing but 24 we didn't find anything wrong as far as ... 25 Q Okay.
Page 95 1 A Yes. 2 Q Okay. So if that date is correct and this 3 occurred prior to the July dump because it's 4 possible that we have established it could have been 5 on July 30th or July 31st, 2013, do you know why 6 they would have installed the master switch before? 7 A No. I don't know why they wouldn't have. 8 Now -- 9 Q Do you know why there would have been a 10 rewiring of the gate switch that day? 11 A I'm sorry. Rewiring the switch on 12 July 26th? 13 Q Yes. If it occurred before the July 2013 14 incident. 15 A No. There would be no reason for it. 16 Q You're not aware of any reason? 17 A No. 18 Q Okay. After the July 2013 incident, did 19 MDB in their investigation into it find any defect 20 with the Versa valve? 21 MR. BROWN: Can you read the question back? 22 THE REPORTER: "Q. Okay. After the 23 July 2013 incident, did MDB in their investigation 24 into it find any defect with the Versa valve?" 25 MR. BROWN: I'm going to object to the	Page 97 1 A Yeah. 2 Q And how about MDB's investigation right 3 after the July 2013 incident -- again, this is that 4 time after, not since litigation has commenced -- 5 did MDB find that there was anything wrong with the 6 design -- did they find there was a defect with the 7 design of the Versa valve? 8 MR. BROWN: Objection, foundation, 9 speculation. 10 THE WITNESS: It's not something we tried 11 to determine, so I guess the answer would be no but 12 we didn't actually try to determine that. And we're 13 still using the same valve so I don't think there 14 was a design flaw, necessarily. 15 BY MS. SHREVE: 16 Q I'm going to ask you the same question 17 again for after the July 2014 incident on Trailer 18 6775. Did MDB in their investigation after the dump 19 -- again, this is right after, not since litigation 20 -- did MDB find any defect with that Versa valve? 21 A No. That remained in service until such 22 time litigation started. 23 Q And on that same trailer, the same Versa 24 valve, did MDB in their investigation right after 25 the subject incident -- again, pre-litigation, right

Page 98 1 after -- did MDS discover any design defect with the 2 Versa valve? 3 MR. BROWN: Objection, foundation. 4 THE WITNESS: No. But, once again, we 5 weren't looking for any sort of design defects or 6 functionality defects. It worked. 7 BY MS. SHREVE: 8 Q Okay. 9 A To the best of our knowledge it still 10 worked. 11 Q So it worked as you expected it to work, 12 then? 13 A Well, at that -- yeah. I would imagine. 14 After that time we had lockout devices in there so 15 we wouldn't be able to tell if it inadvertently 16 opened after that incident, but as far as I know, we 17 could find nothing wrong with the valve. 18 Q Okay. And I'm going to ask the same 19 questions with regards to the sand truck as well for 20 the truck you were driving and the trailer, 6778, on 21 the July 2014 day. 22 Did MDS in their investigation find any 23 defect with the Versa valve? 24 A No. 25 Q Okay. And the same goes for the Trailer	Page 100 1 up a little bit, please. 2 MR. BUNDICK: Sure. Let me take you off 3 speaker phone. 4 Hello? 5 MS. WOELFEL: Go ahead. 6 BY MR. BUNDICK: 7 Q Mr. Palmer, in your opinion how is my 8 client Modern Group responsible for the accident 9 that occurred in July 2013? 10 MR. BROWN: I'll object again to the extent 11 it would call for an invasion of the attorney-client 12 privilege and beyond the scope of the 30(b)6 13 notification. 14 To the extent that your knowledge is based 15 upon what you've been told by your attorney, don't 16 answer the question. If you have knowledge beyond 17 that, feel free to give it to him. 18 THE WITNESS: If you're asking for my 19 opinion, I don't really -- 20 BY MR. BUNDICK: 21 Q Do you have knowledge outside of what you 22 discussed with your attorney? 23 A Pardon? 24 MR. BROWN: We can't hear you. 25 MS. SHREVE: If you could talk slower.
Page 99 1 6778. After the July 2014 incident did MDS find any 2 defect in the design of the Versa valve after their 3 investigation? 4 MR. BROWN: Objection, foundation. 5 THE WITNESS: But, once again, we didn't do 6 an investigation of it. We have found -- we haven't 7 looked for it but we have found no indication of a 8 defect. 9 MS. SHREVE: I think that's all the 10 questions I have right now. I will pass the 11 witness. Jessica, do you have any followup. 12 MS. WOELFEL: No, I have no other followup. 13 I'm good. 14 MS. SHREVE: Does anyone on the phone have 15 any followup questions? 16 MS. QUIGLEY: No. 17 MR. BUNDICK: Yeah, I have one. 18 FURTHER EXAMINATION 19 BY MS. BUNDICK: 20 Q Mr. Palmer, this is Jacob Bundick and I 21 represent Modern Group and Dragon Ltd. 22 In your opinion how is Modern responsible 23 for the -- 24 MS. WOELFEL: The chiropractor couldn't 25 hear you. Would you be able to talk slower and talk	Page 101 1 BY MR. BUNDICK: 2 Q Mr. Palmer, can you answer the question 3 without divulging attorney-client privilege 4 information? 5 A If I remember the question, I don't have an 6 opinion of why -- I don't have an opinion of that. 7 You're asking for my opinion and I don't have one. 8 Q You do not have an opinion. Thank you. 9 MR. BUNDICK: I have no further questions. 10 MR. BROWN: I have no questions. 11 MS. WOELFEL: We've completed this witness' 12 deposition. Thank you for your time. 13 THE WITNESS: Thank you. 14 MR. BROWN: I know you don't send 15 originals, but I'll take the copy for signature. 16 MS. WOELFEL: We've all ordered copies of 17 the transcript. 18 THE REPORTER: Counsel on the phone, are 19 you ordering copies of the transcript, or no? 20 MS. QUIGLEY: Yes, I'll take an E-tran. 21 MR. BUNDICK: Yes, for E-Transcript. 22 (Whereupon, deposition was concluded at 23 12:19 p.m.) 24 -oOo- 25

Page 102	Page 104																																																																																																				
1 STATE OF NEVADA)) ss. 2 COUNTY OF WASHOE) 3 4 I, CHRISTINA AMUNDSON, a duly commissioned and 5 licensed court reporter, Washoe County, State of 6 Nevada, do hereby certify: 7 That I reported the taking of the deposition of 8 SCOT ALLEN PALMER, commencing on Wednesday, March 8, 9 2017, at 9:30 a.m. 10 That prior to being examined, the witness was 11 duly sworn to testify to the truth. That I 12 thereafter transcribed my said shorthand notes into 13 typewriting and that the typewritten transcript of 14 said deposition is a complete, true, and accurate 15 transcription of said shorthand notes. 16 I further certify that I am not a relative or 17 employee of an attorney or counsel of any of the 18 parties, nor a relative or employee of an attorney 19 or counsel involved in said action, nor a person 20 financially interested in the action. 21 DATED: At Reno, Nevada, this 14th day of March 22 2017. <u>Christina Amundson</u> 23 CHRISTINA AMUNDSON CCR #641 24 25	ERRATA SHEET <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">Page</th> <th style="width: 10%;">Line</th> <th style="width: 40%;">Should read:</th> <th style="width: 40%;">Reason for Change:</th> </tr> </thead> <tbody> <tr><td>2</td><td></td><td></td><td></td></tr> <tr><td>3</td><td></td><td></td><td></td></tr> <tr><td>4</td><td></td><td></td><td></td></tr> <tr><td>5</td><td></td><td></td><td></td></tr> <tr><td>6</td><td></td><td></td><td></td></tr> <tr><td>7</td><td></td><td></td><td></td></tr> <tr><td>8</td><td></td><td></td><td></td></tr> <tr><td>9</td><td></td><td></td><td></td></tr> <tr><td>10</td><td></td><td></td><td></td></tr> <tr><td>11</td><td></td><td></td><td></td></tr> <tr><td>12</td><td></td><td></td><td></td></tr> <tr><td>13</td><td></td><td></td><td></td></tr> <tr><td>14</td><td></td><td></td><td></td></tr> <tr><td>15</td><td></td><td></td><td></td></tr> <tr><td>16</td><td></td><td></td><td></td></tr> <tr><td>17</td><td></td><td></td><td></td></tr> <tr> <td>18</td> <td>Date:</td> <td colspan="2"></td> </tr> <tr> <td>19</td> <td colspan="3" style="text-align: center;">Signature of Witness</td> </tr> <tr> <td>20</td> <td colspan="3"></td> </tr> <tr> <td>21</td> <td colspan="3" style="text-align: center;">Name Typed or Printed</td> </tr> <tr><td>22</td><td></td><td></td><td></td></tr> <tr><td>23</td><td></td><td></td><td></td></tr> <tr><td>24</td><td></td><td></td><td></td></tr> <tr><td>25</td><td></td><td></td><td></td></tr> </tbody> </table>	Page	Line	Should read:	Reason for Change:	2				3				4				5				6				7				8				9				10				11				12				13				14				15				16				17				18	Date:			19	Signature of Witness			20				21	Name Typed or Printed			22				23				24				25			
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Page 103 ERRATA SHEET 2 3 4 5 I declare under penalty of perjury that I have read the 6 foregoing _____ pages of my testimony, taken 7 on _____ (date) at 8 _____ (city), _____ (state), 9 10 and that the same is a true record of the testimony given 11 by me at the time and place herein 12 above set forth, with the following exceptions: 13 <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">Page</th> <th style="width: 10%;">Line</th> <th style="width: 40%;">Should read:</th> <th style="width: 40%;">Reason for Change:</th> </tr> </thead> <tbody> <tr><td>14</td><td></td><td></td><td></td></tr> <tr><td>15</td><td></td><td></td><td></td></tr> <tr><td>16</td><td></td><td></td><td></td></tr> <tr><td>17</td><td></td><td></td><td></td></tr> <tr><td>18</td><td></td><td></td><td></td></tr> <tr><td>19</td><td></td><td></td><td></td></tr> <tr><td>20</td><td></td><td></td><td></td></tr> <tr><td>21</td><td></td><td></td><td></td></tr> <tr><td>22</td><td></td><td></td><td></td></tr> <tr><td>23</td><td></td><td></td><td></td></tr> <tr><td>24</td><td></td><td></td><td></td></tr> <tr><td>25</td><td></td><td></td><td></td></tr> </tbody> </table>	Page	Line	Should read:	Reason for Change:	14				15				16				17				18				19				20				21				22				23				24				25																																																				
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EXHIBIT 3

4845-3057-6394.1

AA000273

1 IN THE SECOND JUDICIAL DISTRICT COURT
2 OF THE STATE OF NEVADA
3 IN AND FOR THE COUNTY OF WASHOE
4

5 ERNEST BRUCE FITZSIMMONS)
and CAROL FITZSIMMONS,) Case No. CV15-02349
6 husband and wife,) Dept. No. 10
7)

8 Plaintiffs,)

9 vs.)

10 MDB TRUCKING, LLC, et al.,)

11 Defendants.)

12 AND ALL RELATED CASES.)
13

**CONDENSED
TRANSCRIPT**

14
15
16
17 DEPOSITION OF TRACY SHANE

18 Taken on Tuesday, April 11, 2017

19 At 9:00 a.m.

20 At 100 West Liberty Street, 10th Floor

21 Reno, Nevada
22
23
24

25 REPORTED BY: JANET ANN MENGES, CCR #206

Page 2 1 APPEARANCES: 2 3 For the Plaintiffs: 4 SARAH QUIGLEY, ESQ. (Present Telephonically) 5 BRADLEY, DRENDEL & JEANNEY 6 6900 South McCarran Boulevard 7 Suite 2000 8 Reno, Nevada 89509 9 (775) 525-9164 10 11 For Versa Products Company, Inc.: 12 PAIGE SHREVE, ESQ. 13 LEWIS, BRISBOIS, BISGAARD & SMITH 14 6385 South Rainbow Boulevard 15 Suite 600 16 Las Vegas, Nevada 89118 17 (702) 893-3383 18 19 For RMC Lamar Holdings, Inc.: 20 JESSICA WOELFEL, ESQ. 21 McDONALD CARANO 22 100 West Liberty Street 23 10th floor 24 Reno, Nevada 89501 25 (775) 788-2000	Page 4 1 INDEX 2 3 WITNESS: TRACY SHANE 4 EXAMINATION PAGE 5 BY PAIGE SHREVE 5 6 BY JESSICA WOELFEL 101 7 BY PAIGE SHREVE 128 8 9 INDEX TO EXHIBITS 10 EXHIBIT PAGE 11 11 Record of Annual Inspection 93 12 13 14 15 16 17 18 19 20 21 22 23 24 25
Page 3 1 (Continued Appearances) 2 For The Modern Group GP-SUB, Inc.: 3 JACOB BUNDICK, ESQ. (Present Telephonically) 4 GREENBERG TRAUIG 5 3773 Howard Hughes Parkway 6 Suite 400 North 7 Las Vegas, Nevada 89169 8 (702) 792-3773 9 10 For USAA: 11 LISA TAYLOR, ESQ. (Present Telephonically) 12 Law Office of Lisa A. Taylor 13 5664 North Rainbow Boulevard 14 Las Vegas, Nevada 89130 15 (702) 645-0150 16 17 18 19 20 21 22 23 24 25	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

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

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.

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.

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 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 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 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 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?
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 17 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

Page 18 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 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 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 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 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 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 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

Page 26 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	Page 28 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
Page 27 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	Page 29 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?

Page 30 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?	Page 32 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
Page 31 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 reinstalled 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?	Page 33 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

Page 34 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?	Page 36 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.
Page 35 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.	Page 37 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.

Page 38 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	Page 40 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
Page 39 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	Page 41 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?

Page 42 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	Page 44 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
Page 43 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	Page 45 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?

Page 46 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	Page 48 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
Page 47 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.	Page 49 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 0000312. 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?

Page 50 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.	Page 52 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
Page 51 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?	Page 53 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.

Page 54 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.	Page 56 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?
Page 55 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.	Page 57 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 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 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 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?

Page 62 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	Page 64 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?
Page 63 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?	Page 65 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?

Page 66 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 ///	Page 68 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
Page 67 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	Page 69 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

Page 70 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.	Page 72 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
Page 71 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	Page 73 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.

Page 74 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?	Page 76 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?
Page 75 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.	Page 77 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?

Page 78 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.	Page 80 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
Page 79 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	Page 81 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.

Page 82 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	Page 84 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
Page 83 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	Page 85 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?

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

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,

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

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.

Page 90 1 Off the record. 2 (The noon recess was taken.) 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	Page 92 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.
Page 91 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.	Page 93 1 2 (Exhibit 11 was marked.) 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.

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 hay wire 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.

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?

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.

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

Page 98 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.	Page 100 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
Page 99 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	Page 101 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 9 is 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.

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

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?

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.

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?

Page 106 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.	Page 108 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?
Page 107 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.	Page 109 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

Page 110 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?	Page 112 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.
Page 111 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?	Page 113 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

Page 114

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.

Page 115

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?

Page 116

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

Page 117

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

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

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.

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?

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 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.

Page 131

CERTIFICATE OF DEPONENT

PAGE	LINE	CHANGE
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I, TRACY SHANE, deponent herein, do hereby certify and declare under penalty of perjury the within and foregoing transcription to be my deposition in said action; that I have read, corrected and do hereby affix my signature to said deposition.

TRACY SHANE, Deponent

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EXHIBIT 4

4845-3057-6394.1

AA000308

1 IN THE SECOND JUDICIAL DISTRICT COURT
2 OF THE STATE OF NEVADA
3 IN AND FOR THE COUNTY OF WASHOE
4

5 ERNEST BRUCE FITZSIMMONS)
6 and CAROL FITZSIMMONS,) Case No. CV15-02349
7 husband and wife,) Dept. No. 10
8)

9 Plaintiffs,)

10 vs.)

11 MDB TRUCKING, LLC, et al.,)

12 Defendants.)

13 AND ALL RELATED CASES.)
14)
15)
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21)
22)
23)
24)
25)

**CONDENSED
TRANSCRIPT**

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	Page 4
1 APPEARANCES: 2 3 For the Plaintiffs: 4 SARAH QUIGLEY, ESQ. (Present Telephonically) 5 BRADLEY, DRENDEL & JEANNEY 6 6900 South McCarran Boulevard 7 Suite 2000 8 Reno, Nevada 89509 9 (775) 525-9164 10 11 For Versa Products Company, Inc.: 12 PAIGE SHREVE, ESQ. 13 LEWIS, BRISBOIS, BISGAARD & SMITH 14 6385 South Rainbow Boulevard 15 Suite 600 16 Las Vegas, Nevada 89118 17 (702) 893-3383 18 19 For RMC Lamar Holdings, Inc.: 20 JESSICA WOELFEL, ESQ. 21 McDONALD CARANO 22 100 West Liberty Street 23 10th floor 24 Reno, Nevada 89501 25 (775) 788-2000 For MDB Trucking, LLC: BRIAN BROWN, ESQ. THEIRRY BARKLEY, ESQ. THORNDAL, ARMSTRONG, DELK, BALKENBUSH & EISINGER 6590 South McCarran Boulevard Suite B Reno, Nevada 89509 (775) 786-2882	1 INDEX 2 3 WITNESS: PATRICK BIGBY 4 EXAMINATION PAGE 5 BY JESSICA WOELFEL 5 6 BY PAIGE SHREVE 108 7 8 INDEX TO EXHIBITS 9 EXHIBIT PAGE 10 1 Invoice 45 11 2 Work orders 69 12 3 Work orders 75 13 4 Work orders 86 14 5 Work orders 90 15 6 Work orders 92 16 7 Invoice 96 17 8 Work orders 104 18 9 Work orders 105 19 10 Driver's Vehicle Inspection 112 20 21 22 23 24 25
Page 3 1 (Continued Appearances) 2 For The Modern Group GP-SUB, Inc.: 3 JACOB BUNDICK, ESQ. (Present Telephonically) 4 GREENBERG TRAURIG 5 3773 Howard Hughes Parkway 6 Suite 400 North 7 Las Vegas, Nevada 89169 8 (702) 792-3773 9 10 For USAA: 11 LISA TAYLOR, ESQ. (Present Telephonically) 12 Law Office of Lisa A. Taylor 13 5664 North Rainbow Boulevard 14 Las Vegas, Nevada 89130 15 (702) 645-0150 16 17 18 19 20 21 22 23 24 25	Page 5 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 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 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 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?

Page 10 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.	Page 12 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?
Page 11 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.	Page 13 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?