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

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

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

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

<p style="text-align: right;">Page 46</p> <p>1 A I received a phone call.</p> <p>2 Q Who did you receive a phone call from?</p> <p>3 A Tracy Shane.</p> <p>4 Q Is Tracy still employed by MDB?</p> <p>5 A No.</p> <p>6 Q When did she leave the company?</p> <p>7 A He.</p> <p>8 Q He. Sorry.</p> <p>9 A That's all right.</p> <p>10 Q Sorry. When did he leave the company?</p> <p>11 A December 2015.</p> <p>12 Q Do you know where he went?</p> <p>13 A Where he is currently working?</p> <p>14 Q Yes.</p> <p>15 A Yes.</p> <p>16 Q Where is he currently working?</p> <p>17 A Cyclone, Cyclone Transport or Cyclone Transportation --</p> <p>18 I'm not sure which it is -- in Fernley, Nevada.</p> <p>19 Q In where? I'm sorry.</p> <p>20 A Fernley, Nevada.</p> <p>21 Q Okay. And so what did Tracy say to you when he called</p> <p>22 you?</p> <p>23 A He said that Danny's back trailer came open on the</p> <p>24 highway and spilled rock, and there's an accident.</p> <p>25 Q Okay. Did he ask you to contact anybody regarding the</p>	<p style="text-align: right;">Page 48</p> <p>1 trailer coming open?</p> <p>2 A Are you talking about after it came back to our</p> <p>3 location?</p> <p>4 Q Yes.</p> <p>5 A No, I do not believe so.</p> <p>6 Are you talking about me personally, or are you talking</p> <p>7 about did MDB perform?</p> <p>8 Q MDB. We're talking about MDB.</p> <p>9 A Yes. No, did not do any inspection at that --</p> <p>10 immediately following, no.</p> <p>11 Q When did they -- when did MDB do an inspection regarding</p> <p>12 the opening of Trailer 6775?</p> <p>13 A I'm not really sure how to answer that. It was sort of</p> <p>14 a moot point at that particular time because we put lockout</p> <p>15 devices on the trailers. So there really wasn't anything to</p> <p>16 inspect.</p> <p>17 I don't know if that's an answer that you --</p> <p>18 Q Okay.</p> <p>19 A Let me rephrase it.</p> <p>20 We did do a visual inspection of the mechanics of the</p> <p>21 trailer to make sure the valve wasn't falling off and we found</p> <p>22 nothing.</p> <p>23 Q So -- but you just did a visual inspection?</p> <p>24 A Yeah. We didn't do an intense accident investigation</p> <p>25 type inspection. We just --</p>
<p style="text-align: right;">Page 47</p> <p>1 incident?</p> <p>2 A No.</p> <p>3 Q Did he ask you to go to the scene?</p> <p>4 A No.</p> <p>5 Q Did he go to the scene?</p> <p>6 A I do not believe so, because you couldn't get to the</p> <p>7 scene, from -- to my knowledge, you really couldn't get there --</p> <p>8 Q Okay.</p> <p>9 A -- without -- yeah, you couldn't get there because the</p> <p>10 traffic was backed up.</p> <p>11 Q Was there any written communication to anyone from Tracy</p> <p>12 to you or anyone else within the company regarding the incident?</p> <p>13 A I do not believe so.</p> <p>14 Q Did you ever speak with Mr. Koski after the incident,</p> <p>15 regarding the incident?</p> <p>16 A Yeah. I don't think so. Not specifically, no.</p> <p>17 Q Did you speak with anyone else other than Tracy about</p> <p>18 the subject incident?</p> <p>19 A Yes.</p> <p>20 Q Who else did you speak with?</p> <p>21 A I spoke with part of the drivers, but mostly, Pat Bigby.</p> <p>22 Q What was the conversation you had with Pat Bigby?</p> <p>23 A That Danny's back trailer came open. And that was</p> <p>24 basically the extent of the conversation.</p> <p>25 Q Did you perform any type of inspection regarding the</p>	<p style="text-align: right;">Page 49</p> <p>1 Q So did you test the electrical part of the truck at all?</p> <p>2 MR. BROWN: Objection, vague as to "test."</p> <p>3 THE WITNESS: Did we test the electrical of the truck?</p> <p>4 BY MS. SHREVE:</p> <p>5 Q Yes.</p> <p>6 A No.</p> <p>7 Q What happened to this Truck 5694 and the trailers after</p> <p>8 the subject incident? Did it -- did he continue to take the rest</p> <p>9 of his load to where he was required to dump it?</p> <p>10 A Yes. After stopping for the accident, even though he</p> <p>11 was beyond the accident scene, after he was released by the</p> <p>12 Highway Patrol, he continued on to the location he was going to</p> <p>13 dump, which is Reno, Cemex Reno, and dumped his front two trailers</p> <p>14 and proceeded back to our yard.</p> <p>15 Q So after he dumped the first two, he brought the truck</p> <p>16 and trailers back to the yard?</p> <p>17 A Yes.</p> <p>18 MS. SHREVE: I'm going to do the next exhibit. This</p> <p>19 will be Exhibit Number 2.</p> <p>20 Just so you know, I made stacks of things related for</p> <p>21 exhibits. We don't have to do every single page, to make it</p> <p>22 easier. So these are the driver's daily timesheet and logs.</p> <p>23 THE WITNESS: Uh-huh, yes.</p> <p>24 MS. SHREVE: It's not all of them.</p> <p>25 (Exhibit 2 marked for identification.)</p>

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

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

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

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

<p style="text-align: right;">Page 54</p> <p>1 Probably at least -- a dozen times.</p> <p>2 Q Was this all at your time at MDB?</p> <p>3 A No, over the course of 30 years of being in the</p> <p>4 industry.</p> <p>5 Q Okay. And at any of those times, was a pin installed</p> <p>6 after those incidents?</p> <p>7 A No.</p> <p>8 Q Do you know why a pin was not installed after those</p> <p>9 incidents?</p> <p>10 A No, I do not. Some of the vehicles weren't owned by us</p> <p>11 or owned by the company I was working for. So, no, I would not</p> <p>12 have any knowledge of why they didn't.</p> <p>13 Q And had you seen a pin in the Versa valve prior to your</p> <p>14 suggestion of putting a pin in this Versa valve?</p> <p>15 A I've seen, yes, the equivalent of a pin, a lockout,</p> <p>16 something to mechanically lock the valve, the handle from moving.</p> <p>17 So, yes, I had seen that prior to this incident, yes.</p> <p>18 Q Is that what prompted you to have that idea to do that?</p> <p>19 A Yes.</p> <p>20 Q Are you aware of another dumping of material on the same</p> <p>21 day of the subject incident?</p> <p>22 A Yes.</p> <p>23 Q And can you tell me about that.</p> <p>24 A Yes. Prior to Mr. Koski dumping his gravel on the road,</p> <p>25 another truck driven by myself, Scott Palmer, also dumped, in a</p>	<p style="text-align: right;">Page 56</p> <p>1 THE REPORTER: Would you say that again.</p> <p>2 MR. BROWN: I said objection to the extent it calls for</p> <p>3 the possible introduction into later evidence, subsequent remedial</p> <p>4 measures.</p> <p>5 You can answer the question.</p> <p>6 THE WITNESS: The answer to the question is, after the</p> <p>7 subject incident, we installed lockout devices on all bottom dump</p> <p>8 trailers equipped with Versa valves.</p> <p>9 And it became company policy that those lockout devices</p> <p>10 will be in place at all times when on the highway.</p> <p>11 BY MS. SHREVE:</p> <p>12 Q How about non-Versa valves?</p> <p>13 A No. We have one trailer that does not have a Versa</p> <p>14 valve. It has -- I believe it's a Wabco valve. I'm not sure.</p> <p>15 But it does not have a lockout device on it.</p> <p>16 Q So all of your -- all except one -- I apologize -- of</p> <p>17 your belly dump trucks contain Versa valves on them?</p> <p>18 A All but one, yes.</p> <p>19 And also, to clarify, the one that doesn't have a Versa</p> <p>20 valve, it was pretty much impossible to install a lockout device</p> <p>21 on it, the way it operates.</p> <p>22 Q Are you aware of any other time with MDB that there was</p> <p>23 an inadvertent opening of a belly dump truck?</p> <p>24 A Yes.</p> <p>25 Q And when was that?</p>
<p style="text-align: right;">Page 55</p> <p>1 similar fashion, in close to the same location, sand, not gravel,</p> <p>2 but sand on the highway.</p> <p>3 Q How did you become aware that your trailer released sand</p> <p>4 on the highway?</p> <p>5 A I received a phone call from one of the other drivers</p> <p>6 and said check my trailers because there's a load of sand on the</p> <p>7 highway. And I did, and it was, indeed, my back trailer that was</p> <p>8 open.</p> <p>9 Q And do you recall who called you?</p> <p>10 A No. I would be guessing.</p> <p>11 Q Okay. Did you perform any investigation as to why your</p> <p>12 trailer unloaded sand on the highway?</p> <p>13 A No. Or -- no.</p> <p>14 Q Do you recall the equipment number for your truck and</p> <p>15 trailers on that day?</p> <p>16 A Yes.</p> <p>17 Q And what were they?</p> <p>18 A The truck -- the tractor was 5693 and the trailers were</p> <p>19 6776, 6777 and 6778.</p> <p>20 Q Did your company ever -- did MDB ever change its</p> <p>21 policies and procedures after the subject incident to ensure that</p> <p>22 there would not be an inadvertent opening of a belly dump?</p> <p>23 MR. BROWN: Objection to the extent that it calls for</p> <p>24 the eventual admission of subsequent remedial measures.</p> <p>25 Go ahead and answer.</p>	<p style="text-align: right;">Page 57</p> <p>1 A It would have been July 2013.</p> <p>2 Q Do you know what day in July?</p> <p>3 A No, I do not.</p> <p>4 Q And do you know the truck and trailer involved in that</p> <p>5 one?</p> <p>6 A Yes, I do.</p> <p>7 Q And what was the equipment number?</p> <p>8 A It would have been the same truck Dan Koski was driving,</p> <p>9 same driver, Dan Koski, Truck 5694, Trailer 6773, 6774 and 6775.</p> <p>10 Q And what is your understanding of what happened with</p> <p>11 that belly dump?</p> <p>12 A They just opened on the highway.</p> <p>13 Is that the question?</p> <p>14 Q Where did it occur?</p> <p>15 A I think it occurred in a similar -- between Paiute or</p> <p>16 Wadsworth and Reno.</p> <p>17 Q And what did MDB do to investigate that dumping?</p> <p>18 A They completely investigated the wiring on all three</p> <p>19 trailers, the truck; rewired the truck specifically to make sure</p> <p>20 that all of the source of the voltage going to the Versa valve or</p> <p>21 going to the switches going to the Versa valve would be coming</p> <p>22 directly from the battery; checked all the grounds on the</p> <p>23 trailers; changed the Versa valve, put a new Versa valve on the</p> <p>24 trailer, 6775.</p> <p>25 Q Is that the only other inadvertent opening of a belly</p>

<p style="text-align: right;">Page 58</p> <p>1 dump truck that you are aware of that occurred at MDB?</p> <p>2 A Yes, I believe so. Yes.</p> <p>3 Q Can you explain how a belly dump can open, like, the</p> <p>4 different ways you can activate the Versa valve to open the belly</p> <p>5 dump?</p> <p>6 A Driver can stop the vehicle and get out and manually</p> <p>7 move the lever, manually operate the opening of the gates.</p> <p>8 It can be operated by somebody on the ground, like a</p> <p>9 dump man.</p> <p>10 Q Like a what? I'm sorry.</p> <p>11 A A dump man, somebody that -- you know, you can pull up</p> <p>12 to the grizzly, somebody can just do it for you, manually, or they</p> <p>13 can be operated electrically inside the cab.</p> <p>14 Q When you said "a dump man," would they be pulling the</p> <p>15 lever manually, like --</p> <p>16 A Yes.</p> <p>17 Q -- the driver would, the same thing?</p> <p>18 A Yes. It could be either the driver or somebody on the</p> <p>19 ground.</p> <p>20 Q And then the last one you said, electrically?</p> <p>21 A Yes.</p> <p>22 Q And what does that entail? How do you activate it</p> <p>23 electrically?</p> <p>24 A Every truck I've ever seen, including all of our trucks,</p> <p>25 have a safety switch cover, toggle switch in the truck, designated</p>	<p style="text-align: right;">Page 60</p> <p>1 Okay.</p> <p>2 A Okay.</p> <p>3 Q If you look at the first page that says MDB 001, are</p> <p>4 those red flaps, I guess, the -- what you were talking about when</p> <p>5 you have to switch to activate?</p> <p>6 A Yes. You have to -- you have to lift up the cover in</p> <p>7 order to access the toggle switch. It keeps you from accidentally</p> <p>8 bumping it, bumping the switch. It's more of a guard or safety</p> <p>9 cover.</p> <p>10 Q So you would have to lift up the toggle --</p> <p>11 A Yes.</p> <p>12 Q -- and then push the switch?</p> <p>13 A To the up position, yes.</p> <p>14 In this particular vehicle, it also has the master</p> <p>15 switch, the one red one above that.</p> <p>16 Q What does the master switch do?</p> <p>17 A It provides electricity to the three switches. So if</p> <p>18 it's not activated, you could lift up the covers on the bottom</p> <p>19 three and it still wouldn't work, unless the master switch is also</p> <p>20 switched on.</p> <p>21 Q Okay. So if the master switch is off, you can't lift up</p> <p>22 the third one and turn it on?</p> <p>23 A You can lift it up and turn it on, but it won't activate</p> <p>24 it, yes. I mean, there's no power to them, yes.</p> <p>25 Q And is this a picture of Equipment Number --</p>
<p style="text-align: right;">Page 59</p> <p>1 for each trailer. So if you have three trailers, you have three</p> <p>2 switches.</p> <p>3 Each one of them has a safety cover on them, and the</p> <p>4 wires go back and connect to each individual solenoid on each</p> <p>5 valve.</p> <p>6 Q And are all the trucks that MDB owns or leases -- do</p> <p>7 they all have the same safety switch to activate the valves to</p> <p>8 open the belly dump?</p> <p>9 A Yes.</p> <p>10 Are you saying the same exact configuration or they all</p> <p>11 have the same --</p> <p>12 Q They all have, like, a switch --</p> <p>13 A Yes.</p> <p>14 Q -- that you would hit and it would activate.</p> <p>15 A Yes. Yes.</p> <p>16 Q Were there any pictures taken of the subject truck and</p> <p>17 trailer on the day of the incident?</p> <p>18 A Not to my knowledge.</p> <p>19 Q Did anyone request that any pictures were taken of the</p> <p>20 truck or trailer?</p> <p>21 A No.</p> <p>22 MS. SHREVE: I'm going to now move to Exhibit 3.</p> <p>23 (Exhibit 3 marked for identification.)</p> <p>24 BY MS. SHREVE:</p> <p>25 Q I'll give you a second to look at that.</p>	<p style="text-align: right;">Page 61</p> <p>1 A 5694?</p> <p>2 Q Yes.</p> <p>3 A Yes.</p> <p>4 Q And was that master switch in place on July 7th, 2014?</p> <p>5 A Yes.</p> <p>6 Q Was that master switch in place on July 2013, before the</p> <p>7 incident that took place in July?</p> <p>8 A No.</p> <p>9 Q Was that installed after the incident in July 2013</p> <p>10 because of the inadvertent opening?</p> <p>11 A Yes.</p> <p>12 Q I'll switch to the next page of MDB 002.</p> <p>13 What is this picture of?</p> <p>14 A It looks like the license plate on the rear of a</p> <p>15 trailer. I'm assuming it's the back, 6675, but I can only assume</p> <p>16 because I don't know the license plate number off the top of my</p> <p>17 head.</p> <p>18 Q Okay. And then MDB 003, what is this a picture of?</p> <p>19 A Looks like a picture of the manufacturer's label they</p> <p>20 put on there that has the serial number. It looks like it's on</p> <p>21 the front of Trailer Number 6775. I'm assuming it is.</p> <p>22 Q Is there any way to tell that it's Trailer 6775?</p> <p>23 A Not without looking at it close -- not without looking</p> <p>24 at the numbers closer. I mean --</p> <p>25 Q So we're not sure which trailer this is for by looking</p>

<p style="text-align: right;">Page 62</p> <p>1 at the picture?</p> <p>2 A No, I wouldn't be able to tell for sure.</p> <p>3 Q And now, MDB 004.</p> <p>4 A I'm sorry. This is actually on the back of the</p> <p>5 turntable of 6775, yes. So it is the same trailer, though, yeah.</p> <p>6 Q So sorry. Going back MDB 003 --</p> <p>7 A Yes.</p> <p>8 Q -- you said this is --</p> <p>9 A I think I said it's on the front of the trailer, but</p> <p>10 it's actually on the back of the turntable, of the front -- of</p> <p>11 that Trailer 6775.</p> <p>12 Q And you know this is Trailer 6775?</p> <p>13 A I don't -- I can't say for sure, but I'm reasonably</p> <p>14 sure.</p> <p>15 Q Okay. MDB 0004.</p> <p>16 A Sure.</p> <p>17 Q And what is this a picture of?</p> <p>18 A Looks like a picture of a lockout device attached to a</p> <p>19 Versa valve. And it's attached to one of our trailers because I</p> <p>20 recognize -- that I'm actually the one that installed it.</p> <p>21 Q And do you know which trailer or equipment number this</p> <p>22 is?</p> <p>23 A No. I couldn't tell by looking at the picture. I would</p> <p>24 assume it's the trailer we are -- the subject trailer.</p> <p>25 Q And then the same -- MDB 005, what is this a picture of?</p>	<p style="text-align: right;">Page 64</p> <p>1 A It could have been. Yes, I think it was. We did have</p> <p>2 the policies then, yes.</p> <p>3 Q I was going to say, if you did not, do you know when</p> <p>4 they were provided.</p> <p>5 A No.</p> <p>6 Q But you think you had it at the time.</p> <p>7 A Yes.</p> <p>8 Q I know we had asked for those. So if -- and was told</p> <p>9 that there was no documents.</p> <p>10 So if you would be able --</p> <p>11 MR. BARKLEY: Other than the annual inspection forms, I</p> <p>12 don't believe there's another written protocol.</p> <p>13 MR. BROWN: We'll go back and take another look and</p> <p>14 supplement the responses --</p> <p>15 MS. SHREVE: Thank you.</p> <p>16 MR. BROWN: -- based upon what he just answered to your</p> <p>17 question.</p> <p>18 BY MS. SHREVE:</p> <p>19 Q To the best of your knowledge, what are the MDB's</p> <p>20 written policies and procedures regarding inspections of the</p> <p>21 vehicles?</p> <p>22 A That everyone is required to follow the DOT rules, be</p> <p>23 knowledgeable and follow the DOT rules regarding the pre-trip</p> <p>24 inspections and post-trip inspections set forth by the DOT.</p> <p>25 Q And does MDB provide its drivers the requirements</p>
<p style="text-align: right;">Page 63</p> <p>1 A It's another picture of the Versa valve assembly and</p> <p>2 oiler. It looks like it's on the -- yeah, probably the subject</p> <p>3 trailer.</p> <p>4 Q Is there any indication to let you know which trailer</p> <p>5 this is --</p> <p>6 A No.</p> <p>7 Q -- based on the picture?</p> <p>8 A No.</p> <p>9 Q Okay. And then the same thing with MDB 006.</p> <p>10 A Okay. I would assume that's the Versa valve that's on</p> <p>11 the subject trailer, 6775, but it could be a picture of any of our</p> <p>12 valves.</p> <p>13 Q Okay. So does MDB have any policy and procedures in</p> <p>14 place regarding inspection of their vehicles?</p> <p>15 A Yes.</p> <p>16 Q And are those policies and procedures written down?</p> <p>17 A Yes.</p> <p>18 Q Does MDB have copies of those policies and procedures</p> <p>19 regarding inspections of the vehicles?</p> <p>20 A Yes.</p> <p>21 Are we speaking of current policies or policies at the</p> <p>22 time of the incident?</p> <p>23 Q At the time of the incident.</p> <p>24 A I do not believe there is written --</p> <p>25 Q Do you know when --</p>	<p style="text-align: right;">Page 65</p> <p>1 provided by the DOT?</p> <p>2 A Yes. Yes.</p> <p>3 MS. SHREVE: I would ask that the same be produced.</p> <p>4 MR. BROWN: What are you asking for?</p> <p>5 MR. BARKLEY: Well, let me phrase the issue. It's a</p> <p>6 lack of foundation issue.</p> <p>7 If you are talking about DOT manuals, they were not</p> <p>8 provided to drivers at the time.</p> <p>9 MS. SHREVE: He just testified that he provides them</p> <p>10 to -- they provide them to their drivers as part of their</p> <p>11 requirements for inspections.</p> <p>12 MR. BARKLEY: There are multiple manuals. That's what</p> <p>13 I'm trying to tell you.</p> <p>14 BY MS. SHREVE:</p> <p>15 Q What manuals does MDB provide to its drivers regarding</p> <p>16 their requirements of inspections?</p> <p>17 A The DOT handbook? I'm not sure -- without looking at it</p> <p>18 I don't know -- I can't think of the name of it right offhand.</p> <p>19 MR. BROWN: The red one? The blue one?</p> <p>20 THE WITNESS: It's green. It's got the green front on</p> <p>21 it.</p> <p>22 MS. SHREVE: I'm requesting whichever one Mr. Palmer is</p> <p>23 indicating that the MDB provides.</p> <p>24 THE WITNESS: You are asking me do we supply the drivers</p> <p>25 with them. At the time of the incident or now? I mean, I can't</p>

<p style="text-align: right;">Page 66</p> <p>1 say for sure he was provided one, if that's what you are asking.</p> <p>2 BY MS. SHREVE:</p> <p>3 Q Okay. At the time of the incident, the subject</p> <p>4 incident, what were the written policies and procedures in place</p> <p>5 regarding inspection of the vehicles?</p> <p>6 A I would have to look at them. I'm not sure.</p> <p>7 Q Okay. What are the current policies and procedures</p> <p>8 regarding inspection of the vehicles?</p> <p>9 A Drivers -- and I'm sure -- I'm pretty sure this was the</p> <p>10 way it was then, too, is that the drivers have to follow the</p> <p>11 Federal Motor Carrier Safety Administration, which is the DOT</p> <p>12 guidelines, for doing pre-trip and post-trip inspections.</p> <p>13 They are required to note any defects.</p> <p>14 Q Okay. And how are the drivers aware of the DOT</p> <p>15 requirements?</p> <p>16 A They are -- in order to get their CDL license, they have</p> <p>17 to be aware of it. Otherwise, they can't -- they are not</p> <p>18 allowed -- they won't get their CDL.</p> <p>19 And most drivers that we hire have enough experience</p> <p>20 that they know what the laws are, and we -- currently, we provide</p> <p>21 them with all the rules and regulations.</p> <p>22 At the time, I believe -- I'm not sure if we did or not.</p> <p>23 I don't know if Mr. Koski got one or not.</p> <p>24 Q Do you know of when the current written policies and</p> <p>25 procedures and supplying your drivers of the DOT regulations were</p>	<p style="text-align: right;">Page 68</p> <p>1 Q And does MDB provide the updates to their drivers?</p> <p>2 A We would, yes, if they come out with a new book, an</p> <p>3 updated book, yes.</p> <p>4 Q How often do they come up with a new book?</p> <p>5 A I'm not sure. I've been doing this for a long time.</p> <p>6 Sometimes it's every year, sometimes it's every three or four</p> <p>7 years.</p> <p>8 Q But every time they do, MDB will provide its drivers</p> <p>9 with the update of the regulations?</p> <p>10 A I would imagine so, yes.</p> <p>11 MS. SHREVE: Again, I would just request for anything</p> <p>12 that was produced to their drivers.</p> <p>13 MR. BARKLEY: At which time? Just generally?</p> <p>14 MS. SHREVE: Yes. So before the subject incident</p> <p>15 through now.</p> <p>16 MR. BARKLEY: It's not in his personnel file, so --</p> <p>17 MR. BROWN: We will go back --</p> <p>18 MR. BARKLEY: We will go back and make an assumption,</p> <p>19 but we cannot assure you it was there in existence at the time of</p> <p>20 the incident.</p> <p>21 BY MS. SHREVE:</p> <p>22 Q Mr. Palmer --</p> <p>23 MR. BROWN: Based upon his testimony, we will look and</p> <p>24 see what records are available. To the extent we are required to</p> <p>25 supplement them, we will do so.</p>
<p style="text-align: right;">Page 67</p> <p>1 implemented?</p> <p>2 A I'm not sure.</p> <p>3 Q Is there a way of determining when they were</p> <p>4 implemented?</p> <p>5 A I would have to -- I would have to look into it.</p> <p>6 They were in place when I came to work, and they were</p> <p>7 implemented by myself when I took over that position. So I'm</p> <p>8 assuming that they --</p> <p>9 Q So when you started working at MDB, they were in place?</p> <p>10 A I believe so, yes.</p> <p>11 Q And they provided the DOT regulations?</p> <p>12 A No. I think that they say that they are -- that you are</p> <p>13 required to follow the DOT regulations pertaining to the pre-trip</p> <p>14 inspections and post-trip inspections.</p> <p>15 Q Okay. And then were the drivers supposed to look up</p> <p>16 those DOT regulations themselves, then, if MDB did not provide</p> <p>17 them?</p> <p>18 A I think everybody knows them, my assumption.</p> <p>19 Q Okay. Did the DOT regulations get updated?</p> <p>20 A Yes.</p> <p>21 Q And how are you notified of updates to the DOT</p> <p>22 regulations?</p> <p>23 A To my knowledge, we're not. You just have to stay on</p> <p>24 top of it. You have to do your research to see when they have</p> <p>25 updated the book.</p>	<p style="text-align: right;">Page 69</p> <p>1 In the event that we're not going to supplement them,</p> <p>2 you'll find that out as well.</p> <p>3 MS. SHREVE: Thank you.</p> <p>4 THE WITNESS: I think I'm going back and forth between</p> <p>5 current and that time.</p> <p>6 BY MS. SHREVE:</p> <p>7 Q Right. But you testified that ever since you've been</p> <p>8 employed with MDB, that there were these policies and procedures.</p> <p>9 And am I correct in -- you were employed by MDB at the time of the</p> <p>10 subject incident?</p> <p>11 A Yes. There were policies and procedures in place then,</p> <p>12 they were written, but I don't know if I got -- I don't know who</p> <p>13 got them. I can't -- I can't testify to that.</p> <p>14 Q And now that you are in place as the general manager, do</p> <p>15 you make sure that the drivers have or are aware of MDB's policies</p> <p>16 and procedures regarding inspections of their vehicles?</p> <p>17 A Yes.</p> <p>18 Q How often are the drivers supposed to inspect their</p> <p>19 vehicles?</p> <p>20 A Daily, pre-trip and post-trip. So they are inspecting</p> <p>21 them officially twice a day.</p> <p>22 And in between, during the day, you do visual</p> <p>23 inspections as well. You walk back there to dump your trailers,</p> <p>24 you are looking at the brakes. You are looking at stuff all day.</p> <p>25 So, yes, but officially inspecting them, in the morning</p>

<p style="text-align: right;">Page 70</p> <p>1 for pre-trip, and then afternoon, post-trip.</p> <p>2 Q Do you do the same inspection pre-trip as you do</p> <p>3 post-trip?</p> <p>4 A Pretty much.</p> <p>5 Q Is there anything that would be different pre-trip from</p> <p>6 post-trip?</p> <p>7 A Not necessarily. You wouldn't check your oil at the end</p> <p>8 of the day. You would check it in the morning.</p> <p>9 But other than that, no. You can check your tires.</p> <p>10 So a lot of what you do post-trip is redundant to the</p> <p>11 next day's pre-trip, that you want to make sure that, if you do</p> <p>12 have a problem, you let the mechanics know at night so they can</p> <p>13 fix it before you come to work in the morning and find it on your</p> <p>14 next day's pre-trip.</p> <p>15 Q And do you do the same inspection every morning, or are</p> <p>16 there different things that you do once a week versus every day?</p> <p>17 A No, same inspection every day.</p> <p>18 You are talking about as a driver?</p> <p>19 Q Yes.</p> <p>20 A Yes.</p> <p>21 Q And can you go through the inspection that you would do</p> <p>22 every morning.</p> <p>23 A Okay. I thought -- didn't I already do this, or no?</p> <p>24 Q But just to have more detail of what exactly is done.</p> <p>25 A Specifically, I can go into great detail.</p>	<p style="text-align: right;">Page 72</p> <p>1 for your air, to make sure you don't have any air leaks with the</p> <p>2 truck, with the brakes applied or not applied.</p> <p>3 So you just go through that. That's all the stuff that</p> <p>4 is required by law, and also, the stuff that you want to do</p> <p>5 because you don't want to be out on the road with any of those</p> <p>6 defects.</p> <p>7 Q Okay. And do you, in your pre inspection -- I know</p> <p>8 earlier, you testified that you don't -- or -- strike that.</p> <p>9 In your pre inspection, do you flip the switch to</p> <p>10 activate the belly dump?</p> <p>11 A I do not. Some of the drivers may. I would get in the</p> <p>12 truck to make sure that the switches are -- covers are closed over</p> <p>13 the switches, that they are not in the open position.</p> <p>14 Part of your -- as you are walking down the trailer, you</p> <p>15 are making sure all your gates operate. So you would manually</p> <p>16 move the lever to make sure you have air pressure to the gates,</p> <p>17 that they -- the Versa valve is, in fact, in the closed position</p> <p>18 and the gates are closed and there's air to the gates.</p> <p>19 But I don't personally make sure that they are working</p> <p>20 with the electrical switches in the morning. But it's something</p> <p>21 that some drivers may.</p> <p>22 But for the most part, we don't open our gates with</p> <p>23 electrical switches very often. So it's not an issue if one of</p> <p>24 them may not work with the electrical switch. It's not as big an</p> <p>25 issue as a company that may need to open them electrically.</p>
<p style="text-align: right;">Page 71</p> <p>1 Q Yes, please.</p> <p>2 A And you are required and you do.</p> <p>3 You get there and you look under the truck to make sure</p> <p>4 that there's no oil leaks under the truck. You look at it</p> <p>5 visually to make sure there's no damage to the outside of the</p> <p>6 vehicle, there's nothing wrong.</p> <p>7 And then you tilt the hood, and then you check all your</p> <p>8 under hood components, your oil, your coolant, your power steering</p> <p>9 fluid, your windshield washer fluid.</p> <p>10 You visually check to make sure your windshield wipers</p> <p>11 are there, they operate. You check your lights, you check your</p> <p>12 turn signals, your brake lights. You check all your hoses. You</p> <p>13 are checking to make sure you don't have any loose lug nuts.</p> <p>14 You are checking your tire -- tires to make sure you</p> <p>15 don't have any low tires. You are checking your springs, your</p> <p>16 brakes; your connections, your connection between the trailers,</p> <p>17 your kingpin, make sure that's latched.</p> <p>18 I mean, I could go on and on. I don't know how much</p> <p>19 detail you want to go.</p> <p>20 Q Just looking to see everything that you do in your</p> <p>21 inspections.</p> <p>22 A Yeah, you get in your truck and you make sure your</p> <p>23 triangles are in there and your fire extinguishers are in there.</p> <p>24 You check to make sure your truck's building air</p> <p>25 pressure. And you are required by law to do your leakdown test</p>	<p style="text-align: right;">Page 73</p> <p>1 Q So in your morning inspection, you test each trailer's</p> <p>2 Versa valve by lifting the lever manually?</p> <p>3 A Yes, or pulling on the lever to make -- pushing it in,</p> <p>4 pulling it out, make sure it's in out position.</p> <p>5 We have air pressure gauges on all of our air tanks that</p> <p>6 go to the gates, make sure you have a minimum of 90 pounds of air</p> <p>7 pressure to hold the gates closed also as well.</p> <p>8 Q Okay.</p> <p>9 A We do that mostly because we have problems in the</p> <p>10 wintertime. If something freezes up, it might not get enough air,</p> <p>11 but you don't want to leave the yard that way.</p> <p>12 Q And do you do a visual inspection as to -- that the --</p> <p>13 if the belly dump is supposed to be closed, that it is closed?</p> <p>14 A Yeah. Oh, yes.</p> <p>15 Q Okay. If there was an issue with the electrical</p> <p>16 switching not activating the belly dump, you just testified that</p> <p>17 you usually do it manually, not electrically; is that correct?</p> <p>18 A Yes.</p> <p>19 Q I believe you testified that if it's electrical, you are</p> <p>20 not as concerned because you do it manually?</p> <p>21 A Correct.</p> <p>22 Q Okay.</p> <p>23 A So in other words, if the wires going to the plug in the</p> <p>24 front of the trailer came unplugged or wasn't plugged in, for me</p> <p>25 personally, I wouldn't care because you are dumping them by hand</p>

<p style="text-align: right;">Page 74</p> <p>1 anyway when you get to the plant.</p> <p>2 Q Okay. Has that ever happened before, that the</p> <p>3 electrical wiring has come out, but you still --</p> <p>4 A Or somebody might not have plugged it in, yeah.</p> <p>5 Q Or might not have plugged it in?</p> <p>6 A Yeah, it's still tied up, it's not even plugged in, or</p> <p>7 it's possible that one of the switches doesn't activate that</p> <p>8 particular dual electrical connection, but that's very rare.</p> <p>9 Q So have you driven your -- do you still drive your truck</p> <p>10 or trailer even if the electrical isn't hooked up correctly?</p> <p>11 A Oh, yes.</p> <p>12 Well, not hooked up correctly. I mean, if it's -- yeah,</p> <p>13 if it's hooked up backwards, yeah -- if it's just not hooked up,</p> <p>14 yeah, no. It wouldn't affect the operation of the trailer.</p> <p>15 Q How does MDB ensure that its drivers are properly</p> <p>16 inspecting their truck and trailers each day?</p> <p>17 A Mostly, we police it by being there and watching it,</p> <p>18 other drivers, other people that are involved in dispatch or</p> <p>19 whatever, you know.</p> <p>20 We self-police it, hey, you need to check your trailers,</p> <p>21 whatever. I mean, everybody watches everybody, yeah, everybody is</p> <p>22 doing it.</p> <p>23 Q And if someone -- if you find that someone is not</p> <p>24 inspecting their vehicle properly, what's the protocol of -- for</p> <p>25 MDB of what do they do in that situation?</p>	<p style="text-align: right;">Page 76</p> <p>1 them.</p> <p>2 Q So what are the additional things that you would do that</p> <p>3 the drivers wouldn't do?</p> <p>4 A Well, a driver is not going to get under the truck and</p> <p>5 crawl on a creeper and take a flashlight to look in to see if we</p> <p>6 have a wheel seal starting to seep, that sort of thing.</p> <p>7 But those are the things we do. We check to make sure</p> <p>8 the brakes are in compliance, the shoes have the correct thickness</p> <p>9 to make them legal. We check wiring, make sure all the wiring is</p> <p>10 in place and all the lights work.</p> <p>11 Q Do you check the wiring that goes to the Versa valves?</p> <p>12 A We visually inspect it, yes.</p> <p>13 Q But you don't test it electrically?</p> <p>14 A We can -- we do sometimes.</p> <p>15 Q How often does that occur?</p> <p>16 A Well, generally, it -- generally, it's a situation where</p> <p>17 the driver is going to bring it to your attention right away. If</p> <p>18 he's using it electrically and it's not working, he's going to let</p> <p>19 you know that day, and then we fix it.</p> <p>20 Q Are there certain drivers that prefer to use it</p> <p>21 electrically, use -- activating the Versa valve electrically</p> <p>22 versus manually?</p> <p>23 A Yes, and also to -- yes. Yes.</p> <p>24 Q Approximately how many drivers prefer electrically over</p> <p>25 manually?</p>
<p style="text-align: right;">Page 75</p> <p>1 A You bring them in and sit them down and tell them not</p> <p>2 acceptable. If it happens again, they are not going to be</p> <p>3 employed any longer.</p> <p>4 Q Do you provide any type of, like, written statement</p> <p>5 regarding it to keep track of an employee that has not inspected</p> <p>6 their truck properly?</p> <p>7 A No. It's something that's very rare, so --</p> <p>8 Q Now, the individuals that perform the maintenance and</p> <p>9 repairs on the trucks and trailers, who are those individuals?</p> <p>10 A At that time or currently?</p> <p>11 Q Do you -- at that time?</p> <p>12 A At that time, Pat Bigby, which is our mechanic, and</p> <p>13 myself.</p> <p>14 Q And as maintenance and repairmen for the trucks and</p> <p>15 trailers, do you perform any type of inspections on the vehicles</p> <p>16 on a regular basis?</p> <p>17 A Yes.</p> <p>18 Q And what are those inspections?</p> <p>19 A We generally bring them in every week or two weeks and</p> <p>20 do a complete inspection and grease and do PM on them and also do</p> <p>21 visual inspections on all the lights, reflectors, brakes, springs.</p> <p>22 Q Are these inspections the same as what a truck driver</p> <p>23 would do?</p> <p>24 A Yes, it would be similar. It would just be more</p> <p>25 involved as far as we actually grease the trailers and service</p>	<p style="text-align: right;">Page 77</p> <p>1 A I have no idea.</p> <p>2 Q Would you say half the drivers?</p> <p>3 A I would say a small percentage. When I'm over at the</p> <p>4 plant helping the guys dump, hardly anybody dumps them with their</p> <p>5 switches, electrically.</p> <p>6 MS. SHREVE: I think -- what time is it?</p> <p>7 MS. WOELFEL: It's 3:30. Why don't we take a break.</p> <p>8 MS. SHREVE: We're going to take a quick break so we can</p> <p>9 go off the record.</p> <p>10 (A recess was taken.)</p> <p>11 (Last two questions and answers were read by the reporter.)</p> <p>12 MS. SHREVE: We can go back on the record. Is everyone</p> <p>13 ready?</p> <p>14 BY MS. SHREVE:</p> <p>15 Q We're back on the record, Mr. Palmer. Do you understand</p> <p>16 you are still under oath?</p> <p>17 A Yes.</p> <p>18 Q Great. So earlier, you testified that at the time of</p> <p>19 the subject incident, Pat Bigby and yourself were responsible for</p> <p>20 maintenance of the truck; is that correct?</p> <p>21 A That's correct.</p> <p>22 Q Did you do all of the -- or did you or Pat perform all</p> <p>23 the maintenance on the subject truck and trailer, so</p> <p>24 Equipment Number 5694 and then Trailer 6775?</p> <p>25 A We were doing all the maintenance currently at that</p>

<p style="text-align: right;">Page 78</p> <p>1 particular point, yes.</p> <p>2 Q Prior to the subject incident, did you ever send the</p> <p>3 truck out to another party to do any sort of inspection or repair</p> <p>4 work on them?</p> <p>5 A I do not know the answer to that question. If it was,</p> <p>6 it would have only been to go out for maybe an alignment.</p> <p>7 I think I testified to that earlier, that, generally, if</p> <p>8 they went out, we don't have to do the equipment to do alignments.</p> <p>9 Q Earlier, you testified if there was something you didn't</p> <p>10 have time to do, you would sometimes send it out as well.</p> <p>11 Was there anything that you didn't have time to</p> <p>12 accomplish on that truck or trailer and you needed to send it out?</p> <p>13 A No, I do not believe so.</p> <p>14 Q What records does MDB typically keep for their</p> <p>15 maintenance and repairs of their trucks and trailers?</p> <p>16 A We keep -- we have files that contain all the work</p> <p>17 orders of the repairs and parts purchased for the repairs.</p> <p>18 Q Are there any other records that are kept for the</p> <p>19 maintenance and repairs of a truck or trailer?</p> <p>20 A We do annual inspections. Is that what you -- are</p> <p>21 you --</p> <p>22 Q Yeah, any type of maintenance or repair documents that</p> <p>23 are kept.</p> <p>24 A We would do annual inspections. And they are also kept</p> <p>25 in the same file with the maintenance records.</p>	<p style="text-align: right;">Page 80</p> <p>1 that the Truck 5694 and the trailers 6773, -4 and -5 were</p> <p>2 serviced?</p> <p>3 A I don't know. I would have to look at the maintenance</p> <p>4 records to answer that question.</p> <p>5 I can tell you, at that time, we were changing the oil</p> <p>6 in the trucks every 10,000 miles and inspecting the trailers and</p> <p>7 the trucks weekly or biweekly -- or, actually, I should say</p> <p>8 semiweekly, every other week.</p> <p>9 Q What kind of education does Peter Bigby have in regards</p> <p>10 to maintenance and repair work on the vehicles?</p> <p>11 A Patrick Bigby?</p> <p>12 Q Yes.</p> <p>13 A I don't know. He has extensive knowledge. He has been</p> <p>14 in the industry as long as I have, 30, 35 years.</p> <p>15 Q Do you know what kind of training he has?</p> <p>16 A He's got similar certifications and training that I have</p> <p>17 had. He's gone to, you know -- taken classes on repair of</p> <p>18 Caterpillar and Cummins engines, that sort of stuff.</p> <p>19 Q You mention he had has extensive experience.</p> <p>20 A Yes.</p> <p>21 Q Do you know what sort of experience he has?</p> <p>22 A He has been a heavy-duty mechanic his whole -- pretty</p> <p>23 much his whole career.</p> <p>24 Q Approximately how many years would you --</p> <p>25 A I would say 30 years.</p>
<p style="text-align: right;">Page 79</p> <p>1 Q Are your annual inspections performed by any other</p> <p>2 outside agency, like the DOT?</p> <p>3 A No. Well, not annual inspections.</p> <p>4 Q Are your vehicles ever inspected by an outside agency</p> <p>5 like the DOT at any time?</p> <p>6 A Oh, sure, roadside inspections, at scales.</p> <p>7 Q How often does that happen?</p> <p>8 A Not that often.</p> <p>9 Q Okay. Is it required to happen at any certain time, or</p> <p>10 is it a random --</p> <p>11 A Just random.</p> <p>12 Q Okay. So other than work orders, product receipts and</p> <p>13 annual inspections, are there any other documents that are kept</p> <p>14 regarding maintenance or repairs?</p> <p>15 A Well, the Driver Vehicle Inspection Report is kept. So</p> <p>16 if the driver turns it in with a defect, we make the repairs, the</p> <p>17 mechanic signs off on the repair, and we keep that in the file</p> <p>18 for -- we -- I believe the law is 90 days, but we keep them</p> <p>19 probably for a year before we throw them out.</p> <p>20 Q And so that's for the work orders?</p> <p>21 A No, that's for the Driver's Vehicle Inspection Report.</p> <p>22 The work orders, we keep forever.</p> <p>23 Q So the Driver's, you keep for a year?</p> <p>24 A Approximately, yes.</p> <p>25 Q Prior to the subject incident, when was the last time</p>	<p style="text-align: right;">Page 81</p> <p>1 Q Okay. Has MDB provided yourself or Mr. Bigby any</p> <p>2 training in regards to the Versa valve?</p> <p>3 A Training on repair or training on --</p> <p>4 Q On maintenance of the Versa valve.</p> <p>5 A No, as far as I know, there's no maintenance.</p> <p>6 Q How about the installation of the Versa valve?</p> <p>7 A No, no official training, other than we've all changed</p> <p>8 numerous Versa valves over the years. They come with</p> <p>9 instructions, but you don't really need those. Basically, you</p> <p>10 just bolt them on, hook up the plumbing.</p> <p>11 Q Do you have any manuals regarding installing or</p> <p>12 repairing the Versa valve?</p> <p>13 A No, we don't have a manual.</p> <p>14 You are talking about an MDB manual or, like, an owner's</p> <p>15 manual for the Versa valve?</p> <p>16 Q Does MDB's maintenance -- people that perform the</p> <p>17 maintenance or repairs, which you indicated were yourself and</p> <p>18 Mr. Bigby, at the time of the subject incident, and I guess I</p> <p>19 would say in 2013 before the subject incident as well, did you</p> <p>20 have any manuals or -- that you used in installing or maintaining</p> <p>21 or repairing a Versa valve?</p> <p>22 A The only thing we would have is instructions on how to</p> <p>23 install them or maintain them that come with a Versa valve when</p> <p>24 you initially purchase it.</p> <p>25 And the policy of MDB Trucking, since they started, was</p>

<p style="text-align: right;">Page 82</p> <p>1 if there's any mechanical failure of any sort with a Versa valve, 2 they replace it. They don't do any repair work on it. 3 So there's no -- so if there's a defect in it, we would 4 just change it. But there is no actual maintenance that needs to 5 be performed on the valve, other than visual inspection, make sure 6 all the parts are there and working correctly. 7 Q When you say "they," did you mean MDB, or are you 8 speaking about Versa? 9 A I'm sorry? 10 MS. SHREVE: Could you read his answer back, please. 11 (The answer was read by the reporter.) 12 BY MS. SHREVE: 13 Q So when you are saying "they," you are talking MDB 14 requires that you just remove the valve and replace it? 15 A Yes, if there was an issue, we would just replace the 16 valve. 17 Q So you have -- so would that be fair to say, that you do 18 not perform maintenance on the Versa valve, you just remove it? 19 A Well, we do not perform preventive maintenance other 20 than visually inspecting it, make sure it operates correctly. If 21 there is an issue or defect, then we replace it, yes. 22 Q How often have you had to replace a Versa valve on a 23 trailer? 24 A Once, in 2013, after the first incident, a new Versa 25 valve was put on the trailer.</p>	<p style="text-align: right;">Page 84</p> <p>1 Q Can you explain to me what this document is. 2 A This is a repair order or a work order, is what it's 3 labeled, a repair order. 4 Q Okay. And is this the repair order that you spoke about 5 earlier as one of the things that are kept in regards to 6 maintenance? 7 A Yes. 8 Q Is there any other work order that is kept? Because I 9 know you indicated it's work order, the yearly, and then the 10 Driver's Report. 11 A And any parts that were purchased, yes. 12 And if, for some reason, it was sent out to a third 13 party, that would be a copy of that bill in there too. But, like 14 I said, I don't think this thing went out for any outside 15 maintenance. 16 Q Okay. Who prepares these work orders? 17 A The mechanic that does the work or the lead mechanic, I 18 would say, that's working on this particular piece of equipment. 19 Q And in this one, who was this work performed by? 20 A Pat Bigby. 21 Q And what is the location of where that is performed? 22 A It's performed at our shop, our shop location at Mustang 23 yard in Sparks, Nevada. 24 It says "WNT shop," but that's the shop that we rent 25 from them. I don't know -- we used to put that on there. It's</p>
<p style="text-align: right;">Page 83</p> <p>1 And then the only other time we -- I believe, was when 2 they took them for testing, the attorneys took them for testing 3 and we had to replace them. 4 So we have -- Versa Products are pretty much maintenance 5 free. I mean, we really don't have any problems with them as far 6 as mechanical failures. 7 Q So MDB has disclosed numerous maintenance documents. I 8 won't go through all of them with you, but I did take out some I 9 would like to discuss and go through with you. 10 A Okay. 11 Q So I figured the easiest way to do it was by equipment 12 number and to do the exhibit by the stack of equipment number. 13 A Okay. 14 MS. SHREVE: Unless anyone has any objection to it? 15 MR. BARKLEY: No objection, Counsel. 16 MS. SHREVE: So then this would be -- I would like to 17 mark it as Exhibit 4. This is regards to Equipment Number 5694. 18 (Exhibit 4 marked for identification.) 19 BY MS. SHREVE: 20 Q I'll give you a moment to look over those documents. 21 A Are these in any particular order? 22 Q They are in date order. 23 A Okay. 24 Q So can you -- so we'll start with MDEMINT 00089. 25 A Okay.</p>	<p style="text-align: right;">Page 85</p> <p>1 actually our shop. That's where we work on our trucks. 2 Q If you flip to the next one, which is MDB 103, this 3 location is yard. 4 A Yes. 5 Q Is that the same as WNT shop? 6 A Yes, same location. 7 Sometimes, if he goes out in the yard to work on it, 8 he'll write "yard." If he brings it in the building, he'll put 9 "shop" or "WNT shop," but it's all the same location. 10 Q Okay. Perfect. 11 Can you tell me what this work order is for? 12 A It came in for power steering leaks. And Pat replaced 13 all the power steering lines. Looks like he flushed out the old 14 ATF or power steering fluid, replaced the filter, put a new cap -- 15 gasket on the cap, put new power steering lines on it. 16 And also, replaced the cab accessory relay, which 17 provides electricity to the accessories, switched accessories in 18 the cab, and the batteries. 19 Looks like he also put a new clutch brake in and 20 adjusted the clutch. 21 Q Okay. You say he replaced the cab power relay and you 22 say that supplies power to the switch. Is that what you said? 23 A It supplies switched power to the cab. In other words, 24 anything that requires power after the key is turned on is 25 activated by this relay.</p>

<p style="text-align: right;">Page 86</p> <p>1 Q So would that include the switch to activate --</p> <p>2 A No.</p> <p>3 Q -- the valves?</p> <p>4 A Those are directly connected to the batteries.</p> <p>5 Q Okay. So what -- could you give me an example of what</p> <p>6 switch it would activate.</p> <p>7 MR. BROWN: Do you understand what she's talking about?</p> <p>8 THE WITNESS: Uh-huh.</p> <p>9 MR. BROWN: Sorry. I was going to say vague, but if he</p> <p>10 understands.</p> <p>11 MS. SHREVE: His words were "the switch."</p> <p>12 THE WITNESS: You are talking about switch power?</p> <p>13 BY MS. SHREVE:</p> <p>14 Q Yes.</p> <p>15 A The same thing as in -- like in your car, if you turn</p> <p>16 the key on, if you don't -- you can turn your radio on, your</p> <p>17 windshield wipers on, something that would be on, but only with</p> <p>18 the key on.</p> <p>19 So if the key is off, your headlights still work, so</p> <p>20 it's unswitched.</p> <p>21 The things in the cab that require the key to be on are</p> <p>22 activated by this relay.</p> <p>23 So if that fails or doesn't work, then you lose all your</p> <p>24 power to anything that was a switched accessory, like, for</p> <p>25 instance, your radio, your -- your electronics for, maybe, like</p>	<p style="text-align: right;">Page 88</p> <p>1 A He's talking about the turn signal switch itself, the</p> <p>2 actual left and right turn signal switch.</p> <p>3 Q Okay. Perfect. Okay. We'll go to the next one.</p> <p>4 This is 107.</p> <p>5 A Uh-huh.</p> <p>6 Q Can you tell me about this one, of what this work order</p> <p>7 is for.</p> <p>8 A Some -- there is an air leak underneath the truck. And</p> <p>9 I was the one that did the work.</p> <p>10 I found the leak at the quarter-inch plastic air hose</p> <p>11 fitting on the downside of the air shifter for the hydraulic pump.</p> <p>12 So in other words, the valve that controls the dump, hydraulic</p> <p>13 dumping of an end dump, was leaking when it was in the down</p> <p>14 position.</p> <p>15 But I found that it was leaking at the fitting, replaced</p> <p>16 the fitting, removed and replaced the fitting with a new one, put</p> <p>17 the -- reconnected the air hose in. It quit leaking.</p> <p>18 Q And you said this is part of activating the dump? Is</p> <p>19 that what you said? Sorry.</p> <p>20 A We can either pull bottom dumps or end dumps. End dumps</p> <p>21 are hydraulic, hydraulically operated. They are not electrical.</p> <p>22 So we have -- you have to engage the power take-off, and</p> <p>23 then we have an air switch that controls the hoist that raises or</p> <p>24 lowers the dump.</p> <p>25 Completely different than the bottom dumps. You have to</p>
<p style="text-align: right;">Page 87</p> <p>1 your cruise control, that sort of stuff.</p> <p>2 Q So then can the Versa valve switch --</p> <p>3 A It would still work --</p> <p>4 Q -- activate -- can it activate without the key being</p> <p>5 turned?</p> <p>6 A Yes. Yes, that's a safety feature.</p> <p>7 Q Okay. So it can be activated when the truck is turned</p> <p>8 off?</p> <p>9 A Yes. You do not want to activate only on accessory.</p> <p>10 That's a safety issue.</p> <p>11 Q Okay. Perfect.</p> <p>12 Okay. I'm going to go to the next one. Sorry, I'll try</p> <p>13 to make these -- I know it's kind of a lot.</p> <p>14 So MEMAINT 103, can you tell me about what this work</p> <p>15 order is for, please.</p> <p>16 A Okay. "TS" means trouble- -- it says troubleshoot inop</p> <p>17 turn signals and four-way flashers. Found low voltage at the</p> <p>18 switch. Trace to fuse in the fuse block. Replaced the fuse.</p> <p>19 Working now. Unable to determine cause at this time.</p> <p>20 So, apparently, truck came in with the turn signal not</p> <p>21 working correctly. And the fuse in the fuse block to operate the</p> <p>22 turn signals was making good contact, and by removing it and</p> <p>23 replacing it, it cured the problem.</p> <p>24 That's how I'm reading that.</p> <p>25 Q What is the switch that it talks about in this?</p>	<p style="text-align: right;">Page 89</p> <p>1 be hooked to a different type of trailer that takes hydraulics to</p> <p>2 raise the trailer and dump.</p> <p>3 There's no electricity involved in this.</p> <p>4 Q All right. We can go, then, to the next one. It's 109.</p> <p>5 And can you tell me about this one.</p> <p>6 A After an inspection -- after the truck was inspected,</p> <p>7 both rubber hoses that go from the tractor to the trailer were</p> <p>8 found to be bad, which probably meant they had -- they were out of</p> <p>9 service, meaning they had a crack or a rub mark in it where it</p> <p>10 showed the cord of the actual hose.</p> <p>11 So we just replaced all -- both hoses from the service</p> <p>12 side and the emergency side hoses.</p> <p>13 Q What are the hoses for?</p> <p>14 A Well, the supply line supplies air to your trailer to</p> <p>15 release your brakes. And the service side takes -- delivers air</p> <p>16 to the trailer to apply your brakes.</p> <p>17 Q Okay. We'll go to the next one.</p> <p>18 This is 122. Can you tell me what this work order is</p> <p>19 for, please.</p> <p>20 A Well, came in for a leaking top tank. I'm assuming he</p> <p>21 means top radiator tank.</p> <p>22 And -- oh, yeah, I do remember this. We took the tank</p> <p>23 off -- we took the tank off, took it down to the radiator shop,</p> <p>24 had it welded, tested, brought back, replaced the tank, along with</p> <p>25 the gasket.</p>

<p style="text-align: right;">Page 90</p> <p>1 Broken hood -- broke -- replaced broken head restraint 2 cable -- oh, hood restraint cable. Yeah, that's just the cable to 3 keep the hood from falling on the ground when you open the hood. 4 Q What is the date on this work order? 5 A It says 10/27/14. 6 Q Okay. We'll go to the next one. 7 MEMAINT 129, can you -- we'll transition a little bit, 8 but can you start with the date of the work order and what this 9 work order was for. 10 A 12/18/14 is the date. 11 Q And what was this work order for? 12 A It was for the screws being loose on the four-way. So 13 they were tightened and tested. 14 Four-way -- the four-way cable refers to the leftover 15 cable that plugs in the front of the trailer that operates the 16 Versa valves or operates whatever -- whatever particular trailer 17 you plug it into, it operates something. 18 On end up, it operates the tailgate; on bottom dumps, it 19 operates the Versa valves that dump the trailers. 20 So it came in for the gates not operating with the 21 switch. And one of the wires was loose, so we tightened it in and 22 put it back in service. 23 Q And who would have discovered this? Is this something 24 that -- 25 A The driver.</p>	<p style="text-align: right;">Page 92</p> <p>1 correct? 2 A It doesn't -- it appears that he reused the same 3 four-way and seven-way and just put new cord in. 4 Q Okay. So there's a four-way plug -- 5 A On the end of the cable. 6 Q Okay. And here, he replaced the four-way cord? 7 A Yes, and the seven-way cord. 8 Q And the seven-way cord. 9 And is this something that the driver would note in 10 their morning inspection, that there was an issue with the 11 seven-way cord and the four-way cord? 12 A No. This, more than likely, we noticed in the post-trip 13 inspection, at the end of the day, or sometime during the day, he 14 would have noticed that his seven-way or four-way cord got damaged 15 somehow, maybe got snagged on something. 16 Maybe it was -- noticed it was -- yeah, had a damage. 17 And it wasn't worth repairing, we just replaced it. 18 So it probably wouldn't have been noticed in the 19 morning. It would have been -- in the morning, it would have been 20 good. Sometime during the day, something happened to it. So when 21 it got back to the yard, we fixed it. 22 Q What sort of thing could occur for something to happen 23 to it, I guess? You said something could snag it? 24 A Yeah, something could snag it. It could drag on the 25 ground. It could come unplugged and get caught in something.</p>
<p style="text-align: right;">Page 91</p> <p>1 Q Okay. In your morning inspection, is this -- 2 A The driver probably would -- probably would not have 3 found it during his morning inspection. He would have found it 4 during the day when he went to dump it, if he dumped it 5 electrically, flipped the switch, hey, my middle trailer is not 6 opening up. 7 So even though it -- the trailer is not opening, it's 8 actually the truck he's doing the work on, because it's the wiring 9 on the truck that is not making a good connection to the trailer. 10 Q Okay. We can go to the next one. 11 Can you tell me the date on this one, please. 12 A 2/5/15. 13 Q And what is this work order for? 14 A We put a new driver's seat in it. And then we replaced 15 the seven-way and four-way cords, cables, and replaced leaking 16 axle flange gasket. 17 Q Okay. So is this four-way cord different from the work 18 order we discussed of the four-way plug in MEMAINT 129? 19 A No, it would be the same -- it would be the same cord. 20 But this one, on the prior one, on 12/18/14, we replaced -- we 21 tightened the screws on the plug itself. 22 On this work order on 2/5/15, we actually replaced the 23 seven-way cable and the four-way cable. 24 Q So then the four-way plug that you tightened, you 25 removed and replaced it with another four-way plug; is that</p>	<p style="text-align: right;">Page 93</p> <p>1 But that's generally not what happens. Generally, what 2 happens is they get old, they get cracked. And if somebody snags 3 it on something, they don't have it tied up correctly -- I mean, 4 the truck driver -- it's pretty easy to do. 5 Q So does that happen frequently? 6 A Well, I wouldn't say frequently, but we just sort of 7 have a pet peeve of ours to make sure that none of these things -- 8 that these get fixed right away. 9 Q Uh-huh. 10 A So -- 11 Q Okay. So we'll go to the next one, which is MDB 290. 12 A Okay. 13 Q Can you tell me the date on this and what this work 14 order is for. 15 A 6/17/15. And brake lights inop on trailer. 16 Q Okay. And so what did you do on this one? 17 A I took the seven-way plug apart, tightened up the set 18 screws that hold the wire in place, and replaced the missing 19 strain relief, which would have vibrated out, which is some -- not 20 that uncommon. 21 Q When you say "vibrated out," what does that mean? 22 A Going down the road, it vibrates out and just falls out. 23 It's just a little tiny set screw that holds it, keeps the driver 24 from pulling the wire out of the plug when you pull it out. 25 It doesn't have to be there, it just -- if it's not</p>

<p style="text-align: right;">Page 94</p> <p>1 there, you want to replace it, though.</p> <p>2 Q All right. We'll go to the next one. This is MDB 273.</p> <p>3 And can you tell me the date on this one and what occurred.</p> <p>4 A 12/2/15?</p> <p>5 Q Uh-huh.</p> <p>6 A Replaced -- pulled out four-way plug. Replaced four-way</p> <p>7 plug. Issues still exist. Found all wires pulled out of -- at</p> <p>8 tractor. Also reattach wires and tested okay.</p> <p>9 Q So this one indicates -- it says issues still exist.</p> <p>10 Was there -- is there another work order that would have been</p> <p>11 performed indicating that there was an issue there prior?</p> <p>12 A No, this is another -- this probably happened when the</p> <p>13 driver came to the yard, unhooked his trailer and its hoses and</p> <p>14 electrical, pulled out from underneath the trailer to hook up to a</p> <p>15 different trailer and forgot to unhook his four-way.</p> <p>16 I don't have -- I don't know, and I don't have a memory</p> <p>17 of that. That's probably what happened.</p> <p>18 So the four-way stayed plugged into the trailer. When</p> <p>19 he pulled away, it yanked -- pulled the plug off the end of the</p> <p>20 cord.</p> <p>21 So if you read this, Pat put a new plug on the end of</p> <p>22 the cord, but it still didn't work. And then he found out that it</p> <p>23 also pulled out the other end of the wiring on the tractor, it</p> <p>24 pulled it that hard.</p> <p>25 So he reattached the wires on both ends, and then it</p>	<p style="text-align: right;">Page 96</p> <p>1 And then he found a loose fitting on the return line,</p> <p>2 the return fuel line at the splitter between the two tanks,</p> <p>3 removed the fitting and resealed the fitting and then made a new</p> <p>4 bracket and reroute -- I'm not sure what that word is. Made a new</p> <p>5 bracket.</p> <p>6 Q Looks like "resourced." Would that make sense?</p> <p>7 A "Resecured"?</p> <p>8 MR. BROWN: "Resealed"?</p> <p>9 THE WITNESS: I'm not sure, made a new bracket and</p> <p>10 resecured hydraulic line, that sounds about right.</p> <p>11 BY MS. SHREVE:</p> <p>12 Q Okay. What would that entail, the new bracket?</p> <p>13 A Yeah, resecure, because it does say that up here.</p> <p>14 The hydraulic line that goes from the pump to the tank</p> <p>15 has a bracket that holds it up from dropping down too low. And it</p> <p>16 just -- the bracket broke.</p> <p>17 So he made a new bracket and tied the line back up. And</p> <p>18 it's secured to the truck in the middle so it holds the line up.</p> <p>19 Q Okay. We can go to the next one then, MDB 297. Could</p> <p>20 you tell me the date on this one and what this work order is for,</p> <p>21 please.</p> <p>22 A 6/15/16. And it has troubleshoot air dryer cycling</p> <p>23 prematurely, which means, instead of it cycling when the air</p> <p>24 pressure drops to a certain level, it would continue to cycle,</p> <p>25 meaning it continued to drop off.</p>
<p style="text-align: right;">Page 95</p> <p>1 worked okay.</p> <p>2 Q Okay. So the -- Pat indicating issues still exist?</p> <p>3 A No, he said -- yeah, he replaced four-way plug, issues</p> <p>4 still exist. Then he found all the wires pulled out at the</p> <p>5 tractor, also reattached wires and tested okay.</p> <p>6 Q Okay. I understand now.</p> <p>7 A So two-step process now.</p> <p>8 Q I understand. Thank you.</p> <p>9 We will go to the next one MDB 306. Can you tell me the</p> <p>10 date and what this work order is for, please.</p> <p>11 A 2/11/16. It says troubleshoot trailer lights working</p> <p>12 intermittently. I guess -- it doesn't tell me which trailers it</p> <p>13 were, but I don't think it matters, because he found the seven-way</p> <p>14 cord damaged, cut back four inches and reinstalled the plug.</p> <p>15 So, once again, somebody -- somehow, it got damaged by</p> <p>16 the driver dumping, getting caught on something.</p> <p>17 Q Okay. The next one, MDB 298, can you tell me the date</p> <p>18 on this one and what this work order is for.</p> <p>19 A Yeah, 6/3 -- and -- I'm sorry, 6/13/16. Troubleshoot</p> <p>20 air-conditioning failure, resecure hydraulic suction line, repair</p> <p>21 fluid leak at the splitter valve.</p> <p>22 They came in with the driver at the end of the day</p> <p>23 saying air-conditioning didn't work, found an O-ring on a hose</p> <p>24 going to the accumulator, it was leaking there, and then replaced</p> <p>25 the O-ring and recharged air-conditioning and it worked.</p>	<p style="text-align: right;">Page 97</p> <p>1 So he replaced the air dryer check valve and rebuilt the</p> <p>2 air compressor unloader valve --</p> <p>3 Q Okay.</p> <p>4 A -- which, these are somewhat -- it was one or the other</p> <p>5 problem, but he did both of them to make sure it fixed the</p> <p>6 problem.</p> <p>7 Q So he was being proactive about it?</p> <p>8 A Yes.</p> <p>9 Q Okay. We'll go to the next one, MDB 295. Could you</p> <p>10 state the date and what this one is for.</p> <p>11 A 7/11/16, replace leaking air chamber, right side</p> <p>12 Number 2 axle. So the brake air chamber on the Number 2 axle,</p> <p>13 which would be the front drive axle, right side, has an air leak.</p> <p>14 And it must have been leaking on the emergency side, or</p> <p>15 the supply side, because he put a whole new brake chamber on</p> <p>16 there, replaced the part, instead of replacing the diaphragm.</p> <p>17 MS. SHREVE: Okay. So that's all the work orders I have</p> <p>18 for Equipment Number 560- -- 5694 at this time that I would like</p> <p>19 to ask about.</p> <p>20 So I will go on to what would be Exhibit 5. This will</p> <p>21 be all the work orders for Trailer 6773.</p> <p>22 (Exhibit 5 marked for identification.)</p> <p>23 BY MS. SHREVE:</p> <p>24 Q I'll give you a moment to look over that.</p> <p>25 Okay. We'll do the same type of thing that we just did.</p>

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

<p style="text-align: right;">Page 102</p> <p>1 probably slightly larger than the bolts, so they can be moved up 2 or down by an eighth of an inch.</p> <p>3 Q Okay. I understand. Thank you.</p> <p>4 I'm going to put this back here. One second.</p> <p>5 Okay. And so now, you did that for all of the Versa 6 valves on the -- I'm distracted really quick. I'm sorry.</p> <p>7 You did that for all the Versa valves that MDB leases or 8 owns?</p> <p>9 A MDB did, yes. I didn't do them all. I did most of 10 them, but yes.</p> <p>11 Q But MDB did?</p> <p>12 A Yes.</p> <p>13 Q Did you -- I know you earlier testified that you made 14 this suggestion to install this lockout device on the Versa 15 valves, correct?</p> <p>16 A I wouldn't really call it a suggestion. I said we're 17 doing it.</p> <p>18 Q You told them?</p> <p>19 A Yes. I put them out of service and we weren't back on 20 the road until these -- something was installed.</p> <p>21 Q Is there a reason why you didn't do this after the dump 22 that occurred in July 2013?</p> <p>23 A The only reason I can say is, I didn't think there 24 was -- myself or Pat or anybody that knows anything about this 25 incident, thought there was anything that it required.</p>	<p style="text-align: right;">Page 104</p> <p>1 distinguish between the two on this work order.</p> <p>2 But I'm assuming it's the one on the front. That's the 3 one that gets unplugged and plugged all the time, and we replace 4 them as soon as -- any issues whatsoever, we replace them.</p> <p>5 Q Now, this one, I notice it says work order by Scott, 6 which is yourself, and then it says performed by Pat.</p> <p>7 Why would it -- the work order have been by you, but 8 performed by Pat? Is that typical?</p> <p>9 A It's typical of him at that time. I don't know if he 10 still does it that way. He used to write it up by Scott, meaning 11 I'm the one that told him what was wrong with the trailer, but 12 he -- it was performed by him.</p> <p>13 That's what he's trying to get across there.</p> <p>14 Q Okay. And how would you have known that there was an 15 issue with --</p> <p>16 A The driver would have said something, would have been in 17 his daily DVIR anyway, saying, hey, my trailers aren't opening up 18 electrically or whatever.</p> <p>19 Q Okay. So in this one, the four-way socket was replaced?</p> <p>20 A Yes.</p> <p>21 Q And so the next one, MAINT 165, if you can tell me 22 the date and what this one was.</p> <p>23 A September 16th, 2014, troubleshoot air leak at the first 24 and second gate cylinders.</p> <p>25 Okay. I guess he means the front and the rear gate</p>
<p style="text-align: right;">Page 103</p> <p>1 We went through all the wiring. We could find no 2 defects. The Versa -- everything was installed correctly. And we 3 had no more issues other than that one time, so we thought that 4 was an isolated incidence.</p> <p>5 It wasn't until it opened a second time a year later 6 that we said, wait, we've got to do something that guarantees 7 these can't come open, because we can't explain why they came 8 open.</p> <p>9 So there's -- hindsight would be, yeah, we would have 10 liked to have done it when -- the first time it happened. But 11 being in this industry for so long, I -- I didn't think it was -- 12 I didn't think we were going to have a problem again.</p> <p>13 Q Based on your experience, you didn't think it was 14 anything caused by the truck or the valve?</p> <p>15 A Right. Exactly, the first time.</p> <p>16 Q Did you find anything different in the July 2014 that 17 was different than the July 2013?</p> <p>18 A No.</p> <p>19 Q Okay. I'm going to go to the next one. This would be 20 MAINT 160. Can you tell me the date on this one and what 21 occurred, please.</p> <p>22 A It's August 5th, 2014. And Pat Bigby replaced the 23 four-way socket on the front of 6773.</p> <p>24 At least, I am assuming that's what he replaced. It 25 could be the four-way socket on the front or the back. It doesn't</p>	<p style="text-align: right;">Page 105</p> <p>1 cylinders. There are two air cylinders that open the gates, and 2 there's one on the front one on the back. I guess he's calling it 3 the first and the second.</p> <p>4 Q When you say "gates," what do you mean by "gates"?</p> <p>5 A The gates at the bottom of the bottom dump. That's what 6 opens -- so the air cylinders are what actually physically open 7 the gate. The Versa valve is what supplies the air to the 8 cylinders to command them to open or close.</p> <p>9 So there was an air leak at the cylinder. It was 10 bypassing air through the -- to the cylinder and out the QR valve.</p> <p>11 So he removed the gate -- or, he -- so he removed and 12 cleaned the QR valve on the driver's side of the first gate, so 13 then that solved the problem.</p> <p>14 And he removed the second gate cylinder and repositioned 15 the O-ring and seals and reinstalled, meaning that -- the way the 16 O-rings and the cylinder -- where -- on the inside of the tube or 17 the cylinder, he just changed location so it's not in the same 18 place where it was wearing originally.</p> <p>19 But either way, he solved the problem of it leaking air, 20 bypassing air.</p> <p>21 Q Okay. You can go to the next one.</p> <p>22 MAINT 170, can you tell me the date and what occurred 23 on this one, please.</p> <p>24 A 12/18/14. And this would have been another replace the 25 four-way socket. And I didn't write on there either, where --</p>

<p style="text-align: right;">Page 106</p> <p>1 whether it was the front or the rear, but I'm assuming it's the 2 front again.</p> <p>3 And a lot of reasons why we replace -- do you want to 4 know this?</p> <p>5 I mean, a lot of reasons why we replace it, because the 6 doors break off. There's a door on the receptacle that actually 7 holds the plug in place. And if the door breaks off, then there's 8 nothing holding the plug in.</p> <p>9 Even though it still operates correctly, the door -- 10 the -- actually, the latch -- the door becomes the latch to hold 11 it in there. It breaks off, so we've got to put a new receptacle 12 on.</p> <p>13 It's very common.</p> <p>14 Q Is it -- so it's common for -- you would have to replace 15 the four-way socket, what was it, every four or five months?</p> <p>16 A Oh, yeah, yes. If it's a transfer, sometimes once a 17 week, because they are plugged in all day long.</p> <p>18 Q Are there certain trucks and trailers that are more of a 19 transfer to where you plug in and plug out more frequently?</p> <p>20 A Yeah. Like, a transfer truck, you -- every time you 21 dump, you have to unplug it. So, yeah, there's 18 times a day or 22 something that you are plugging in or unplugging in, or -- yeah.</p> <p>23 Q Is truck --</p> <p>24 A We're not -- we're talking about something -- a 25 different type of truck.</p>	<p style="text-align: right;">Page 108</p> <p>1 was probably -- once again, the door was probably broken off.</p> <p>2 Q I'm used to seeing "Daniel," not "Dan." Sorry.</p> <p>3 A Okay.</p> <p>4 Q Okay. We will go to the next one, MEMAINT 189. Can 5 you tell me the date on this and what occurred, please.</p> <p>6 A February 15, 2014. And replaced the rear four-way 7 socket and plug on 6774. So that one -- yeah.</p> <p>8 Q Okay. Getting used to seeing that.</p> <p>9 A Yeah, unfortunately, there's no -- we're not writing 10 down exactly why we replaced it, but it was broken. Mostly, it 11 was the door on the receptacle.</p> <p>12 Q So the next one, MEMAINT 209, can you tell me the date 13 on this one and what this work order is for.</p> <p>14 A Looks like 11/18/14, troubleshoot air leak at front gate 15 cylinder. Found QR valve leaking due to worn packing and cylinder 16 barrels. Oh, yeah, worn packing.</p> <p>17 Replace cylinder, but unable to get barrel today.</p> <p>18 Ordered two new barrels from truck parts.</p> <p>19 So do you want me to explain it?</p> <p>20 Q Please.</p> <p>21 A So the cylinder was bypassing air and coming out the QR 22 valve. Took it apart and found that it was the worn cylinder 23 barrel, probably put oil in it, put it back together. It probably 24 sealed good enough.</p> <p>25 And we ordered the two new barrels. And there's</p>
<p style="text-align: right;">Page 107</p> <p>1 Q Different? So they are not transfer trucks?</p> <p>2 A No, nothing with that.</p> <p>3 MS. SHREVE: All right. So that's the last one there.</p> <p>4 Okay. We will go to the next one, which will be 5 Exhibit 6. This is going to be for Equipment Number 6774. 6 (Exhibit 6 marked for identification.)</p> <p>7 BY MS. SHREVE:</p> <p>8 Q I will give you a second to look over this. 9 Do you need a break, or are you okay?</p> <p>10 A Oh, no, I'm good.</p> <p>11 Q So if you could tell me the date on this one and what 12 this work order is for.</p> <p>13 A February 13th, 2014. Again, I think you can see where 14 it says by Dan, meaning Dan would have told Pat what was wrong. 15 That's why he writes down who told him the problem.</p> <p>16 Anyway, troubleshoot inop lights on trailer. Found the 17 male plug at the hitch broken, replaced plug and tested okay.</p> <p>18 So on the rear of 6774 -- okay. It has to be on the 19 front.</p> <p>20 The plug at the front of 6774 was damaged somehow. And 21 he replaced the plug and tested.</p> <p>22 Q And who is Dan? I don't think I've seen --</p> <p>23 A (Indicating.)</p> <p>24 Q Oh, Daniel Koski.</p> <p>25 A He was driving. He brought it to Pat's attention. It</p>	<p style="text-align: right;">Page 109</p> <p>1 probably a future work order where he put those on.</p> <p>2 Yeah, he did put a seal kit in it. He did replace the 3 packing, so it probably did stop the leak. It just -- he 4 recommended replacing the barrels, so we had to order those.</p> <p>5 MS. SHREVE: I'm going to need a two-minute break, if 6 that's okay.</p> <p>7 If we could go off the record, please.</p> <p>8 (A recess was taken.)</p> <p>9 BY MS. SHREVE:</p> <p>10 Q So we'll go back on the record, Mr. Palmer. You 11 understand you are still under oath?</p> <p>12 A Yes.</p> <p>13 MS. SHREVE: So we'll do the next exhibit, which will be 14 Exhibit Number 7. And this is going to be for Equipment 15 Number 6775.</p> <p>16 We'll give you a moment to look over that. 17 (Exhibit 7 marked for identification.)</p> <p>18 BY MS. SHREVE:</p> <p>19 Q Okay. Did you have a chance to look over that?</p> <p>20 A No.</p> <p>21 Q You can do it as we go.</p> <p>22 A Exactly.</p> <p>23 Q Perfect.</p> <p>24 Could you tell me the date on this first one, MDB 015, 25 and what this is for.</p>

<p style="text-align: right;">Page 110</p> <p>1 A I believe it says August 2nd, 2013.</p> <p>2 Q Are you reading date completed or date of the work</p> <p>3 order? I just realized that.</p> <p>4 A Date completed.</p> <p>5 Q To clarify, all the previous ones were date completed as</p> <p>6 well?</p> <p>7 A Yes.</p> <p>8 Q Okay. Perfect.</p> <p>9 A Pat wrote up this. It says investigate unintentional</p> <p>10 gate opening. This is after the first incident back in 2013.</p> <p>11 Replace Versa valve and rewire dump valve circuit from</p> <p>12 valve to truck. Isolated dump -- I'm having a hard time reading</p> <p>13 that -- dump circuit.</p> <p>14 Isolating dump circuit, remove coil case ground from</p> <p>15 circuit.</p> <p>16 Q Okay. So here, it says investigated. Do you know what</p> <p>17 Pat did in terms of investigate?</p> <p>18 A I think he just did the usual, check all the wiring,</p> <p>19 make sure all the wiring is working correctly and just replaced</p> <p>20 the Versa valve to be safe and rewired the truck circuit to bypass</p> <p>21 any -- anything that might be -- supply inadvertent voltage to the</p> <p>22 gates, which he didn't find any.</p> <p>23 He just wired it so it's directly from the battery to</p> <p>24 the switch to the trailer.</p> <p>25 Q Do you know why he rewired the circuit?</p>	<p style="text-align: right;">Page 112</p> <p>1 operate at the trailer. I didn't think that was necessary.</p> <p>2 I didn't think that had anything to do with the gates</p> <p>3 opening on the highway, but he did it. And I think it doesn't</p> <p>4 hurt anything to do it that way. It's one less thing you have to</p> <p>5 worry about.</p> <p>6 Q Why is it one less thing you have to worry about?</p> <p>7 A Well, I mean, it's just one -- you can rule that out, I</p> <p>8 suppose you could say, not that -- I've never seen -- I have never</p> <p>9 seen any evidence of that being an issue.</p> <p>10 MR. BROWN: She doesn't understand by when you say "rule</p> <p>11 that out." What's the "that"?</p> <p>12 THE WITNESS: Okay. I see what you are saying.</p> <p>13 MS. SHREVE: Yeah. Just to clarify for the record.</p> <p>14 MR. BROWN: I wasn't trying to coach him, I was trying</p> <p>15 to --</p> <p>16 MS. SHREVE: I was about to ask that.</p> <p>17 THE WITNESS: Yeah, in my experience, I've never seen a</p> <p>18 trailer open because faulty wiring on the truck that -- I</p> <p>19 shouldn't say that -- where the voltage was supplied from</p> <p>20 wasn't -- I've never seen that as an issue, where it's pulled off</p> <p>21 of the starter, the battery, the -- he just wired it directly to</p> <p>22 the battery so that it's isolated from any other circuit.</p> <p>23 BY MS. SHREVE:</p> <p>24 Q So you said you haven't seen that be the issue. Have</p> <p>25 you seen something else be the issue then?</p>
<p style="text-align: right;">Page 111</p> <p>1 A I think it was just an attempt to have one less thing to</p> <p>2 worry about, as far as making sure that the voltage supply to it</p> <p>3 is coming directly from the battery, and the wires weren't going</p> <p>4 through any kind of a loom that may inadvertently make contact</p> <p>5 with the circuit.</p> <p>6 Q Did you ever ask Pat about what he did on this, with</p> <p>7 this incident?</p> <p>8 A Oh, yes, I did.</p> <p>9 Q And what did he say?</p> <p>10 A Basically, what I just said. He wanted to make sure</p> <p>11 that that wasn't going to be the cause of it. And my discussion</p> <p>12 with him at the time was I didn't think that was going to do any</p> <p>13 good, but, you know, it's not going to hurt anything.</p> <p>14 Q When you say that that wasn't the cause of it, what are</p> <p>15 you referring to?</p> <p>16 A Cause of this particular trailer dumping its load.</p> <p>17 Q Right. But what was the "that," the circuit wiring</p> <p>18 or -- can you -- sorry.</p> <p>19 MS. SHREVE: Can you just repeat his answer so I can</p> <p>20 understand.</p> <p>21 THE WITNESS: I can clarify what I was talking about.</p> <p>22 BY MS. SHREVE:</p> <p>23 Q Yeah. That works then.</p> <p>24 A I didn't think it was necessary for him to rewire the</p> <p>25 truck to supply the voltage to the trailer or to the switches that</p>	<p style="text-align: right;">Page 113</p> <p>1 A No, not in the last 20 years. Before that, I've seen</p> <p>2 issues where guys did faulty wiring, wired it to the seven-way or</p> <p>3 something like that.</p> <p>4 Q And that caused --</p> <p>5 A Could cause it, yes. That has to do with the trailers,</p> <p>6 not the truck itself.</p> <p>7 He basically just -- all he did was change where the</p> <p>8 voltage -- the source of the voltage for the switches came from,</p> <p>9 which is directly from the battery, instead of coming from a hot</p> <p>10 wire under the dash that's hot off the battery.</p> <p>11 Q Okay.</p> <p>12 A I think we were just trying to do whatever we could to</p> <p>13 make sure it didn't happen again.</p> <p>14 Q And what -- what was -- what was Pat's thought when you</p> <p>15 indicated that you disagreed, that you didn't think it had to do</p> <p>16 with the electrical wiring?</p> <p>17 A I would imagine his response would be it can't hurt, and</p> <p>18 that is correct, it can't.</p> <p>19 Q Did Pat indicate anything else he did to investigate the</p> <p>20 unintentional gate opening as he indicated in his work order?</p> <p>21 A We're talking about the first incident?</p> <p>22 Q Yes, with this work order.</p> <p>23 A 2013?</p> <p>24 Q Uh-huh.</p> <p>25 A No, this was actually done about a week prior to me</p>

<p style="text-align: right;">Page 114</p> <p>1 coming to work there. So when I first came to work at 2 MDB Trucking, this just happened. 3 Q So you weren't employed at this time? 4 A I was not employed on the day he did this work, but I 5 was employed within a couple of -- like a week, I think. 6 Q After? 7 A Yes. 8 Q Okay. When did you have the conversation with Pat 9 regarding this specific work order? 10 A Well, the day I came to work, because this was a hot 11 topic. You know, they wanted to get this solved. And I had a lot 12 of experience with Versa Products, and so that's the first thing 13 we collaborated on. 14 Q Did Pat have a lot of experience with Versa Products? 15 A I think he did, yes. 16 Q Was there any -- like, you said this was a hot topic at 17 the time when you started. Was there any written communication to 18 one another, whether emails or anything, regarding it? 19 A No. 20 Q Do you regularly email each other -- 21 A No. 22 Q -- regarding things -- 23 A Never. 24 Q Do you have an email with the company? 25 A Right. He doesn't -- yeah, he doesn't have a company</p>	<p style="text-align: right;">Page 116</p> <p>1 same work order. 2 So I'm not sure why he would reattach the Versa valve. 3 It doesn't show the symptom, it just shows what he did. 4 Q Did you have any conversation with Pat regarding 5 reattaching the Versa valve on June 30th, 2014? 6 A No, I do not believe so. 7 It's possible that Dan came in, because it says by Dan, 8 and he said, hey, my Versa valve, the bolts are loose, and he just 9 tightened the bolts up. 10 I -- he didn't use any parts. I'm not sure what it is 11 that he did. It couldn't have fallen off, you know. 12 Q Okay. Would this be considered a, I guess, 13 maintenance -- I know earlier, you testified that you don't ever 14 really main- -- have to maintain the Versa valves. 15 A Correct. 16 Q You would just replace them. 17 A Yes. 18 Q Would this be an instance of, I guess, maintaining the 19 Versa valve? 20 A Maintaining installation of the Versa valve, but not so 21 much the Versa valve itself. 22 What I meant by we don't -- the places I used to work, 23 we take the Versa valves apart and put O-ring kits in them and 24 rebuild them. But that's not the policy at MDB Trucking. They 25 just replace them.</p>
<p style="text-align: right;">Page 115</p> <p>1 email address, no. 2 Q All right. We'll go to the next one for now. 3 MEMAINT 237, the date is -- sorry. Can you please tell 4 me the date and what this work order is for. 5 A June 4th, 2014; Trailer 6775. It says troubleshoot ABS, 6 which is antilock braking system. And he found -- YE-1, which is 7 one of the four wheel ends of the trailer. We've got four wheel 8 ends. 9 And YE-1 wire broken and ordered a new wire that goes 10 from the modulator valve down to the ABS sensor. And in the 11 meantime, he temporarily fixed the one that was broken and 12 replaced it two days later. 13 Q Okay. So we'll go to the next one, MEMAINT 240. Can 14 you tell me the date and what occurred on this work -- for this 15 work order. 16 A June 30th, 2014. Reattach Versa valve. I have no idea 17 why he would have to reattach it. I'm not sure what -- I'm not 18 sure what that's about. 19 Q If he would have taken off the Versa valve, would there 20 be a work order for it? 21 A Oh, it would be -- yes, it would be on the same work 22 order. 23 Q It would be on this work order? 24 A It would be on -- if he removed it and replaced it, it 25 would be on the same work order. All the work would be on the</p>	<p style="text-align: right;">Page 117</p> <p>1 Q Here, I see one, there's an X next to "Repair." 2 A Yes. 3 Q Does that indicate -- help indicate anything -- 4 A No. 5 Q -- more? 6 A No. If there was a box for "Reattach," he would have 7 checked that one. I guess repair is the closest thing he could 8 come up with. 9 Q Would there be any other indication of what occurred on 10 this day, other than this work order? 11 A Not necessarily. I mean, not -- I mean, not -- there 12 would be a DVR, but I don't think it would still be in existence. 13 Q Okay. 14 A Yeah. 15 Q I'll request -- I don't know if you've looked for any of 16 the past Driver -- 17 A Yeah. 18 Q If you could please look to see if you have any and 19 produce -- pass them along to your counsel -- 20 A Okay. 21 Q -- if it's still in existence, or if it's not, please 22 indicate that it no longer is. 23 A Okay. 24 MR. BARKLEY: Specifically for this one? 25 MS. SHREVE: No, specifically from the -- I think I had</p>

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

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

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

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

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

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

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

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

8 And Pat went back and installed the correct valve,

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

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

11 different part number, a different style.

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

13 valve?

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

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

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

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

18 whatnot that --

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

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

21 instead of the check valve that you used?

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

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

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

25 as well as it should.

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

2 on that exhibit.

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

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

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

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REPORTER'S CERTIFICATION

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

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

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

8 testify in the within-entitled proceedings;

9 That said deposition was taken in verbatim stenotype

10 notes by me and thereafter transcribed into typewriting as herein

11 appears;

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

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

14 action;

15 That the foregoing transcript, consisting of pages one

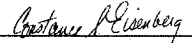
16 through 124, is a full, true and correct transcription of my

17 stenotype notes of said deposition.

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

19

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21 

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

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Errata Sheet

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24 Signature _____ Date _____

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

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

EXHIBIT 6

1 **DISC**

2 Katherine F. Parks, Esq., State Bar No. 6227
3 Brian M. Brown, Esq., State Bar No. 5233
4 Thierry V. Barkley, Esq., State Bar No. 724
5 Thorndal Armstrong Delk Balkenbush & Eisinger
6 6590 S. McCarran Blvd., Suite B
7 Reno, Nevada 89509
8 (775) 786-2882
9 Attorneys for Defendants/Cross-Claimant
10 MDB TRUCKING, LLC

11
12 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
13
14 IN AND FOR THE COUNTY OF WASHOE
15

16 ERNEST BRUCE FITZSIMMONS and
17 CAROL FITZSIMMONS, Husband and
18 Wife,

19 Plaintiffs,

20 vs.

21 MDB TRUCKING, LLC; DANIEL
22 ANTHONY KOSKI; ABC Corporations I-X,
23 Black and White Companies, and DOES I-
24 XX, inclusive,

25 Defendants.

Case No. CV15-02349

Dept. No. 15

(Consolidated with

Case No.: CV15-02410

Case No.: CV16-00626

Case No.: CV16-02410

Case No.: CV16-00519 [Discovery
Purposes]

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

26 CAND RELATED CROSS-CLAIMS AND
27 THIRD PARTY COMPLAINT.

28 **TO: CROSS-DEFENDANT AND THEIR COUNSEL OF RECORD:**

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

32 **RESPONSE TO REQUEST FOR ADMISSIONS**

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

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

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

2 Admitted.

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

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

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

8 Admitted.

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

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

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

13 Admitted.

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

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

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

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

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

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

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

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

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

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

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

2 Denied.

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

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

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

7 Admitted.

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

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

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

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

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

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

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

19 Admitted.

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

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

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

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

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

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

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

2 Denied.

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

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

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

7 Denied.

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

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

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

12 Admitted.

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

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

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

17 Admitted.

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

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

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

22 Admitted.

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

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

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

27 Denied.

28 ///

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

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

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

5 Admitted.

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

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

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

10 Admitted.

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

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

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

15 Admitted.

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

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

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

20 Admitted.

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

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

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

25 Denied.

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

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

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

2 Admitted.

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

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

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

7 Denied.

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

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

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

12 Admitted.

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

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

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

17 Denied.

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

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

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

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

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

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

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

2 Denied.

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

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

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

9 Denied.

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

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

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

16 Denied.

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

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

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

24 Denied.

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

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

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

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

5 Denied.

6 DATED this 2nd day of October 2016.

7 THORNDAL ARMSTRONG
8 DELK BALKENBUSH & EISINGER

9 By: 

Katherine F. Parks, Esq., State Bar No. 6227
Brian M. Brown, Esq., State Bar No. 5233
Thierry V. Barkley, Esq., State Bar No. 724
6590 S. McCarran Blvd., Suite B
Reno, Nevada 89509
Attorneys for Defendants/Cross-Claimant
MDB TRUCKING, LLC

1 **CERTIFICATE OF SERVICE**

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

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

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

9 ☐ hand delivery

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

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

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

Attorneys for Plaintiffs Ernest and Carol Fitzsimmons and Angela Wilt

15 Matthew C. Addison, Esq.
16 Jessica L. Woelfel, Esq.
17 McDonald Carano Wilson LLP
100 W. Liberty Street, Tenth Floor
Reno, NV 89501

Attorneys for Defendant RMC Lamar Holdings

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

22 Jacob D. Bundick, Esq.
23 Lisa J. Zastrow, Esq.
24 Greenberg Traurig, LLP
3773 Howard Hughes Parkway, Suite 400 North
Las Vegas, NV 89169
25 Attorneys for Defendants
The Modern Group GP-SUB, Inc. and Dragon ESP, Ltd.

26 DATED this 3 day of October 2016.

27 THORNDAL ARMSTRONG
DELK BALKENBUSH
& EISINGER
6590 S. McCarran, Suite B
Reno, Nevada 89509
28 (775) 786-2882



An employee of Thorndal Armstrong
Delk Balkenbush & Eisinger

EXHIBIT 7

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	Page 4
<p>1 APPEARANCES:</p> <p>2</p> <p>3 For the Plaintiffs:</p> <p>4 SARAH QUIGLEY, ESQ. (Present Telephonically)</p> <p>5 BRADLEY, DRENDEL & JEANNEY</p> <p>6 6900 South McCarran Boulevard</p> <p>7 Suite 2000</p> <p>8 Reno, Nevada 89509</p> <p>9 (775) 525-9164</p> <p>10</p> <p>11 For Versa Products Company, Inc.:</p> <p>12 PAIGE SHREVE, ESQ.</p> <p>13 LEWIS, BRISBOIS, BISGAARD & SMITH</p> <p>14 6385 South Rainbow Boulevard</p> <p>15 Suite 600</p> <p>16 Las Vegas, Nevada 89118</p> <p>17 (702) 893-3383</p> <p>18</p> <p>19 For RMC Lamar Holdings, Inc.:</p> <p>20 JESSICA WOELFEL, ESQ.</p> <p>21 McDONALD CARANO</p> <p>22 100 West Liberty Street</p> <p>23 10th floor</p> <p>24 Reno, Nevada 89501</p> <p>25 (775) 788-2000</p> <p>18 For MDB Trucking, LLC:</p> <p>19 BRIAN BROWN, ESQ.</p> <p>20 THEIRRY BARKLEY, ESQ.</p> <p>21 THORNDAL, ARMSTRONG, DELK,</p> <p>22 BALKENBUSH & EISINGER</p> <p>23 6590 South McCarran Boulevard</p> <p>24 Suite B</p> <p>25 Reno, Nevada 89509</p> <p>(775) 786-2882</p>	<p>1 INDEX</p> <p>2</p> <p>3 WITNESS: TRACY SHANE</p> <p>4 EXAMINATION PAGE</p> <p>5 BY PAIGE SHREVE 5</p> <p>6 BY JESSICA WOELFEL 101</p> <p>7 BY PAIGE SHREVE 128</p> <p>8</p> <p>9 INDEX TO EXHIBITS</p> <p>10 EXHIBIT PAGE</p> <p>11 11 Record of Annual Inspection 93</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 3	Page 5
<p>1 (Continued Appearances)</p> <p>2 For The Modern Group GP-SUB, Inc.:</p> <p>3 JACOB BUNDICK, ESQ. (Present Telephonically)</p> <p>4 GREENBERG TRAUIG</p> <p>5 3773 Howard Hughes Parkway</p> <p>6 Suite 400 North</p> <p>7 Las Vegas, Nevada 89169</p> <p>8 (702) 792-3773</p> <p>9</p> <p>10 For USAA:</p> <p>11 LISA TAYLOR, ESQ. (Present Telephonically)</p> <p>12 Law Office of Lisa A. Taylor</p> <p>13 5664 North Rainbow Boulevard</p> <p>14 Las Vegas, Nevada 89130</p> <p>15 (702) 645-0150</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 TRACY SHANE</p> <p>2 called as a witness, being first duly</p> <p>3 sworn, was examined and testified</p> <p>4 as follows:</p> <p>5</p> <p>6 EXAMINATION</p> <p>7 BY MS. SHREVE:</p> <p>8 Q. Good morning.</p> <p>9 A. Good morning.</p> <p>10 Q. My name is Paige Shreve, and I represent Versa</p> <p>11 Products in this lawsuit.</p> <p>12 Can you please state your name and spell it for me?</p> <p>13 A. Tracy Shane, T-r-a-c-y S-h-a-n-e.</p> <p>14 Q. Thank you.</p> <p>15 And you understand that the oath you just took is the</p> <p>16 same oath that you would take in a court of law and you're</p> <p>17 subject to the same penalty of perjury?</p> <p>18 A. Yes.</p> <p>19 Q. Have you ever had your deposition taken before?</p> <p>20 A. No.</p> <p>21 Q. I'm going to go over some ground rules with you in</p> <p>22 regards to depositions so you understand everything that we're</p> <p>23 doing today.</p> <p>24 First to my left is a court reporter. She is taking</p> <p>25 down everything that we say today. So I request that any</p>

<p style="text-align: right;">Page 6</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>23 A. Okay.</p> <p>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</p>	<p style="text-align: right;">Page 8</p> <p>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.</p>
<p style="text-align: right;">Page 7</p> <p>1 to make any changes. There are two different types of changes 2 you can make.</p> <p>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.</p> <p>10 A. I see.</p> <p>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.</p> <p>15 A. Thank you.</p> <p>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.</p>	<p style="text-align: right;">Page 9</p> <p>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?</p>

<p style="text-align: right;">Page 10</p> <p>1 A. I did.</p> <p>2 Q. What high school did you go to?</p> <p>3 A. Truckee Tahoe.</p> <p>4 Q. And did you graduate high school?</p> <p>5 A. I did.</p> <p>6 Q. Did you attend any secondary education after high</p> <p>7 school?</p> <p>8 A. No.</p> <p>9 Q. What is your current occupation?</p> <p>10 A. Dispatcher.</p> <p>11 Q. For what company?</p> <p>12 A. Cyclone Transport.</p> <p>13 Q. And how long have you worked there?</p> <p>14 A. One and a half years.</p> <p>15 Q. What do you do as a dispatcher at Cyclone?</p> <p>16 A. Coordinate orders and equipment to jobs and customers.</p> <p>17 Q. And before Cyclone where did you work?</p> <p>18 A. MDB Trucking.</p> <p>19 Q. And how long were you at MDB Trucking?</p> <p>20 A. Five -- if I am correct, five years and a month.</p> <p>21 Q. Do you remember when you started?</p> <p>22 A. It was in November of 2010.</p> <p>23 Q. And do you remember when you left?</p> <p>24 A. December 2nd, 2015.</p> <p>25 Q. Why did you leave MDB?</p>	<p style="text-align: right;">Page 12</p> <p>1 reported to the owner the state of affairs.</p> <p>2 Q. The owner, is that Terry Davis or somebody else?</p> <p>3 A. No, it's Travis Bonanno.</p> <p>4 Q. I'm going to go back a little later and talk about the</p> <p>5 different duties that you did more in detail, but prior to MDB</p> <p>6 where did you work?</p> <p>7 A. I worked for Atlas Contractors in Sparks.</p> <p>8 Q. And when did you work at Atlas, if you can recall when</p> <p>9 you started there?</p> <p>10 A. I believe that was March of 1992.</p> <p>11 Q. And then when did you leave Atlas?</p> <p>12 A. It was in March of 2007.</p> <p>13 Q. Why did you leave Atlas?</p> <p>14 A. Went to start my own business.</p> <p>15 Q. What business did you start?</p> <p>16 A. Metal building construction.</p> <p>17 Q. Metal building?</p> <p>18 A. Um-hum.</p> <p>19 Q. Is that what it was called, the company?</p> <p>20 A. No.</p> <p>21 Q. What was the company called?</p> <p>22 A. It was Silver State Construction.</p> <p>23 Q. How long did you have Silver State Construction for?</p> <p>24 A. I ended up not buying the business. I worked there</p> <p>25 for three years.</p>
<p style="text-align: right;">Page 11</p> <p>1 A. I was dismissed, fired.</p> <p>2 Q. Why were you fired?</p> <p>3 A. There were no reasons given.</p> <p>4 Q. Who was it that fired you?</p> <p>5 A. Safety director of a sister company, Terry Davis.</p> <p>6 Q. He didn't provide any reason?</p> <p>7 A. He didn't even know, no.</p> <p>8 Q. He didn't know what -- He is the one that informed you</p> <p>9 that you were fired?</p> <p>10 A. Um-hum.</p> <p>11 Q. And he didn't know the reason why you were?</p> <p>12 A. Um-hum.</p> <p>13 Q. Did you ask about it?</p> <p>14 A. Yes.</p> <p>15 Q. Did they do any investigation to give you any more</p> <p>16 information?</p> <p>17 A. Never talked to them again.</p> <p>18 Q. Okay.</p> <p>19 And at MDB Trucking what was your job title?</p> <p>20 A. Dispatcher.</p> <p>21 Q. Briefly take me through the job duties that you would</p> <p>22 perform at MDB Trucking?</p> <p>23 A. I did the hiring of drivers, the training of the</p> <p>24 drivers, approved timecards. I'm trying to remember the exact</p> <p>25 word, essentially reconciled paperwork and timecards and</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. So was that from 2007 to 2010?</p> <p>2 A. That is correct.</p> <p>3 Q. Is there any particular reason why you decided not to</p> <p>4 buy the business?</p> <p>5 A. The economy for one. Two, couldn't agree upon a sale</p> <p>6 price in the end.</p> <p>7 Q. Okay.</p> <p>8 When you were working at Silver State Construction</p> <p>9 what was your job title?</p> <p>10 A. Estimator, project superintendent.</p> <p>11 Q. What were the job duties that you would perform?</p> <p>12 A. Managed construction crews, go to bid openings, job</p> <p>13 box.</p> <p>14 Q. So your duties here were a little bit different than</p> <p>15 as dispatcher at MDB and what you're currently doing; is that</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. So before that you were at Atlas. What was your job</p> <p>19 title at Atlas?</p> <p>20 A. Low bed truck driver.</p> <p>21 Q. Did you only drive low bed trucks?</p> <p>22 A. I drove -- Primarily, yes, that was my truck, but I</p> <p>23 filled in on others as needed.</p> <p>24 Q. What were other types of trucks that you drove?</p> <p>25 A. Transfers, end dumps, bottom dumps, water trucks.</p>

<p style="text-align: right;">Page 14</p> <p>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?</p>	<p style="text-align: right;">Page 16</p> <p>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?</p>
<p style="text-align: right;">Page 15</p> <p>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?</p>	<p style="text-align: right;">Page 17</p> <p>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</p>

<p style="text-align: right;">Page 18</p> <p>1 training you?</p> <p>2 A. Basic how to operate the various trailers.</p> <p>3 Q. You operated bottom dumps at Sierra Rental and</p> <p>4 Transportation?</p> <p>5 A. Yes.</p> <p>6 Q. How often would you drive a bottom dump trailer?</p> <p>7 A. Irregular.</p> <p>8 Q. Would you say once a month?</p> <p>9 A. Probably less.</p> <p>10 Q. Once every three months maybe?</p> <p>11 A. That's more like it.</p> <p>12 Q. Okay.</p> <p>13 Did those bottom dumps have Versa valves on them?</p> <p>14 A. Those did.</p> <p>15 Q. So prior to Sierra where did you work?</p> <p>16 A. Sha-Neva Incorporated.</p> <p>17 Q. Where was that?</p> <p>18 A. Truckee.</p> <p>19 Q. When did you start working at Sha-Neva?</p> <p>20 A. It was a family business. Legally I think I got my</p> <p>21 first paycheck in '77.</p> <p>22 Q. So you worked there from '77 to '91 -- I'm mean sorry,</p> <p>23 to '87?</p> <p>24 A. Correct.</p> <p>25 Q. What was your job title there?</p>	<p style="text-align: right;">Page 20</p> <p>1 A. Yeah, Antarctica was from '85 to the end of '87 -- '88</p> <p>2 actually.</p> <p>3 Q. So Sha-Neva, were you still working -- I have '77 to</p> <p>4 '87, so was it '85?</p> <p>5 A. Well, Antarctica I went down in the summers, our</p> <p>6 winters here, summers there.</p> <p>7 Q. So Sha-Neva was seasonal and then you would go -- you</p> <p>8 were up there half the year and Antarctica half the year?</p> <p>9 A. Um-hum.</p> <p>10 Q. Where did you work in Antarctica?</p> <p>11 A. Two summers in McMurdo and one at the South Pole</p> <p>12 station.</p> <p>13 Q. What company did you work for?</p> <p>14 A. I worked for ITT.</p> <p>15 Q. What does that stand for?</p> <p>16 A. International Telephone Telegraph was the parent</p> <p>17 company. Antarctica services was the division that -- was their</p> <p>18 polar division.</p> <p>19 Q. What was your job title?</p> <p>20 A. Equipment operator. Truck driver for the first</p> <p>21 season, I should say. Equipment operator for the last two.</p> <p>22 Q. As a truck driver did you operate belly dumps?</p> <p>23 A. No.</p> <p>24 Q. As an equipment operator what did that entail?</p> <p>25 A. Running loaders, loading dump trucks, forklifts, what</p>
<p style="text-align: right;">Page 19</p> <p>1 A. Slave.</p> <p>2 Q. So you did a little bit of everything they needed?</p> <p>3 A. Um-hum.</p> <p>4 Q. Was this a trucking business as well?</p> <p>5 A. It did have a trucking division to it, yes.</p> <p>6 Q. Did you drive trucks?</p> <p>7 A. I did.</p> <p>8 Q. Did you drive any bottom dumps or belly dumps?</p> <p>9 A. Yes.</p> <p>10 Q. How often would you drive those?</p> <p>11 A. Seasonal, summer, a third of the time.</p> <p>12 Q. Did they have Versa valves in those?</p> <p>13 A. Those did, yes.</p> <p>14 Q. Why did you leave Sha-Neva?</p> <p>15 A. To see the world.</p> <p>16 Q. With Sierra, why did you leave Sierra Rental and</p> <p>17 Transport?</p> <p>18 A. Lack of work.</p> <p>19 Q. Okay.</p> <p>20 So before Sha-Neva where did you work?</p> <p>21 A. I was a student.</p> <p>22 Q. Okay.</p> <p>23 A. That was the beginning.</p> <p>24 Q. So where was Antarctica, I feel like we're missing</p> <p>25 Antarctica?</p>	<p style="text-align: right;">Page 21</p> <p>1 people call dozers. I believe that's -- rough drills for</p> <p>2 drilling and blasting.</p> <p>3 Q. Did I miss any other jobs?</p> <p>4 A. None.</p> <p>5 Q. Okay, great.</p> <p>6 Did you do anything to prepare for your deposition</p> <p>7 today?</p> <p>8 A. No.</p> <p>9 Q. Did you speak to anyone in preparation for your</p> <p>10 deposition today?</p> <p>11 A. I have not.</p> <p>12 Q. Did you speak with Daniel Koski about his deposition?</p> <p>13 A. No.</p> <p>14 Q. Did you speak with Scott Palmer about his deposition?</p> <p>15 A. No.</p> <p>16 Q. Did you speak with Patrick Bigby about his deposition?</p> <p>17 A. No.</p> <p>18 Q. I'm going to go back to your time at MDB Trucking. So</p> <p>19 you were there from 2010 to 2015. Who hired you at MDB</p> <p>20 Trucking?</p> <p>21 A. Travis Bonanno.</p> <p>22 Q. And when you arrived were you trained by anybody at</p> <p>23 MDB Trucking to do any of the -- for the hiring, training,</p> <p>24 timecards, paperwork and that sort of thing?</p> <p>25 A. No.</p>

<p style="text-align: right;">Page 22</p> <p>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.</p>	<p style="text-align: right;">Page 24</p> <p>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</p>
<p style="text-align: right;">Page 23</p> <p>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</p>	<p style="text-align: right;">Page 25</p> <p>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</p>

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

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

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

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?

<p style="text-align: right;">Page 30</p> <p>1 A. Um-hum.</p> <p>2 Q. And then the second -- what was the second way, sorry?</p> <p>3 A. The accumulator.</p> <p>4 Q. And can you go through that process again?</p> <p>5 A. That equalizes the pressure in the cylinder.</p> <p>6 Q. So would you push the accumulator first or after you</p> <p>7 moved the lever?</p> <p>8 A. Most times first, because it would be the simple step</p> <p>9 to push that and then adjust the lever where you want.</p> <p>10 Q. Okay.</p> <p>11 So you would push it and put it wherever you want and</p> <p>12 then would it automatically close or would it stay there?</p> <p>13 A. It would stay there until you moved the lever.</p> <p>14 Q. Okay.</p> <p>15 So if you pushed it and moved it forward and it opened</p> <p>16 how would you close the belly dump?</p> <p>17 A. You would pull the lever back and then you would</p> <p>18 function through the switch on the dash to reset the</p> <p>19 accumulator.</p> <p>20 Q. So for the second way you would do it manually and</p> <p>21 then have to use the switch inside; is that correct?</p> <p>22 A. Electrically.</p> <p>23 Q. Okay.</p> <p>24 Were you ever taught to not use the switch after you</p> <p>25 used the accumulator?</p>	<p style="text-align: right;">Page 32</p> <p>1 A. I don't recall precisely, but I must have.</p> <p>2 Q. Did you keep any records after an employee completed</p> <p>3 their MSHA training or Cemex training?</p> <p>4 A. Yes.</p> <p>5 Q. What type of record was kept?</p> <p>6 A. You were issued a certificate from MSHA from your</p> <p>7 trainer that you were required to carry a copy to present when</p> <p>8 needed and there were multiple copies through carbon or some</p> <p>9 such thing. One copy was left with the trainee, one went into</p> <p>10 his qualification file, because in the case of an audit MSHA --</p> <p>11 an MSHA audit you would have to show that --</p> <p>12 Q. That they had their training?</p> <p>13 A. In their qualification file, yes.</p> <p>14 Q. Okay.</p> <p>15 Would you let a driver drive if they didn't have their</p> <p>16 MSHA training?</p> <p>17 A. Yes.</p> <p>18 Q. How long would you let a driver drive without having</p> <p>19 their MSHA training?</p> <p>20 A. MSHA isn't required for all positions.</p> <p>21 Q. So what positions is it required for?</p> <p>22 A. When you're entering a mine site that is regulated by</p> <p>23 MSHA.</p> <p>24 Q. So for drivers that were not entering mine sites did</p> <p>25 they have other training regarding operating a belly dump</p>
<p style="text-align: right;">Page 31</p> <p>1 A. No.</p> <p>2 There were no instructions supplied with the</p> <p>3 manufacturer, but that's just common sense.</p> <p>4 Q. Okay.</p> <p>5 Common sense to do the switch after, is that what</p> <p>6 you're saying, if I understood correctly?</p> <p>7 A. I would say.</p> <p>8 Q. Okay.</p> <p>9 A. Everyone does it.</p> <p>10 Q. Okay.</p> <p>11 So that is what you were taught at MSHA, correct, that</p> <p>12 Cemex sent you to? I'm just trying to get the --</p> <p>13 A. Yes, that was part of the MSHA training. It wasn't</p> <p>14 anything new, it was known, but that was reinstalled there.</p> <p>15 Q. And you said Daniel Koski also attended that MSHA</p> <p>16 training?</p> <p>17 A. He did.</p> <p>18 Q. And what about Tracy Shane?</p> <p>19 A. I was there, too.</p> <p>20 Q. I mean, sorry, Patrick Bigby?</p> <p>21 A. Yes, he went through MSHA training as well.</p> <p>22 Q. What about Scott Palmer?</p> <p>23 A. Yes.</p> <p>24 Q. For Daniel Koski, Patrick Bigby and Scott Palmer did</p> <p>25 you schedule their training with Cemex and MSHA for that?</p>	<p style="text-align: right;">Page 33</p> <p>1 trailer?</p> <p>2 A. Yes.</p> <p>3 Q. Was that the training that was performed by Cemex or</p> <p>4 did you provide the training at MDB?</p> <p>5 A. Both, as a matter of fact.</p> <p>6 Q. What was the training -- did you take any training</p> <p>7 from Cemex other than the MSHA training regarding operating the</p> <p>8 belly dump?</p> <p>9 A. I did.</p> <p>10 Q. Was that training different or were you told</p> <p>11 differently regarding operating the belly dump at Cemex than</p> <p>12 MSHA?</p> <p>13 A. No, there were no differences.</p> <p>14 Q. Was every driver at MDB required to go through the</p> <p>15 Cemex training?</p> <p>16 A. Yes.</p> <p>17 Q. Did MDB keep records of the Cemex training performed?</p> <p>18 A. Yes.</p> <p>19 Q. Was it a certificate like the MSHA?</p> <p>20 A. Similar.</p> <p>21 Q. Would you allow a driver to drive without having their</p> <p>22 Cemex training?</p> <p>23 A. No.</p> <p>24 Q. When you were employed with MDB did MDB have any</p> <p>25 written company policy regarding the operation of the trucks or</p>

<p style="text-align: right;">Page 34</p> <p>1 trailers?</p> <p>2 A. Yes.</p> <p>3 Q. Okay.</p> <p>4 What was the company's written policy, did they have a</p> <p>5 handbook?</p> <p>6 A. Yes.</p> <p>7 Q. Was that written handbook around prior to your</p> <p>8 employment at MDB?</p> <p>9 A. Prior to my employment I can't really say.</p> <p>10 Q. When you started working there did they have that</p> <p>11 handbook?</p> <p>12 A. I don't believe there was a handbook that I received.</p> <p>13 Q. Do you recall the first time you remember seeing the</p> <p>14 company handbook regarding the operation of the trucks and</p> <p>15 trailers?</p> <p>16 A. Repeat that, please.</p> <p>17 Q. I believe you just testified that there was written</p> <p>18 company policies or procedures regarding the operation of the</p> <p>19 trucks and trailers?</p> <p>20 A. Um-hum.</p> <p>21 Q. I believe you said that you do not recall them having</p> <p>22 one when you first started at MDB. So I'm trying to figure out</p> <p>23 when they implemented the written policies regarding the</p> <p>24 operation of the truck and trailer, so just trying to recall</p> <p>25 what year you remember seeing it first?</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. Okay.</p> <p>2 A. The second one was Danny.</p> <p>3 Q. Did you have any other drivers driving the bottom dump</p> <p>4 trailers?</p> <p>5 A. Only had two and those were the two fellows.</p> <p>6 Q. Okay.</p> <p>7 So from 2010 to 2015 yourself, Louis and Daniel were</p> <p>8 the only three drivers of bottom dumps at MDB?</p> <p>9 A. No, no, by 2015 there were dozens of trailers by that</p> <p>10 time.</p> <p>11 Q. Okay.</p> <p>12 What about in 2013.</p> <p>13 A. '13, number of trailers?</p> <p>14 Q. Yes, we will do the number of trailers, bottom dump</p> <p>15 trailers?</p> <p>16 A. I believe eight.</p> <p>17 Q. Eight bottom dumps.</p> <p>18 Would that be eight trucks with trailers or just eight</p> <p>19 actual trailers?</p> <p>20 A. Eight separate trailers that can be configured into</p> <p>21 train combinations.</p> <p>22 Q. What about 2014, how many bottom dump trailers did you</p> <p>23 have or did MDB have?</p> <p>24 A. I believe in '14 we added 16 more.</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">Page 35</p> <p>1 A. I would have to say it was shortly into 2011. I</p> <p>2 should say that they didn't have bottom dumps originally. That</p> <p>3 came along in 2011.</p> <p>4 Q. So MDB first started with bottom dumps in 2011 then?</p> <p>5 A. Correct.</p> <p>6 Q. So when MDB received the bottom dumps in 2011 there</p> <p>7 was a written policy regarding the operation of those trailers</p> <p>8 then; is that correct?</p> <p>9 A. Well, I guess you could say that. I was the driver.</p> <p>10 I was the only -- I was the only one to tow the bottom dump so</p> <p>11 --</p> <p>12 Q. When did other drivers begin driving the other bottom</p> <p>13 dump?</p> <p>14 A. I would have to say 2012. It could have been late --</p> <p>15 it could have been -- could have been '11, but I believe it was</p> <p>16 in '12.</p> <p>17 Q. Okay.</p> <p>18 Did you hire the drivers to drive the bottom dump</p> <p>19 trailers?</p> <p>20 A. I did.</p> <p>21 Q. Who did you hire to drive the bottom dump trailers?</p> <p>22 A. Names?</p> <p>23 Q. Yes, please.</p> <p>24 A. The first driver was Louis Solidab. He took my</p> <p>25 position.</p>	<p style="text-align: right;">Page 37</p> <p>1 So sixteen to the eight, on top of the eight?</p> <p>2 A. Correct.</p> <p>3 We may have -- we may have -- actually in '13 we had</p> <p>4 seven.</p> <p>5 Q. Seven.</p> <p>6 So then in 2014 did MDB have to hire additional bottom</p> <p>7 dump drivers to accommodate the 16 additional belly dump</p> <p>8 trailers?</p> <p>9 A. Yes.</p> <p>10 Q. Who did you hire or who did MDB hire at that time to</p> <p>11 drive the additional belly dump trailers?</p> <p>12 A. You want their names?</p> <p>13 Q. Please.</p> <p>14 A. Boy, I'm not sure I can --</p> <p>15 Q. If you can remember.</p> <p>16 A. Boy, I haven't thought about this in quite a while.</p> <p>17 Q. Testing your memory today.</p> <p>18 A. Yes, Jim Logan.</p> <p>19 So between the Reno division we had Louis that we</p> <p>20 mentioned, Danny and Jim. We had three sets up here. Is</p> <p>21 Sacramento relevant?</p> <p>22 Q. We will just talk about Reno.</p> <p>23 A. Okay.</p> <p>24 Well, that's -- Sacramento was the remaining trailers</p> <p>25 that were obtained in that year.</p>

<p style="text-align: right;">Page 38</p> <p>1 Q. So how many of the bottom dumps were added to Reno?</p> <p>2 A. None.</p> <p>3 Q. So the 16 additional were for Sacramento in 2014?</p> <p>4 A. Correct.</p> <p>5 Q. Okay.</p> <p>6 A. That is correct.</p> <p>7 Q. So Reno had seven total bottom dump trailers; is that</p> <p>8 correct?</p> <p>9 A. Yes, that is correct.</p> <p>10 Q. And yourself, Louis and Daniel and Jim were the only</p> <p>11 drivers of those bottom dump trailers?</p> <p>12 A. I would say so, yes.</p> <p>13 Well, Scott he drove. He and I drove when needed.</p> <p>14 Q. Anybody else drive occasionally?</p> <p>15 A. Pat.</p> <p>16 Q. Anybody else that you can think of?</p> <p>17 A. Well, no, not that I can think of.</p> <p>18 Q. Okay.</p> <p>19 Who trained Pat, Scott, Louis, Daniel and Jim in</p> <p>20 driving and operating the belly dump trailers?</p> <p>21 A. Well, officially I was as required by DOT, not to</p> <p>22 mention all of the various training that we need to be subjected</p> <p>23 to through job requirements of our customers. Even though it's</p> <p>24 all rudimentary and been the same for years we all have to</p> <p>25 submit to annual training. So either myself or someone at Cemex</p>	<p style="text-align: right;">Page 40</p> <p>1 inspection station or Highway Patrol, clarifications.</p> <p>2 Q. When you were at MDB did you require your belly dump</p> <p>3 drivers to perform inspections on the trucks and trailers each</p> <p>4 day?</p> <p>5 A. Every day.</p> <p>6 Q. Was that implemented by you or was that prior to your</p> <p>7 time?</p> <p>8 A. I'm certainly sure it was prior to my time.</p> <p>9 Q. And how would you ensure that the drivers were</p> <p>10 performing their daily inspections of their trucks and trailers</p> <p>11 on the belly dumps?</p> <p>12 A. I would ensure it in a number of ways.</p> <p>13 Q. Okay.</p> <p>14 A. Through visual, through back-up inspection by myself</p> <p>15 or the maintenance crew, by looking at the paperwork that is</p> <p>16 involved by the driver to do these inspections.</p> <p>17 Q. After they would do the inspections they would --</p> <p>18 would they turn paperwork into you?</p> <p>19 A. That is correct.</p> <p>20 Q. And what would you do with that paperwork?</p> <p>21 A. Depending upon what was written on it. If it was --</p> <p>22 there were no defects then it went into a file for that</p> <p>23 particular trailer. If there were defects a report was written</p> <p>24 up always -- someone would always verify prior to writing up the</p> <p>25 paperwork to see what was involved, and I mean the flow of</p>
<p style="text-align: right;">Page 39</p> <p>1 would do those.</p> <p>2 Q. When you hired Louis, Daniel, Jim, Scott and Pat did</p> <p>3 you provide them with the written company policy regarding</p> <p>4 operation of the belly dumps?</p> <p>5 A. I did with whatever form it was at the time.</p> <p>6 Q. Do you recall what form it was at the time?</p> <p>7 A. It's always a work in progress from one year to the</p> <p>8 next, sometimes revised more often depending upon need.</p> <p>9 Q. Is it a book or is it sheets of paper?</p> <p>10 A. I don't believe it was bound or hole punched. I think</p> <p>11 mostly a handout in stapled form.</p> <p>12 Q. And when there were updates who would provide the</p> <p>13 updated versions of the handbook, is that something you would</p> <p>14 work on --</p> <p>15 A. Yes.</p> <p>16 Q. -- and provide?</p> <p>17 A. Yes.</p> <p>18 Q. Would you type something up on the computer and print</p> <p>19 it out and give it to them?</p> <p>20 A. It would be presented at a safety meeting or with a</p> <p>21 paycheck, depending upon what it was.</p> <p>22 Q. What sort of things would be in the revisions?</p> <p>23 A. New rules set upon by our customers, anything that the</p> <p>24 feds would come out with in the handbook, to be aware of laws</p> <p>25 that are being misinterpreted by inspectors at either the</p>	<p style="text-align: right;">Page 41</p> <p>1 paperwork just went on from there.</p> <p>2 Q. Would you keep the daily inspection reports that you</p> <p>3 would receive?</p> <p>4 A. The daily, yes. The law requires, I believe, 90 days.</p> <p>5 Q. So you would keep them for the 90 days and then</p> <p>6 discard; is that correct?</p> <p>7 A. Oh, yes.</p> <p>8 Q. If there was an issue with a truck or trailer during</p> <p>9 the driver's daily inspection would they still continue -- would</p> <p>10 you allow them to continue to pick up their load for the day?</p> <p>11 A. It depends on what type of defect.</p> <p>12 Q. Do you have an example of a type of defect that they</p> <p>13 would still be allowed to drive even though they indicated there</p> <p>14 was a defect prior to leaving?</p> <p>15 A. Well, I can -- Yes, I can recall. These trailers are</p> <p>16 detachable. You can run as three or two or one. A landing leg</p> <p>17 for the tongue on a trailer, for instance I can remember being</p> <p>18 written up that like the foot needed to be welded or a new tire</p> <p>19 put on it or something, and those sorts of items, unrelated to</p> <p>20 our daily activity depending upon what it was, you know, we</p> <p>21 wouldn't repair it then, maybe not until the end of the shift or</p> <p>22 the next day, if we weren't going to unhook it, just common</p> <p>23 sense.</p> <p>24 Q. Did you have the drivers check to make sure the belly</p> <p>25 dumps would activate correctly, open and close each morning?</p>

<p style="text-align: right;">Page 42</p> <p>1 A. In the pre-trip, yes.</p> <p>2 Q. How about the post-trip?</p> <p>3 A. Oh, yes, and daily every use.</p> <p>4 Q. And would you have them in the morning before they</p> <p>5 left -- how would you have them check it, using the electrical</p> <p>6 switch or actually manually using the lever?</p> <p>7 A. Both, and there was plenty of time to do this as it is</p> <p>8 air operated. You couldn't move the truck because the brakes</p> <p>9 are air and you couldn't leave until you had enough air pressure</p> <p>10 for the brakes to release and there were safeties involved in</p> <p>11 that, so --</p> <p>12 Q. So when they would check each morning manually would</p> <p>13 they do manually one or two? I'm just going to list them as one</p> <p>14 or two from what we discussed earlier. Do you understand what I</p> <p>15 mean by manual one and two?</p> <p>16 A. One would be manually on the valve. Two would be</p> <p>17 switch in the cab.</p> <p>18 Q. No, I will go back.</p> <p>19 So the one you said was just manually moving it. Two</p> <p>20 you said was pushing the accumulator and then moving it,</p> <p>21 specifically for the manual, the two types of manual ways to do</p> <p>22 it. Would you have them perform both manual ways?</p> <p>23 A. It was up to their discretion to verify its function.</p> <p>24 Q. Okay.</p> <p>25 A. Releasing the pressure in the accumulator was not a</p>	<p style="text-align: right;">Page 44</p> <p>1 upon the job. Sometimes you would tighten them up so it would</p> <p>2 open up very little and other times you would not have them</p> <p>3 restricting the width at all.</p> <p>4 Q. Would you ever put those gate chains on when you're</p> <p>5 driving to ensure the belly dump doesn't open while driving?</p> <p>6 MR. BROWN: Objection, foundation.</p> <p>7 BY MS. SHREVE:</p> <p>8 Q. Go ahead, you can answer.</p> <p>9 A. I can answer?</p> <p>10 MR. BROWN: You can.</p> <p>11 THE WITNESS: That is not the design or purpose of</p> <p>12 those chains. I suppose you wouldn't want to trust them.</p> <p>13 BY MS. SHREVE:</p> <p>14 Q. Okay.</p> <p>15 Earlier you testified you hired Patrick Bigby;</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. What was the position you hired Patrick Bigby for?</p> <p>19 A. Mechanic.</p> <p>20 Q. Did MDB have a mechanic prior to Patrick Bigby?</p> <p>21 A. No.</p> <p>22 Q. Was Patrick Bigby -- Strike that.</p> <p>23 Prior to Patrick Bigby how would maintenance be</p> <p>24 performed on the trucks and trailers that MDB used?</p> <p>25 A. May I ask the definition of maintenance, airing of</p>
<p style="text-align: right;">Page 43</p> <p>1 function that was required by us or the driver or the job, but</p> <p>2 you could tell if it was working just by the tension on the</p> <p>3 lever. So there was no need to reset or push in the accumulator</p> <p>4 because you knew if there was tension on the lever there was</p> <p>5 pressure on the accumulator.</p> <p>6 Q. Okay.</p> <p>7 During the pre-trip inspection were the drivers</p> <p>8 required to make sure the electrical connections between the</p> <p>9 trucks and trailers were working properly?</p> <p>10 A. Yes, they were an integral part of the system.</p> <p>11 Q. During your time at MDB did you have any policy</p> <p>12 regarding the gate chains?</p> <p>13 I'm not sure -- So there is chains to limit how far</p> <p>14 the belly dump can open and close. Do you understand which</p> <p>15 chains I'm talking about?</p> <p>16 A. Yes, I do.</p> <p>17 Q. I will call them the gate chains to make it easy so we</p> <p>18 know what we're talking about.</p> <p>19 Did MDB have any policy while you were there regarding</p> <p>20 placing the gate chains on the belly dump at all?</p> <p>21 A. Not in general terms, no.</p> <p>22 Q. Were there any other terms other than general terms?</p> <p>23 A. Yes, I suppose depending upon the job that the truck</p> <p>24 was going to that was, like you mentioned, a gauge to set a</p> <p>25 width of the gates. So that was a normal practice depending</p>	<p style="text-align: right;">Page 45</p> <p>1 tires?</p> <p>2 Q. Any of the duties that Patrick Bigby performed when he</p> <p>3 was hired. So the duties that he performed who was responsible</p> <p>4 for those prior to his arrival at MDB?</p> <p>5 A. Well, general maintenance we had a tire guy, an</p> <p>6 independent tire contractor so we didn't -- that wasn't part of</p> <p>7 our maintenance. That was something that an outside vendor did</p> <p>8 maintenance-wise.</p> <p>9 I hired Pat because of the onset of the miles being</p> <p>10 put on the trucks that we were going to need a mechanic and it</p> <p>11 was far more effective to have on our on staff rather than</p> <p>12 sending it out and waiting and having unknown people working on</p> <p>13 the trucks. So there hadn't been any -- depending upon your</p> <p>14 definition of maintenance there hadn't been really any heavy</p> <p>15 maintenance required quite yet.</p> <p>16 Q. Who would you send the trailers or trucks out to to do</p> <p>17 any of the type of performance that Patrick Bigby would perform?</p> <p>18 A. There hadn't been any at that point, any needed -- any</p> <p>19 repairs like that.</p> <p>20 Q. Okay.</p> <p>21 Was Patrick Bigby the only person responsible for</p> <p>22 performing maintenance on the trucks and trailers?</p> <p>23 A. No.</p> <p>24 Q. Who else performed maintenance on the trucks and</p> <p>25 trailers?</p>

<p style="text-align: right;">Page 46</p> <p>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</p>	<p style="text-align: right;">Page 48</p> <p>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</p>
<p style="text-align: right;">Page 47</p> <p>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.</p>	<p style="text-align: right;">Page 49</p> <p>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?</p>

<p style="text-align: right;">Page 50</p> <p>1 A. Um-hum.</p> <p>2 MR. BROWN: Is that a yes?</p> <p>3 THE WITNESS: I'm sorry, yes.</p> <p>4 BY MS. SHREVE:</p> <p>5 Q. And you were currently employed at MDB at this time;</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. Do you recall this work order, it says Versa valve</p> <p>9 handle loose and it looks like spring action, check lever not</p> <p>10 working correctly?</p> <p>11 MR. BROWN: I'm going to object foundation. You</p> <p>12 haven't even established that he ever saw it before.</p> <p>13 THE WITNESS: Yes, I'm not sure that I have seen it.</p> <p>14 BY MS. SHREVE:</p> <p>15 Q. So let's back up then. How does Scott receive</p> <p>16 information that he needs to perform work on a trailer?</p> <p>17 A. Multiple ways. The driver through his DVIR or</p> <p>18 verbally, and/or verbally, I should say, not just or, but and/or</p> <p>19 verbally.</p> <p>20 Q. So whenever a truck or trailer needs work performed on</p> <p>21 it does that go through you?</p> <p>22 A. Not always.</p> <p>23 In addition through -- there was checks and balances</p> <p>24 in addition to the DVIR through the normal weekly maintenance.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. Yes, did someone sign off on them to know who actually</p> <p>2 looked at that report?</p> <p>3 A. Oh, they were signed off by whoever made the repair.</p> <p>4 Q. So they would -- I'm trying to make sure that I</p> <p>5 understand.</p> <p>6 So the driver vehicle inspection report would come in</p> <p>7 and the driver would put it in the office; is that correct?</p> <p>8 A. Yes, which is adjacent to the shop.</p> <p>9 Q. And from there either yourself or Patrick Bigby or</p> <p>10 Scott Palmer would look at the driver vehicle inspection report;</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. What would occur after one of you looked at the driver</p> <p>14 vehicle inspection report?</p> <p>15 A. Then it was to be determined what the issue was,</p> <p>16 determine what parts were needed, order, procure and repair.</p> <p>17 Q. Who would determine that, the person who looked at the</p> <p>18 driver vehicle inspection report?</p> <p>19 A. Not always. It could be any one or all of the three</p> <p>20 of us.</p> <p>21 Q. How would you ensure that every driver vehicle</p> <p>22 inspection report was seen by one of the three of you?</p> <p>23 A. It would be inconceivable that one of the three didn't</p> <p>24 see it. A truck would come in, it was obvious to whoever was on</p> <p>25 duty. If you hadn't received phone calls of an issue or fair</p>
<p style="text-align: right;">Page 51</p> <p>1 So things could be performed on trucks and trailers</p> <p>2 and you would not be aware of that then; is that correct?</p> <p>3 A. Me personally?</p> <p>4 Q. Yes.</p> <p>5 A. Oh, absolutely.</p> <p>6 Q. Okay.</p> <p>7 So would the drivers -- when you said the DVIR we're</p> <p>8 talking driver vehicle inspection report; correct?</p> <p>9 A. Daily.</p> <p>10 Q. So who would the drivers hand those reports to?</p> <p>11 A. In Reno they were turned in where they turn in their</p> <p>12 paperwork in the office, which is where everything hubbed, the</p> <p>13 hub of everything.</p> <p>14 Q. So would that be to you or somebody else?</p> <p>15 A. Multiple, to myself, to Pat, to Scott.</p> <p>16 Q. Okay.</p> <p>17 So you would see -- so would you see every driver</p> <p>18 vehicle inspection report that would come in then?</p> <p>19 A. One of the three of us would.</p> <p>20 Q. Okay.</p> <p>21 Is there a way you would be able to determine who</p> <p>22 would see the driver vehicle inspection report? Is there a way</p> <p>23 to determine who looked at the driver vehicle inspection report</p> <p>24 whether it was you, Scott or Patrick?</p> <p>25 A. Is there a way to know who looked at it?</p>	<p style="text-align: right;">Page 53</p> <p>1 warning of an issue then you would be expecting that DVIR or a</p> <p>2 comment from the driver. It was a policy to review these.</p> <p>3 Q. Okay.</p> <p>4 How would you ensure that someone was actually</p> <p>5 reviewing those? How would you know that someone reviewed them,</p> <p>6 are they moved to a different stack, are they signed off on, how</p> <p>7 would you know?</p> <p>8 A. Yes, the DOT DVIRs that we used there was no provision</p> <p>9 on there to sign off on a clear DVIR, in other words a DVIR that</p> <p>10 had no repair requests or equipment failures, only if there was</p> <p>11 problems then it was signed off after being fixed.</p> <p>12 So yes, it would go to a basket where it was turned</p> <p>13 in, removed, and then filed if there was no issue, and if there</p> <p>14 was then one of these type of forms that you have here would be</p> <p>15 filled out and affixed to the DVIR.</p> <p>16 Q. You can hold onto Exhibit 2. We will just go to</p> <p>17 Exhibit 10. This might be easier in discussing it since we have</p> <p>18 a driver vehicle inspection report so we can make sure that</p> <p>19 we're on the same page here.</p> <p>20 A. Yes.</p> <p>21 Q. So if you go to the second page on Exhibit 10.</p> <p>22 A. On this?</p> <p>23 Q. Yes, please.</p> <p>24 So at the top the date is 11/21/2015; correct?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 54</p> <p>1 Q. This is for tractor 5694; correct?</p> <p>2 A. Um-hum.</p> <p>3 Q. So the date of November 21, 2015, that is the date you</p> <p>4 -- that is the date the driver vehicle inspection report was</p> <p>5 prepared; is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. So that is turned into the office. Then one of the</p> <p>8 three of you look at the report and then at the bottom do you</p> <p>9 know whose signature that is?</p> <p>10 A. I don't even recognize the driver's signature, but no,</p> <p>11 I'm not -- it would -- I can guess, but I don't know for sure.</p> <p>12 Q. So it looks like someone signed off on it on 11/25/15;</p> <p>13 is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. So that is when -- so it would be signed off after the</p> <p>16 work was performed; is that correct?</p> <p>17 A. That is what it appears to be.</p> <p>18 Q. But there is no way looking at this to determine who</p> <p>19 actually looked at this report and gave it to maintenance to be</p> <p>20 repaired, is that a correct understanding?</p> <p>21 A. Yeah, yes.</p> <p>22 Q. Okay.</p> <p>23 A. Yeah, I'm just not even -- I don't recognize the</p> <p>24 signatures, if that is what that is. Nothing looks out of the</p> <p>25 ordinary to me.</p>	<p style="text-align: right;">Page 56</p> <p>1 Q. Okay.</p> <p>2 A. I mean no.</p> <p>3 Q. Okay.</p> <p>4 We will then go to Exhibit 3.</p> <p>5 A. Are these for me to keep?</p> <p>6 MR. BROWN: No.</p> <p>7 BY MS. SHREVE:</p> <p>8 Q. No, they are not. She needs to keep them.</p> <p>9 MR. BROWN: If you take off with them you're in big</p> <p>10 trouble.</p> <p>11 THE WITNESS: I don't have any --</p> <p>12 BY MS. SHREVE:</p> <p>13 Q. This is Exhibit 3. It should be MDB 031. Do you see</p> <p>14 that at the bottom?</p> <p>15 A. Yes.</p> <p>16 Q. This is a work order from 4/13/2013; is that correct</p> <p>17 on what it says up there?</p> <p>18 A. Um-hum, yes.</p> <p>19 Q. Have you seen this work order before?</p> <p>20 A. This report?</p> <p>21 Q. Yes.</p> <p>22 A. My name is on it, so I would assume that I had seen</p> <p>23 it.</p> <p>24 Q. Okay.</p> <p>25 Is this your handwriting?</p>
<p style="text-align: right;">Page 55</p> <p>1 Q. Okay.</p> <p>2 I'm just trying to figure out if there is a way to</p> <p>3 determine whether you looked at a driver vehicle inspection</p> <p>4 report before turning it over to maintenance or not, but there</p> <p>5 would be no way of knowing?</p> <p>6 A. Well, I may not even have been there.</p> <p>7 Q. But during your time at MDB there would be no way of</p> <p>8 knowing if you looked at the driver vehicle inspection report</p> <p>9 versus Scott Palmer or Patrick Bigby?</p> <p>10 A. Oh, I see. No, no way of determining.</p> <p>11 Q. Okay.</p> <p>12 So we will go back then to number 2, that page that</p> <p>13 you're on, Exhibit Number 2, MDBMAINT 000315.</p> <p>14 A. Okay.</p> <p>15 MR. BROWN: This is the document that he says he</p> <p>16 doesn't even recall seeing any more.</p> <p>17 MS. SHREVE: Correct.</p> <p>18 MR. BROWN: Okay.</p> <p>19 BY MS. SHREVE:</p> <p>20 Q. Do you ever recall there being an issue regarding a</p> <p>21 Versa valve on equipment number 6777?</p> <p>22 MR. BROWN: At any time?</p> <p>23 BY MS. SHREVE:</p> <p>24 Q. At any time in his employment at MDB.</p> <p>25 A. I don't remember specifically.</p>	<p style="text-align: right;">Page 57</p> <p>1 A. It is not.</p> <p>2 Q. So would this indicate that you would have told -- it</p> <p>3 says performed by Patrick Bigby. So would this indicate that</p> <p>4 you would have told Patrick to perform this job?</p> <p>5 A. Yes, yes, that is the layout of this, yes.</p> <p>6 Q. Do you recall this event?</p> <p>7 A. Not specifically.</p> <p>8 Q. Okay.</p> <p>9 A. I'm really having a difficult time even reading it,</p> <p>10 what work was done.</p> <p>11 MR. BROWN: We have been going about an hour and a</p> <p>12 half, so whenever is good for you, if we could take a break.</p> <p>13 MS. SHREVE: Would you like to take a break?</p> <p>14 THE WITNESS: Sure.</p> <p>15 MS. SHREVE: We will take a break and go off the</p> <p>16 record.</p> <p>17 (A recess was taken.)</p> <p>18 BY MS. SHREVE:</p> <p>19 Q. Back on the record.</p> <p>20 Mr. Shane, you understand that you're still under</p> <p>21 oath, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Are you aware of an incident that occurred in</p> <p>24 July 2013 with trailer 6775 in which an unintentional dumping</p> <p>25 occurred on the highway?</p>

1 A. I do remember that.
 2 Q. What do you recall of that incident?
 3 A. I remember Danny calling me and telling me that when
 4 he got to the job where he was unloading that someone had
 5 followed him in and told him that his back trailer had opened up
 6 and it was a rainy day. He got out in the rain and looked
 7 before he went into the ready mix plant to unload and he told me
 8 that he saw that the gate was open and that that had happened.
 9 That was the beginning of that.
 10 Q. Did he call you that day or did he wait until he came
 11 back?
 12 A. Oh, no, he called me the instant that he learned of
 13 it.
 14 Q. What did you tell him to do when he called you?
 15 A. To get the name, exchange information with the car
 16 that witnessed this, which I don't recall had any damage, that
 17 there was no one hurt, just exchange that information.
 18 Thinking back about that I don't believe the Highway
 19 Patrol knew of that, so it's like they didn't appear. I don't
 20 recall if I called the Highway Patrol to coordinate other calls
 21 that surely were made, I don't know, but I believe I did.
 22 Q. Do you recall if you told Daniel Koski to continue
 23 working that day?
 24 A. That happened to be his last load of the day.
 25 Q. Do you recall if you told Daniel Koski to place those

1 gate chains on the trailers to ensure that there was no
 2 additional dumping on the highway?
 3 A. By this time he was already at the job site to unload.
 4 Q. So do you recall informing Daniel Koski that he should
 5 put the gate chains on the trailers?
 6 A. At that moment?
 7 Q. Yes, when you spoke to him?
 8 A. No need, because he was there on the job to unload.
 9 Q. So is that a no?
 10 A. Correct, no.
 11 Q. Okay.
 12 Do you recall if you contacted anyone else to tell
 13 them about Daniel's losing of the load in July 2013?
 14 A. On that particular day?
 15 Q. Yes.
 16 A. Not until I learned more information, no, I didn't
 17 make any other phone calls that I recall.
 18 Q. And when did you learn more information?
 19 A. When he returned to the yard.
 20 Q. What was your discussion with Daniel when he returned
 21 to the yard?
 22 A. I don't remember anything specific. I could guess
 23 what I asked and all.
 24 Q. Did he provide you with more information regarding the
 25 incident?

1 A. I'm sure he did, yes.
 2 Q. Okay.
 3 A. I'm sure there were a lot of questions.
 4 Q. Did you have him write down any statement regarding
 5 the incident?
 6 A. The Highway Patrol did and I have -- I received a copy
 7 of that, because I do recall speaking with the Highway Patrol,
 8 giving them instructions on how to find our yard.
 9 Q. Okay.
 10 So the Highway Patrol came to your yard after the
 11 July 2013 incident?
 12 A. Yes.
 13 Q. Did you provide any written report or did you write
 14 anything down regarding the July 2013 incident?
 15 A. May have been included in some report I may have made
 16 for the office pertaining to the events of that month or that
 17 week or quarter.
 18 Q. Did you provide written statements to someone
 19 regarding events that occurred in a month or a period or
 20 whatever -- however you just indicated?
 21 A. You asked -- Ask me that again, please.
 22 MS. SHREVE: Can you repeat his answer?
 23 (The record was read by the reporter.)
 24 BY MS. SHREVE:
 25 Q. So based on your testimony there, did you provide

1 monthly reports or quarterly reports regarding events that
 2 occurred at the Reno location?
 3 A. At times.
 4 Q. What were those times that you would make those
 5 reports?
 6 A. Typically production reports. I may be confusing it
 7 with what went on in the future when we had multiple locations
 8 and that might be my progress reports involving that. Here it
 9 may have been payroll reports and production reports.
 10 Q. In those reports you would include any type of big
 11 event that would occur at the Reno location; is that correct?
 12 A. If it -- Yes, could be, if it wasn't something that
 13 had been previously discussed.
 14 Q. And who would you give those reports to?
 15 A. To the office, the main office.
 16 Q. What is the main office?
 17 A. Various locations through time, but whatever was
 18 considered the main office.
 19 Q. What was the main office in 2013?
 20 A. A residence belonging to the secretary.
 21 Q. Do you know that secretary's name?
 22 A. Stephanie.
 23 Q. Do you know Stephanie's last name?
 24 A. Morello, I'm not positive of the spelling.
 25 Q. Do you know where that was located?

<p style="text-align: right;">Page 62</p> <p>1 A. North of Reno. I don't recall the address.</p> <p>2 Q. This was MDB's main office; is that correct?</p> <p>3 A. It was her home where she operated. I'm not sure what</p> <p>4 would be --</p> <p>5 Q. Did she work for MDB Trucking?</p> <p>6 A. Yes.</p> <p>7 Q. And then in 2014 what was the main office?</p> <p>8 A. I believe it was still there.</p> <p>9 Q. Did the main office change from 2013 to when you left</p> <p>10 in 2015?</p> <p>11 A. It did.</p> <p>12 Q. When did it change?</p> <p>13 A. I'm not certain of the date. It could be in '15</p> <p>14 Q. Where did you change to?</p> <p>15 A. A normal office complex in Sparks off of Glendale.</p> <p>16 Q. Do you know the address?</p> <p>17 A. I do not.</p> <p>18 Q. Did you still report to Stephanie Morello?</p> <p>19 A. I did.</p> <p>20 Q. So you would provide those reports to Stephanie?</p> <p>21 A. Correct.</p> <p>22 Q. Would you provide them to anybody else other than</p> <p>23 Stephanie?</p> <p>24 A. No.</p> <p>25 Q. So other than a monthly report or quarterly or</p>	<p style="text-align: right;">Page 64</p> <p>1 A. Pat and Scott.</p> <p>2 Q. So Scott was employed with MDB at the time of the</p> <p>3 July 2013 incident?</p> <p>4 A. Yes.</p> <p>5 Q. Do you recall the date that the July 2013 incident</p> <p>6 occurred?</p> <p>7 A. I really don't, no.</p> <p>8 Q. Okay.</p> <p>9 So after Daniel came back to the yard in the July 2013</p> <p>10 incident what occurred next?</p> <p>11 A. I kept him there to meet with the Highway Patrol and</p> <p>12 we did our rudimentary observation.</p> <p>13 Q. What does that consist of?</p> <p>14 A. Just looking for any clues as to say what may have</p> <p>15 happened, what may have caused it.</p> <p>16 Q. Was it just a visual inspection?</p> <p>17 A. Um-hum, we didn't want to interfere with anything</p> <p>18 before the Highway Patrol did their investigation.</p> <p>19 Q. And then after the Highway Patrol came and did their</p> <p>20 investigation what occurred next?</p> <p>21 A. The Highway Patrol wasn't able to find anything wrong.</p> <p>22 We tested the system, to my recollection we were dumfounded as</p> <p>23 to a cause and what to do next.</p> <p>24 Q. So after the Highway Patrol left did you perform any</p> <p>25 inspection on the truck and trailer?</p>
<p style="text-align: right;">Page 63</p> <p>1 something along those lines, do you recall providing any sort of</p> <p>2 written statement to anyone at MDB Trucking or the owners or</p> <p>3 anything like that regarding the incident --</p> <p>4 A. Regarding this incident?</p> <p>5 Q. -- in July of 2013, yes?</p> <p>6 A. No.</p> <p>7 Q. Did you take any pictures of the truck or trailer</p> <p>8 following the July 2013 incident?</p> <p>9 A. No.</p> <p>10 Q. Were you at the yard when the Highway Patrol arrived</p> <p>11 in the July 2013 incident?</p> <p>12 A. I was.</p> <p>13 Q. Do you recall if the Highway Patrol took any pictures</p> <p>14 of the truck or trailer?</p> <p>15 A. They did.</p> <p>16 Q. Did they provide MDB with copies of those pictures, if</p> <p>17 you recall?</p> <p>18 A. None that I'm aware of.</p> <p>19 Q. Okay.</p> <p>20 Did you speak to anyone else other than Daniel Koski</p> <p>21 and the Highway Patrol regarding the July 2013 incident?</p> <p>22 A. Yes.</p> <p>23 Q. Who else did you speak with?</p> <p>24 A. Our shop crew.</p> <p>25 Q. Who would consist of your shop crew?</p>	<p style="text-align: right;">Page 65</p> <p>1 A. I believe I just visually inspected.</p> <p>2 Q. Did you direct anyone to perform any other additional</p> <p>3 inspection on the truck and trailer?</p> <p>4 A. I did.</p> <p>5 Q. Who did you direct to perform that?</p> <p>6 A. Pat and Scott.</p> <p>7 Q. What did you direct them to do?</p> <p>8 A. To find clues.</p> <p>9 Q. Did you tell them anything specific that you wanted</p> <p>10 them to do?</p> <p>11 A. Nothing specific.</p> <p>12 Q. Did you assist Patrick Bigby at all in investigating?</p> <p>13 A. I don't believe I did anything other than the visual.</p> <p>14 Q. Okay.</p> <p>15 Do you recall the type of inspections that Pat and</p> <p>16 Scott performed after the July 2013 incident?</p> <p>17 A. I believe I would have an idea, but I don't recall</p> <p>18 specifically. The paperwork they filled out at that time would</p> <p>19 probably be more specific. I would only be guessing based upon</p> <p>20 what I would probably do.</p> <p>21 Q. What would you probably do?</p> <p>22 A. Just check the ground, electrical continuity, that</p> <p>23 sort of thing.</p> <p>24 Q. And did Patrick or Scott inform you that they found</p> <p>25 anything wrong with trailer 6775?</p>

<p style="text-align: right;">Page 66</p> <p>1 A. They found nothing.</p> <p>2 Q. Did Pat or Scott tell you what they found in regards</p> <p>3 to the truck 6773 and the other two trailers, so 6773, 6774,</p> <p>4 regarding their investigation?</p> <p>5 A. My recollection was they found nothing.</p> <p>6 Q. Okay.</p> <p>7 And did Patrick or Scott indicate that they found any</p> <p>8 type of defect with the Versa valve after the July 2013</p> <p>9 incident?</p> <p>10 A. No defects.</p> <p>11 Q. Did Pat or Scott inform you that they found any design</p> <p>12 defect with the Versa valve following the July 2013 incident?</p> <p>13 MR. BROWN: Objection to the extent it calls for</p> <p>14 speculation and beyond this person's knowledge, foundation.</p> <p>15 BY MS. SHREVE:</p> <p>16 Q. You can answer.</p> <p>17 Did Pat or Scott tell you that there was any design</p> <p>18 defect with the Versa valve following the July 2013 incident on</p> <p>19 trailer 6775?</p> <p>20 MR. BROWN: Same objection, foundation.</p> <p>21 BY MS. SHREVE:</p> <p>22 Q. You can answer.</p> <p>23 A. No disrespect, is that something that I can answer?</p> <p>24 MR. BROWN: Yes, unless I tell you not to answer.</p> <p>25 ///</p>	<p style="text-align: right;">Page 68</p> <p>1 investigation into what Daniel Koski did on the day of the</p> <p>2 subject incident?</p> <p>3 A. Nothing specifically other than hear his side of the</p> <p>4 story, which was routine, nothing out of the ordinary.</p> <p>5 Q. Did MDB or did you investigate the possibility that</p> <p>6 Daniel Koski could have done something to contribute to the</p> <p>7 July 2013 incident?</p> <p>8 A. I deemed that there was nothing that he did to</p> <p>9 contribute.</p> <p>10 Q. Okay.</p> <p>11 Following the July 2013 incident did you implement any</p> <p>12 type of retraining of the belly dump drivers regarding the use</p> <p>13 of the trailers?</p> <p>14 A. None was needed other than -- he didn't know that his</p> <p>15 load had dumped until he got 30 miles down the road, couldn't</p> <p>16 tell. It was a third, three trailers, so a third of the load,</p> <p>17 he didn't feel a weight difference, a pull difference. It's all</p> <p>18 on flat.</p> <p>19 All we did was pay super particular attention, more</p> <p>20 than what you normally would, if that is possible, and to pay</p> <p>21 attention to other clues that might lead to whatever caused this</p> <p>22 to happen in the first place. In other words, everyone's eyes</p> <p>23 were wide open looking for any possible reason.</p> <p>24 Q. Okay.</p> <p>25 Following the July 2013 incident did you or anyone at</p>
<p style="text-align: right;">Page 67</p> <p>1 BY MS. SHREVE:</p> <p>2 Q. Unless he tells you not to answer, you can answer.</p> <p>3 A. To my knowledge there were no defects found.</p> <p>4 Q. And did you find any defect with the Versa valve, you</p> <p>5 personally find any defect with the Versa valve following the</p> <p>6 July 2013 incident?</p> <p>7 MR. BROWN: Objection, foundation.</p> <p>8 THE WITNESS: Do you want to reword that, I guess?</p> <p>9 BY MS. SHREVE:</p> <p>10 Q. No.</p> <p>11 Did you personally find any defect with the Versa</p> <p>12 valve following the July 2013 incident?</p> <p>13 A. No.</p> <p>14 MR. BROWN: Objection, foundation.</p> <p>15 BY MS. SHREVE:</p> <p>16 Q. Did you find any -- did you personally find any design</p> <p>17 defect with the Versa valve following the July 2013 incident?</p> <p>18 MR. BROWN: Objection, foundation.</p> <p>19 You can answer. Go ahead and answer.</p> <p>20 THE WITNESS: We never found any defect.</p> <p>21 BY MS. SHREVE:</p> <p>22 Q. So you personally did not find any design defect?</p> <p>23 A. No.</p> <p>24 Q. Okay.</p> <p>25 Following the July 2013 incident did you do any</p>	<p style="text-align: right;">Page 69</p> <p>1 MDB do any type of retraining regarding the operation of opening</p> <p>2 and closing the belly dumps?</p> <p>3 A. No retraining.</p> <p>4 Q. So I'm going to go back to Exhibit 3 which you have in</p> <p>5 front of you. I'm going to ask you to go to MDB 073. It also</p> <p>6 says MDBMAINT 000057.</p> <p>7 A. Yes.</p> <p>8 Q. This work order I believe it says July 26th, 2013; is</p> <p>9 that correct?</p> <p>10 A. Um-hum.</p> <p>11 Q. Have you seen this work order before?</p> <p>12 A. I believe that is my writing on the date completed, so</p> <p>13 I must have.</p> <p>14 Q. This says you rewired gate switches on equipment</p> <p>15 number 5694. Do you recall the rewiring of gate switches on</p> <p>16 equipment number 5694?</p> <p>17 A. I do.</p> <p>18 Q. Okay.</p> <p>19 And do you recall why that was performed?</p> <p>20 A. Yes.</p> <p>21 Q. And why was that performed?</p> <p>22 A. The truck was equipped factory with these dump</p> <p>23 switches from Peterbilt and in trying to determine the cause of</p> <p>24 this gate opening we were all racking our brains trying to look</p> <p>25 for clues as to why. The power source for the gate switches</p>

<p style="text-align: right;">Page 70</p> <p>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.</p> <p>8 Q. Who decided to rewire to have the wiring, the 9 electrical wiring come from the battery instead of inside the 10 cab?</p> <p>11 A. I believe it was a group agreement between Scott, Pat 12 and myself.</p> <p>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?</p> <p>16 A. Oh, yes.</p> <p>17 Q. Where did you learn that from?</p> <p>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.</p> <p>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.</p>	<p style="text-align: right;">Page 72</p> <p>1 the trailers?</p> <p>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.</p> <p>5 Q. So that was only in the truck, not the trailers then; 6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. Is that what you're saying?</p> <p>9 A. Um-hum.</p> <p>10 Q. Okay.</p> <p>11 Hang on one second. I'm going to take you then to -- 12 Sorry, one second.</p> <p>13 Let's go to Exhibit Number 6. I'm going to hand you 14 this one.</p> <p>15 A. Okay.</p> <p>16 Q. I'm going to have you go to the second page, please. 17 It should be MDB 015.</p> <p>18 A. Okay.</p> <p>19 Q. This looks like date completed of August 2nd, 2013. 20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Does this work order look familiar to you?</p> <p>23 A. No, no.</p> <p>24 Q. So this looks like Pat investigated the unintentional 25 gate opening. Do you recall replacing the Versa valve on</p>
<p style="text-align: right;">Page 71</p> <p>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?</p> <p>4 A. Correct, yes.</p> <p>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?</p> <p>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.</p> <p>12 Q. Okay.</p> <p>13 Do you recall if you did the rewiring to any other 14 trucks or trailers?</p> <p>15 A. We concentrated only on this one initially. There 16 were only three combined. We concentrated efforts on this one.</p> <p>17 Q. Were the other two, were they wired straight to the 18 battery or were they to the dash?</p> <p>19 A. One each.</p> <p>20 Q. Okay.</p> <p>21 Do you recall if you rewired the electrical to each of 22 the trailers as well?</p> <p>23 A. That was already in place, so we did not at that time 24 run -- rewire the trailers.</p> <p>25 Q. So the trailers, you didn't change out the wiring in</p>	<p style="text-align: right;">Page 73</p> <p>1 equipment number 6775?</p> <p>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?</p> <p>5 BY MS. SHREVE:</p> <p>6 Q. Does he recall there was a replacement of the Versa 7 valve on equipment number 6775?</p> <p>8 A. I do recall having replaced the dump valve, that it 9 had been replaced. I don't specifically recall when.</p> <p>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?</p> <p>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.</p> <p>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 --</p> <p>18 A. Not at all.</p> <p>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?</p> <p>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.</p> <p>25 Q. Okay.</p>

<p style="text-align: right;">Page 74</p> <p>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?</p>	<p style="text-align: right;">Page 76</p> <p>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?</p>
<p style="text-align: right;">Page 75</p> <p>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.</p>	<p style="text-align: right;">Page 77</p> <p>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?</p>

<p style="text-align: right;">Page 78</p> <p>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.</p>	<p style="text-align: right;">Page 80</p> <p>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</p>
<p style="text-align: right;">Page 79</p> <p>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</p>	<p style="text-align: right;">Page 81</p> <p>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.</p>

<p style="text-align: right;">Page 82</p> <p>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</p>	<p style="text-align: right;">Page 84</p> <p>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</p>
<p style="text-align: right;">Page 83</p> <p>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</p>	<p style="text-align: right;">Page 85</p> <p>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?</p>

<p style="text-align: right;">Page 86</p> <p>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</p>	<p style="text-align: right;">Page 88</p> <p>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,</p>
<p style="text-align: right;">Page 87</p> <p>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</p>	<p style="text-align: right;">Page 89</p> <p>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.</p>

<p style="text-align: right;">Page 90</p> <p>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</p>	<p style="text-align: right;">Page 92</p> <p>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.</p>
<p style="text-align: right;">Page 91</p> <p>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.</p>	<p style="text-align: right;">Page 93</p> <p>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.</p>

<p style="text-align: right;">Page 94</p> <p>1 Q. Is this your handwriting?</p> <p>2 A. No.</p> <p>3 Q. On here it looks like it says the work order was by</p> <p>4 Tracy?</p> <p>5 A. Yes.</p> <p>6 Q. Is that you?</p> <p>7 A. Oh, yes.</p> <p>8 Q. When you supply work orders how do you know what the</p> <p>9 work order is for, would it be from an inspection you performed?</p> <p>10 A. You're asking how this form, this work order is</p> <p>11 generated?</p> <p>12 Q. Yes.</p> <p>13 A. It's generated either as a result of a DVIR, something</p> <p>14 that someone in the shop may have inspected and found to be</p> <p>15 haywire or something that we routinely do and it starts the</p> <p>16 process for something to be done, handled. It can be any number</p> <p>17 of ways.</p> <p>18 Q. So there is no way of knowing how exactly this work</p> <p>19 order came about, just that it came about from you; is that</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. Okay.</p> <p>23 When you first hired Daniel Koski did you ever take</p> <p>24 him on drives with you to do like hands on training?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 96</p> <p>1 What were those reasons?</p> <p>2 A. Well, they are designed to operate that way. You have</p> <p>3 the switches in the cab. If they come in and lineup on the</p> <p>4 grizzly the way they should as a train configuration there would</p> <p>5 be no reason to get out and do it by hand. So it was expediency</p> <p>6 and utilizing the equipment the way it was designed to be used.</p> <p>7 Q. So when you say the first trailer, so for instance on</p> <p>8 5694 or 93, that would be trailer 6773, is that the first</p> <p>9 trailer?</p> <p>10 A. That would be in that combination, yes.</p> <p>11 Q. So that one is longer than 6774 and 6775?</p> <p>12 A. Correct.</p> <p>13 Q. So you would recommend to do that one by hand and then</p> <p>14 the other two manually; is that correct?</p> <p>15 A. Exactly.</p> <p>16 Q. When you do the first one manually how did you explain</p> <p>17 to Mr. Koski how to do that one?</p> <p>18 A. Didn't really need to, but I showed him how I wanted</p> <p>19 it done. He was well versed, but I'm particular.</p> <p>20 Q. When you showed him can you explain to me the process</p> <p>21 that you showed him of how to do it manually of how you wanted</p> <p>22 it done?</p> <p>23 A. Besides all the safety nonsense the actuality was pull</p> <p>24 the safety pin that we installed, push the -- what was that deal</p> <p>25 you called it?</p>
<p style="text-align: right;">Page 95</p> <p>1 Q. What would that entail?</p> <p>2 A. As required by the federal government we're supposed</p> <p>3 to verify that they can drive, and so even though I have known</p> <p>4 Danny for years, like in our business we know just about</p> <p>5 everybody, it's just a formality.</p> <p>6 So you take him out on the drive tests. You have a</p> <p>7 particular route. You have a form that you check off just like</p> <p>8 you do when you're getting your driver's license and he had to</p> <p>9 go through the same thing as everyone else.</p> <p>10 Q. When you were doing your drive did you ever take the</p> <p>11 belly dumps over grizzlies and empty them over grizzlies?</p> <p>12 A. Yes.</p> <p>13 Q. During that time how did you explain to Daniel Koski</p> <p>14 how to operate the Versa valve over grizzlies?</p> <p>15 A. I don't remember what I specifically told him, but I</p> <p>16 can tell you that it was probably the same routine as everyone</p> <p>17 else that I wanted them done by hand.</p> <p>18 Q. Okay.</p> <p>19 A. In certain circumstances the lead trailer, the gate</p> <p>20 was long, wouldn't fit on a grizzly. You had to do that by</p> <p>21 hand. The two back trailers were short gated trailers, they</p> <p>22 could be done from the cab, and my instructions and training</p> <p>23 involved them unloading the front trailer by hand and the last</p> <p>24 two from the cab for multiple reasons.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 97</p> <p>1 Q. The accumulator?</p> <p>2 A. The accumulator, right. Push the accumulator, crack</p> <p>3 the gate open, get it going, and then you walk to the next two</p> <p>4 trailers, unpin them, come back up to the truck, get in the</p> <p>5 truck, by that time the trailer is empty, you open the gate with</p> <p>6 the switch in the cab to clear it and close it, pull ahead, dump</p> <p>7 the next trailer by the switch in the cab, pull up, dump the</p> <p>8 next one, pull out of the way, repin them and leave.</p> <p>9 Q. So for the first one after you opened it then do you</p> <p>10 pull it closed or do you leave it open?</p> <p>11 A. No, you just leave it open and then you go to the cab</p> <p>12 and use the switch and open it.</p> <p>13 Q. Okay.</p> <p>14 A. To clear the gates of material.</p> <p>15 Q. So you're not supposed to pull it close until --</p> <p>16 A. No need. No need because you're going to do it from</p> <p>17 the cab and that resets the accumulator as well.</p> <p>18 Q. Okay.</p> <p>19 Now, did you do the same driving with Patrick Bigby</p> <p>20 when you hired him?</p> <p>21 A. Um-hum, even though he was a mechanic, yes.</p> <p>22 Q. And did you explain to him the same way to operate or</p> <p>23 to dump the belly dump over grizzlies?</p> <p>24 A. I would -- I don't remember specifically. Very rarely</p> <p>25 did he run these, but probably the first time he did I did his</p>

<p style="text-align: right;">Page 98</p> <p>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.</p>	<p style="text-align: right;">Page 100</p> <p>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</p>
<p style="text-align: right;">Page 99</p> <p>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</p>	<p style="text-align: right;">Page 101</p> <p>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.</p>

<p style="text-align: right;">Page 102</p> <p>1 A. To that specific, no.</p> <p>2 Q. How do your employees or how do the employees at MDB</p> <p>3 learn the processes that have to be followed when opening a</p> <p>4 valve by hand?</p> <p>5 A. Well, it isn't that complicated. I think through the</p> <p>6 practice of, use is probably more effective than giving them</p> <p>7 something to read that they wouldn't read.</p> <p>8 Q. Okay.</p> <p>9 You alluded to the fact that you knew Daniel Koski --</p> <p>10 A. That I hired --</p> <p>11 Q. That you knew Daniel Koski prior to hiring him; is</p> <p>12 that right?</p> <p>13 A. We were acquaintances.</p> <p>14 Q. Did you guys work together before?</p> <p>15 A. No.</p> <p>16 Q. Never worked together?</p> <p>17 A. No.</p> <p>18 Q. How long had you known Dan Koski before you had hired</p> <p>19 him?</p> <p>20 A. Let's see, over 20 years.</p> <p>21 Q. In what capacity did you know Dan Koski?</p> <p>22 A. Just acquaintances in our construction field.</p> <p>23 Q. Had you ever worked together on a project before</p> <p>24 working together at MDB?</p> <p>25 A. Never in that situation. We have hauled out of the</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. Did you ask him when you were interviewing -- or let</p> <p>2 me ask you this.</p> <p>3 Did you interview Mr. Koski before you hired him?</p> <p>4 A. Yes.</p> <p>5 Q. Did you ask him in his interview if he had ever worked</p> <p>6 with belly dumpers before?</p> <p>7 A. I don't recall making that exact question, because</p> <p>8 it's quite common knowledge.</p> <p>9 Q. Did you ask him if he had ever operated Versa valves</p> <p>10 before in your interview?</p> <p>11 A. I probably didn't ask him that specifically.</p> <p>12 Q. Okay.</p> <p>13 Had you ever worked with Patrick Bigby before?</p> <p>14 A. I had.</p> <p>15 Q. At what employer?</p> <p>16 A. Atlas Contractors.</p> <p>17 Q. How long did you work with Patrick Bigby?</p> <p>18 A. Oh, I would guess as I don't remember, but I would</p> <p>19 guess at least five years.</p> <p>20 Q. Okay.</p> <p>21 And what was his position at Atlas while you were</p> <p>22 working with him?</p> <p>23 A. He was mechanic, night supervisor, field mechanic at</p> <p>24 one point. He held multiple jobs.</p> <p>25 Q. Did you approach him about the job at MDB Trucking?</p>
<p style="text-align: right;">Page 103</p> <p>1 same plants, but never delivered to the same place, never worked</p> <p>2 together on the same job.</p> <p>3 Q. So you had never worked with him prior to MDB to</p> <p>4 release product from a belly dumper before?</p> <p>5 A. No, only seen him in that, but never shared the same</p> <p>6 job.</p> <p>7 Q. Okay.</p> <p>8 You said when you were talking about Dan Koski and his</p> <p>9 drive test that he was well versed, I believe those were your</p> <p>10 words, in unloading a belly dumper manually. Why do you believe</p> <p>11 he was well versed in unloading a belly dumper manually?</p> <p>12 A. Well, remembering and being familiar with his prior</p> <p>13 jobs, knowing what those companies and the job sites were all</p> <p>14 about, knowing the processes that took place would lead to my</p> <p>15 understanding of that.</p> <p>16 Q. Okay.</p> <p>17 So you presumed that based on your knowledge of his</p> <p>18 prior employment history that he was well versed in manually</p> <p>19 operating valves to open a belly dumper?</p> <p>20 A. Well, I suppose you could say that. It was more of a</p> <p>21 presumption, more of a factual from his -- how should I say</p> <p>22 that, his application that showed where he worked reminded me of</p> <p>23 the companies that he was at and knowing personally what those</p> <p>24 companies were doing, if he was there doing it then he was doing</p> <p>25 it that way.</p>	<p style="text-align: right;">Page 105</p> <p>1 A. I did, yes.</p> <p>2 Q. And why did you approach him about the job at MDB</p> <p>3 Trucking?</p> <p>4 A. Because he was a very desirable employee, very</p> <p>5 talented, and the company, Atlas, was closing and wanted to give</p> <p>6 him the opportunity to have somewhere to go.</p> <p>7 Q. Okay.</p> <p>8 Do you know if Patrick Bigby had any experience</p> <p>9 working with belly dumpers while at Atlas?</p> <p>10 A. There were a limited number of bottom dumps, so he had</p> <p>11 exposure to them.</p> <p>12 Q. Did you ask him when you interviewed him for the</p> <p>13 position -- Let me ask you this.</p> <p>14 Did you interview him for the position at MDB</p> <p>15 Trucking?</p> <p>16 A. I did.</p> <p>17 Q. Did you ask him if he had performed work on belly dump</p> <p>18 trailers?</p> <p>19 A. Not specifically.</p> <p>20 Q. You were talking about your work at Granite</p> <p>21 Construction and you were saying that in your work with belly</p> <p>22 dumpers with that employer that you had a dump man operating the</p> <p>23 valves for you; is that correct?</p> <p>24 A. Um-hum, yeah.</p> <p>25 Q. Have you ever acted as a dump man before?</p>

<p style="text-align: right;">Page 106</p> <p>1 A. Sure.</p> <p>2 Q. Have you?</p> <p>3 A. Sure.</p> <p>4 Q. For MDB Trucking?</p> <p>5 A. Sure, yes.</p> <p>6 Q. And how often do you act as a dump man?</p> <p>7 A. Occasionally.</p> <p>8 Q. On specific job sites or for specific clients?</p> <p>9 A. Specific job sites, yeah.</p> <p>10 Q. Okay.</p> <p>11 Have you ever acted as a dump man for Dan Koski?</p> <p>12 A. Oh, yes, many times.</p> <p>13 Q. And when you act as a dump man for Dan Koski does he</p> <p>14 stay in the truck while you're operating the valves manually or</p> <p>15 does he get out and stand next to you while you're operating the</p> <p>16 valves?</p> <p>17 A. I prefer that he stay in, but often he would find</p> <p>18 himself outside.</p> <p>19 Q. Can you tell me for what clients you would act as the</p> <p>20 dump man?</p> <p>21 A. Cemex only.</p> <p>22 Q. And how often for Cemex would you act in the position</p> <p>23 as the dump man?</p> <p>24 A. No particular schedule, only when the situation called</p> <p>25 for it.</p>	<p style="text-align: right;">Page 108</p> <p>1 THE WITNESS: He would pull in. I would stop him</p> <p>2 where the hopper or the trailer was over the grizzly. Like I</p> <p>3 said the hopper on the front trailer was longer than the ones on</p> <p>4 the back, so he had to be in a particular spot. So he would</p> <p>5 stop, I would unpin, push the accumulator in, set the dump valve</p> <p>6 to a certain position to where the gate would open up so far,</p> <p>7 get him going, walk to the back, unpin those, do normal</p> <p>8 inspection and, you know, looking over equipment, come back, and</p> <p>9 by that time the material would have emptied, the gates are</p> <p>10 still only half open. So I would give him the thumbs up, he</p> <p>11 would flip the switch to open it from inside the cab, that would</p> <p>12 clear the rest of the material out of the gates. He would then</p> <p>13 close it, pull up.</p> <p>14 From that point he could see what he was doing and he can</p> <p>15 operate, because of the smaller gates on that set of doubles,</p> <p>16 which was the second two trailers. He would do those. As he</p> <p>17 finished open and close I would pin them then he was out of</p> <p>18 there.</p> <p>19 BY MS. WOELFEL:</p> <p>20 Q. Did you ever act as the dump man before your pinning</p> <p>21 system --</p> <p>22 A. Oh, yes.</p> <p>23 Q. -- was in place?</p> <p>24 A. Yes.</p> <p>25 Q. Would that only be at Cemex?</p>
<p style="text-align: right;">Page 107</p> <p>1 Q. What would be a situation that would call for you to</p> <p>2 act as the dump man?</p> <p>3 A. When we would have over, say, four or five bottom dump</p> <p>4 trucks running into the plant, I would go there -- and that is</p> <p>5 not a general rule, that is just an example of usually when I</p> <p>6 would show up and it was to keep the trucks moving.</p> <p>7 Q. So you --</p> <p>8 A. Speed up the process.</p> <p>9 Q. So you were there to expedite the process, because if</p> <p>10 there is a dump man then your drivers don't have to get out of</p> <p>11 their trucks theoretically?</p> <p>12 A. Exactly, plus I would have sub haulers coming in there</p> <p>13 and I was responsible for them and their drivers. I would be</p> <p>14 there to train their guys, if they were new. So multiple</p> <p>15 reasons. I would be there and dump a guy if I was there and</p> <p>16 they drove in, I would just run over there and do it to help</p> <p>17 them.</p> <p>18 Q. If you are acting as the dump man and you have a three</p> <p>19 bottom dump train, tell me about the process. Let's say, Dan</p> <p>20 Koski pulls his truck up, walk me through step by step what</p> <p>21 happens?</p> <p>22 A. If he does it himself --</p> <p>23 Q. Well, if you're there as the dump man.</p> <p>24 MR. BROWN: I'm just going to state a late objection,</p> <p>25 foundation, incomplete hypothetical.</p>	<p style="text-align: right;">Page 109</p> <p>1 A. Yes.</p> <p>2 Q. And on an as needed basis?</p> <p>3 A. Same purposes.</p> <p>4 Q. Okay.</p> <p>5 And would the process be exactly the same but for the</p> <p>6 fact that there is no pin to remove?</p> <p>7 A. Exactly, there were no chains.</p> <p>8 Q. And if a driver does not have a dump man available and</p> <p>9 is doing it himself, would you expect them to follow the exact</p> <p>10 same procedure that you just described?</p> <p>11 A. Oh, yes, and they would do it.</p> <p>12 Q. Has there been occasion where you found that a driver</p> <p>13 was not dumping via the procedure that you just described?</p> <p>14 A. I'm not sure there is another way to do it.</p> <p>15 Q. Meaning if the driver manually dumped the second and</p> <p>16 third trailer, that's not the same process that you just</p> <p>17 described, but are you aware that some drivers would do that?</p> <p>18 A. Oh, okay, sure, sure. Yeah, there would be, I</p> <p>19 suppose, an instance where they off shot the grizzly and</p> <p>20 couldn't open it fully so they would do it manually. The</p> <p>21 procedure was to always -- when you're done you return to the</p> <p>22 truck, flip the switch, open it to clear it and to close it, and</p> <p>23 typically we would always have one more trailer to do after</p> <p>24 that, same thing.</p> <p>25 Q. If a driver just shut it manually and did not go into</p>

<p style="text-align: right;">Page 110</p> <p>1 the truck and flip the switch to clear it, would that be a</p> <p>2 violation of your procedures?</p> <p>3 A. Not exactly.</p> <p>4 Q. Why not?</p> <p>5 A. Well, because then the alternate would be doing it on</p> <p>6 the way out of the ready mix plant, doing it at the plant before</p> <p>7 they load.</p> <p>8 Q. You're presuming that at some point in time the driver</p> <p>9 would flip the switch from the inside?</p> <p>10 A. They would need to.</p> <p>11 Q. Why would they need to?</p> <p>12 A. Because that resets the accumulator.</p> <p>13 Q. What happens if they don't flip the switch from the</p> <p>14 inside and the accumulator is not reset?</p> <p>15 A. Well, you have the chance of when the loader goes to</p> <p>16 load you, he throws the first bucket of material in there and</p> <p>17 the gates will open up. We have seen that happen. Fortunately</p> <p>18 at MDB during the time I was there it was never reported that</p> <p>19 that had happened, but we all saw examples.</p> <p>20 Q. Where a driver would forget to flip the switch after a</p> <p>21 dump to re-actuate?</p> <p>22 A. You would assume that is what happened.</p> <p>23 Q. Did you investigate whether or not for the July 2013</p> <p>24 or July 2014 dumps Mr. Koski did not flip the switch on the</p> <p>25 inside of the cab, did you explore that possibility?</p>	<p style="text-align: right;">Page 112</p> <p>1 A. Um-hum.</p> <p>2 Q. Is he also the owner of SKS Corporation?</p> <p>3 A. I believe he is. I don't know that for sure.</p> <p>4 Q. Would you ever report directly to Travis Bonanno?</p> <p>5 A. I would.</p> <p>6 Q. Did you have any discussions with Travis Bonanno about</p> <p>7 the July 2013 inadvertent dump incident?</p> <p>8 A. I'm sure we did. I don't remember specifics, but I'm</p> <p>9 most certain we discussed it.</p> <p>10 Q. And as you sit here today you don't recall anything</p> <p>11 that you discussed with Travis Bonanno regarding that incident?</p> <p>12 A. Nothing out of the ordinary.</p> <p>13 Q. Did you tell Travis Bonanno any conclusions that you</p> <p>14 came to regarding the cause of the July 2013 incident?</p> <p>15 A. I was never able to give him a conclusion.</p> <p>16 Q. Because you weren't able to reach a conclusion as to</p> <p>17 the cause?</p> <p>18 A. Only suspicions.</p> <p>19 Q. What did you suspect was the cause in July 2013?</p> <p>20 A. Ground issue, an electrical ground issue.</p> <p>21 Q. Were you able to discover an actual electrical ground</p> <p>22 issue after having Patrick and Scott investigate?</p> <p>23 A. My recollection was that we were never able to</p> <p>24 pinpoint or determine as the damn thing functioned just</p> <p>25 perfectly shortly thereafter the accident.</p>
<p style="text-align: right;">Page 111</p> <p>1 A. Certainly.</p> <p>2 Q. How did you explore that possibility?</p> <p>3 A. I talked to the loader operator at the ready mix plant</p> <p>4 and to the plant operator to see if they were around, if they</p> <p>5 saw him, if they noticed anything. The plant operator wasn't</p> <p>6 there. His view is not of that area so -- and he wasn't out</p> <p>7 walking around.</p> <p>8 The loader operator, as I remember, I don't remember</p> <p>9 which one it was, he didn't remember anything directly specific,</p> <p>10 but he didn't remember anything out of the ordinary.</p> <p>11 Q. Did you take a statement from Dan Koski?</p> <p>12 A. Yes.</p> <p>13 Q. Did you ask him how he was emptying product on the</p> <p>14 loads that he had done that day?</p> <p>15 A. I simply asked him if there was anything out of the</p> <p>16 ordinary from ordinary process and he said there was not.</p> <p>17 Q. And that's the extent of the questioning that you</p> <p>18 asked him?</p> <p>19 A. Yep, yes.</p> <p>20 Q. You said that you were hired by Travis Bonanno; is</p> <p>21 that correct?</p> <p>22 A. Correct.</p> <p>23 Q. Who is Travis Bonanno?</p> <p>24 A. He is the owner of the company.</p> <p>25 Q. The owner of MDB?</p>	<p style="text-align: right;">Page 113</p> <p>1 Q. What about July 2014, did you have any conversations</p> <p>2 with Travis Bonanno that you can recall about that incident?</p> <p>3 A. I remember that more specifically.</p> <p>4 Q. Okay.</p> <p>5 What did you guys talk about?</p> <p>6 A. I don't think there was much of a conversation other</p> <p>7 than telling him that a disaster had happened and nobody was</p> <p>8 hurt and it was a quick phone call.</p> <p>9 Q. Did he ask who the driver was?</p> <p>10 A. I think I probably told him.</p> <p>11 Q. Was there any concern by you about the fact that the</p> <p>12 same driver had these two incidents a year apart?</p> <p>13 A. No, there was no concern about the driver. There was</p> <p>14 concern about the trailer. I think it was more derived as to it</p> <p>15 happened again.</p> <p>16 Q. And did you interview Dan Koski about the actions that</p> <p>17 he took prior to the date of the July 2014 accident to see if he</p> <p>18 had done anything that might cause the incident?</p> <p>19 A. Yes, during that same conversation that we had when</p> <p>20 you were asking me about if he functioned his gates and loaded</p> <p>21 the previous load in the normal fashion, I think during that</p> <p>22 same conversation pertaining to anything out of the ordinary,</p> <p>23 was there anything done differently and there wasn't.</p> <p>24 Q. Okay.</p> <p>25 You say there was concern about the trailer after the</p>

<p style="text-align: right;">Page 114</p> <p>1 July 2014 incident. What concern did you have about the 2 trailer?</p> <p>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.</p> <p>6 Q. Okay.</p> <p>7 Did you reach any conclusions about why the trailer 8 opened its gates in July 2014?</p> <p>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.</p> <p>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?</p> <p>16 A. Correct.</p> <p>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?</p> <p>20 A. As far as manuals, no, there were no manuals.</p> <p>21 Q. What about maintenance logs?</p> <p>22 A. No, there weren't any maintenance logs with those.</p> <p>23 Q. Did you ever ask if you could receive any maintenance 24 logs from the prior owner?</p> <p>25 A. That's a pretty common thing.</p>	<p style="text-align: right;">Page 116</p> <p>1 A. Because I'm a collector of information. I like full 2 file cabinets.</p> <p>3 Q. Okay.</p> <p>4 So when the trailer 6775 came to you did you do an 5 inspection of the trailer?</p> <p>6 A. Yes, before we bought it.</p> <p>7 Q. Did you go to Western Nevada Transport to conduct that 8 inspection?</p> <p>9 A. Yes.</p> <p>10 Q. Do you know how old the trailer was when you acquired 11 it for MDB?</p> <p>12 A. I would guess that that back trailer was a 2002 and I 13 believe we purchased it in '12.</p> <p>14 Q. So approximately ten years old?</p> <p>15 A. Yes.</p> <p>16 Q. And do you know if it had original wiring and original 17 components at the time you acquired it in 2012?</p> <p>18 A. I'm guessing that it did.</p> <p>19 Q. Is that a guess or do you know?</p> <p>20 A. Well, I really don't know for sure.</p> <p>21 Q. Did you ask anybody if it had its original component 22 parts or original wiring?</p> <p>23 A. No, and I wouldn't because it's not an uncommon thing 24 to have different parts.</p> <p>25 Q. Because when you're using it things break and things</p>
<p style="text-align: right;">Page 115</p> <p>1 Q. What is a pretty common thing?</p> <p>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.</p> <p>5 Q. Is it your recollection that you asked for them and 6 didn't receive it?</p> <p>7 A. It is conceivable that I asked, yes, because I want 8 those things.</p> <p>9 Q. Who would you have asked to receive those records?</p> <p>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.</p> <p>15 Q. And can you recall the owner's name?</p> <p>16 A. Paul Gianoli.</p> <p>17 Q. And it's your recollection that you never received the 18 maintenance records for that trailer?</p> <p>19 A. I don't believe we did. Didn't really expect to 20 either, but --</p> <p>21 Q. Why not?</p> <p>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.</p> <p>25 Q. Why would you have liked to see that information?</p>	<p style="text-align: right;">Page 117</p> <p>1 get changed?</p> <p>2 A. Yeah, normal routine things.</p> <p>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?</p> <p>6 MR. BROWN: Objection, vague.</p> <p>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.</p> <p>11 BY MS. WOELFEL:</p> <p>12 Q. So in your inspection of the trailer did you see 13 anything that concerned you before you acquired it?</p> <p>14 A. Nothing.</p> <p>15 Q. Did you operate the Versa valve or do anything with 16 the trailer before you acquired it?</p> <p>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.</p> <p>22 Q. What were you looking at?</p> <p>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</p>

<p style="text-align: right;">Page 118</p> <p>1 things are not as important as others. They are repairable.</p> <p>2 Q. What was the condition of the trailer at the time you</p> <p>3 acquired it?</p> <p>4 A. I thought it was probably 75 percent of a hundred.</p> <p>5 Q. Okay.</p> <p>6 When you went on-site to Western Nevada Transport to</p> <p>7 inspect the trailers that you were acquiring, did you ask when</p> <p>8 you were on-site to see any paperwork associated with the</p> <p>9 trailers?</p> <p>10 A. No.</p> <p>11 Q. Did you ask if the trailers had ever been in an</p> <p>12 accident before?</p> <p>13 A. I don't believe there was anybody there to ask.</p> <p>14 Q. Oh, you were there by yourself?</p> <p>15 A. I was there alone.</p> <p>16 Q. Okay.</p> <p>17 Is that a question you asked just in general during</p> <p>18 the acquisition process, did you ask anybody if the trailers had</p> <p>19 ever been involved in an accident?</p> <p>20 A. I don't believe so, no.</p> <p>21 Q. Is that information you would want to know before</p> <p>22 acquiring a trailer?</p> <p>23 A. Well, not necessarily.</p> <p>24 Q. Why not?</p> <p>25 A. Because it really wouldn't have any bearing on -- to</p>	<p style="text-align: right;">Page 120</p> <p>1 A. Sure.</p> <p>2 Q. What employer were you with when this occurred?</p> <p>3 A. Years ago at Sha-Neva.</p> <p>4 Q. Just on one occasion?</p> <p>5 A. Yes.</p> <p>6 Q. So at the time you were acquiring these MDB belly dump</p> <p>7 trailers from Western Nevada Transport you were certainly aware</p> <p>8 that inadvertent dumps could happen?</p> <p>9 A. Oh, sure, and if I may add, I hate to say anything</p> <p>10 inappropriate, but it was on a trailer from a previous era where</p> <p>11 the gate switches were run through the seven wire cord on the</p> <p>12 electrical, and the one that opened up turned on the turn</p> <p>13 signal, the gates opened and closed. You know, modern trailers</p> <p>14 are -- have got a completely separate circuit. So, you know,</p> <p>15 that is one of the beauties of the modern technology.</p> <p>16 Q. Thank you.</p> <p>17 A. So I just wanted to clarify.</p> <p>18 Q. I appreciate that.</p> <p>19 So I want to talk a little bit more about the MSHA</p> <p>20 training that you talked about. My understanding was if you</p> <p>21 were going to work at Cemex you had to go through MSHA training;</p> <p>22 is that right?</p> <p>23 A. Yes.</p> <p>24 Q. Where was the MSHA training performed?</p> <p>25 A. Multiple locations.</p>
<p style="text-align: right;">Page 119</p> <p>1 me if it had been in an accident or not.</p> <p>2 Q. Why wouldn't it have any bearing on your decision to</p> <p>3 acquire?</p> <p>4 A. Well, it's common to get trucks, trailers, whatever</p> <p>5 that have been in an accident, you know. As long as it pulls</p> <p>6 straight and it functions well it doesn't really matter. I mean</p> <p>7 --</p> <p>8 Q. Did you ever ask anybody in the acquisition process if</p> <p>9 any of the trailers had ever had inadvertent dumps?</p> <p>10 A. No.</p> <p>11 Q. Would that be information that you want to know?</p> <p>12 A. Today it would.</p> <p>13 Q. But at the time you didn't think that was information</p> <p>14 you needed to know?</p> <p>15 A. It wasn't anything on anybody's mind. It hadn't</p> <p>16 presented a known issue.</p> <p>17 Q. Have you in your employment history in working with</p> <p>18 various types of trucks and trailers, of which it appears you</p> <p>19 have worked with quite a few, would you agree?</p> <p>20 A. Nothing out of the ordinary.</p> <p>21 Q. Have you had any other occasion where a belly dump</p> <p>22 truck has opened while you were employed with a company?</p> <p>23 A. But not necessarily with me at the controls?</p> <p>24 Q. Not necessarily with you at the controls, but are you</p> <p>25 aware of any of your co-workers having a belly dump truck open?</p>	<p style="text-align: right;">Page 121</p> <p>1 Q. Where did you take MSHA training?</p> <p>2 A. I took it in Reno.</p> <p>3 Q. Where in Reno?</p> <p>4 A. It was held in Cemex's conference room at that batch</p> <p>5 plant on Galletti Way.</p> <p>6 Q. How long did MSHA training last?</p> <p>7 A. It's a three-day course.</p> <p>8 Q. Are all three days in a conference room or are you out</p> <p>9 in the field?</p> <p>10 A. No, it's all in a conference room.</p> <p>11 Q. So you're not actually working with the trucks in the</p> <p>12 conference room, I would presume; is that right?</p> <p>13 A. That is correct. That part of the MSHA training is</p> <p>14 all classroom.</p> <p>15 Q. It's a lecture course for three days?</p> <p>16 A. Yes.</p> <p>17 Q. We have all been there. That's painful.</p> <p>18 A. Yes.</p> <p>19 Q. Is there any part of the MSHA training that is not</p> <p>20 lecture?</p> <p>21 A. They showed videos.</p> <p>22 Q. Okay.</p> <p>23 A. So yes.</p> <p>24 Q. Any part of MSHA training that is out in the dirt</p> <p>25 working with a truck hands on?</p>

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

<p style="text-align: right;">Page 130</p> <p>1 would not be out of the ordinary.</p> <p>2 MS. SHREVE: Can you repeat his answer then?</p> <p>3 (The record was read by the reporter.)</p> <p>4 BY MS. SHREVE:</p> <p>5 Q. So that was your opinion, then, regarding how</p> <p>6 Mr. Koski, when he said he did not do anything differently, that</p> <p>7 was your opinion as to what he did?</p> <p>8 A. Yes.</p> <p>9 Q. Okay.</p> <p>10 A. Yes.</p> <p>11 Q. If he had opened the gates manually, the last two</p> <p>12 trailers manually versus inside the truck would you have wanted</p> <p>13 to know that from Mr. Koski?</p> <p>14 A. Not specifically.</p> <p>15 Q. Okay.</p> <p>16 So that would not have changed your investigation as</p> <p>17 to what he had performed during that day?</p> <p>18 A. Correct, because that wouldn't be out of the ordinary</p> <p>19 as far as we're concerned. You know, him as a driver is someone</p> <p>20 that wants to make sure processes are upheld, either way is</p> <p>21 fine.</p> <p>22 MS. SHREVE: Okay.</p> <p>23 That was all I had. That will conclude so we can go off</p> <p>24 the record.</p> <p>25 (The deposition concluded at 2:15 p.m.)</p>	<p style="text-align: right;">Page 132</p> <p>1 CERTIFICATE OF REPORTER</p> <p>2 I, JANET MENGES, Certified Court Reporter, State of</p> <p>3 Nevada, do hereby certify:</p> <p>4 That I reported the deposition of TRACY SHANE,</p> <p>5 commencing of Tuesday, April 11, 2017, at 9:00 a.m.</p> <p>6 That prior to being deposed, the witness was duly sworn by me to</p> <p>7 testify to the truth. That I thereafter transcribed my said</p> <p>8 shorthand notes into typewriting and that the typewritten</p> <p>9 transcript is a complete, true and accurate transcription of my</p> <p>10 said shorthand notes. That prior to the conclusion of the</p> <p>11 proceedings, the reading and signing was requested by the</p> <p>12 witness or a party.</p> <p>13 I further certify that I am not a relative or employee of</p> <p>14 counsel of any of the parties, nor a relative or employee of the</p> <p>15 parties involved in said action, nor a person financially</p> <p>16 interested in the action.</p> <p>17 In witness whereof, I hereunto subscribe my name at Reno,</p> <p>18 Nevada, this 20th day of April, 2017.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">_____ JANET MENGES, CCR #206</p>
<p style="text-align: right;">Page 131</p> <p>1 CERTIFICATE OF DEPONENT</p> <p>2 PAGE LINE CHANGE</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14 *****</p> <p>15</p> <p>16 I, TRACY SHANE, deponent herein, do hereby certify and</p> <p>17 declare under penalty of perjury the within and foregoing</p> <p>18 transcription to be my deposition in said action; that I have</p> <p>19 read, corrected and do hereby affix my signature to said</p> <p>20 deposition.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">_____ TRACY SHANE, Deponent</p>	

EXHIBIT 8

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

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

Plaintiffs,

vs.

MDB TRUCKING, LLC, et al.,

Defendants.

AND ALL RELATED CASES.

**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

APPEARANCES:

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PATRICK BIGBY

called as a witness, being first duly
sworn, was examined and testified
as follows:

EXAMINATION

BY MS. WOELFEL:

Q. Good afternoon.

Could you state and spell your full name for the
record, please?

A. My name is Patrick Dean Bigby, P-a-t-r-i-c-k D-e-a-n
B-i-g-b-y.

Q. Patrick, where do you live?

A. I live in Sparks.

Q. What is your address?

A. 395 Boise Court, Sparks, Nevada, 89431.

Q. My name is Jessica Woelfel. I'm one of the attorneys
in this matter. I represent RMC Lamar and I will be asking you
some questions today.

Have you ever had your deposition taken before?

A. I have not.

Q. Have you ever been a party to a lawsuit before?

A. No.

Q. Have you ever testified in court before?

A. I have not.

<p style="text-align: right;">Page 6</p> <p>1 Q. Okay.</p> <p>2 I'm going to just go over some ground rules for this</p> <p>3 deposition since this is your first time and just let me know if</p> <p>4 you have any questions as we go through these rules, okay?</p> <p>5 A. Um-hum.</p> <p>6 Q. First rule I will need you to respond audibly, because</p> <p>7 we have a court reporter here who is taking down everything that</p> <p>8 we say. So if we mumble or just nod our heads the court</p> <p>9 reporter can't take that down. So if you could answer audibly</p> <p>10 with yes or no I would appreciate it and so would the court</p> <p>11 reporter, okay?</p> <p>12 A. Okay.</p> <p>13 Q. Thank you.</p> <p>14 Please do your best to provide me with complete</p> <p>15 information in response to my questions, okay?</p> <p>16 A. Okay.</p> <p>17 Q. If you don't understand my question that's okay, just</p> <p>18 let me know that you don't understand it and I can rephrase the</p> <p>19 question, okay?</p> <p>20 A. All right.</p> <p>21 Q. Have you taken any medication or drugs today that</p> <p>22 would prohibit you from answering truthfully?</p> <p>23 A. I have not.</p> <p>24 Q. Is there any reason you can't provide me with truthful</p> <p>25 testimony today?</p>	<p style="text-align: right;">Page 8</p> <p>1 deposition?</p> <p>2 A. I have not.</p> <p>3 Q. Did you talk with Scott Palmer?</p> <p>4 MR. BROWN: Objection, vague. About his deposition?</p> <p>5 BY MS. WOELFEL:</p> <p>6 Q. About your deposition.</p> <p>7 A. No.</p> <p>8 Q. Did you talk with Scott Palmer about his deposition?</p> <p>9 A. I have not.</p> <p>10 Q. What about Dan Koski, did you speak with him about</p> <p>11 your deposition?</p> <p>12 A. I have not spoken with Dan.</p> <p>13 Q. Have you spoken with Dan about his deposition?</p> <p>14 A. No.</p> <p>15 Q. Did you review any documents today in preparation for</p> <p>16 your deposition?</p> <p>17 A. Today, no.</p> <p>18 Q. Did you review any documents at any point prior to</p> <p>19 today's deposition?</p> <p>20 A. I have not.</p> <p>21 MR. BROWN: Can I just say one thing, Jessica?</p> <p>22 If you remember during Scott's depo there were a couple of</p> <p>23 questions that Scott went and asked Patrick about and then Scott</p> <p>24 testified about the next day. I don't think he was meaning to</p> <p>25 exclude that he didn't talk to him at that time about that.</p>
<p style="text-align: right;">Page 7</p> <p>1 A. No.</p> <p>2 Q. Any reason that you can think of that we cannot</p> <p>3 proceed with your deposition?</p> <p>4 A. Pardon?</p> <p>5 Q. Any reason that you can think of that we cannot</p> <p>6 proceed with your deposition today?</p> <p>7 A. No reason that I'm aware of.</p> <p>8 Q. After the deposition you're going to get a copy of the</p> <p>9 transcript and you will be able to review the questions that I</p> <p>10 have asked you today and your answers. You will be able to make</p> <p>11 any changes to the deposition transcript, to your answers if</p> <p>12 there is some sort of a mistake that you made, okay?</p> <p>13 A. Okay.</p> <p>14 Q. If you do make a change I will be able to comment on</p> <p>15 that change, if we get to trial, okay, and so I tell you that so</p> <p>16 that you can make sure that if you don't understand something</p> <p>17 that I'm asking you that you make sure to ask for clarification.</p> <p>18 If you answer me I will presume that you understood the</p> <p>19 question, okay?</p> <p>20 A. Understood.</p> <p>21 Q. Thank you.</p> <p>22 Did you meet with anybody in preparation for your</p> <p>23 deposition today outside of your attorney?</p> <p>24 A. No.</p> <p>25 Q. Did you speak with anybody in preparation for your</p>	<p style="text-align: right;">Page 9</p> <p>1 MS. WOELFEL: Yes, understood, and I appreciate that.</p> <p>2 Thank you.</p> <p>3 BY MS. WOELFEL:</p> <p>4 Q. Just go back one more admonition. Let me finish my</p> <p>5 question before you answer. I know in typical conversations a</p> <p>6 lot of times we will anticipate what the other person will say</p> <p>7 and we will just answer. Because this is not your typical</p> <p>8 conversation and the flow of it is being recorded we want to</p> <p>9 make sure that we don't talk over each other, okay?</p> <p>10 A. Very well.</p> <p>11 Q. Can you tell me your date of birth?</p> <p>12 A. July 27th, 1963.</p> <p>13 Q. Married?</p> <p>14 A. Yes.</p> <p>15 Q. And what is your wife's name?</p> <p>16 A. Christie.</p> <p>17 Q. How long have you been married?</p> <p>18 A. Twenty-nine years.</p> <p>19 Q. Have any children?</p> <p>20 A. Two.</p> <p>21 Q. What are their names?</p> <p>22 A. John and Alan.</p> <p>23 Q. How old are they?</p> <p>24 A. One is 19 and the other one is 29.</p> <p>25 Q. Where did you go to high school?</p>

<p style="text-align: right;">Page 10</p> <p>1 A. Lost River High School in Merrill, Oregon.</p> <p>2 Q. What year did you graduate?</p> <p>3 A. 1981.</p> <p>4 Q. Do you have any secondary education after high school?</p> <p>5 A. A few semesters in the technical institute.</p> <p>6 Q. What is the name of the technical institute?</p> <p>7 A. It's Oregon Technical Institute, OTI.</p> <p>8 Q. What did you study there?</p> <p>9 A. Diesel mechanics.</p> <p>10 Q. What years were you at the Oregon Technical Institute?</p> <p>11 A. What years?</p> <p>12 Q. Yes.</p> <p>13 A. I could not be specific.</p> <p>14 Q. Was it immediately after high school?</p> <p>15 A. No.</p> <p>16 Q. Can you approximate how many years after high school</p> <p>17 you attended?</p> <p>18 A. This is approximate, I would say five.</p> <p>19 MS. WOELFEL: Did someone just join the call?</p> <p>20 MR. BUNDICK: There is some background noise coming</p> <p>21 through the phone.</p> <p>22 MS. WOELFEL: I don't think there is any background</p> <p>23 noise coming from this end, but we will try to speak up for you.</p> <p>24 MR. BUNDICK: Thank you, I apologize. I couldn't hear</p> <p>25 the last six or seven questions because of it.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Do you know through whom you took that course?</p> <p>2 A. The last one I think was probably through Truck Parts</p> <p>3 here in Reno.</p> <p>4 Q. How many hours was that course?</p> <p>5 A. Oh, I don't recall. It was an afternoon, I believe,</p> <p>6 or an evening.</p> <p>7 Q. Okay.</p> <p>8 And do you recall what you learned in that course?</p> <p>9 A. I can't give you any specific.</p> <p>10 Q. Do you hold any certificates from any nationally</p> <p>11 recognized institutes or training groups that you can think of?</p> <p>12 A. I would say no.</p> <p>13 Q. Okay.</p> <p>14 Where are you currently employed?</p> <p>15 A. I'm currently employed with MDB Trucking.</p> <p>16 Q. When did you start working at MDB Trucking?</p> <p>17 A. I don't know the exact dates.</p> <p>18 Q. Can you recall what year?</p> <p>19 A. I believe it was in 2013.</p> <p>20 Q. We're going to talk in detail about your job at MDB,</p> <p>21 but I want to go back in time before we go into your job with</p> <p>22 MDB. Can you tell me where you worked prior to obtaining</p> <p>23 employment with MDB?</p> <p>24 A. I worked for Atlas Contractors in Sparks, Nevada.</p> <p>25 Q. What was your position at Atlas Contractors?</p>
<p style="text-align: right;">Page 11</p> <p>1 MS. WOELFEL: No problem.</p> <p>2 BY MS. WOELFEL:</p> <p>3 Q. Can you describe for me what courses you look at OTI</p> <p>4 related to diesel mechanics?</p> <p>5 A. They were basically general theory courses in</p> <p>6 operation and theory of diesel.</p> <p>7 Q. Did you receive any certificates or degree of any</p> <p>8 type?</p> <p>9 A. I have received no degree or certificates.</p> <p>10 Q. Can you remember the names of any specific courses</p> <p>11 that you took while at OTI?</p> <p>12 A. I don't believe I can.</p> <p>13 Q. Okay.</p> <p>14 Outside of OTI have you taken any other courses or any</p> <p>15 other technical training?</p> <p>16 A. I have taken some that are typically offered through</p> <p>17 like our parts stores and such, more like seminars versus actual</p> <p>18 courses.</p> <p>19 Q. Can you recall specifically any courses or seminars</p> <p>20 that you have taken?</p> <p>21 A. I couldn't say exactly or some pertaining to like</p> <p>22 brakes and --</p> <p>23 Q. Do you remember when you took a course related to</p> <p>24 brakes?</p> <p>25 A. It's been several years. I do not know exactly when.</p>	<p style="text-align: right;">Page 13</p> <p>1 A. I was a mechanic.</p> <p>2 Q. When did you start working for Atlas?</p> <p>3 A. This is an estimation, I believe it was in the fall of</p> <p>4 2001.</p> <p>5 Q. When did you leave Atlas?</p> <p>6 A. Again an estimation, I believe it was in the fall of</p> <p>7 -- fall or winter, possibly spring of 2013.</p> <p>8 Q. So approximately 12 years?</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. And what does Atlas Contractors do?</p> <p>11 A. Atlas Contractors, they did primarily paving and site</p> <p>12 pad preparation.</p> <p>13 Q. And were you in the position of mechanic for the</p> <p>14 entire 12 years that you worked for Atlas Contractors?</p> <p>15 A. Yes.</p> <p>16 Q. Describe your position as mechanic, what were your job</p> <p>17 duties?</p> <p>18 A. My job duties was to assess, repair, maintain</p> <p>19 equipment as directed.</p> <p>20 Q. What type of equipment did you assess, repair and</p> <p>21 maintain?</p> <p>22 A. We had some large earth moving equipment, graders,</p> <p>23 tractor-trailer or tractors as in trucks, and light equipment,</p> <p>24 pickups.</p> <p>25 Q. Were you the only mechanic?</p>

Page 14	Page 16
<p>1 A. I was not.</p> <p>2 Q. How many mechanics were there?</p> <p>3 A. I believe at one time there were 12 to 14 of us.</p> <p>4 Q. Did you work full-time at Atlas?</p> <p>5 A. I did.</p> <p>6 Q. Who was your supervisor at Atlas?</p> <p>7 A. Originally it was Kipp Henderson.</p> <p>8 Q. Is he still there?</p> <p>9 A. Pardon?</p> <p>10 Q. Is he still at Atlas?</p> <p>11 A. He is not. Atlas Contractors is no longer in</p> <p>12 business.</p> <p>13 Q. When did Atlas Contractors go out of business?</p> <p>14 A. I believe it was 2013, fall or spring.</p> <p>15 Q. Is that why you left?</p> <p>16 A. That's correct.</p> <p>17 Q. Do you know why they went out of business?</p> <p>18 A. Economic reasons, I believe.</p> <p>19 Q. Was your title simply mechanic or were you a</p> <p>20 supervisor, can you describe for me more precisely your role?</p> <p>21 A. When I originally was employed with Atlas I started as</p> <p>22 a mechanic and at one point in time I became a supervisor, a</p> <p>23 lead mechanic.</p> <p>24 Q. Approximately when?</p> <p>25 A. Perhaps like 2005, somewhere in that area.</p>	<p>1 Q. Okay.</p> <p>2 Did you in your position at Atlas ever work with Versa</p> <p>3 valve products?</p> <p>4 A. Yes.</p> <p>5 Oh, pardon, no.</p> <p>6 Q. In your position at Atlas did you ever work with belly</p> <p>7 dump trailers?</p> <p>8 A. No.</p> <p>9 Q. Did you work with any type of trailer while at Atlas?</p> <p>10 A. Yes.</p> <p>11 Q. What types?</p> <p>12 A. An end dump, transfer trailers, and just like some</p> <p>13 12,000 pound flat trailers.</p> <p>14 Q. Would you maintain and repair the end dump transfer</p> <p>15 trailers?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. Did you ever conduct electrical work on the end dump</p> <p>18 transfer trailers?</p> <p>19 A. Yes.</p> <p>20 Q. What type of electrical work?</p> <p>21 A. Typically repairing broken wires, lighting.</p> <p>22 Q. Have you ever in your time at Atlas ever fully</p> <p>23 replaced the wiring system in an end dump transfer trailer?</p> <p>24 A. We have in a transfer trailer, yes.</p> <p>25 Q. How many times?</p>
Page 15	Page 17
<p>1 Q. Okay.</p> <p>2 And how long were you in the position of lead</p> <p>3 supervisor?</p> <p>4 A. Pretty much until the end of my employment with them</p> <p>5 in one respect or another.</p> <p>6 Q. Okay.</p> <p>7 And as a supervisor what were your job duties?</p> <p>8 A. Mainly to guide and help my other -- the other</p> <p>9 employees on my shift.</p> <p>10 Q. Did you do any training of other employees?</p> <p>11 A. Yes.</p> <p>12 Q. What type of training did you conduct?</p> <p>13 A. Mostly how to inspect and it depended on each job as</p> <p>14 to what was required and assess their level of competence and</p> <p>15 help them understand and receive information or find it to make</p> <p>16 proper repairs.</p> <p>17 Q. Did you do electrical work while at Atlas?</p> <p>18 A. I have, yes.</p> <p>19 Q. How often would you do electrical work?</p> <p>20 A. I would say at least once a week.</p> <p>21 Q. Did you take any courses in electrical work?</p> <p>22 A. I have not.</p> <p>23 Q. How did you learn how to do electrical work?</p> <p>24 A. From working with experienced mechanics and reading</p> <p>25 manuals.</p>	<p>1 A. Once for complete.</p> <p>2 Q. Prior to 2001 where did you work?</p> <p>3 A. I worked for the City of Klamath Falls, Klamath Falls,</p> <p>4 Oregon.</p> <p>5 Q. Let me go back. Where was Atlas Construction located?</p> <p>6 A. In Sparks.</p> <p>7 Q. So prior to that you were living in Oregon?</p> <p>8 A. I was.</p> <p>9 Q. What did you do for the City of Klamath Falls?</p> <p>10 A. Mechanic.</p> <p>11 Q. When did you start working for the City of Klamath</p> <p>12 Falls?</p> <p>13 A. I don't recall those dates.</p> <p>14 Q. Do you have an estimation on the year?</p> <p>15 A. Well, perhaps 1997.</p> <p>16 Q. And did you leave just prior to moving to Sparks?</p> <p>17 A. I did.</p> <p>18 Q. So that would be approximately 2001?</p> <p>19 A. Correct.</p> <p>20 Q. Why did you leave your job at the City of Klamath</p> <p>21 Falls?</p> <p>22 A. Better employment.</p> <p>23 Q. You weren't terminated?</p> <p>24 A. I was not.</p> <p>25 Q. Atlas paid better?</p>

<p style="text-align: right;">Page 18</p> <p>1 A. Yes, ma'am.</p> <p>2 Q. Describe for me your duties as a mechanic for the</p> <p>3 city?</p> <p>4 A. General maintenance and repair of the equipment within</p> <p>5 the city, including pickups, dump trucks, small equipment.</p> <p>6 Q. Did the city provide you with any training?</p> <p>7 A. No.</p> <p>8 Q. Did you attend any training courses while you were</p> <p>9 employed by the City of Klamath Falls?</p> <p>10 A. I don't recall having any.</p> <p>11 Q. What kind of dump trucks were you working on?</p> <p>12 A. Ten wheel dump trucks class A.</p> <p>13 Q. Did you work with any belly dumpers when you were --</p> <p>14 A. No.</p> <p>15 Q. What about with any Versa valves?</p> <p>16 A. No.</p> <p>17 Q. Prior to the City of Klamath Falls, I know we're going</p> <p>18 back in time quite a ways here, can you tell me where you</p> <p>19 worked?</p> <p>20 A. I worked for Basin Transit Service.</p> <p>21 Q. Basin Transit Service?</p> <p>22 A. Um-hum.</p> <p>23 Q. Where are they located?</p> <p>24 A. In Klamath Falls, Oregon.</p> <p>25 Q. What was your position there?</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. Can you describe that for me?</p> <p>2 A. Go with -- my supervisor would come out and we would</p> <p>3 go over systems and general repair, maintenance and inspection,</p> <p>4 adjustments, such as the handicap lifts on the buses. I was</p> <p>5 given training on that from my supervisor and his knowledge of</p> <p>6 the electrical components and failures and diagnostics of such</p> <p>7 with those buses.</p> <p>8 Q. I presume you did not work with belly dumpers while at</p> <p>9 Basin Transit?</p> <p>10 A. I did not.</p> <p>11 Q. What about Versa valves?</p> <p>12 A. No.</p> <p>13 Q. Prior to Basin Transit Service can you recall where</p> <p>14 you worked?</p> <p>15 A. Yes, I worked for Gastaldi and Associates Land</p> <p>16 Surveyors.</p> <p>17 Q. Can you spell that for me?</p> <p>18 A. G-a-s-t-a-l-d-i.</p> <p>19 Q. Gastaldi?</p> <p>20 A. Um-hum.</p> <p>21 Q. Gastaldi and what?</p> <p>22 A. And Associates.</p> <p>23 Q. Land surveyors?</p> <p>24 A. Correct.</p> <p>25 Q. What was your position there?</p>
<p style="text-align: right;">Page 19</p> <p>1 A. Mechanic.</p> <p>2 Q. What year did you approximately begin working for</p> <p>3 Basin Transit Service?</p> <p>4 A. 1994 perhaps.</p> <p>5 Q. And did your employment end in approximately 1997?</p> <p>6 A. Correct.</p> <p>7 Q. Can you tell me why your employment ended?</p> <p>8 A. I applied for and received the job with the city.</p> <p>9 Q. Okay.</p> <p>10 Tell me what your job duties were at Basin Transit</p> <p>11 Service?</p> <p>12 A. General maintenance and repair of transit buses.</p> <p>13 Q. Did Basin Transit Service provide you with any</p> <p>14 training?</p> <p>15 A. I was sent to several courses involving the buses.</p> <p>16 Q. These are transit buses that were just operating</p> <p>17 around Klamath Falls or were they school buses?</p> <p>18 A. Yes, these are just operating general passengers, not</p> <p>19 school.</p> <p>20 Q. So the courses that you went to were in how to</p> <p>21 maintain transit buses?</p> <p>22 A. Yes, component-wise like the transmissions, some</p> <p>23 engine work.</p> <p>24 Q. Was there any on-the-job training?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 21</p> <p>1 A. Land surveyor, I suppose, helper.</p> <p>2 Q. Okay.</p> <p>3 Can you recall approximately when you began your work</p> <p>4 at Gastaldi and Associates?</p> <p>5 A. Boy, that's getting so far back there.</p> <p>6 Q. Can you recall approximately how many years you worked</p> <p>7 there?</p> <p>8 A. I would say three to four.</p> <p>9 Q. Okay.</p> <p>10 And why did you leave that position?</p> <p>11 A. Much more stable and better pay.</p> <p>12 Q. Outside of the employers we just discussed have you</p> <p>13 held any other mechanic positions?</p> <p>14 A. Yes.</p> <p>15 Q. With whom?</p> <p>16 A. The first one was with Tom Strong, Tom's Equipment.</p> <p>17 Q. Tom's Equipment?</p> <p>18 A. Yes.</p> <p>19 Q. Where is that located?</p> <p>20 A. In Klamath Falls, Oregon.</p> <p>21 Q. How long were you with Tom's Equipment?</p> <p>22 A. Two years, I believe, approximately.</p> <p>23 Q. You were a mechanic there?</p> <p>24 A. I began as a parts runner.</p> <p>25 Q. And worked your way up?</p>

<p style="text-align: right;">Page 22</p> <p>1 A. Correct.</p> <p>2 Q. Did they send you to any training?</p> <p>3 A. No.</p> <p>4 Q. What were your job duties?</p> <p>5 A. Clean the shop, assist the mechanics with repairs.</p> <p>6 Q. What type of equipment were you working on?</p> <p>7 A. Mostly class A trucks.</p> <p>8 Q. Did you work on any trailers?</p> <p>9 A. Yes.</p> <p>10 Q. What types of trailers?</p> <p>11 A. Mostly logging trailers.</p> <p>12 Q. Any belly dumpers?</p> <p>13 A. No belly dumpers.</p> <p>14 Q. Any Versa valve experience?</p> <p>15 A. No.</p> <p>16 Q. Any other employer where you acted in the capacity of</p> <p>17 mechanic that we have not yet discussed?</p> <p>18 A. High Tech Diesel.</p> <p>19 Q. Can you tell me approximately when you worked there?</p> <p>20 A. Three years perhaps.</p> <p>21 Q. Is this in the '80s?</p> <p>22 A. Pardon?</p> <p>23 Q. This is in the decade of the 1980s?</p> <p>24 A. Yes.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 24</p> <p>1 A. Not precisely. I'm sure it was January, February,</p> <p>2 somewhere in there.</p> <p>3 Q. Early in the year?</p> <p>4 A. Yes.</p> <p>5 Q. Okay.</p> <p>6 What position were you hired to perform?</p> <p>7 A. A mechanic.</p> <p>8 Q. Who were you hired by?</p> <p>9 A. I was hired by Tracy Shane.</p> <p>10 Q. Are there any other mechanics at MDB Trucking besides</p> <p>11 you?</p> <p>12 A. No.</p> <p>13 Q. When you started working at MDB in January or February</p> <p>14 of 2013 was there any other mechanic that you worked with for</p> <p>15 any period of time?</p> <p>16 A. No.</p> <p>17 Q. Did you receive any training when you started your job</p> <p>18 at MDB Trucking?</p> <p>19 A. No.</p> <p>20 Q. Were you sent out to receive any training from any</p> <p>21 outside source when you began working for MDB Trucking?</p> <p>22 A. Pardon? I don't understand.</p> <p>23 Q. I apologize, and thank you for telling me you didn't</p> <p>24 understand. That means you were listening to my question.</p> <p>25 Did MDB send you to any outside training courses?</p>
<p style="text-align: right;">Page 23</p> <p>1 What was your position there?</p> <p>2 A. Mechanic.</p> <p>3 Q. Tell me what types of equipment you were working on?</p> <p>4 A. Class A trucks.</p> <p>5 Q. Were you also working on logging trailers?</p> <p>6 A. Not so much there.</p> <p>7 Q. Mostly --</p> <p>8 A. Typically just the tractors.</p> <p>9 Q. Did you receive any training while at High Tech</p> <p>10 Diesel?</p> <p>11 A. On-the-job, yes.</p> <p>12 Q. Any other training besides on-the-job training?</p> <p>13 A. No.</p> <p>14 Q. Did you work with belly dumpers while at High Tech</p> <p>15 Diesel?</p> <p>16 A. I did not.</p> <p>17 Q. What about Versa valves?</p> <p>18 A. No.</p> <p>19 Q. Any other mechanic positions that we haven't already</p> <p>20 discussed?</p> <p>21 A. I believe that is it.</p> <p>22 Q. So going to your position at MDB you said you began in</p> <p>23 2013?</p> <p>24 A. I believe so, yes.</p> <p>25 Q. Do you recall approximately what month you started?</p>	<p style="text-align: right;">Page 25</p> <p>1 A. No.</p> <p>2 Q. Tell me what your job duties were when you were hired</p> <p>3 in January, February 2013 at MDB?</p> <p>4 A. My job duties are to maintain and repair the trucks</p> <p>5 and trailers.</p> <p>6 Q. How many trucks and trailers does MDB or did MDB have</p> <p>7 in its portfolio at the time you started in January or February</p> <p>8 of 2013?</p> <p>9 A. I believe there were nine.</p> <p>10 Q. Nine --</p> <p>11 A. Nine units or nine trucks.</p> <p>12 Q. So nine trucks and each of those trucks had trailers</p> <p>13 that it hauled?</p> <p>14 A. Correct.</p> <p>15 Q. Do you know how many trailers in total MDB had in</p> <p>16 January or February of 2013?</p> <p>17 A. I can't give you an exact total.</p> <p>18 Q. But each of those nine trucks hauled trailers; is that</p> <p>19 correct?</p> <p>20 A. Correct.</p> <p>21 Q. What types of trucks?</p> <p>22 A. We have what they call the semi-tractor with a fifth</p> <p>23 wheel plate and we have transfer tractors, which are actually a</p> <p>24 dump truck.</p> <p>25 Q. Before coming to work for MDB had you worked on these</p>

<p style="text-align: right;">Page 26</p> <p>1 types of tractors before?</p> <p>2 A. I had.</p> <p>3 Q. And what about the trailers, what types of trailers</p> <p>4 does MDB have?</p> <p>5 A. They have bottom dump trailers.</p> <p>6 Q. That would also be called a belly dumper?</p> <p>7 A. Correct.</p> <p>8 Q. Any other type of trailers?</p> <p>9 A. We have a flatbed, pneumatics and transfer. I believe</p> <p>10 that is it.</p> <p>11 Q. Prior to coming to work at MDB had you ever worked on</p> <p>12 a bottom dump trailer before?</p> <p>13 A. I have not.</p> <p>14 Q. What about a flatbed trailer?</p> <p>15 A. Yes.</p> <p>16 Q. What about a pneumatic?</p> <p>17 A. Yes.</p> <p>18 No. Pardon, no, not a pneumatic.</p> <p>19 Q. What about a transfer trailer?</p> <p>20 A. Yes.</p> <p>21 Q. Did you receive any training on how to perform</p> <p>22 maintenance on a bottom dump trailer after arriving at MDB?</p> <p>23 A. No.</p> <p>24 Q. Did you do any independent training, anything on your</p> <p>25 own to prepare you for maintaining bottom dump trailers?</p>	<p style="text-align: right;">Page 28</p> <p>1 A. It was after my being hired there.</p> <p>2 Q. Do you know what position he was hired to perform?</p> <p>3 A. My understanding was to assist me on maintenance and</p> <p>4 to drive.</p> <p>5 Q. Okay.</p> <p>6 So he would split his time between those duties?</p> <p>7 A. Correct.</p> <p>8 Q. And on average when Scott Palmer began working at MDB</p> <p>9 how often would he assist you with maintenance duties?</p> <p>10 A. Fairly often.</p> <p>11 Q. What about now, does he still assist you fairly often?</p> <p>12 A. Not as often.</p> <p>13 Q. When you began working at MDB did you receive any</p> <p>14 documents or manuals to review related to the trucks and</p> <p>15 trailers that you work on?</p> <p>16 A. No.</p> <p>17 Q. Have you ever reviewed any documents or manuals</p> <p>18 related to the trucks and trailers that you work on?</p> <p>19 A. Have I ever?</p> <p>20 Q. In your position with MDB?</p> <p>21 A. I don't quite understand the question.</p> <p>22 Q. Have you had occasion to review any documents or</p> <p>23 manuals related to the trucks or trailers that you are working</p> <p>24 on?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 27</p> <p>1 MR. BROWN: Foundation. Go ahead.</p> <p>2 THE WITNESS: I don't believe so, no.</p> <p>3 BY MS. WOELFEL:</p> <p>4 Q. Prior to coming to work at MDB had you worked at all</p> <p>5 with a product called Versa valve?</p> <p>6 A. No.</p> <p>7 Q. Did you receive any training on how to maintain a</p> <p>8 Versa valve?</p> <p>9 A. No.</p> <p>10 Q. Did you conduct any independent training on how to</p> <p>11 work with Versa valve products?</p> <p>12 A. No.</p> <p>13 Q. Do you have a mechanic's assistant or anybody else</p> <p>14 that performs mechanic work with you at MDB?</p> <p>15 A. Pardon?</p> <p>16 Q. Is there a mechanic's assistant or anybody else that</p> <p>17 assists you in performing mechanic work at MDB?</p> <p>18 A. We have had some assistants and I receive assistance</p> <p>19 from Scott Palmer on occasion.</p> <p>20 Q. How often does Scott Palmer on average assist you with</p> <p>21 maintenance issues?</p> <p>22 A. Now or then?</p> <p>23 Q. When did he start actually, let's go ahead --</p> <p>24 A. When did Scott?</p> <p>25 Q. Yes, was it before you or after you?</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. Can you describe for me any specific occasions that</p> <p>2 you can recall?</p> <p>3 A. Such as when I am working on the engines when I'm</p> <p>4 unfamiliar, not familiar with a certain procedure then we would</p> <p>5 look up in a manual that particular procedure and</p> <p>6 specifications --</p> <p>7 Q. Okay.</p> <p>8 A. -- necessary.</p> <p>9 Q. Okay.</p> <p>10 Are there any MDB standard operating procedures that</p> <p>11 are written down that you received when you began working for</p> <p>12 MDB?</p> <p>13 A. In relation -- in regards to --</p> <p>14 Q. In relation to your position or any manuals at all</p> <p>15 that you received?</p> <p>16 MR. BROWN: Objection, vague. You can answer.</p> <p>17 THE WITNESS: I don't -- from when I was hired or to</p> <p>18 present?</p> <p>19 BY MS. WOELFEL:</p> <p>20 Q. Well, let's start with when you were hired. When you</p> <p>21 were hired did you receive any company manuals, anything</p> <p>22 outlining any policies or procedures from MDB Trucking?</p> <p>23 A. I don't recall receiving any.</p> <p>24 Q. Are there any standard operating procedures related to</p> <p>25 maintenance that you can recall receiving from MDB Trucking?</p>

<p style="text-align: right;">Page 30</p> <p>1 A. No.</p> <p>2 Q. Did you do any driving at any time while at MDB</p> <p>3 Trucking?</p> <p>4 A. On occasion, yes.</p> <p>5 Q. How often -- Well, describe for me what you do when</p> <p>6 you drive, are you transporting material?</p> <p>7 A. Yes, typically.</p> <p>8 Q. How often are you engaged as a driver for MDB</p> <p>9 Trucking?</p> <p>10 A. Not very often. I choose not to. On occasion, I</p> <p>11 can't give you an exact amount of time, but typically they will</p> <p>12 need someone to fill in occasionally, so not very often.</p> <p>13 Q. Okay.</p> <p>14 Have you hauled the belly dump trailers before when</p> <p>15 you have acted as a driver?</p> <p>16 A. I have, yes.</p> <p>17 Q. Have you utilized the Versa valve in manually dumping</p> <p>18 over a grizzly when you have acted as a driver?</p> <p>19 A. I have.</p> <p>20 Q. Can you walk me through -- I want to talk about when</p> <p>21 you have acted as a driver and you have operated the Versa valve</p> <p>22 and you have dumped over a grizzly, did you operate the Versa</p> <p>23 valve manually or through the switch in the cab?</p> <p>24 A. Both depending upon the situation.</p> <p>25 Q. Did you receive any training on how to manually</p>	<p style="text-align: right;">Page 32</p> <p>1 applied in this situation, whether with the switches and/or by</p> <p>2 manually, by hand.</p> <p>3 Q. Okay.</p> <p>4 And did he demonstrate for you how to operate it</p> <p>5 manually by hand?</p> <p>6 A. Correct.</p> <p>7 Q. Can you tell me what he showed you or told you?</p> <p>8 A. When we were over the grizzlies we could open the</p> <p>9 Versa valve depending on how much room was in the grizzly,</p> <p>10 whether it would hold the complete trailer load or not. We</p> <p>11 could open it partially by pushing in on the valve to a certain</p> <p>12 degree to modulate its opening and then pushing on the palm</p> <p>13 valve, which is attached to an accumulator that will hold the</p> <p>14 gate in that position until acted upon again either electrically</p> <p>15 or manually on the valve.</p> <p>16 Q. Okay.</p> <p>17 A. That way we could modulate our dump to facilitate the</p> <p>18 space available in the grizzly.</p> <p>19 Q. Okay.</p> <p>20 So you're standing outside of your cab next to the</p> <p>21 Versa valve and you're pushing on the handle; is that right?</p> <p>22 A. That is correct.</p> <p>23 Q. Okay.</p> <p>24 And it opens partially; is that right?</p> <p>25 I'm breaking it down into plain English, because</p>
<p style="text-align: right;">Page 31</p> <p>1 operate the Versa valve?</p> <p>2 A. Yes, I did.</p> <p>3 Q. From whom?</p> <p>4 A. From Tracy Shane.</p> <p>5 Q. When did Tracy Shane provide you training on how to</p> <p>6 manually operate the Versa valve?</p> <p>7 A. When?</p> <p>8 Q. Yes.</p> <p>9 A. As in an exact date?</p> <p>10 Q. As in give me your best approximation, was it shortly</p> <p>11 after you first started working?</p> <p>12 A. I would say probably six months afterwards when he</p> <p>13 first asked me to fill in as a driver.</p> <p>14 Q. So six months after you started working as a mechanic</p> <p>15 Tracy asked you to fill in as a driver?</p> <p>16 A. Approximately, yes.</p> <p>17 Q. When he asked you to fill in as a driver he gave you</p> <p>18 training on how to operate the Versa valve?</p> <p>19 A. Correct.</p> <p>20 Q. Can you describe for me the training that you</p> <p>21 received?</p> <p>22 A. Yes, the training consisted of we drove the truck</p> <p>23 together. He was with me, loaded it, checked our equipment,</p> <p>24 returned to Cemex to dump the load over the grizzlies. At that</p> <p>25 point in time he instructed me on how the Versa valve was</p>	<p style="text-align: right;">Page 33</p> <p>1 you're using a lot of big words here, and then what you're</p> <p>2 describing is then you would open it all the way; is that right?</p> <p>3 A. Correct.</p> <p>4 Q. What would you do after all of the material comes out?</p> <p>5 A. Pull forward onto the grizzlies with the next trailer.</p> <p>6 Q. Would you close the trailer before you would get in</p> <p>7 the cab and pull forward?</p> <p>8 A. No, I would get in the cab and pull forward and</p> <p>9 activate the switch that electrically opens and then closes the</p> <p>10 gates.</p> <p>11 Q. So you would not close the gates manually, you would</p> <p>12 go into the cab and then you would --</p> <p>13 A. Correct.</p> <p>14 Q. -- flip the switch and that would close it?</p> <p>15 A. I would turn the switch to the on position and then</p> <p>16 return it to the off position and closing the cover at the same</p> <p>17 time and allowing -- that allows the gates to close</p> <p>18 electrically.</p> <p>19 Q. Okay.</p> <p>20 And then you would pull forward?</p> <p>21 A. Um-hum.</p> <p>22 Q. And do the same thing again?</p> <p>23 A. Correct.</p> <p>24 Q. And then after that you would do the same thing one</p> <p>25 more time?</p>

<p style="text-align: right;">Page 34</p> <p>1 A. Correct.</p> <p>2 Q. Okay.</p> <p>3 How many times did Tracy Shane drive with you?</p> <p>4 A. We made, I believe, two complete rounds.</p> <p>5 Q. Can you tell me how many trips you have taken on your</p> <p>6 own without Tracy?</p> <p>7 A. Oh, since that time, 40, 50, somewhere in there.</p> <p>8 Q. Have you always dumped over the grizzly in the same</p> <p>9 manner that you just described?</p> <p>10 A. I personally have, yes.</p> <p>11 Q. Did you receive any written materials to review on how</p> <p>12 to operate a Versa valve prior to beginning your work as a</p> <p>13 driver?</p> <p>14 MR. BROWN: Objection, foundation.</p> <p>15 THE WITNESS: No.</p> <p>16 BY MS. WOELFEL:</p> <p>17 Q. At any time did you receive any materials on how to</p> <p>18 operate a Versa valve?</p> <p>19 A. No.</p> <p>20 Q. Was there any group training that you were involved in</p> <p>21 on how to operate a Versa valve?</p> <p>22 A. No.</p> <p>23 Q. Now you said that you personally operated the Versa</p> <p>24 valve in that manner. Are you aware of other people operating</p> <p>25 the Versa valve differently at MDB Trucking?</p>	<p style="text-align: right;">Page 36</p> <p>1 in-house?</p> <p>2 A. Typically, yes.</p> <p>3 Q. Can you tell me do you work full-time for MDB?</p> <p>4 A. I do.</p> <p>5 Q. Forty hours a week?</p> <p>6 A. Yes.</p> <p>7 Q. Is that Monday through Friday?</p> <p>8 A. Yes, it is.</p> <p>9 Q. Talk to me about sort of your typical schedule when</p> <p>10 you are working in the maintenance department, what does a</p> <p>11 typical day look like for you?</p> <p>12 A. A typical day --</p> <p>13 Q. What time do you arrive?</p> <p>14 A. -- can be varied depends on the workload, the trucks</p> <p>15 and what we have pending for repair.</p> <p>16 Q. What time do you typically arrive for work?</p> <p>17 A. I typically arrive at 8:00 o'clock.</p> <p>18 Q. Are most of your drivers already out in the field at</p> <p>19 that time?</p> <p>20 A. Yes.</p> <p>21 Q. And is it typical that you will have some sort of</p> <p>22 standard maintenance or some repair on a truck or trailer to do</p> <p>23 each day?</p> <p>24 A. That is what we try to do, yes.</p> <p>25 Q. What is the standard maintenance process for MDB</p>
<p style="text-align: right;">Page 35</p> <p>1 A. I cannot say how they operate them. The way I</p> <p>2 operated them was manually to ensure that I didn't miss the</p> <p>3 grizzly and spread material on the approach.</p> <p>4 Q. And the way that you closed the bottom dumper by going</p> <p>5 in the cab and shutting it there, do you know if that is the way</p> <p>6 that everybody did it or just the way that you did it?</p> <p>7 A. Well, that's the way it was intended or what Tracy</p> <p>8 Shane implied I should do to properly close that gate.</p> <p>9 Q. Did he explain why that was important or not</p> <p>10 important?</p> <p>11 A. No.</p> <p>12 Q. Are you involved in setting any training protocol for</p> <p>13 any other employees at MDB Trucking?</p> <p>14 A. No.</p> <p>15 Q. Do you perform all of the maintenance on the trucks</p> <p>16 and trailers that MDB Trucking operates, do you perform the</p> <p>17 maintenance on that in-house or do you ever send it out for</p> <p>18 work?</p> <p>19 A. We typically do most of it in-house. However, there</p> <p>20 is some that is sent out on repairs.</p> <p>21 Q. What types of repairs would you send out to someone</p> <p>22 else to perform?</p> <p>23 A. Typically like engines and transmissions, the things</p> <p>24 that I do not have the tooling for we send out.</p> <p>25 Q. Do you typically do all of the electrical work</p>	<p style="text-align: right;">Page 37</p> <p>1 trucks and trailers?</p> <p>2 A. Standard maintenance?</p> <p>3 Q. Yes, do you have a standard maintenance protocol, do</p> <p>4 you check them every week, every month, is there some sort of a</p> <p>5 standard protocol for the maintenance department?</p> <p>6 A. We try to look at them once every two weeks at a</p> <p>7 minimum.</p> <p>8 Q. And what does that mean to look at them, does that --</p> <p>9 A. We bring them in, we inspect and lubricate the</p> <p>10 equipment.</p> <p>11 Q. And what does an inspection involve?</p> <p>12 A. An inspection involves visually looking for any</p> <p>13 issues, broken parts, worn-out brakes, inoperative lights,</p> <p>14 unsecured components, make sure all functions are correct.</p> <p>15 Q. Is it a visual inspection or are you --</p> <p>16 A. It's mostly visual. Some of it is physical.</p> <p>17 Q. What part is physical?</p> <p>18 A. Such as the brakes, we check the length of the brake</p> <p>19 to make sure it's within the specified distance for a foundation</p> <p>20 brake.</p> <p>21 Q. Do you conduct annual inspections?</p> <p>22 A. Yes.</p> <p>23 Q. Describe for me what the annual inspections involve?</p> <p>24 A. Well, the annual inspections involve pretty much the</p> <p>25 same as a weekly or biweekly inspection, just making certain</p>

<p style="text-align: right;">Page 38</p> <p>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,</p>	<p style="text-align: right;">Page 40</p> <p>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</p>
<p style="text-align: right;">Page 39</p> <p>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.</p>	<p style="text-align: right;">Page 41</p> <p>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?</p>

<p style="text-align: right;">Page 42</p> <p>1 A. I was.</p> <p>2 Q. And also in July of 2014 during the second dump</p> <p>3 incident?</p> <p>4 A. Yes.</p> <p>5 Q. Other than those two dump incidents that we will</p> <p>6 discuss, are you aware of any other inadvertent dumps during</p> <p>7 your time at MDB Trucking?</p> <p>8 A. No.</p> <p>9 MR. BROWN: Object, vague.</p> <p>10 BY MS. WOELFEL:</p> <p>11 Q. I'm going to refer to the trailer that Mr. Koski was</p> <p>12 pulling that opened up in July of 2013 as trailer 6775. Do you</p> <p>13 recall if that's the number that that trailer was assigned?</p> <p>14 A. I believe it would be one of those numbers. That</p> <p>15 exact number, I would have to look at a work order or something.</p> <p>16 Q. I will show you some, but I will represent to you that</p> <p>17 it's trailer 6775.</p> <p>18 Do you know when this trailer first came into MDB's</p> <p>19 possession, the trailer that was involved in the dump incident</p> <p>20 in July of 2013?</p> <p>21 A. I don't know the exact date.</p> <p>22 Q. Was it in MDB's possession when you began work --</p> <p>23 A. No.</p> <p>24 Q. -- at MDB?</p> <p>25 Trailer 6775 was not in MDB's possession when you</p>	<p style="text-align: right;">Page 44</p> <p>1 A. No.</p> <p>2 Q. Have you seen any maintenance documents related to</p> <p>3 this trailer from the time before MDB took possession of the</p> <p>4 trailer?</p> <p>5 A. I have not.</p> <p>6 Q. Do you know if the wiring on that trailer is original,</p> <p>7 and I'm talking about when MDB first took possession of the</p> <p>8 trailer, do you know if the wiring that was on the trailer was</p> <p>9 original or not?</p> <p>10 A. I could not say either way.</p> <p>11 Q. Do you have any information regarding whether or not</p> <p>12 trailer 6775 had ever been involved in an accident prior to MDB</p> <p>13 acquiring it?</p> <p>14 A. I would have no knowledge.</p> <p>15 Q. Do you have any knowledge of whether trailer 6775 had</p> <p>16 ever had any other inadvertent dump prior to MDB acquiring it?</p> <p>17 A. I have no knowledge of that, no.</p> <p>18 Q. Do you know if MDB made any efforts to evaluate the</p> <p>19 state or condition of the electrical connections on trailer 6775</p> <p>20 before it acquired it?</p> <p>21 MR. BROWN: Objection, vague.</p> <p>22 THE WITNESS: I don't recall.</p> <p>23 BY MS. WOELFEL:</p> <p>24 Q. Do you have any knowledge of whether the Versa valve</p> <p>25 included with trailer 6775 was the original Versa valve</p>
<p style="text-align: right;">Page 43</p> <p>1 first started working?</p> <p>2 A. To the best of my knowledge it was not.</p> <p>3 Q. So the lease or purchase of that trailer occurred</p> <p>4 after you had started working at MDB; is that correct?</p> <p>5 A. I believe so.</p> <p>6 Q. Okay.</p> <p>7 Were you involved in the process of -- Let me back up.</p> <p>8 Do you know if MDB inspected this trailer before it</p> <p>9 leased or purchased it in 2013?</p> <p>10 A. I do not believe so. If it were it was not with me.</p> <p>11 Q. Okay.</p> <p>12 Do you know who the trailer was purchased or leased</p> <p>13 from?</p> <p>14 A. I can't say with any authority.</p> <p>15 Q. Do you know how old trailer 6775 was when it was</p> <p>16 purchased or leased by MDB Trucking?</p> <p>17 A. I do not.</p> <p>18 Q. Were you involved in the purchase or the lease or the</p> <p>19 acquisition of the trailer in any way?</p> <p>20 A. No.</p> <p>21 Q. You didn't inspect the trailer prior to MDB taking</p> <p>22 possession of the trailer?</p> <p>23 A. I did not.</p> <p>24 Q. And you reviewed no documents associated with the</p> <p>25 trailer?</p>	<p style="text-align: right;">Page 45</p> <p>1 installed on that trailer?</p> <p>2 MR. BROWN: Objection, vague.</p> <p>3 THE WITNESS: I could not say that it was original or</p> <p>4 not.</p> <p>5 BY MS. WOELFEL:</p> <p>6 Q. Do you know if trailer 6775 was painted by MDB when it</p> <p>7 was acquired?</p> <p>8 A. Painted?</p> <p>9 Q. Painted.</p> <p>10 A. It was not painted.</p> <p>11 Q. Has the trailer been painted or repainted at all since</p> <p>12 it's been in MDB's possession?</p> <p>13 A. No.</p> <p>14 MS. WOELFEL: Let's go ahead and mark that as</p> <p>15 Exhibit 1.</p> <p>16 (Exhibit 1 was marked.)</p> <p>17 BY MS. WOELFEL:</p> <p>18 Q. Exhibit 1 is a document Bates labeled MDB 723. Have</p> <p>19 you ever seen this document before?</p> <p>20 A. I have not.</p> <p>21 Q. Okay.</p> <p>22 The date on this invoice is February 25, 2014, and I</p> <p>23 will represent to you that this is an invoice for the sale of</p> <p>24 two Ranco trailer sets from Western Nevada Transport to MDB, and</p> <p>25 one of the trailer sets involves trailer 6773, 6774, and 6775</p>

<p style="text-align: right;">Page 46</p> <p>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?</p>	<p style="text-align: right;">Page 48</p> <p>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</p>
<p style="text-align: right;">Page 47</p> <p>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?</p>	<p style="text-align: right;">Page 49</p> <p>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</p>

<p style="text-align: right;">Page 50</p> <p>1 perhaps.</p> <p>2 Q. Did you take any notes regarding your conversation</p> <p>3 with Mr. Koski?</p> <p>4 A. No, ma'am.</p> <p>5 Q. Do you know if the trailer stayed in service for any</p> <p>6 period of time after the incident occurred that day?</p> <p>7 A. Pardon?</p> <p>8 Q. Do you know if the trailer in July of 2013 after it</p> <p>9 had the dump take place, do you know if it stayed in service for</p> <p>10 any period of time before it was returned to the yard?</p> <p>11 A. No, I don't believe so.</p> <p>12 Q. Did you come to any conclusions after your testing of</p> <p>13 the electrical system?</p> <p>14 A. No.</p> <p>15 Q. Did you put together any documentation describing the</p> <p>16 tests that you ran?</p> <p>17 A. I did not.</p> <p>18 Q. Did you evaluate or test the air system as part of</p> <p>19 your tests?</p> <p>20 A. Yes.</p> <p>21 Q. Tell me what you did with respect to the air system?</p> <p>22 A. Built air, make sure that it would maintain air</p> <p>23 pressure, maintain -- or confirm that air was getting to the</p> <p>24 valve, passing through the valve and holding the gates closed</p> <p>25 and that it would also open and hold the gates open so there was</p>	<p style="text-align: right;">Page 52</p> <p>1 again after your tests were run in July of 2013?</p> <p>2 A. Yes.</p> <p>3 Q. What actions did you take?</p> <p>4 A. My actions were to completely isolate the wiring of</p> <p>5 the tractor and trailer, remove or not use, I should say, not</p> <p>6 use the wires that were originally installed for the purpose and</p> <p>7 we ran independent wires from the tractor battery back through</p> <p>8 each trailer to the Versa valves.</p> <p>9 Q. So you believed that it could have been a wiring</p> <p>10 problem that led to the --</p> <p>11 A. There was still the possibility.</p> <p>12 Q. -- incident?</p> <p>13 MR. BROWN: Wait until she finishes asking her</p> <p>14 question, even though you know what she is asking and so she</p> <p>15 gets everything down.</p> <p>16 MS. WOELFEL: You're doing a good job, but thank you,</p> <p>17 Brian.</p> <p>18 BY MS. WOELFEL:</p> <p>19 Q. What led you to the conclusion that the wiring should</p> <p>20 be changed?</p> <p>21 A. Well --</p> <p>22 MR. BROWN: Object, misstates his testimony. Go</p> <p>23 ahead.</p> <p>24 THE WITNESS: It was the theory of a short in the</p> <p>25 original or the existing wiring that may have caused this</p>
<p style="text-align: right;">Page 51</p> <p>1 adequate air pressure.</p> <p>2 Q. Did you reach any conclusions after that test with</p> <p>3 respect to the air system?</p> <p>4 A. Any conclusion or a negative conclusion?</p> <p>5 Q. Any conclusion at all?</p> <p>6 A. At that time after running that test the conclusion</p> <p>7 was I had not found an issue.</p> <p>8 Q. Did you talk to Mr. Koski about any of the previous</p> <p>9 dumps that he had performed that day leading up to the accident?</p> <p>10 A. No.</p> <p>11 Q. Did you evaluate whether or not Mr. Koski may have</p> <p>12 made an error that led to the inadvertent dump?</p> <p>13 A. That would not be my position to make such evaluation.</p> <p>14 Q. Is that something that you considered when you were</p> <p>15 trying to figure out how this incident occurred, did you</p> <p>16 consider whether or not Mr. Koski had made an error?</p> <p>17 A. I believe in human nature it would be -- that would</p> <p>18 still have to be thought of, yes.</p> <p>19 Q. Did you do anything to explore whether or not</p> <p>20 Mr. Koski made an error?</p> <p>21 A. I did not personally, no.</p> <p>22 Q. Did you reach any conclusion at all as to the cause of</p> <p>23 the incident in July of 2013?</p> <p>24 A. No.</p> <p>25 Q. Did you take any action to prevent this from occurring</p>	<p style="text-align: right;">Page 53</p> <p>1 accidental uncommanded opening.</p> <p>2 BY MS. WOELFEL:</p> <p>3 Q. And in your tests you were unable to recreate a short;</p> <p>4 correct?</p> <p>5 A. Correct.</p> <p>6 Q. So there was no evidence that you were able to find</p> <p>7 that suggested that there actually was a short in the wiring; is</p> <p>8 that correct?</p> <p>9 A. That is correct.</p> <p>10 Q. When you rewired or when you removed the wiring from</p> <p>11 the trailer 6775 did you inspect the wiring after it was</p> <p>12 removed?</p> <p>13 A. The wire at that time was not removed. I merely</p> <p>14 eliminated the wires -- eliminated the use of the wires that</p> <p>15 were existing.</p> <p>16 Q. So you didn't actually pull the wires that existed in</p> <p>17 the trailer at the time that the incident occurred, you didn't</p> <p>18 pull that all out; is that correct?</p> <p>19 A. That is correct.</p> <p>20 Q. You just included different wires and left the old</p> <p>21 wires in the trailer?</p> <p>22 A. Correct.</p> <p>23 Q. So you did not perform any sort of inspection on the</p> <p>24 wires, visual inspection of the wires that were in the trailer</p> <p>25 after the incident occurred?</p>

<p style="text-align: right;">Page 54</p> <p>1 MR. BROWN: Object, vague, misstates his testimony.</p> <p>2 THE WITNESS: That's correct, I did not.</p> <p>3 BY MS. WOELFEL:</p> <p>4 Q. Those wires, are they still in trailer 6775, the wires</p> <p>5 that were original to the trailer when MDB acquired it?</p> <p>6 A. I believe they may still be, yes.</p> <p>7 Q. When you were inspecting trailer 6775 after the</p> <p>8 July 2013 incident did you identify any problems with the way</p> <p>9 that the trailer was manufactured that you believe contributed</p> <p>10 to the unauthorized dump?</p> <p>11 A. Can you rephrase that, please?</p> <p>12 Q. Sure, I will repeat it.</p> <p>13 When you were conducting your tests and your</p> <p>14 inspection of the trailer after the July 2013 incident took</p> <p>15 place did you identify any problems with the way that the</p> <p>16 trailer was manufactured that you believe could have led to the</p> <p>17 unauthorized dump?</p> <p>18 MR. BROWN: Object to the extent it calls for</p> <p>19 speculation.</p> <p>20 THE WITNESS: No.</p> <p>21 BY MS. WOELFEL:</p> <p>22 Q. In your work with trailer 6775 after the incident and</p> <p>23 your testing were you able to identify any problems with the</p> <p>24 design of the trailer that you believe contributed to the</p> <p>25 unauthorized dump in July of 2013?</p>	<p style="text-align: right;">Page 56</p> <p>1 A. I'm not certain of the date it went back into service.</p> <p>2 Q. But pretty shortly thereafter?</p> <p>3 A. Pardon?</p> <p>4 Q. It went in shortly thereafter; is that right?</p> <p>5 A. I can't recall.</p> <p>6 Q. Okay.</p> <p>7 Did you rewire all of the rest of the belly dump</p> <p>8 trailers in the same manner in which you rewired trailer 6775?</p> <p>9 A. I believe I did, but I'm not positive.</p> <p>10 Q. And how would we determine whether or not you rewired</p> <p>11 the rest of the trailers?</p> <p>12 A. We would have to go through the work orders.</p> <p>13 Q. If there is no work orders demonstrating that you</p> <p>14 rewired the remainder of the trailers then does that suggest to</p> <p>15 you that you did not do it?</p> <p>16 A. It would suggest that I personally may not have done</p> <p>17 it, but it may have been done.</p> <p>18 Q. Did you direct anybody to rewire the remainder of the</p> <p>19 trailers after the July 2013 incident?</p> <p>20 A. I made no directive, but it would be perhaps Scott</p> <p>21 Palmer may have done one.</p> <p>22 Q. Okay.</p> <p>23 Are you aware that trailer 6775 has bottom gate</p> <p>24 chains, do you know what those are?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 55</p> <p>1 MR. BROWN: Same objection, calls for speculation.</p> <p>2 THE WITNESS: Potentially.</p> <p>3 BY MS. WOELFEL:</p> <p>4 Q. Okay.</p> <p>5 What potentially did you believe with respect to the</p> <p>6 design?</p> <p>7 A. Run the seven -- the activation wires with the wires</p> <p>8 for the lights and brakes and ABS all in one loom the potential</p> <p>9 for a short exists.</p> <p>10 Q. And that was your working theory when you were</p> <p>11 conducting your tests?</p> <p>12 A. Correct.</p> <p>13 Q. You were unable to find any shorts in your inspection;</p> <p>14 correct?</p> <p>15 A. Correct.</p> <p>16 Q. Now, if you thought that there was a problem with the</p> <p>17 design of the trailer would you continue to run the unit,</p> <p>18 meaning if you thought there was a safety issue would you put it</p> <p>19 back on the road?</p> <p>20 A. No.</p> <p>21 Q. And this trailer went back on the road; is that</p> <p>22 correct?</p> <p>23 A. That is correct.</p> <p>24 Q. It went back on the road the next day after the July</p> <p>25 2013 incident; isn't that right?</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. What are they used for?</p> <p>2 A. My understanding?</p> <p>3 Q. Yes.</p> <p>4 A. For spreading material to limit the opening of the</p> <p>5 gate.</p> <p>6 Q. Have you ever used bottom gate chains before when you</p> <p>7 have been driving?</p> <p>8 A. No.</p> <p>9 Q. Have you ever had any training on the use of bottom</p> <p>10 gate chains?</p> <p>11 A. No.</p> <p>12 Q. Did you ever have any discussions with anybody about</p> <p>13 utilizing the bottom gate chains while driving to prevent a</p> <p>14 belly dumper from opening all the way while on the road?</p> <p>15 MR. BROWN: Objection, foundation.</p> <p>16 THE WITNESS: I personally haven't had any</p> <p>17 conversation like that, no.</p> <p>18 BY MS. WOELFEL:</p> <p>19 Q. Was the Versa valve replaced after the July 2013</p> <p>20 incident?</p> <p>21 A. Yes, it was.</p> <p>22 Q. Why did you replace the Versa valve?</p> <p>23 A. General principles. We did not find a failure, but</p> <p>24 perhaps there was an issue with the valve that I was unaware of.</p> <p>25 Q. Did you purchase the same type of Versa valve?</p>

1 A. Yes.
 2 Q. Were you the person that installed the Versa valve
 3 once it -- once you received the new one?
 4 A. Yes.
 5 Q. Had you ever installed a Versa valve before coming to
 6 work at MDB?
 7 A. No.
 8 Q. Did you receive any training with respect to the
 9 installation of the Versa valve?
 10 A. No.
 11 Q. Did you read the manual or read any manual on how to
 12 install a Versa valve?
 13 A. I'm unaware that there is a manual for that.
 14 Q. So you did not read any manuals prior to installing
 15 it?
 16 A. I did not.
 17 Q. So I want to move to the July 2014 incident involving
 18 Mr. Koski. Can you tell me how you became aware of the
 19 July 7th, 2014 incident?
 20 A. I was informed by Tracy Shane.
 21 Q. Were you working that day?
 22 A. I was.
 23 Q. Okay.
 24 And how did you learn from Tracy Shane that this
 25 incident had taken place?

1 A. Pardon?
 2 Q. How did you learn from Tracy Shane, did he call you,
 3 did you see him in person, can you recall how he conveyed the
 4 information regarding the incident to you?
 5 A. I believe it was in person in the shop.
 6 Q. And what did he say to you?
 7 A. I cannot recall the exact words.
 8 Q. Do you know what kind of material was being hauled by
 9 Mr. Koski on July 7th, 2014?
 10 A. No, I was unaware.
 11 Q. Did Tracy Shane indicate to you whether or not there
 12 had been injuries as a result of the incident?
 13 A. He did not indicate anything about injury.
 14 Q. Tell me what he told you when he first spoke with you
 15 about this incident?
 16 A. Ma'am, that is quite a while ago. I can't tell you
 17 verbatim.
 18 Q. Can you give me your best recollection regarding what
 19 you discussed?
 20 A. The best I could say is that the gates had opened on
 21 his trailer on I-80.
 22 Q. Any discussion about how that happened, did you and
 23 Tracy discuss the reason for the opening?
 24 A. No, we didn't know the reason.
 25 Q. Did you discuss the fact that it was the same person

1 who had the previous dump a year ago, was there any concern
 2 about that?
 3 A. We didn't discuss any of that, no, but it may have
 4 been mentioned that it was Dan. I'm sure it would have been.
 5 Q. Did you inspect the truck after it returned to the
 6 site, the MDB site?
 7 A. Yes.
 8 Q. And you inspected the trailer that had inadvertently
 9 opened?
 10 A. Correct.
 11 Q. Was anybody else involved in the inspection?
 12 A. I believe Scott Palmer.
 13 Q. Did you inspect it on the same day that the incident
 14 occurred?
 15 A. I believe we initially did, yes.
 16 Q. Describe for me what you did during that inspection?
 17 A. I believe we checked our connections, made sure the
 18 4-ways were proper. If I recall I think we turned on the brakes
 19 and the lights and such and see if we could not get an
 20 uncommanded opening.
 21 Q. Did you find anything wrong?
 22 A. No, ma'am.
 23 Q. Did you conduct any other type of investigation
 24 related to how this opening occurred?
 25 A. From that time?

1 Q. Yes.
 2 A. No.
 3 Q. So you did an inspection with Scott Palmer you believe
 4 on the same day that the incident occurred?
 5 A. I believe so, but I'm not certain of that.
 6 Q. And after that -- how long did that inspection take?
 7 A. An hour, two hours.
 8 Q. Did you do any other inspection or testing on the
 9 trailer at issue after that one to two hour inspection with
 10 Scott Palmer?
 11 A. At that point in time we put mechanical lockouts on
 12 it.
 13 Q. So you were not able to discover any type of an
 14 electrical short that would have led to the incident; is that
 15 correct?
 16 A. That is correct.
 17 Q. And whose idea was it to come up with a mechanical
 18 lockout system?
 19 A. That would be Scott Palmer.
 20 Q. I want to go back to your one to two hour inspection.
 21 Can you walk me through each thing that you did during that
 22 inspection?
 23 A. We started at the tractor, the source of the power,
 24 checked the connections at the battery and then I believe we
 25 went into the cab and checked the wiring behind the panel to

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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

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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.

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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,

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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 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.

<p style="text-align: right;">Page 66</p> <p>1 THE WITNESS: Okay.</p> <p>2 MS. WOELFEL: Thank you very much.</p> <p>3 (A recess was taken.)</p> <p>4 BY MS. WOELFEL:</p> <p>5 Q. Back on the record.</p> <p>6 So I want to talk to you about the second inadvertent</p> <p>7 dump that took place on July 7th, 2014 involving Scott Palmer.</p> <p>8 Are you aware that Mr. Palmer lost a load of sand on the same</p> <p>9 day as Dan Koski in 2014?</p> <p>10 A. Yes, I had heard that.</p> <p>11 Q. How did you become aware that that had occurred?</p> <p>12 A. I believe that Scott Palmer had called me about that</p> <p>13 incident.</p> <p>14 Q. What did he say to you when he called you?</p> <p>15 A. That he had dropped a load of sand on the highway at</p> <p>16 approximately the same area that Dan had.</p> <p>17 Q. Did Scott indicate how the dump had occurred?</p> <p>18 A. To me at that time with that phone call?</p> <p>19 Q. Yes.</p> <p>20 A. No.</p> <p>21 Q. Did he indicate to you at any time how that dropped</p> <p>22 load had occurred?</p> <p>23 A. He is unaware of how it occurred as much as I am.</p> <p>24 Q. Did you conduct any investigation to try to determine</p> <p>25 how that dump occurred?</p>	<p style="text-align: right;">Page 68</p> <p>1 theory of why those two occurred on the same day?</p> <p>2 A. There are several theories, or at least one prevalent</p> <p>3 theory, but again it's just theory.</p> <p>4 Q. What is that theory?</p> <p>5 A. I have no way to explore that.</p> <p>6 Q. Can you describe what that theory is?</p> <p>7 A. My prevalent theory is that we have an atmospheric</p> <p>8 condition in that area.</p> <p>9 Q. And what did you do, if anything, to explore that</p> <p>10 theory?</p> <p>11 A. I'm unable. I don't have enough technical equipment</p> <p>12 to even attempt such exploration.</p> <p>13 Q. Have you discussed that theory with Scott Palmer?</p> <p>14 A. Yes, I have.</p> <p>15 Q. What have you two discussed?</p> <p>16 A. We discussed the potential of a static charge,</p> <p>17 atmospheric that could be engaging the magnet on the valve in</p> <p>18 that area potentially. I believe there are some high tension</p> <p>19 lines out there. I believe there is some cell towers or perhaps</p> <p>20 microwave towers. Any of those potentially, in my opinion,</p> <p>21 could have an effect on those trailers.</p> <p>22 Q. An effect on what part of the trailer?</p> <p>23 A. On the Versa valve's coil, the magnetic coil that</p> <p>24 actually activates electrically the gate.</p> <p>25 Q. Did you run any tests to try to determine if that</p>
<p style="text-align: right;">Page 67</p> <p>1 A. I don't believe we went as in depth as at that time we</p> <p>2 were installing the mechanical lockouts.</p> <p>3 Q. So did you conduct any inspection at all of the wiring</p> <p>4 on the trailer that Scott was pulling that opened?</p> <p>5 A. I don't recall making that inspection. Doesn't mean</p> <p>6 that I didn't.</p> <p>7 Q. Do you recall any investigation that you conducted of</p> <p>8 the trailer that Scott was pulling on July 7th, 2014?</p> <p>9 A. I do not recall doing so.</p> <p>10 Q. Do you recall whether or not you reached any</p> <p>11 conclusions regarding the cause of Mr. Palmer's trailer opening</p> <p>12 on July 7th, 2014?</p> <p>13 A. I have made no conclusions as to why either of those</p> <p>14 or any of those incidents have occurred.</p> <p>15 Q. Do you know if anyone at MDB has made any conclusions</p> <p>16 regarding why the July 7th, 2014 incident involving Mr. Palmer's</p> <p>17 truck occurred?</p> <p>18 A. You said does anyone --</p> <p>19 Q. Yes, have you heard from anybody at MDB any</p> <p>20 conclusions regarding why the incident on July 7th, 2014</p> <p>21 occurred?</p> <p>22 A. No.</p> <p>23 Q. Did you conduct any investigation as to why</p> <p>24 Mr. Palmer's trailer and Mr. Koski's trailer may have opened on</p> <p>25 the same day, is that a theory that you -- did you explore that</p>	<p style="text-align: right;">Page 69</p> <p>1 theory is accurate at all?</p> <p>2 A. I'm unable to. I don't have the equipment.</p> <p>3 Q. Okay.</p> <p>4 Are there any other theories that you have discussed</p> <p>5 with anyone at MDB regarding why these incidents occurred other</p> <p>6 than what you just described, the atmospheric condition in that</p> <p>7 area?</p> <p>8 A. No other pertinent or no other prevalent theories.</p> <p>9 Q. Did you discuss with Scott whether or not he may have</p> <p>10 done anything on his own to cause this incident?</p> <p>11 A. No.</p> <p>12 MS. WOELFEL: I'm going to walk through a bunch of</p> <p>13 documents, okay. I will mark this as Exhibit 2.</p> <p>14 (Exhibit 2 was marked.)</p> <p>15 BY MS. WOELFEL:</p> <p>16 Q. Exhibit 2 is a series of four pages that are work</p> <p>17 orders Bates labeled MDBMAINT, maintenance 000309, 312, 315 and</p> <p>18 321.</p> <p>19 Have you seen these documents before?</p> <p>20 A. I have not seen this particular document.</p> <p>21 Q. We're looking at the first document that is entitled</p> <p>22 work order and it's dated -- actually there is a date that says</p> <p>23 December 1st, 2013 and then there is a date completed that says</p> <p>24 November 30th, 2013. Do you see that?</p> <p>25 A. Yes.</p>

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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

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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?

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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

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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?

<p style="text-align: right;">Page 78</p> <p>1 A. To a certain extent, yes.</p> <p>2 Q. So when you say his jobs were to lubricate and inspect</p> <p>3 the vehicles, what is involved with the inspection that Brandon</p> <p>4 would perform?</p> <p>5 A. Well, he was instructed to keep his eyes open for</p> <p>6 anything that looked odd to him, cracks or breaks, something</p> <p>7 that is just not right and to bring it to either myself or</p> <p>8 Tracy's attention at this time.</p> <p>9 Q. So based on what is written here where it says grease</p> <p>10 and inspect, do you know precisely or can you tell what Brandon</p> <p>11 inspected on equipment number 5694 and trailers 6773, 6774 and</p> <p>12 6775?</p> <p>13 A. I could not tell you precisely what he inspected.</p> <p>14 Q. But if he found any problems you would have expected</p> <p>15 him to bring that to either your or Tracy Shane's attention?</p> <p>16 A. That is correct.</p> <p>17 Q. Do you know if anything was brought to your attention</p> <p>18 on or around May 19th, 2013?</p> <p>19 A. I do not believe so.</p> <p>20 Q. Next page is MDB 073. This is work that looks like --</p> <p>21 the work order is dated July 20th -- can you read that?</p> <p>22 A. Pardon?</p> <p>23 Q. Can you read the date on this work order?</p> <p>24 A. It looks like July 26, 2013.</p> <p>25 Q. Is that your handwriting?</p>	<p style="text-align: right;">Page 80</p> <p>1 Did you believe that there could have been a wiring</p> <p>2 issue there that would have contributed to this unauthorized</p> <p>3 dump?</p> <p>4 A. I didn't truly believe so, but there is always a</p> <p>5 potential.</p> <p>6 Q. Okay.</p> <p>7 And is that the reason why you did the rewiring in the</p> <p>8 cab?</p> <p>9 A. Yes, I wanted to isolate those circuits as best I</p> <p>10 could completely from the tractor and that's why we went to the</p> <p>11 batteries directly instead of pulling any power or ground from</p> <p>12 the chassis.</p> <p>13 Q. Okay.</p> <p>14 It also says you installed a master switch?</p> <p>15 A. That is correct.</p> <p>16 Q. Was there a master switch in there before?</p> <p>17 A. No, there was not.</p> <p>18 Q. Why did you install a master switch?</p> <p>19 A. It's one more step, one more protective circuit.</p> <p>20 Q. Did you believe that there was a possibility that</p> <p>21 driver error could have contributed to the unauthorized dump in</p> <p>22 July of 2013?</p> <p>23 A. That possibility never truly entered my mind.</p> <p>24 Q. Did you install master switches in every other truck?</p> <p>25 A. No, we did not.</p>
<p style="text-align: right;">Page 79</p> <p>1 A. That is my handwriting.</p> <p>2 Q. And it looks like the work order is completed by Pat.</p> <p>3 That is you; correct?</p> <p>4 A. Correct.</p> <p>5 Q. And the work is performed also by you; is that</p> <p>6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. And here it looks like you are rewiring gate switches;</p> <p>9 is that right?</p> <p>10 A. Yes.</p> <p>11 Q. This is inside the cab of the truck?</p> <p>12 A. That is correct.</p> <p>13 Q. Can you tell me why you were rewiring gate switches on</p> <p>14 July 26, 2013?</p> <p>15 A. I believe at that time we had the uncommanded opening</p> <p>16 of the gate and this was part of the repairs to help isolate</p> <p>17 even more so the system.</p> <p>18 Q. Okay.</p> <p>19 Had you found any problems with the gate switches</p> <p>20 inside the cab prior to making the decision to rewire?</p> <p>21 A. There was one issue where we didn't have power flowing</p> <p>22 through when I rewired to the accessory circuit.</p> <p>23 Q. That occurred on or about April 13th, 2013; correct?</p> <p>24 A. Yeah.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 81</p> <p>1 Q. Just the one that Mr. Koski was driving?</p> <p>2 A. Correct.</p> <p>3 Q. On to the next page, MDB 078. This work order is</p> <p>4 dated August 17, 2013 and it looks like it says performed by</p> <p>5 Pat, and that is you; correct?</p> <p>6 A. That is correct.</p> <p>7 Q. Is this your handwriting?</p> <p>8 A. It appears to be, yes.</p> <p>9 Q. I can't read what is written where it says additional.</p> <p>10 Can you read that for me, please?</p> <p>11 A. I wish I could. I cannot with this copy. It seems a</p> <p>12 little blurry.</p> <p>13 Q. Okay.</p> <p>14 A. But it seems something about the trailer lights,</p> <p>15 troubleshooting the trailer lights, perhaps pulsing may be the</p> <p>16 word, may not, and then in my poor parentheses is possible</p> <p>17 ground.</p> <p>18 Q. What does that mean?</p> <p>19 A. Possible ground would be a possible grounding issue.</p> <p>20 The circuit is not being completed well as perhaps a corroded</p> <p>21 circuit that doesn't allow the electricity to return to the</p> <p>22 battery and, therefore, let's just take a light, for example, it</p> <p>23 cannot illuminate as it's supposed to, but it may illuminate</p> <p>24 dimly because it's still getting some circuit, but not all the</p> <p>25 circuit required to operate properly.</p>

<p style="text-align: right;">Page 82</p> <p>1 Q. Okay.</p> <p>2 So what did you do to correct that issue?</p> <p>3 A. It looks to me it says I found an issue perhaps in the</p> <p>4 7-way plug and socket on the tractor.</p> <p>5 Q. And replaced those parts?</p> <p>6 A. Yes, I replaced the plug and a socket on this tractor,</p> <p>7 which the ground wire passes through.</p> <p>8 Q. Okay.</p> <p>9 When you replace a part do you throw away the part you</p> <p>10 have taken off the truck or do you keep it?</p> <p>11 A. Typically we dispose of it.</p> <p>12 Q. If you were to keep it would that be noted somewhere?</p> <p>13 A. No.</p> <p>14 Q. I want to go to MDB 095, so go two pages ahead.</p> <p>15 A. 85?</p> <p>16 Q. 95, right there.</p> <p>17 This is a work order dated October 20th, 2013, and is</p> <p>18 this your handwriting?</p> <p>19 A. No.</p> <p>20 Q. That is Scott's name on the bottom; correct?</p> <p>21 A. That is correct.</p> <p>22 Q. If you had performed work with Scott in any capacity,</p> <p>23 even just a little bit, would your name be written on the bottom</p> <p>24 of the work order?</p> <p>25 A. Typically, yes.</p>	<p style="text-align: right;">Page 84</p> <p>1 Next page is MDB maintenance 000089 and it says the</p> <p>2 work is performed by Pat and the date is February 6th, 2014. Is</p> <p>3 this your handwriting, Pat?</p> <p>4 A. It does appear to be my handwriting, yes.</p> <p>5 Q. Okay.</p> <p>6 And here it says that you replaced cab power relay?</p> <p>7 A. Correct.</p> <p>8 Q. What does that mean, what does that involve?</p> <p>9 A. In the cab for the main power coming to the cab</p> <p>10 supplies 12-volt DC is a relay behind the dash. When that relay</p> <p>11 fails we lose all power in the dash. So that entails us</p> <p>12 removing a portion of the dash to get to this relay and</p> <p>13 replacing it, physically replacing the electrical component.</p> <p>14 Q. Okay.</p> <p>15 Next page is MDB 109 and that is a work order for 5694</p> <p>16 dated March 21, 2014, and in this it looks like you repaired the</p> <p>17 center gate toggle switch cover?</p> <p>18 A. Correct.</p> <p>19 Q. And that is one of the switches that operates the</p> <p>20 belly dumper; correct?</p> <p>21 A. That is correct. That is one of the covers for the</p> <p>22 switch.</p> <p>23 Q. One of the red covers that you would flip up before</p> <p>24 you could move the toggle switch; is that correct?</p> <p>25 A. That is correct.</p>
<p style="text-align: right;">Page 83</p> <p>1 Q. Okay.</p> <p>2 Do you have any recollection of assisting him in</p> <p>3 replacing a master switch on 5694?</p> <p>4 A. I do not recall assisting him.</p> <p>5 Q. Okay.</p> <p>6 Let's move on to MDB 101. Is that your handwriting on</p> <p>7 this document?</p> <p>8 A. Pardon?</p> <p>9 Q. Is this your handwriting?</p> <p>10 A. That is correct.</p> <p>11 Q. What does PM-1 mean?</p> <p>12 A. That is preventative maintenance first level.</p> <p>13 Q. What does preventative maintenance first level</p> <p>14 involve?</p> <p>15 A. It involves changing the engine oil and filter,</p> <p>16 lubricating all the lubricatable components and inspection,</p> <p>17 visual typically, and topping off of fluids, such as the</p> <p>18 windshield washers, checking to make sure the wipers are in good</p> <p>19 condition and all the lights are functional.</p> <p>20 Q. And if any issues were noted from the visual</p> <p>21 inspection would that be indicated on this work order?</p> <p>22 A. The smaller stuff, yes.</p> <p>23 Q. What if there was larger stuff?</p> <p>24 A. Bigger stuff would be opened on a separate work order.</p> <p>25 Q. All right.</p>	<p style="text-align: right;">Page 85</p> <p>1 Q. Do all cabs have toggle covers over the switches?</p> <p>2 A. Pardon?</p> <p>3 Could you define which toggle switches you're</p> <p>4 referring to?</p> <p>5 Q. The toggle switches that activate the belly dumpers,</p> <p>6 does every truck in MDB's line have covers over those toggle</p> <p>7 switches?</p> <p>8 A. Correct, they do.</p> <p>9 Q. The next page is MDB maintenance 000103. It's</p> <p>10 June 25th, 2014, and at the bottom it says work performed by</p> <p>11 Pat. Can you tell me if this is your handwriting?</p> <p>12 A. That is correct.</p> <p>13 Q. I believe it says troubleshoot, I don't know,</p> <p>14 something turn signals and 4-way flashers. Can you read that</p> <p>15 for me?</p> <p>16 A. I certainly can. It reads troubleshoot TS in-op turn</p> <p>17 signals and 4-way flashers.</p> <p>18 Q. Okay.</p> <p>19 And it says you found low voltage at the switch?</p> <p>20 A. That is correct.</p> <p>21 Q. What does that mean, at the flasher switch you found</p> <p>22 low voltage?</p> <p>23 A. Correct.</p> <p>24 Q. What could that have been caused by?</p> <p>25 A. At this point it appears by my notes the fuse in the</p>

<p style="text-align: right;">Page 86</p> <p>1 fuse panel was not allowing full voltage through the fuse.</p> <p>2 Q. Okay.</p> <p>3 A. Extremely rare, but it occurs.</p> <p>4 Q. Do you know what could have caused that?</p> <p>5 A. At this point I assumed that it was perhaps the fuse,</p> <p>6 the filament in the fuse was not making good contact.</p> <p>7 MS. WOELFEL: Okay.</p> <p>8 We're going to move to another set of exhibits. Let's do</p> <p>9 the next set really fast.</p> <p>10 (Exhibit 4 was marked.)</p> <p>11 BY MS. WOELFEL:</p> <p>12 Q. This is a set of exhibits related to equipment number</p> <p>13 6773, which is the first trailer in Mr. Koski's three trailer</p> <p>14 lineup, the one attached to the truck.</p> <p>15 Now, going to the very first work order it says work</p> <p>16 is performed by Scott, but it notes that there is pulled out</p> <p>17 unused wire from, I don't know, can you read his writing better</p> <p>18 than me under the note section?</p> <p>19 A. I have difficulty reading my own writing, but I can't</p> <p>20 really speculate on what that word is.</p> <p>21 Q. Okay.</p> <p>22 A. The last word appears to be discarded.</p> <p>23 Q. Okay.</p> <p>24 Do you have any knowledge regarding what this work</p> <p>25 order was about or involved?</p>	<p style="text-align: right;">Page 88</p> <p>1 Q. Are you inspecting the wiring that is not visible?</p> <p>2 A. No.</p> <p>3 Q. The next work order is dated July 7, 2014, which we</p> <p>4 know is the date that there was an unauthorized dump by</p> <p>5 Mr. Koski, correct, and this says gate opened on highway,</p> <p>6 trailer number 6775, install positive gate valve lock. Were you</p> <p>7 involved in the installing of positive gate valve locks?</p> <p>8 A. Let me find that.</p> <p>9 MS. SHREVE: I think yours is in a different order.</p> <p>10 MS. WOELFEL: MDB 0013.</p> <p>11 Let's go ahead and break right there so I can put that in</p> <p>12 the correct order and we only have a few minutes before the</p> <p>13 call. I apologize for that.</p> <p>14 (A recess was taken.)</p> <p>15 BY MS. WOELFEL:</p> <p>16 Q. So we are back on the record, and when we left off we</p> <p>17 were on Exhibit 4 and I had given you a jumble of paper that was</p> <p>18 not in the same order as mine and we have corrected that.</p> <p>19 We were looking at MDB 013, which is a work order</p> <p>20 dated 7/7/14. Do you see that?</p> <p>21 A. I do see it.</p> <p>22 Q. And that is for equipment number 6773, 6774 and 6775.</p> <p>23 Do you see that?</p> <p>24 A. That is correct.</p> <p>25 Q. And this is a work order that was on the same day as</p>
<p style="text-align: right;">Page 87</p> <p>1 A. No.</p> <p>2 Q. The third page, MDB 170, states inspect FAI and that</p> <p>3 is performed by Tracy. What is an FAI?</p> <p>4 Oops, let me see that. You have my super secret</p> <p>5 highlights, which you probably can't read that handwriting</p> <p>6 either.</p> <p>7 What is an FAI?</p> <p>8 A. Not knowing Tracy's shorthand I'm going to state that</p> <p>9 potentially it's a federal annual inspection.</p> <p>10 Q. Did you ever conduct federal annual inspections on</p> <p>11 these trailers?</p> <p>12 A. I have. I believe I have done a federal on these</p> <p>13 trailers.</p> <p>14 Q. Who typically does the federal annual inspections on</p> <p>15 these trailers?</p> <p>16 A. Typically it could be myself, Scott Palmer or Tracy</p> <p>17 Shane at this time. Tracy Shane was the one typically doing the</p> <p>18 federal annual inspections at this time.</p> <p>19 Q. What does a federal annual inspection involve?</p> <p>20 A. It involves the visual physical inspection of the</p> <p>21 condition of the trailer in regards to brakes, tires,</p> <p>22 securement, chains, if required, lighting, bumpers, if required,</p> <p>23 handholds and such. It's a somewhat general inspection of the</p> <p>24 overall condition, whether it's a tractor, a trailer. If these</p> <p>25 components exist on it then they are to be inspected.</p>	<p style="text-align: right;">Page 89</p> <p>1 the unauthorized release; correct?</p> <p>2 A. That appears to be correct.</p> <p>3 Q. And it notes that there was a gate opening on the</p> <p>4 highway with trailer 6775 and that there was an installation of</p> <p>5 positive gate valve locks. Were you involved in installing the</p> <p>6 positive gate valve locks on 6773, 6774 and 6775?</p> <p>7 A. I believe I assisted in the installation of these</p> <p>8 locks.</p> <p>9 Q. Did you assist in the fabrication of those positive</p> <p>10 locks?</p> <p>11 A. I believe that Scott Palmer made that fabrication of</p> <p>12 those locks.</p> <p>13 Q. Did he discuss with you at all the design that he was</p> <p>14 putting together before he did it?</p> <p>15 A. No.</p> <p>16 Q. Go to the next page, that is a work order dated</p> <p>17 August 5th, 2014 for 6773. Is that your handwriting?</p> <p>18 A. That is my handwriting, correct.</p> <p>19 Q. And it says you replaced a 4-way socket. Do you know</p> <p>20 why you had to replace that 4-way socket based on what is on</p> <p>21 this document?</p> <p>22 A. It's an assumption that the socket -- the flap that</p> <p>23 holds the plug in place may have been broken or there may have</p> <p>24 been corrosion on the socket on the plugs or it could have had a</p> <p>25 broken pin. Some damage, it's an assumption at this point.</p>

<p style="text-align: right;">Page 90</p> <p>1 Q. Because you can't tell what the problem was based on 2 this work order?</p> <p>3 A. No.</p> <p>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?</p> <p>6 A. Yes, it is.</p> <p>7 Q. And what does this work order describe?</p> <p>8 A. Describing troubleshooting an air leak on the first 9 and second gate cylinders.</p> <p>10 Q. What would an air leak on a gate cylinder do, would 11 that prevent the belly dumper from opening and closing?</p> <p>12 MR. BROWN: Objection, foundation.</p> <p>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.</p> <p>17 BY MS. WOELFEL:</p> <p>18 Q. And you made those repairs?</p> <p>19 A. It appears I had, yes.</p> <p>20 MS. WOELFEL: All right. 21 We will move on to a different exhibit. 22 (Exhibit 5 was marked.)</p> <p>23 BY MS. WOELFEL:</p> <p>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</p>	<p style="text-align: right;">Page 92</p> <p>1 Q. Okay.</p> <p>2 A. It's a fairly major event.</p> <p>3 MS. WOELFEL: Mark this as Exhibit 6. 4 (Exhibit 6 was marked.)</p> <p>5 BY MS. WOELFEL:</p> <p>6 Q. Handing you what has been marked as Exhibit 6, it's a 7 series of documents related to equipment number 6775.</p> <p>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?</p> <p>11 A. I do not believe it is.</p> <p>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?</p> <p>14 A. No, there is not.</p> <p>15 Q. It says the work is performed by Pat. Do you see that 16 at the bottom?</p> <p>17 A. I do.</p> <p>18 Q. Whose handwriting do you think this is?</p> <p>19 A. Pardon?</p> <p>20 Q. Do you know whose handwriting this is?</p> <p>21 A. I don't know for certain, but it may be my wife's. 22 It's much too legible for mine.</p> <p>23 Q. Would your wife assist you in writing up work orders?</p> <p>24 A. On rare occasions.</p> <p>25 Q. And does she also work at MDB Trucking?</p>
<p style="text-align: right;">Page 91</p> <p>1 and it says work performed by Pat for equipment 6774. Is that 2 your handwriting, Pat?</p> <p>3 A. It does appear to be.</p> <p>4 Q. And can you tell me what is indicated in this work 5 order?</p> <p>6 A. In this particular work order it indicates that I ran 7 new wires in this trailer for the dump circuit.</p> <p>8 Q. Was this in response to the July 2013 unauthorized 9 dump?</p> <p>10 A. I do believe so.</p> <p>11 Q. And it says you rewired dump valve circuit. Can you 12 explain precisely how you rewired the dump valve circuit?</p> <p>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.</p> <p>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?</p> <p>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.</p> <p>22 Q. Okay.</p> <p>23 If you had removed them would you have written removed 24 --</p> <p>25 A. Typically I would have, yes.</p>	<p style="text-align: right;">Page 93</p> <p>1 A. She does not.</p> <p>2 Q. So would you fill out these work orders at home after 3 work?</p> <p>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.</p> <p>7 Q. So you would be dictating to her and she would be 8 filling out this work order?</p> <p>9 A. Correct.</p> <p>10 Q. Can you describe for me what you were doing with 11 respect to this work order?</p> <p>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.</p> <p>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.</p> <p>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</p>

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1 also have pipe threads that could be utilized and I did utilize
2 pipe threads and unions, which made a solid junction for the air
3 and eliminates the O rings from leaking in the future.

4 Q. What would be the result of the air leak?

5 A. Pardon?

6 Q. What is the result of the air leaking at the gate
7 control valve?

8 A. At this one, this particular one besides basically
9 what we were dealing with was just a loss of air. It's still
10 part of the system. The air compressor from our tractor is
11 working harder to try to make up for this air. It still has
12 plenty of air to operate properly the cylinders on the gates and
13 maintain pressure in the tank, it's just unacceptable to have
14 that air leak.

15 Q. Okay.

16 And this was shortly before the unauthorized dump in
17 July of 2013 involving this trailer; correct?

18 A. It appears so, yes.

19 Q. When that unauthorized dump in July 2013 took place
20 did you check to see if what is described on this work order
21 played any part in that unauthorized release?

22 A. I did not make any specific test to this, perhaps
23 checked for leaks, but I don't believe there would have been any
24 found.

25 Q. The next page is Bates labeled MDB 015 and it's a work

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1 Q. Okay.

2 And did you place the order for a new Versa valve?

3 A. I believe so. I went and picked it up at our vendor.

4 Q. Were you the person that made the choice on which
5 Versa valve to purchase?

6 MR. BROWN: Objection, foundation.

7 THE WITNESS: You could say that, I suppose.

8 BY MS. WOELFEL:

9 Q. Did you have any discussions with anybody else at MDB
10 about what type of Versa valve to purchase in order to replace
11 the one that you had removed?

12 A. No.

13 Q. So if you placed the order then it would have been
14 your decision on which Versa valve to order?

15 A. Yes.

16 Q. Did you look at any other types of Versa valve when
17 you were making a decision on what to purchase?

18 A. No.

19 MS. WOELFEL: Keep that exhibit in front of you. I
20 want to show you what we will mark as Exhibit 7.

21 (Exhibit 7 was marked.)

22 BY MS. WOELFEL:

23 Q. Handing you an invoice that is dated July 31st, 2013,
24 and it's an invoice ordering a side port Versa valve. Do you
25 see that?

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1 order dated August 1st, 2013. It says by Pat and performed by
2 Pat. Is that your handwriting?

3 A. It does appear to be, yes.

4 Q. Can you describe for me what you were doing in this
5 work order?

6 A. It says that we were investigating unintentional gate
7 opening. At this point it appears to me that I have begun to
8 replace and isolate the circuit for the Versa valve's function
9 in this particular work order, replaced the Versa valve,
10 isolated the dump valve circuit. I have difficulty reading my
11 own handwriting. Install the Versa valve and rewire dump valve
12 circuit from valve to truck isolating dump circuit and I removed
13 a coil case ground from the circuit.

14 Q. So you rewired the dump valve circuit in the same
15 manner that you rewired 6774 that we talked about?

16 A. Correct.

17 Q. Then it says you replaced the Versa valve. Did you
18 take off the Versa valve, did you remove the Versa valve from
19 6775?

20 A. I'm pretty sure I would have, yes.

21 Q. What did you do with the Versa valve that you removed?

22 A. My best recollection is we disposed of it.

23 Q. Did you run any tests on it after you removed it from
24 the trailer?

25 A. I do not believe so.

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1 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

<p style="text-align: right;">Page 98</p> <p>1 utilize the pinning system that -- scratch that. That didn't</p> <p>2 happen for a year later, correct?</p> <p>3 A. Pardon?</p> <p>4 Q. You were not utilizing a pinning system with the Versa</p> <p>5 valve that you replaced in July of 2013; correct?</p> <p>6 A. Correct.</p> <p>7 Q. You put the trailer back in service after you</p> <p>8 completed this work order; is that right?</p> <p>9 A. I did not put it back into service.</p> <p>10 Q. Who makes the decision to put it back into service?</p> <p>11 A. At that time it would have been Tracy Shane.</p> <p>12 Q. Okay.</p> <p>13 A. I could not give him reason not to.</p> <p>14 Q. So did you recommend to Mr. Shane that he put 6775</p> <p>15 back in service?</p> <p>16 A. I did not make any recommendation.</p> <p>17 Q. But you could not give him a reason to keep it out of</p> <p>18 service?</p> <p>19 A. Correct.</p> <p>20 Q. Go to three pages back, MDB maintenance 240. It's a</p> <p>21 work order dated June 30th, 2014.</p> <p>22 A. June 30th, 2014?</p> <p>23 Q. That's correct.</p> <p>24 A. Okay.</p> <p>25 Q. For equipment number 6775, and at the bottom it says</p>	<p style="text-align: right;">Page 100</p> <p>1 Q. Can you tell me what is going on in this work order?</p> <p>2 A. Troubleshoot ABS light coming on.</p> <p>3 Q. What is an ABS light.</p> <p>4 A. Antilock braking system indicator light.</p> <p>5 Q. Why was the ABS light coming on?</p> <p>6 A. The ABS light will illuminate any time that the ECU,</p> <p>7 the ABS electronic control unit senses an issue with the ABS</p> <p>8 system, whether it be a broken wire or no continuity to one of</p> <p>9 the sensors or a bad sensor, a multitude of issues.</p> <p>10 It appears in this particular work order that I had</p> <p>11 two wires that were damaged going to the front sensors and I</p> <p>12 replaced them.</p> <p>13 Q. Okay.</p> <p>14 Do you know how they were damaged?</p> <p>15 A. I don't recall exactly, but probably some sort of</p> <p>16 abrasion.</p> <p>17 Q. When you are conducting that inspection trying to</p> <p>18 figure out what is causing the ABS light to come on are you</p> <p>19 inspecting other wires at the same time to try to look for the</p> <p>20 source of the problem?</p> <p>21 A. Yes, you always do a visual inspection.</p> <p>22 Q. If you had seen any other problems with the wiring you</p> <p>23 would have noted it and corrected it?</p> <p>24 A. That is correct.</p> <p>25 Q. So it's fair to say that on July 2, 2014 you didn't</p>
<p style="text-align: right;">Page 99</p> <p>1 performed by Pat. Is that your handwriting?</p> <p>2 A. That is correct.</p> <p>3 Q. Now this says reattached Versa valve. What does that</p> <p>4 mean?</p> <p>5 A. At this moment just reading this I would have to</p> <p>6 assume that a portion of the attaching apparatus, which in this</p> <p>7 case would be bolts, has come loose and that I either</p> <p>8 reinstalled and tightened the valve, or I should say retightened</p> <p>9 the fasteners, or perhaps replaced with a different locking nut</p> <p>10 or washer at that point in time.</p> <p>11 Q. Okay.</p> <p>12 With the Versa valve loose would that cause any safety</p> <p>13 issues?</p> <p>14 A. In my opinion, no.</p> <p>15 Q. Why not?</p> <p>16 A. I don't feel it could have -- I don't recall it ever</p> <p>17 being completely free of its mount. At that point in time there</p> <p>18 is no way, even with the way it's plumbed, which is air plumbing</p> <p>19 to the rear of it, there is no way that I could conceive it to</p> <p>20 be able to fall and strike the handle and activate the valve.</p> <p>21 Q. Go to the next page. It's Bates labeled MDB 258.</p> <p>22 It's a work order dated July 2, 2014 for equipment number 6775</p> <p>23 and it says work performed by Pat. Is that your handwriting,</p> <p>24 Pat?</p> <p>25 A. That is my handwriting.</p>	<p style="text-align: right;">Page 101</p> <p>1 see any other problems with the wiring?</p> <p>2 A. I did not.</p> <p>3 Q. So the next page is MDB maintenance 244 and that is</p> <p>4 about five days later on July 7th, 2014 and that is the day that</p> <p>5 there was an unauthorized release; is that correct?</p> <p>6 A. I believe so.</p> <p>7 Q. Okay.</p> <p>8 And this is a work order, looks like prepared by Scott</p> <p>9 and performed by Scott, and it says install lockout device for</p> <p>10 Versa valve. Did you assist him with installing the lockout</p> <p>11 device for the Versa valve on 6775, if you can recall?</p> <p>12 A. Pardon?</p> <p>13 Q. Did you assist him in installing the lockout device?</p> <p>14 A. I don't believe so, but I may have.</p> <p>15 Q. Okay.</p> <p>16 Go to the next page, MDB maintenance 246. It's a work</p> <p>17 order dated 7/8/2014 and it says performed by Pat. Do you see</p> <p>18 that?</p> <p>19 A. I do.</p> <p>20 Q. Is that your handwriting on this work order?</p> <p>21 A. That is my handwriting.</p> <p>22 Q. Now, this is the day after the unauthorized release;</p> <p>23 correct?</p> <p>24 A. I believe so.</p> <p>25 Q. And what is going on in this work order?</p>

<p style="text-align: right;">Page 102</p> <p>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.</p> <p>7 Q. Does this indicate to you that 6775 was being used on 8 July 8th to haul loads?</p> <p>9 A. Would you repeat the question, please?</p> <p>10 Q. Right.</p> <p>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?</p> <p>15 A. Not necessarily. It could be an old work order.</p> <p>16 Q. So this would be an old work order?</p> <p>17 A. Not an old work order, but that day may have been 18 assigned to us.</p> <p>19 Q. Okay.</p> <p>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 --</p> <p>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</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. Why would you need to do that?</p> <p>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.</p> <p>5 MS. WOELFEL: All right.</p> <p>6 You can put that exhibit away and mark this one next in 7 order.</p> <p>8 (Exhibit 8 was marked.)</p> <p>9 BY MS. WOELFEL:</p> <p>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.</p> <p>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?</p> <p>17 A. It does appear to be, yes.</p> <p>18 Q. Tell me what is happening with this work order, 19 please?</p> <p>20 A. In this particular work order it's troubleshoot 21 intermittent first trailer gate function.</p> <p>22 Q. What does that mean?</p> <p>23 A. That means it either wasn't functioning or wasn't 24 functioning properly.</p> <p>25 Q. Did you figure out why it wasn't functioning properly?</p>
<p style="text-align: right;">Page 103</p> <p>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.</p> <p>3 Q. Okay.</p> <p>4 A. It could have been brought to the someone's attention 5 the day before.</p> <p>6 Q. Okay.</p> <p>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?</p> <p>10 A. Yes.</p> <p>11 Q. Can you tell me what is happening in this work order, 12 please?</p> <p>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.</p> <p>20 Q. Okay.</p> <p>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?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 105</p> <p>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.</p> <p>6 Q. When you replace a plug you normally discard the plug 7 that you have taken off of the unit?</p> <p>8 A. I do.</p> <p>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?</p> <p>11 A. That is my handwriting.</p> <p>12 Q. And can you tell me what is happening in this work 13 order?</p> <p>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.</p> <p>20 MS. WOELFEL: Okay.</p> <p>21 I'm going to hand you another stack of documents. 22 (Exhibit 9 was marked.)</p> <p>23 BY MS. WOELFEL:</p> <p>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</p>

<p style="text-align: right;">Page 106</p> <p>1 pulling when he had his inadvertent dump.</p> <p>2 The first page is MDBMTSUP94. This work order is</p> <p>3 dated July 17th, 2014. What is B and L?</p> <p>4 A. That is my term for brake and lube, which is</p> <p>5 inspecting the brakes and lubricating the trailer.</p> <p>6 Q. Okay.</p> <p>7 The next page -- let's actually go to the page after</p> <p>8 that, which is MDB maintenance 336. This is work from</p> <p>9 December 1st, 2014 performed looks like by you, Pat. Is that</p> <p>10 your handwriting?</p> <p>11 A. Yes.</p> <p>12 Q. And this says you're reattaching the safety pin to the</p> <p>13 Versa valve on this date. Why were you doing that?</p> <p>14 A. This particular pin is the pin that physically blocks</p> <p>15 the valve handle.</p> <p>16 Q. Is this the pin that Scott Palmer fabricated?</p> <p>17 A. The pin was not fabricated. It was purchased. The</p> <p>18 pin is the blocking portion. The fabricated part was attached</p> <p>19 to the trailer. The pin has to be able to move independently,</p> <p>20 which we attached cables to it so if it were to slip out of the</p> <p>21 operator's hands it won't fall and be lost or discarded.</p> <p>22 In this particular instance what I did was, in fact,</p> <p>23 drill a hole in the mount and attached a cable to the pin so</p> <p>24 that it could not be lost. It may have been lost. This</p> <p>25 particular incident it may have fallen out or Scott was</p>	<p style="text-align: right;">Page 108</p> <p>1 A. Yes.</p> <p>2 Q. Without the pin he could?</p> <p>3 A. Yeah.</p> <p>4 MS. WOELFEL: Let's take a quick break. I might be</p> <p>5 done.</p> <p>6 (A recess was taken.)</p> <p>7 MS. WOELFEL: I am going to pass the witness at this</p> <p>8 time. So thank you for your cooperation and I believe Ms.</p> <p>9 Shreve is going to ask you some questions.</p> <p>10</p> <p>11 EXAMINATION</p> <p>12 BY MS. SHREVE:</p> <p>13 Q. Mr. Bigby, my name is Paige Shreve and I represent</p> <p>14 Versa Products Company and I have some questions for you.</p> <p>15 I just wanted to verify prior to working at MDB you</p> <p>16 had never done any maintenance on belly dump trailers; is that</p> <p>17 correct?</p> <p>18 A. That is correct.</p> <p>19 Q. And prior to your employment at MDB you had never done</p> <p>20 any maintenance on Versa valves; is that correct?</p> <p>21 A. Pardon?</p> <p>22 Q. Prior to working at MDB you had not done any</p> <p>23 maintenance on Versa valves; is that correct?</p> <p>24 A. That is correct.</p> <p>25 Q. After the -- Strike that.</p>
<p style="text-align: right;">Page 107</p> <p>1 concerned that it may get lost.</p> <p>2 Q. So the safety pin is the pin that prevents the Versa</p> <p>3 valve from opening?</p> <p>4 A. It's the one you physically push into the blocking</p> <p>5 mechanism.</p> <p>6 Q. And that pin needed -- basically what you were doing</p> <p>7 here was creating a way that it could not fall out, is that what</p> <p>8 you're saying?</p> <p>9 A. No, that it could not be lost.</p> <p>10 Q. That it could not be lost. So it could still fall</p> <p>11 out, but it would be attached to the trailer?</p> <p>12 A. It could be removed and dropped.</p> <p>13 Q. Okay.</p> <p>14 Could it come out on its own?</p> <p>15 A. In my opinion?</p> <p>16 Q. Yes.</p> <p>17 A. No.</p> <p>18 Q. Then why would you need to attach something that would</p> <p>19 prevent it from coming out or getting lost if it couldn't come</p> <p>20 out on its own?</p> <p>21 A. As the operator is dumping that has to be removed. If</p> <p>22 he is over the grizzly and it slips out of his hand that pin is</p> <p>23 no longer available to him.</p> <p>24 Q. And if he lost the pin in the grizzly would he be able</p> <p>25 to operate that belly dump trailer?</p>	<p style="text-align: right;">Page 109</p> <p>1 Do you know when the July 2013 incident occurred where</p> <p>2 there was an inadvertent belly dump on the highway in</p> <p>3 Mr. Koski's truck?</p> <p>4 A. What is the question?</p> <p>5 Q. Do you know what the specific date was in July of 2013</p> <p>6 of the first intentional belly dump?</p> <p>7 MR. BROWN: Object, misstates. Do you mean</p> <p>8 unintentional?</p> <p>9 MS. SHREVE: Did I say intentional?</p> <p>10 MR. BROWN: That's what I heard.</p> <p>11 BY MS. SHREVE:</p> <p>12 Q. The unintentional belly dump.</p> <p>13 A. I do not recall the date.</p> <p>14 Q. Do you recall if the trailer, the truck and trailer</p> <p>15 was in service the day after the July 2013 unintentional belly</p> <p>16 dump?</p> <p>17 A. I don't recall specifically, but I do not believe so.</p> <p>18 Q. Okay.</p> <p>19 I'm just trying to narrow down the date with the</p> <p>20 service dates.</p> <p>21 After the July 2013 incident do you recall anyone</p> <p>22 taking any pictures of the truck or trailer?</p> <p>23 A. Of the which?</p> <p>24 Q. The truck and trailer after the July 2013?</p> <p>25 A. Any photographs?</p>

<p style="text-align: right;">Page 110</p> <p>1 Q. Yes.</p> <p>2 A. I do not recall seeing anyone take photographs.</p> <p>3 Q. How about the July 2014 incident on Mr. Koski's truck</p> <p>4 or trailer?</p> <p>5 A. On that date I do not recall any photographs being</p> <p>6 taken.</p> <p>7 Q. Do you recall any within that week of the incident</p> <p>8 being taken?</p> <p>9 A. I do not.</p> <p>10 Q. Okay.</p> <p>11 After the July 2013 incident did you notify anybody</p> <p>12 from Versa valve regarding the unintentional dump?</p> <p>13 A. I personally did not.</p> <p>14 Q. How about after the July 2014 incident did you notify</p> <p>15 anyone from Versa valve regarding the unintentional dump?</p> <p>16 A. No.</p> <p>17 Q. Earlier you testified that you did an inspection of</p> <p>18 the truck and trailer, Mr. Koski's, after the July 2014</p> <p>19 incident; is that correct?</p> <p>20 A. That's correct.</p> <p>21 Q. And if I recall correctly you indicated that you did</p> <p>22 tests trying to create the short and also checked the air</p> <p>23 pressure; is that correct, after the July 2014 incident?</p> <p>24 A. On the July 2014?</p> <p>25 Q. Yes.</p>	<p style="text-align: right;">Page 112</p> <p>1 it would be Tracy Shane or Scott Palmer and then they would in</p> <p>2 turn notify me. However, if I were in the yard they could</p> <p>3 notify me of an issue.</p> <p>4 Q. Are there any records that are kept that the driver</p> <p>5 hands you if they are in need of something, of any maintenance</p> <p>6 done to it if they find something wrong during their inspection?</p> <p>7 A. I'm not understanding your question.</p> <p>8 Q. Is there any paperwork that is filled out by the</p> <p>9 driver that they give to you if they notice something is wrong</p> <p>10 during their inspection?</p> <p>11 A. There is what is considered a DVIR, which is a driver</p> <p>12 vehicle inspection report.</p> <p>13 MS. SHREVE: So I will do this as the next exhibit as</p> <p>14 10.</p> <p>15 (Exhibit 10 was marked.)</p> <p>16 BY MS. SHREVE:</p> <p>17 Q. Is this what you were referring to as an DVIR?</p> <p>18 A. That's correct.</p> <p>19 Q. And are these DVIRs handed to you or are they given to</p> <p>20 Tracy and Scott?</p> <p>21 A. They are typically turned into Scott.</p> <p>22 Q. Does he ever pass them along to you?</p> <p>23 A. He passes along the information necessary to make</p> <p>24 repairs.</p> <p>25 Q. But not the actual document?</p>
<p style="text-align: right;">Page 111</p> <p>1 A. I believe we tried to do some investigation into it,</p> <p>2 but not as much as we did in the 2013.</p> <p>3 Q. The 2013 you did more investigation?</p> <p>4 A. Yes.</p> <p>5 Q. So it's the '13 that you did trying to create the</p> <p>6 short and check the air pressure and stuff like that; is that</p> <p>7 correct?</p> <p>8 A. That is correct.</p> <p>9 Q. Did you ever drive the truck around to try to get the</p> <p>10 inadvertent dumping to occur or was it all just stationary?</p> <p>11 A. In the yard I did. I did not take it on the highway.</p> <p>12 Q. What about after the July 2014 incident, did you do</p> <p>13 any driving with it to try to create an inadvertent dump?</p> <p>14 A. I did not.</p> <p>15 Q. Was it your position as in charge of maintenance for</p> <p>16 MDB to ensure that the drivers properly inspect their vehicles</p> <p>17 each morning?</p> <p>18 A. No.</p> <p>19 Q. Who is responsible for that?</p> <p>20 A. I would make an assumption it would be the general</p> <p>21 manager, Tracy Shane at that time.</p> <p>22 Q. And if a driver does do an inspection and they notice</p> <p>23 something wrong, do they come and notify you or do they notify</p> <p>24 somebody else?</p> <p>25 A. Typically they are supposed to notify either -- well,</p>	<p style="text-align: right;">Page 113</p> <p>1 A. No.</p> <p>2 Q. What type of records do you usually keep when you're</p> <p>3 doing any maintenance to any of the trucks or trailers?</p> <p>4 A. The records that I maintain?</p> <p>5 Q. Yes.</p> <p>6 A. Just the work order.</p> <p>7 Q. Do you keep any handwritten notes at all when you're</p> <p>8 doing any maintenance?</p> <p>9 A. I do not.</p> <p>10 Q. When you installed the Versa valve in July 2013 was</p> <p>11 that your first time installing a Versa valve?</p> <p>12 A. I would say yes.</p> <p>13 Q. How did you know how to install it on the trailer?</p> <p>14 A. By watching and duplicating the installation that was</p> <p>15 already in place and the installation on other trailers. It's a</p> <p>16 fairly straightforward appearing and simple installation in my</p> <p>17 opinion.</p> <p>18 Q. So you looked at the one that was already installed</p> <p>19 and then looked at other trailers to see how it was installed</p> <p>20 and that is how you based your installation; is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. Would you say you're a qualified and knowledgeable</p> <p>23 person and understand how the Versa valve product should be</p> <p>24 installed and operated?</p> <p>25 A. I would say I was, yes.</p>

<p style="text-align: right;">Page 114</p> <p>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?</p>	<p style="text-align: right;">Page 116</p> <p>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?</p>
<p style="text-align: right;">Page 115</p> <p>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.</p>	<p style="text-align: right;">Page 117</p> <p>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?</p>

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1 A. To my knowledge it's typically within a day.
 2 Q. Okay.
 3 During your 2013 inspection of the subject truck and
 4 trailer, 6775, did you find any defect with the Versa valve?
 5 A. No, I did not.
 6 Q. How about for your inspection during July 2014 after
 7 the subject incident, did you find any defect with the Versa
 8 valve on trailer 6775?
 9 A. I did not.
 10 Q. After the July 2013 incident on trailer 6775 did you
 11 find that there was any design defect with the Versa valve?
 12 MR. BROWN: Objection, foundation, speculation.
 13 THE WITNESS: To my knowledge, no.
 14 BY MS. SHREVE:
 15 Q. And then the same again for after the July 2014
 16 incident on trailer 6775 did you discover any design defects
 17 with the Versa valve?
 18 MR. BROWN: Same objections.
 19 THE WITNESS: To my knowledge, no.
 20 BY MS. SHREVE:
 21 Q. If you will go to Exhibit Number 2, please. I'm going
 22 ask that you turn to MDBMAINT000321. The work order date should
 23 be December 1st, 2014. Do you see that?
 24 A. That's correct.
 25 Q. We were discussing this earlier and it says an

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1 was no air on the other side of the accumulator to close the
 2 valve. When we replaced the valve everything functioned
 3 properly with no other repair.
 4 Q. So there was air in the accumulator -- there was air
 5 in the Versa valve, but just when you hit the accumulator it
 6 didn't --
 7 A. There was air in the system that should have allowed
 8 the valve to operate properly and the valve did not.
 9 Q. And did you try to open it and it wouldn't open?
 10 A. We could physically operate the valve, but it wasn't
 11 closing with the switch.
 12 Q. So it worked when you were physically doing it, just
 13 not with the switch then; is that correct?
 14 A. Correct.
 15 Q. Okay.
 16 If you can go to Exhibit 3, please. I'm going to go
 17 to MDB 273, please. This one looks like the work order was for
 18 12/2/2015 on equipment number 5694 and here you replaced the
 19 4-way plug, you pulled out the wires and reattached wires and
 20 tested okay.
 21 Can you explain to me what you did here?
 22 A. Yes, the wires on the 4-way plug from the tractor
 23 apparently to the trailer had been pulled out of the back of the
 24 plug for whatever reason and I replaced the plug and reattached
 25 the wires and tested it.

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1 accumulator on the Versa valve is not functioning so you
 2 replaced the Versa valve; correct?
 3 A. That is correct.
 4 Q. You also indicated that you did not test the
 5 accumulator, did I understand your testimony earlier?
 6 A. I didn't have a way of testing the accumulator. When
 7 I reached the conclusion that it potentially was the accumulator
 8 that's when the decision to replace the valve was made.
 9 Q. Why did you come to that assumption that it was the
 10 accumulator?
 11 A. By the air, the activation and the path of the air and
 12 checking to make sure that we had current running to our coil at
 13 that point in time it reached the position of the Versa valve as
 14 to not be functioning properly. When I stated it was possibly
 15 the accumulator typically that seems to be the most common issue
 16 is the accumulator doesn't hold air and when the valve is
 17 commanded open there is no air to open the valve.
 18 Q. So you had trouble pushing the accumulator in?
 19 A. Pardon?
 20 Q. Did you have trouble with the accumulator pushing it
 21 in or did you have trouble with the valve not having air in it?
 22 I'm just trying to understand.
 23 A. There was air to the valve. It just wasn't
 24 functioning. It wasn't closing when you took the electricity
 25 away from it. It wasn't closing because my opinion was there

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1 Q. Does that happen often that the wires for the 4-way
 2 plug can be pulled out?
 3 A. Pardon?
 4 Q. Does that happen often that the wires on the 4-way
 5 plug can be pulled out?
 6 A. Not often, but it can be done.
 7 Q. So in those instances you just will reattach the wires
 8 or fix the wires if there is any damage to it?
 9 A. Pardon?
 10 Q. So in those instances you will just reattach the wires
 11 to the 4-way plug or fix them if for some reason the wires are
 12 damaged?
 13 A. Correct.
 14 Q. I'm going to go to Exhibit 5. Actually I apologize,
 15 let's go to Exhibit 6. If you can go to MDBMAINT000240.
 16 This is dated 6/30/2014 and earlier you testified it
 17 was your handwriting and it said reattached Versa valve. I
 18 believe earlier you testified you believed it was for a
 19 retightening of the valve on the trailer; is that correct?
 20 A. That is right, yes.
 21 Q. When you were just retightening something do you
 22 usually say tightened or do you say you reattached something?
 23 MR. BROWN: Objection, argumentative.
 24 THE WITNESS: Perhaps I would say tighten.
 25 ///

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BY MS. SHREVE:

Q. So it's possible, then, something could have occurred that the Versa valve you had to actually reattach it to the trailer?

A. I suppose that's possible, but I don't recall that. I don't recall a Versa valve coming loose completely from the trailer.

Q. Could there have been another reason other than it coming loose that you would reattach it, like you were inspecting it or cleaning it or something like that?

A. Potentially it may have been removed by someone else and someone asked me to reattach it. That's possible.

Q. Okay.

Let me just look over my notes. I may be done. Were you aware of any specifications that Versa required regarding the installation of the product?

A. No.

MR. BROWN: Objection, foundation.

BY MS. SHREVE:

Q. If you were not aware of the specifications did you contact them to ask them about them?

MR. BROWN: Objection, foundation.

THE WITNESS: I did not.

BY MS. SHREVE:

Q. If a truck and trailer are disconnected for

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CERTIFICATE OF DEPONENT

PAGE LINE CHANGE

I, PATRICK BIGBY, 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.

PATRICK BIGBY, Deponent

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maintenance or repairs is it your responsibility to check the connections going from the truck to the trailers when they are reattached?

A. Yes, if I'm the one that reconnects them, yes.

Q. If you're not the one reconnecting them whose responsibility is that?

A. It would be the person making the coupling and the end result would be the end driver.

Q. So if you had to do maintenance and you reattached them you would check the electricity going from the truck to the trailer?

A. Correct, on turn signals and such.

Q. Would you check it for the Versa valve?

A. Not always, no.

MS. SHREVE: I think that is actually all I have. So I will pass the witness.

Anyone on the phone?

MS. QUIGLEY: I don't have any questions.

MR. BUNDICK: I don't have any questions either.

MS. WOELFEL: I don't have any follow-up questions.

So I think that your deposition will conclude and thank you so much for your time.

(The deposition concluded at 3:30 p.m.)

--oOo--

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CERTIFICATE OF REPORTER

I, JANET MENGES, Certified Court Reporter, State of Nevada, do hereby certify:

That I reported the deposition of PATRICK BIGBY, commencing on Monday, April 10, 2017, at 11:30 a.m. That prior to being deposed, the witness was duly sworn by me to testify to the truth. That I thereafter transcribed my said shorthand notes into typewriting and that the typewritten transcript is a complete, true and accurate transcription of my said shorthand notes. That prior to the conclusion of the proceedings, the reading and signing was requested by the witness or a party.

I further certify that I am not a relative or employee of counsel of any of the parties, nor a relative or employee of the parties involved in said action, nor a person financially interested in the action.

In witness whereof, I hereunto subscribe my name at Reno, Nevada, this 20th day of April, 2017.

JANET MENGES, CCR #206

IN THE SUPREME COURT OF THE STATE OF NEVADA

MDB TRUCKING, LLC,

Appellant/Cross-Respondent,

vs.

VERSA PRODUCTS COMPANY,
INC.,

Respondent/Cross-Appellant.

Supreme Court Case No. 75022

Consolidated with Case Nos. 75319,
75321, 76395, 76396 and 76397.
Electronically Filed
Jan 18 2019 08:42 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

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

JOINT APPENDIX VOLUME 5 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

NICHOLAS M. WIECZOREK

Nevada Bar No. 6170

JEREMY J. THOMPSON

Nevada Bar No. 12503

COLLEEN E. MCCARTY

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Attorneys for Appellant/Cross-Respondent

MDB Trucking, LLC

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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
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59	Notice of Appeal (Case No. CV16-01914)	03/08/2018	17	AA002889-AA002891
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8 Attorneys for Third-Party Defendant
VERSA PRODUCTS COMPANY, INC.
9

10 IN THE SECOND JUDICIAL DISTRICT COURT
11 WASHOE COUNTY, NEVADA

12 GENEVA M. REMMERDE,

13 Plaintiff,

14 vs.

15 DANIEL ANTHONY KOSKI; MDB
TRUCKING, LLC; DOES I-X and ROE I-V,
16 Defendants.
17

18 MDB TRUCKING, LLC, a Nevada limited
liability company,

19 Third-Party Plaintiff,

20 vs.

21 RMC LAMAR HOLDINGS, INC., a
Colorado corporation; VERSA
PRODUCTS COMPANY, INC., a New
22 Jersey corporation; THE MODERN
GROUP GP-SUB, INC., a Texas
23 corporation and general partnership;
DRAGON ESP, LTD., a Texas limited
24 partnership; and DOES 1-10 and BLACK
AND WHITE COMPANIES,
25

26 Third-Party Defendants.
27
28

Case No. CV16-00976
Dept. 10

THIRD-PARTY DEFENDANT VERSA
PRODUCTS COMPANY, INC.'S MOTION
TO STRIKE DEFENDANT/THIRD-PARTY
PLAINTIFF MDB TRUCKING, LLC'S
THIRD-PARTY COMPLAINT PURSUANT
TO NRCP 35; OR IN THE ALTERNATIVE,
FOR AN ADVERSE JURY INSTRUCTION

1 THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S MOTION TO
2 STRIKE DEFENDANT/THIRD-PARTY PLAINTIFF MDB TRUCKING, LLC'S THIRD-
3 PARTY COMPLAINT PURSUANT TO NRCP 35; OR IN THE ALTERNATIVE, FOR AN
4 ADVERSE JURY INSTRUCTION

5 COMES NOW, Third-Party Defendant VERSA PRODUCTS COMPANY, INC., by
6 and through its attorneys of record, Josh Cole Aicklen, Esq., David B. Avakian, Esq. and
7 Paige S. Shreve, Esq., of the law firm LEWIS BRISBOIS BISGAARD & SMITH, LLP, and
8 hereby request an Order dismissing Defendant/Third-Party Plaintiff MDB TRUCKING,
9 LLC's Third-Party Complaint against it, or in the alternative issuing an adverse jury
10 instruction.
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1 This Motion is based upon the Memorandum of Points and Authorities; the Affidavit
2 of David B. Avakian, Esq. included herein; NRCP 37; NRS 47.250; the Exhibits attached
3 hereto; and any other evidence the Court may entertain at the Hearing on this Motion.

4 DATED this 15th 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
14 PAIGE S. SHREVE
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18 Attorneys for Third-Party Defendant
19 VERSA PRODUCTS COMPANY, INC.
20
21
22
23
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27
28

1 THIRD-PARTY DEFENDANT VERSA PRODUCTS COMPANY, INC.'S MOTION TO
2 STRIKE DEFENDANT/THIRD-PARTY PLAINTIFF MDB TRUCKING, LLC'S THIRD-
3 PARTY COMPLAINT PURSUANT TO NRCP 35; OR IN THE ALTERNATIVE, FOR AN
4 ADVERSE JURY INSTRUCTION

4 STATE OF NEVADA)
5 COUNTY OF CLARK) ss.

6
7 DAVID B. AVAKIAN, ESQ., being first duly sworn, deposes and states as follows:

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

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

12 3. I am an attorney of record representing Third-Party Defendant VERSA
13 PRODUCTS COMPANY, INC. in the subject lawsuit currently pending in Department 10
14 of the Second Judicial District Court for the State of Nevada, Case Number CV16-00976.

15 4. Attached hereto as Exhibit 1 is a true and correct copy of MDB's Third-Party
16 Complaint.

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

19 6. Attached hereto as Exhibit 3 is a true and correct copy of the Deposition
20 Transcript of MDB's PMK, Scott Palmer, Volume II.

21 7. Attached hereto as Exhibit 4 is a true and correct copy of the Deposition
22 Transcript of MDB's PMK, Scott Palmer, Volume I.

23 8. Attached hereto as Exhibit 5 is a true and correct copy of the Declaration by
24 David R. Bosch, Ph.D.

25 9. Attached hereto as Exhibit 6 is a true and correct copy of MDB's Responses
26 to VERSA's Requests for Admissions.

27 10. Attached hereto as Exhibit 7 is a true and correct copy of the Deposition
28 Transcript of Tracy Shane.

1 11. Attached hereto as Exhibit 8 is a true and correct copy of the Deposition
2 Transcript of Patrick Bigby.

3 FURTHER AFFIANT SAYETH NAUGHT.

4

5

6

DAVID B. AVAKIAN, ESQ.

7 SUBSCRIBED AND SWORN to before me
8 this 15th day of May, 2017.

9

10

NOTARY PUBLIC

In and for said County and State



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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 Defendant/Third-Party Plaintiff, MDB TRUCKING, LLC ("hereinafter referred to as
4 "MDB"), has brought a Third-Party Complaint¹ against VERSA PRODUCTS COMPANY,
5 INC. (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 Third-Party Complaint against VERSA, a true and correct copy
12 attached hereto as Exhibit 1. Plaintiffs were driving westbound on IR80 when a semi-
13 trailer driven by Daniel Koski and owned by Defendant/Third-Party Plaintiff MDB spilled
14 gravel on the freeway, causing multiple automobile accidents and the injuries alleged by
15 the Plaintiffs. MDB's contribution claim is based on its allegation that the inadvertent
16 gravel dump was due to 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. See Exhibit 2 at P. 97:16-25;98:1-17.* MDB's forensic experts, are
19 *investigating "the sources of electro magnetic fields"* that could have "energized" the
20 valve at issue. See, Exhibit 5.

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 Complaints against
27 VERSA for equitable indemnity and contribution. VERSA filed a Motion to Dismiss MDB's Indemnity claim
28 against VERSA in all nine cases. The Court granted VERSA's Motion to Dismiss, leaving MDB with a
cross-claim for contribution only against VERSA.

1 Simply put, MDB had a duty to preserve all relevant evidence and it did not. MDB
2 was aware that the subject truck valve and trailers are critically relevant to this matter as
3 they are the centerpiece of the resulting litigation. Thus, because MDB was on notice
4 that the truck and trailers, including the valve components, were relevant to this litigation,
5 MDB had a pre and post litigation duty to preserve the evidentiary value contained within
6 the truck and trailers by removing such evidence from service.

7 However, MDB did not take the subject truck trailers and valve out of service after
8 the subject incident and continued to keep them in service for over two years after the
9 subject incident and a year and a half after the first lawsuit was filed. The only reason
10 MDB removed the subject truck and trailers out of service were because the experts in
11 the subject litigation removed the subject valve for destructive testing. See, Exhibit 3 at
12 P. 84:19-24. Further, after the subject litigation and even after the first lawsuit was filed,
13 *MDB discarded the electrical component parts that are used in activating the subject*
14 *valve. See, Exhibit 3* at P. 169:16-22. In doing so, MDB intentionally spoliated critical
15 evidence that VERSA absolutely requires to defend against MDB's baseless Third-Party
16 Complaint.

17 Therefore, and pursuant to NRCP 37, VERSA respectfully requests that the Court
18 strike MDB TRUCKING, LLC's Third-Party Complaint against VERSA, or in the
19 alternative issue an adverse jury instruction against MDB due to MDB's failure to
20 preserve key evidence that is crucial to VERSA's defense.

21 **II. FACTUAL BACKGROUND**

22 On March 6-8, 2017, VERSA took the deposition of MDB's 30(b)(6) witness, Scott
23 Palmer. During Mr. Palmer's deposition, he testified that the subject valve did not have a
24 defect. Mr. Specifically, Mr. Palmer testified:

25 Q. I'm going to ask you the same question again for after the
26 July 2014 incident on Trailer 6775. Did MDB in their investigation
27 after the dump-- again, this is right after, not since litigation-- did
28 MDB find any defect with that Versa valve?

 MR. PALMER: No. That remained in service until such time
 litigation started.

1
2 Q. And on that same trailer, the same Versa valve, did MDB in
3 their investigation right after the subject incident -- again, pre-
4 litigation, right after -- did MDB discover any design defect with
5 the Versa valve?

6 MR. PALMER: No. But, once again, we weren't looking for any
7 sort of design defects or functionality defects. It worked.

8 Q. Okay.

9 MR. PALMER: To the best of our knowledge it still worked.

10 See, Exhibit 2 at P. 97:16-25;98:1-17.

11 Additionally, during Mr. Palmer's deposition, he testified that MDB performed
12 numerous repair work on the subject truck and trailers after the subject incident which
13 relate directly to providing electricity to the VERSA valve. Mr. Palmer testified to the
14 following repairs:

15 Q. MDBMAINT 129, can you -- we'll transition a little bit, but can you
16 start with the date of the work order and what this work order was for.

17 MR. PALMER: 12/18/14 is the date.

18 Q. And what was this work order for?

19 MR. PALMER: It was for the screws being loose on the four-way. So
20 they were tightened and tested.

21 Four-way -- the four-way cable refers to the leftover cable that plugs in the
22 front of the trailer that operates the Versa valves or operates whatever --
23 whatever particular trailer you plug it into, it operates something.

24 On end up, it operates the tailgate; on bottom dumps, it operates the Versa
25 valves that dump the trailers.

26 So it came in for the gates not operating with the switch. And one of the
27 wires was loose, so we tightened it in and put it back in service.

28 See, Exhibit 4 at P. 90:7-22.

Q. Okay. We can go to the next one.
Can you tell me the date on this one, please.

MR. PALMER: 2/5/15.

Q. And what is this work order for?

1 MR. PALMER: We put a new driver's seat in it. And then we
2 replaced the seven-way and four-way cords, cables, and
3 replaced leaking axle flange gasket.

4 Q. Okay. So is this four-way cord different from the work
5 order we discussed of the four-way plug in MDBMAINT
6 129?

7 MR. PALMER: No, it would be the same -- it would be the same cord. But
8 this one, on the prior one, on 12/18/14, we replaced - we tightened the
9 screws on the plug itself.

10 On this work order on 2/5/15, we actually replaced the seven-way cable and
11 the four-way cable.

12 Id. at P. 91:10-23.

13 Q. Okay. And here, he replaced the four-way cord?

14 MR. PALMER: Yes, and the seven-way cord.

15 Id. at P. 92:6-7.

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

18 MR. PALMER: It's August 5th, 2014. And Pat Bigby replaced the four-way
19 socket on the front of 6773.

20 At least, I am assuming that's what he replaced. It could be the four-way
21 socket on the front or the back. It doesn't distinguish between the two on
22 this work order. But I'm assuming it's the one on the front. That's the one
23 that gets unplugged and plugged all the time, and we replace them as soon
24 as -- any issues whatsoever, we replace them.

25 Id. at P. 103:19-25;104:1-4.

26 Q. Okay. You can go to the next one. MDBMAINT 170, can you tell me
27 the date and what occurred on this one, please.

28 MR. PALMER: 12/18/14. And this would have been another replace the
four-way socket. And I didn't write on there either, where - whether it was
the front or the rear, but I'm assuming it's the front again.

Id. P. 105:21-25;106:1-2.

Further, Mr. Palmer testified that it was normal for MDB to replace the four-way
socket that is used to send electricity to the VERSA valve at least every four to five
months. Id. at P. 106:14-17. In fact, Mr. Palmer even testified to replacing and discarding
the four-way plug and cords *four months* after the first lawsuit was filed:

1 Q. All right. We'll go to the next one. This is MDB 273. And can you tell
2 me the date on this one and what occurred.

3 MR. PALMER: 12/2/15?

4 Q. Uh-huh.

5 MR. PALMER: Replaced -- pulled out four-way plug. Replaced four-
6 way plug. Issues still exist. Found all wires pulled out of - at tractor. Also
7 reattach wires and tested okay.

8 Q. So this one indicates -- it says issues still exist. Was there -- is there
9 another work order that would have been performed indicating that
10 there was an issue there prior?

11 MR. PALMER: No, this is another -- this probably happened when the
12 driver came to the yard, unhooked his trailer and its hoses and electrical,
13 pulled out from underneath the trailer to hook up to a different trailer and
14 forgot to unhook his four-way. I don't have -- I don't know, and I don't have
15 a memory of that. That's probably what happened.

16 So the four-way stayed plugged into the trailer. When he pulled away, it
17 yanked -- pulled the plug off the end of the cord.

18 So if you read this, Pat put a new plug on the end of the cord, but it still
19 didn't work. And then he found out that it also pulled out the other end of the
20 wiring on the tractor, it pulled it that hard. So he reattached the wires on
21 both ends, and then it worked okay.

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

23 MR. PALMER: No, he said -- yeah, he replaced four-way plug, issues
24 still exist. Then he found all the wires pulled out at the tractor, also
25 reattached wires and tested okay.

26 Id. at P. 94:2-25;95:1-5.

27 Finally, MDB admits that the subject truck was not in the same condition as it was
28 at the time of the subject incident and the subject truck and trailers continued to be used
at the time MDB responded to VERSA's Requests for Admissions. Specifically, MDB
admitted:

REQUEST FOR ADMISSION NO. 13:

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

RESPONSE TO REQUEST FOR ADMISSION NO. 13:

Admitted.

1 REQUEST FOR ADMISSION NO. 14:

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

5 RESPONSE TO REQUEST FOR ADMISSION NO. 14:

6 Admitted.

7 REQUEST FOR ADMISSION NO. 15:

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

11 RESPONSE TO REQUEST FOR ADMISSION NO. 15:

12 Admitted.

13 See, Exhibit 6 at P. 4:8-22.

14 REQUEST FOR ADMISSION NO. 24:

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

18 RESPONSE TO REQUEST FOR ADMISSION NO. 24:

19 Admitted.

20 Id. at P. 6:8-12

21 REQUEST FOR ADMISSION NO. 26:

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

24 RESPONSE TO REQUEST FOR ADMISSION NO. 26:

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

28 Id. at P. 6:18-23.

29 III. LEGAL ARGUMENT

30 A. MDB Had a Legal Duty to Preserve All Relevant Evidence

31 It is well established in Nevada that a party is entitled to have the jury instructed on
32 all of her case theories that are supported by the evidence. Bass-Davis v. Davis, 122 Nev.
33 442, 447, 134 P.3d 103, 106 (2006). Accordingly, even when an action has not been

1 commenced and there is only a potential for litigation, the litigant is under a duty to
2 preserve evidence which it knows or reasonably should know is **relevant to the action**.
3 Fire Ins. Exch. v. Zenith Radio Corp., 103 Nev. 648, 651, 747 P.2d 911, 914 (1987).
4 Thus, where a party is on notice of potential litigation, the party is subject to sanctions for
5 actions taken which prejudice the opposing party's discovery efforts. Fire Ins. Exch. v.
6 Zenith Radio Corp., 103 Nev. 648, 651, 747 P.2d 911, 914 (1987)

7 Here, as the Court is aware, the instant case does not involve a negligible fender
8 bender. Contrarily, this case involves a serious twenty car accident, resulting from when
9 one of MDB's trucks released a truckload of material onto a busy interstate highway. With
10 so many parties involved and due to the gravity of the event, *it is clear that MDB was on*
11 *notice that there was potential litigation on the horizon* where liability would be an issue.
12 MDB was well-aware that both police and EMT's were on scene and numerous people
13 were transported to local hospitals with serious injuries. Moreover, as MDB's truck,
14 trailers and the subject VERSA valve are the centerpiece of the resulting litigation, MDB
15 knew, or should have reasonably known, that the truck, trailers and valve were relevant to
16 the instant litigation. Thus, because MDB was on notice that the truck and trailers were
17 relevant to potential litigation, MDB had a pre-litigation duty to preserve the evidentiary
18 value contained within the truck, trailers and valve by removing such evidence from
19 service and continued use.

20 Moreover, as MDB's Third-Party Complaint against VERSA asserts that the
21 subject valve caused or contributed to the accident because it allegedly operated
22 inadvertently, MDB *was on notice and knew*, or should have reasonably known, *that any*
23 *parts*, mechanical, electrical, or otherwise, that are *related to the valve's operation*, (in
24 any capacity), *are relevant to the instant litigation*. Thus, because MDB was on notice that
25 all parts related to the subject valve were relevant to potential litigation, MDB had a pre
26 and post litigation duty to preserve the evidentiary value contained within such evidence
27 by retaining the evidence instead of conveniently discarding, and ultimately destroying,
28 such critical evidence.

1 Simply put, MDB's actions of not preserving the aforementioned evidence not only
2 goes staunchly against case law and the spirit of the discovery rules, but it also
3 *detrimentally affects VERSA's ability to defend itself* from MDB's baseless lawsuit by
4 removing crucial evidence that supports VERSA's liability theories. Accordingly, in the
5 interest of upholding the validity of Nevada's discovery rules and remedying the
6 outstanding injustice, both case law and statutory law dictate that this Court should
7 sanction MDB. Indeed, without an appropriate sanction, MDB's discovery violations
8 unfairly tip the scales of justice in MDB's favor.

9 **B. This Court Should Strike MDB's Third-Party Complaint Because of MDB's**
10 **Discovery Violations Pursuant to NRCP 37 and Prevailing Case Law**

11 ***1. MDB's Discovery Violations Are Abusive Litigation Practices***

12 Nevada allows for the dismissal of a case based upon an offending party's abuse
13 of discovery. GNLV Corp. v. Serv. Control Corp., 111 Nev. 866, 870, 900 P.2d 323, 325
14 (1995). Indeed, the Nevada Rules of Civil Procedure permit the Court to strike out
15 pleadings or dismiss an action entirely for discovery abuses. See NRCP 37(b)(2)(C).
16 Additionally, a district court has the inherent equitable power to dismiss actions as a
17 sanction for abusive litigation practices. Parkinson v. Bernstein, Nos. 59947, 61089, 2014
18 Nev. Unpub. LEXIS 2176, at *1 (Dec. 22, 2014).

19 Dismissal is a proper sanction where a plaintiff possesses the evidence at issue
20 but disposes of it before filing a complaint. CSA Serv. Ctr., LLC v. Air Design Sys., LLC,
21 No. 57674, 2013 Nev. Unpub. LEXIS 686, at *8 (May 31, 2013). Dismissal of a party's
22 complaint as a sanction does not need to be "preceded by other less severe sanctions."
23 CSA Serv. Ctr., LLC v. Air Design Sys., LLC, No. 57674, 2013 Nev. Unpub. LEXIS 686, at
24 *7 (May 31, 2013). A court's authority to impose sanctions "is rooted in a court's
25 fundamental interest in protecting its own integrity and that of the judicial process."
26 Halverson v. Hardcastle, 123 Nev. 245, 261 n.26, 163 P.3d 428, 440 (2007) (quoting
27 Cummings v. Wayne County, 210 Mich. App. 249, 533 N.W.2d 13, 14 (Mich. Ct. App.
28 1995).

1 Here, MDB is knowingly pursuing a meritless claim against VERSA and,
2 disappointingly, MDB has destroyed evidence that VERSA could have used to dispel the
3 baseless claims. As the record unequivocally demonstrates, MDB's expert has asserted
4 that *the subject valve does not suffer from any design or manufacturing defect.* See,
5 Exhibit 2 at P. 97:16-25;98:1-17.

6 Again, MDB has readily admitted that there were no mechanical issues or defects
7 with the subject valve; *yet, MDB is still pursuing a claim* against VERSA under the pretext
8 that VERSA is somehow liable because an independent, inexplicable energy force
9 activated the subject valve. See, Exhibit 5.

10 To muddy the waters even more, MDB not only continued to operate the subject
11 truck, trailer, and valve at issue in this case, but MBD, *while on notice* to preserve
12 relevant evidence, *removed* and *threw away* the electrical components that control the
13 subject valve. See, Exhibit 3 at P. 169:16-22; Exhibit 6 at P. 4:13-22. Mr. Palmer testified
14 to the same:

15
16 Q. Okay. Did you save the plugs that you changed after the July 2014
17 event until the time that the forensic inspection, electrical inspection
had occurred?

18 MR. PALMER: No.

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

20 MR. PALMER: We throw them in the garbage after that, yeah.

21 See, Exhibit 3 at P. 169:16-22.
22

23 To state the obvious, such electrical components support VERSA's defense that
24 something other than the valve itself (such as a defect or malfunction like the electrical
25 components MDB destroyed) activated the subject valve and caused the underlying
26 accident. Accordingly, applying Parkinson, because *MDB destroyed highly relevant*
27 *evidence that VERSA requires to prove the case is meritless*, this Court should strike
28

1 MDB's Third-Party Complaint against VERSA to curtail any further unnecessary litigation
2 costs and free up the Court's docket for cases with actual veracity.

3 2. A Young Factor Analysis Supports the Court Striking MDB's Third-Party
4 Complaint

5 While dismissal need not be preceded by other less severe sanctions, it should be
6 imposed only after thoughtful consideration of all the factors involved in a particular case.
7 See, Young v. Johnny Ribeiro Bldg., 106 Nev. 88, 92, 787 P.2d 777, 779 (1990). The
8 factors a Court may properly consider include, but are not limited to:

- 9 1) the degree of willfulness of the offending party;
- 10 2) the extent to which the non-offending party would be prejudiced by a lesser
11 sanction;
- 12 3) the severity of the sanction of dismissal relative to the severity of the
13 discovery abuse;
- 14 4) whether any evidence has been irreparably lost;
- 15 5) the feasibility and fairness of alternative, less severe sanctions, such as an
16 order deeming facts relating to improperly withheld or destroyed evidence to
17 be admitted by the offending party;
- 18 6) the policy favoring adjudication on the merits;
- 19 7) Whether sanctions unfairly operate to penalize a party for the misconduct of
20 his or her attorney; and
- 21 8) the need to deter both the parties and future litigants from similar abuses.

22 Id.

23 a. MDB Willfully Destroyed Evidence Pertinent to VERSA's Liability
24 Defense

25 The first factor of the Young analysis specifically addresses the degree of
26 willfulness of the offending party. Young, 106 Nev. at 93. The Nevada Supreme Court
27 found conduct willful when the violating party fails to disclose evidence in way that
28 demonstrates "active concealment" or appears to be "intentional or at least highly
reckless." N. Am. Props. v. McCarran Int'l Airport, No. 61997, 2016 Nev. Unpub. LEXIS
487, at *9 (Feb. 19, 2016)

 Here, after being on notice to preserve all relevant evidence, MDB: 1)
compromised the evidence's integrity by continuing to operate the subject truck, trailers,

1 and subject valve for two years; and 2) actively destroyed evidence by removing and
2 trashing components involved with how the subject valve activates. See, Exhibit 3 at P.
3 169:16-22; Exhibit 4 at P. 84:19-24; Exhibit 6 at P. 4:13-22. MDB should have removed
4 the subject truck, trailers and valve from service immediately after the accidents to
5 preserve their condition as they existed at the time of the accident. However, MDB
6 continued to habitually use such evidence in its business operations, thus corrupting the
7 integrity of the evidence. Id. Consequently, MDB's tainting of the evidence created a
8 highly prejudicial situation for VERSA because MDB essentially destroyed the very
9 evidence VERSA requires to defend its case.

10 Moreover, knowing that MDB's main theory of liability against VERSA was that the
11 subject valve was somehow "energized," MDB removed and spoliated electrical parts that
12 activated the subject valve. See, Exhibit 5. Put simply, *MDB discarded the electrical*
13 *component parts that are used in activating the subject valve.* Such conduct appears
14 intentional or, at the very least, highly reckless considering the magnitude of the instant
15 case and the competing theories of liability. Moreover, such conduct appears intentional
16 or highly reckless when viewed in the proper context that such evidence supports
17 VERSA's defense that its valve functioned properly. Accordingly, applying Young and N.
18 AM. Props., because MBD's intentional or reckless conduct rises to a level of willfulness,
19 MBD's destruction of evidence and its failure to preserve the integrity of evidence weighs
20 in favor of this Court striking MDB's Third-Party Complaint against VERSA.

21 b. A Lesser Sanction Would Adversely Harm Versa Because it Would
22 Needlessly Increase Litigation Costs and Severely Prejudice
VERSA's Liability Defense

23 The second factor of the Young analysis specifically addresses the extent to which
24 the non-offending party would be prejudiced by a lesser sanction. See, Young, 106 Nev.
25 at 93. The Nevada Supreme Court looks to whether the problems caused by the
26 discovery violation are substantial and correctable when determining prejudice. N. Am.
27 Props. 2016 Nev. Unpub. LEXIS 487 at *9.

1 Here, a lesser sanction would prejudice VERSA for two reasons. First, a lesser
2 sanction would force VERSA to approach trial without crucial defense evidence while
3 simultaneously rewarding MDB for its conduct. Second, a lesser sanction needlessly
4 increases VERSA's litigation costs and does nothing to remedy the discovery abuses.
5 Versa is unable to test the electrical component parts to determine if there was a
6 malfunction which activated the valve. Accordingly, applying Young, because a lesser
7 sanction would not remedy MDB's spoliation of critical evidence, a lesser sanction will
8 only force VERSA to incur unnecessary and expensive litigation costs. Thus, this factor
9 strongly weighs in favor of the Court striking MDB's Third-Party Complaint.

10 c. Dismissal of MDB's Third-Party Complaint Balances the Harm of
11 MDB's Destruction of Evidence Necessary for VERSA to Assert a
12 Proper Defense

13 The third factor of the Young analysis addresses the severity of the sanction of
14 dismissal relative to the severity of the discovery abuse. See, Young, 106 Nev. at 93.
15 Courts have held that severe sanctions are warranted when the aggravating party
16 *violates both the letter and spirit* of the discovery rules. See, N. Am. Props, 2016 Nev.
17 Unpub. LEXIS 487 at *10.

18 Here, the instant discovery violations are a text book example of conduct that
19 violates both the letter and spirit of discovery: *MDB threw away key evidence that VERSA*
20 *needs to prove its case.* See, Exhibit 3 at P. 169:16-22. Such conduct has a nullifying
21 effect on VERSA's ability to defend itself in this matter. Essentially, MDB's destruction of
22 evidence functions indirectly as an informal dismissal of VERSA's defenses. Accordingly,
23 applying Young and N. Am. Props., because MDB's actions have a similar effect as a
24 dispositive Motion, dismissal of MDB's Third-Party Complaint is proportionate to MDB's
25 discovery abuses and, therefore, this factor weighs in favor of the Court striking MDB's
26 Third-Party Complaint.

1 d. Unquestionably, MDB Irreparably Destroyed Highly Relevant
2 Evidence

3 The fourth factor of the Young analysis addresses whether any evidence has been
4 irreparably lost. Young, 106 Nev. at 93. Although evidence may not be irreparably lost,
5 the Court may hold this factor against the aggravating party if the abusive conduct greatly
6 undermines the utility of the subject evidence by robbing the aggrieved party of the
7 opportunity to carefully review and consider the evidence before trial. See, N. Am. Props.
8 2016 Nev. Unpub. LEXIS 487 at *11.

9 Here, this is an open and closed case - *MDB irreparably lost evidence*. See,
10 Exhibit 3 at P. 169:16-22. MDB threw away the electrical components that relate to the
11 core issue of why the subject valve activated. *Id.* Additionally, through the continued
12 used of the truck, trailers, and subject valve after the accident, MDB forever destroyed
13 VERSA's ability to investigate the condition of such evidence as it existed at the time of
14 the accidents. See, Exhibit 4 at P. 84:19-24; Exhibit 6 at P. 4:8-22. Accordingly, applying
15 Young and N. Am. Props., because MDB irreparably spoliated evidence, which unduly
16 prejudice VERSA, this factor strongly weighs in favor of the Court striking MDB's Third-
17 Party Complaint.
18

19 e. An Alternative Sanction Would Not Be Fair to VERSA Since MDB's
20 Destruction of Evidence Has a Nullifying Effect on VERSA's
21 Defenses

22 The fifth factor of the Young analysis addresses the feasibility and fairness of
23 alternative, less severe sanctions, such as an order deeming facts relating to improperly
24 withheld or destroyed evidence to be admitted by the offending party. Young, 106 Nev. at
25 93. The purpose of alternative sanctions is to restore the prejudiced party to the same
26 position it would have been absent the discovery violation. See, Turner v. Hudson Transit
27 Lines, 142 F.R.D. 68, 74 (S.D.N.Y. 1991).
28

1 Here, MDB's discovery violations have undermined VERSA's liability defenses by
2 destroying key evidence and, thus, such violations have created unequal footing in favor
3 of MDB as the parties approach trial. Although it is feasible to administer a lesser
4 sanction, it is both unquestionably unfair and economically unsound. The indirect
5 consequence of allowing a lesser sanction is that such action sends a message that the
6 discovery rules are only bark, with no bite. A lesser sanction will force VERSA to
7 approach trial with essential tools missing from its tool belt - the crucial evidence that
8 MDB destroyed. More importantly, as outlined above, a lesser adverse instruction
9 sanction requires additional unnecessary and costly litigation fees. Accordingly, applying
10 Young, as any other sanction would not be as fair as dismissing MDB's meritless Third-
11 Party Complaint, this factor strongly weighs in favor of the Court striking MDB's Third-
12 Party Complaint.

13 f. Public Policy Favors Dismissing this Meritless Claim

14 The sixth factor of the Young analysis addresses the public policy favoring
15 adjudication on the merits. Young, 106 Nev. at 93. Although courts favor adjudicating
16 cases on their merits, gross discovery abuses will qualify as circumstances when case-
17 ending sanctions, or sanctions that effectively act as case-ending sanctions, are
18 appropriate. See, Foster v. Dingwall, 126 Nev. 56, 66, 227 P.3d 1042, 1049 (2010) (not
19 hearing the case on its merits appropriate when relevant evidence been irreparably lost
20 due to the willful actions).

21 Here, under normal circumstances, policy favors that a Court adjudicate a
22 traditional case on its merits. However, the instant case is distinguishable from a
23 traditional case for two reasons. First, MDB's expert has readily admitted that the subject
24 valve has no design or manufacturing defects. See, Exhibit 2 at P. 97:16-25;98:1-17;
25 Exhibit 5; Exhibit 7 at P. 84:25;85:1-12; Exhibit 8 at P.118:6-19. Second, ***MDB destroyed***
26 ***key defense evidence***, which constituted a gross discovery abuse and created an unjust
27 chilling effect on VERSA's liability defenses. See, Exhibit 3 at P. 169:16-22; Exhibit 6 at
28 P. 4:8-22; P. 6:8-23. Accordingly, applying Young and Foster, because MDB's Third-

1 Party Complaint is meritless and MDB irreparably destroyed key defense evidence, this
2 factor strongly weighs in favor of the Court striking MDB's Third-Party Complaint.

3 g. Whether Sanctions Unfairly Operate to Penalize a Party for the
4 Misconduct of His or Her Attorney

5 The sixth factor of the Young analysis addresses whether sanctions unfairly
6 operate to penalize a party for the misconduct of his or her attorney. Young at 93.

7 Here, at this point in litigation, there is no evidence in the record to suggest that
8 MDB's counsel had an part in the destruction of the subject evidence. Accordingly,
9 applying Young, because *MDB actively destroyed evidence on its own volition*, void of
10 counsel's misconduct, this factor strongly weighs in favor of the Court striking MDB's
11 Third-Party Complaint.

12 h. This Is a Perfect Example of the Abuses that Case Law and the
13 Discovery Rules seek to Prohibit and, thus, this Court Should Use
14 this Opportunity to Deter Future Similar Conduct

15 The last factor of the Young analysis addresses the need to deter both the parties
16 and future litigants from similar abuses. Young, 106 Nev. at 93. Courts have held that
17 discovery *sanctions are applicable* as to deterring future conduct *when there is underlying*
18 *abusive conduct at issue*. See, GNLV Corp., 111 Nev. at 871.

19 Here, MDB's conduct has undermined the Nevada's Rules of Civil Procedure and
20 the very spirit of discovery. This case stems from an accident *involving multiple vehicles*
21 *and serious injuries*. If ever there was a time to preserve evidence, this is the case.
22 However, MDB saw it fit to destroy critical defense evidence while on actual notice (i.e.
23 after the first Complaint was filed) that such evidence was relevant to the subject
24 litigation. See, Exhibit 3 at P. 169:16-22; Exhibit 6 at P. 4:8-22; P. 6:8-23. Allowing for
25 anything less than dismissal of MDB's Third-Party Complaint would establish an improper
26 precedent and could lead to a slippery slope of allowable discovery abuses. Accordingly,
27 applying Young and GNLV Corp., because the Court needs to deter similar future
28 conduct analogous to MDB's instant conduct, this factor strongly weighs in favor of the

1 Court striking MDB's Third-Party Complaint.

2 3. Nevada Statutory and Case Law Allows for a Rebuttable Presumption that
3 Evidence Willfully Suppressed Would Be Adverse to the Suppressing Party
4 if Produced

5 When evidence is willfully suppressed, NRS 47.250(3) creates a rebuttable
6 presumption that *the evidence would be adverse if produced*. Bass-Davis v. Davis, 122
7 Nev. 442, 448, 134 P.3d 103, 106 (2006). A rebuttable presumption is a rule of law by
8 which the finding of a basic fact gives rise to a presumed fact's existence, unless the
9 presumption is rebutted. Van Wart v. Cook, 557 P.2d 1161, 1163 (Okla. Civ. App. 1976).
10 However, the party seeking the presumption's benefit has the burden of demonstrating
11 that the evidence was destroyed with intent to harm. Bass-Davis v. Davis, 122 Nev. 442,
12 448, 134 P.3d 103, 107 (2006).

13 When such evidence is produced, the presumption that the evidence was adverse
14 applies, and the burden of proof shifts to the party who destroyed the evidence. Id. To
15 rebut the presumption, the destroying party must then prove, by a preponderance of the
16 evidence, that the destroyed evidence was not unfavorable. Id. If not rebutted, the fact-
finder then presumes that the evidence was adverse to the destroying party. Id.

17 Here, as addressed in the Young analysis, MDB willfully destroyed crucial
18 evidence that is pertinent to VERSA's liability defenses. See, Exhibit 3 at P. 169:16-22;
19 Exhibit 6 at P. 4:8-22; P. 6:8-23. With MDB's continual use of the subject truck, trailers,
20 and valve after the subject accident, MDB corrupted the integrity and value of such
21 evidence. Such continued use after being on notice to preserve evidence demonstrates
22 MDB's intent to harm the integrity of the evidence and harm VERSA's defense of the
23 case. Additionally, MDB's cognizant destruction of the key electrical components, that
24 cause the valve to activate, demonstrate by a preponderance of the evidence that MDB
25 intended to harm VERSA by destroying the evidence that supports VERSA's liability
26 defenses. Id. MBD may try to hide behind a procedural argument that it threw away the
27 critical evidence as part of its business operations; however, such an argument would
28 constitute a red hearing because MDB should not have even operated the subject truck,

1 trailers and valve to artificially create a situation that called for replacement and repair of
2 such components. Id. Accordingly, applying Bass-Davis, because MDB intentionally
3 suppressed and destroyed crucial evidence, this Court should advise the jury that such
4 evidence would be adverse against MDB if MDB had properly produced such evidence.

5 4. At a Minimum, Nevada Case Law Provides for an Adverse Inference
6 Instruction that the Evidence MDB Destroyed May Have Been Unfavorable
7 to MDB

8 Unlike a rebuttable presumption, an adverse inference has been defined as "[a]
9 logical and reasonable conclusion of a fact not presented by direct evidence but which, by
10 process of logic and reason, a trier of fact may conclude exists from the established
11 facts." Bass-Davis v. Davis, 122 Nev. 442, 448, 134 P.3d 103, 107 (2006). An inference
12 simply allows the trier of fact to determine, based on other evidence, that a fact exists. Id.
13 *An inference should be permitted when evidence is negligently lost or destroyed, without*
14 *the intent to harm another party.* Id. at 449. The adverse inference provides the
15 necessary mechanism for restoring the evidentiary balance. Id. Generally, in cases based
16 on negligently lost or destroyed evidence, an adverse inference instruction is tied to a
17 showing that the party controlling the evidence had notice that it was relevant at the time
18 when the evidence was lost or destroyed. Id. at 450.

19 Here, in the event that the Court does not find that MDB willfully attempted to
20 suppress and destroy the subject evidence, the Court should at least remedy the current
21 inequity by issuing an adverse inference against MDB. The evidence demonstrates that
22 MDB at a minimum negligently destroyed evidence by continuing to operate the subject
23 truck, trailers and valve and discarded components that relate directly to how the valve
24 activates. See, Exhibit 3 at P. 169:16-22; Exhibit 6 at P. 4:8-22; P. 6:8-23. Accordingly,
25 although the current situation calls for the Court to order more severe sanctions, the
26 Court should at a minimum issue an adverse inference against MDB.

1 IV. CONCLUSION

2 Based on the foregoing, VERSA respectfully requests that the Court grant
3 VERSA's Motion and strike MDB's Third-Party Complaint, or in the alternative, issue an
4 adverse instruction against MDB.

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 15th day of May, 2017

9 Respectfully submitted,

10 LEWIS BRISBOIS BISGAARD & SMITH LLP
11
12

13 By /s/ David B. Avakian

14 JOSH COLE AICKLEN
15 Nevada Bar No. 007254
16 DAVID B. AVAKIAN
17 Nevada Bar No. 009502
18 PAIGE S. SHREVE
19 Nevada Bar No. 013773
20 6385 S. Rainbow Boulevard, Suite 600
21 Las Vegas, Nevada 89118
22 Attorneys for Third-Party Defendant
23 VERSA PRODUCTS COMPANY, INC.
24
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EXHIBIT LIST

- Exhibit 1 MDB's Third-Party Complaint Against VERSA
- Exhibit 2 Deposition Transcript of Scott Palmer, Volume III
- Exhibit 3 Deposition Transcript of Scott Palmer, Volume II
- Exhibit 4 Deposition Transcript of Scott Palmer, Volume I
- Exhibit 5 Declaration by David R. Bosch, Ph.D
- Exhibit 6 MDB's Responses to VERSA's Requests for Admission
- Exhibit 7 Deposition Transcript of Tracy Shane
- Exhibit 8 Deposition Transcript of Patrick Bigby

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of May, 2017, a true and correct copy of MOTION TO STRIKE DEFENDANT/THIRD-PARTY PLAINTIFF MDB TRUCKING, LLC's THIRD-PARTY COMPLAINT PURSUANT TO NRCP 35; OR IN THE ALTERNATIVE, FOR AN ADVERSE JURY INSTRUCTION was served via U.S. Mail addressed as follows:

Matthew C. Addison, Esq.
McDONALD CARANO WILSON LLP
100 W. Liberty St., 10th Floor
Reno, NV 89501
RMC LAMAR HOLDINGS, INC.

Nicholas M. Wieczorek, Esq.
Jeremy J. Thompson, Esq.
MORRIS POLICH & PURDY LLP
3800 Howard Hughes Pkwy, Ste. 500
Las Vegas, NV 89169
Attorneys for MDB TRUCKING, LLC and
DANIEL ANTHONY KOSKI

Katherine F. Parks, Esq.
Brian M. Brown, Esq.
Thierry V. Barkley, Esq.
THORNDAL, ARMSTRONG, DELK
BALKENBUSH & EISINGER
6590 S. McCarran, Ste. B
Reno, Nevada 89509
P: 775-786-2882
Attorneys MDB TRUCKING, LLC and
DANIEL ANTHONY KOSKI

/s/ Susan Kingsbury

An Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP

EXHIBIT 1

4845-3057-6394.1

AA000666

1 4180
Katherine F. Parks, Esq., State Bar No. 6227
2 Brian M. Brown, Esq., State Bar No. 5233
Thierry V. Barkley, Esq., State Bar No. 724
3 Thorndal Armstrong Delk Balkenbush & Eisinger
6590 S. McCarran Blvd., Suite B
4 Reno, Nevada 89509
(775) 786-2882
5 Attorneys for Defendant/Third-Party Plaintiff
MDB TRUCKING, LLC
6

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

9 GENEVA M. REMMERDE,
10 Plaintiff,

Case No. CV16-00976
Dept. No. 10

11 vs.

12 DANIEL ANTHONY KOSKI, MDB
TRUCKING, LLC, DOES 1-X and
13 ROE I-V

14 Defendants.

15 MDB TRUCKING, LLC, a Nevada limited
liability company,

16 Third-Party Plaintiff,

17 vs.

18 RMC LAMAR HOLDINGS, INC. a
Colorado Corporation; VERSA PRODUCTS
19 COMPANY, INC., a New Jersey Corporation
THE MODERN GROUP GP-SUB, INC., a
20 Texas corporation and general partnership;
DRAGON ESP, LTD., a Texas limited
21 partnership; and DOES 1-10 and BLACK
AND WHITE COMPANIES,

22 Third-Party Defendants.
23

24 THIRD-PARTY COMPLAINT

25 COMES NOW the Defendant/Third-Party Plaintiff, MDB Trucking, LLC (hereinafter
26 "MDB") by and through its counsel of record Thorndal Armstrong Delk Balkenbush & Eisinger,
27 and hereby brings this Third-Party Complaint against Third-Party Defendants RMC Lamar
28 ///

1 Holdings, Inc, Versa Products Company, Inc., and the Modern Group GP-Sub, Inc. and Dragon
2 ESP, Ltd. and hereby alleges as follows.

3 **FIRST CLAIM FOR RELIEF**

4 **(General Allegations)**

5 1. Third-Party Plaintiff incorporates herein that Plaintiff's Complaint solely for the
6 purposes of establishing that a Complaint has been filed against MDB Trucking, LLC, but
7 without admitting the truth of any allegation therein except for such allegations which may have
8 been admitted in Third-Party Plaintiff's Answer. Third-Party Plaintiff is informed and believes
9 and therefore alleges that the matters referred to in Third-Party Plaintiff's Complaint were
10 proximately caused by the acts and omissions of Third-Party Defendants.

11 2. Third-Party Plaintiff MDB Trucking, LLC was at all relevant times a Nevada
12 limited liability company authorized to conduct business within the State of Nevada.

13 3. Third-Party Defendants DOES 1-10 and BLACK AND WHITE COMPANIES are
14 sued herein under fictitious names and the true names and capacities of said Third-Party
15 Defendants are not known by Third-Party Plaintiff who asked leave of court to amend this Third-
16 Party Complaint to set forth same as it becomes known or ascertained.

17 4. Third Party Defendant RMC Lamar Holdings, Inc. (fka Ranch Manufacturing)
18 was at all relevant times hereto a Colorado corporation engaged in the business of designing and
19 manufacturing trailers and semi-trailers and placed same into the stream of commerce and was
20 doing business in the State of Nevada.

21 5. Third-Party Defendant Versa Products Company, Inc was at al relevant times
22 hereto a New Jersey Corporation engaged in the business of designing and manufacturing
23 pneumatic air solenoid valves specifically for bottom dump trailers and gate activated controls
24 and placed into the stream of commerce and was doing business in the State of Nevada.

25 6. Third-Party Defendant the Modern Group GP-Sub, Inc. was at all relevant times
26 hereto a Texas corporation and the general partner of Dragon ESP, Ltd., a Texas limited
27 partnership.

28 ///

1 7. Third Party Defendant Dragon ESP, Ltd. was at all relevant times a Texas limited
2 partnership.

3 8. A Complaint was filed on May 2, 2016 in the Second Judicial District Court,
4 Case No. CV16-00976, Department 10 in which the Plaintiff Geneva M. Remmerde prayed for
5 damages against Defendant MDB Trucking, LLC alleging negligence in regards to an accident
6 which occurred on July 7, 2014 where a trailer owned by MDB Trucking, LLC spilled a load of
7 gravel causing an accident and injury which are claims presented by Plaintiff.

8 9. Upon information and belief, the Ranco trailer was activated inadvertently causing
9 the gates of the trailer to release a subject load of gravel on the highway and was defective in
10 whole or in part as designed by the Defendant RMC Lamar Holdings, Inc. (fka Ranch
11 Manufacturing Company) (also known by the trade name and trademark Ranco).

12 10. Third Party Defendant RMC Lamar Holdings, Inc. manufactured the subject
13 Ranco trailer in 2002 under the vehicle brand Ranco with VIN No. 1R9BP45082L008431 Idaho
14 Plate No. TE3528.

15 11. Third-Party Defendants the Modern Group and Dragon ESP acquired Ranch
16 Manufacturing on or about August 1, 2007 through an Asset Purchase Agreement.

17 12. Upon information and belief, Third-Party Defendant Dragon, ESP has continued
18 to sell Ranco trailers and semi-trailers with the same components within the same general market
19 and to same customers.

20 13. Third-Party Defendant Dragon ESP has maintained its manufacturing and
21 assembly locations in the same venue of Lamar, Colorado after its acquisition of Ranch
22 Manufacturing Company.

23 14. William Carder the former President and owner of Ranch Manufacturing, Inc.
24 became an officer with Dragon ESP, Ltd. and maintained his position as Vice-President for
25 Ranco through all relevant times up to and including 2015.

26 15. Upon information and belief, Dragon ESP, Ltd. is a *de facto* successor to Ranch
27 Manufacturing, Inc. and has engaged in substantial continuation of Ranco's business.

28 ///

1 16. Dragon ESP, Ltd. is liable to Third-Party Plaintiff to the same extent as RMC
2 Lamar Holdings, Inc. (fka Ranch Manufacturing Company).

3 17. Third-Party Plaintiff MDB Trucking, LLC in 2012 was the last purchaser and end
4 user of the subject Ranco trailer and the direct purchaser of the subject Versa Valve unit
5 in 2013.

6 18. On or before July 7, 2014, the Ranco trailer that left Ranch Manufacturing's
7 control as designed, assembled, and manufactured by Ranco 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 19. Ranch Manufacturing knew that Versa Products Company, Inc. had a safer
16 design available in the stream of commerce on or about 2002 which employed a manual lock
17 safety design; and, that same should have been provided to its end use customers in lieu of the
18 Versa Valve model incorporated in the subject Ranco trailer.

19 20. Upon information and belief, Versa Products Company also knew both
20 in 2002 and 2014 that they had an alternate safer design available in the stream of commerce
21 which employed a manual lock safer design; and, that same should have been provided to its end
22 user customers MDB Trucking in lieu of the model incorporated in the subject Ranco trailer.

23 21. To the extent Plaintiff was injured as a proximate result of the unreasonably
24 dangerous conditions and defects at the time of manufacturing or negligent design, such as a
25 direct and proximate result of the negligence of Third-Party Defendants; and any negligence that
26 exists as alleged by the Plaintiffs is expressly denied. Third-Party Defendants were actively and
27 solely negligent and Third-Party Plaintiff was passively negligent or without fault.

28 ///

THORNDAL ARMSTRONG
DELE HALKENBUSCH
& EISINGER
6390 S. McCarran, Suite B
Reno, Nevada 89509
(775) 796-2882

22. Third-Party Defendants' breach of duty of care owed to the Third-Party Plaintiff and Third-Party Defendants are required to indemnify and hold Third-Party Plaintiff harmless with respect to all allegations and liabilities as set forth in the Complaint filed in this matter.

23. Third-Party Plaintiff has placed Third-Party Defendants on notice of claims pending in this matter.

24. Third-Party Plaintiff is required to expend costs and attorneys' fees in defending the negligence claims in the Complaint on file herein and for prosecuting the instant Third-Party Complaint.

FIRST CLAIM FOR RELIEF

**(Implied Indemnification as to Third-Party Defendants
RMC LAMAR HOLDINGS &
THE MODERN GROUP and DRAGON ESP)**

25. Third-Party Plaintiff realleges each and every allegation contained in paragraphs 1-24 as more fully set forth herein.

26. Third-Party Plaintiff is therefore entitled to complete indemnification against Third-Party Defendants with respect to all allegations or liabilities set forth in the Complaint on file in this matter.

27. Third-Party Plaintiff is entitled to all costs and fees expended in the defense of claims of negligence in this matter as well as prosecution of this Third-Party Complaint.

SECOND CLAIM FOR RELIEF

**(Contribution as to Third-Party Defendants
RMC LAMAR HOLDINGS &
THE MODERN GROUP and DRAGON ESP)**

28. Third-Party Plaintiff repeats and realleges each and every allegation contained in paragraphs 1-27 above as if more fully set forth herein.

29. Third-Party Plaintiff is entitled to contribution from Third-Party Defendants with respect to any settlement, judgment, awards or any other type of resolution or claims brought forward by the Plaintiff in her Complaint on file herein.

30. Third-Party Plaintiff is entitled to all costs and fees expended in defense of claims of negligence in this matter as well as prosecution of the Third-Party Complaint.

1 **THIRD CLAIM FOR RELIEF**

2 **(Implied Indemnification as to VERSA)**

3 31. The Third-Party Plaintiff repeats and realleges each and every allegation contained
4 in paragraphs 1-30 above as if more fully set forth herein.

5 32. The Third-Party Plaintiff is entitled to complete indemnity against VERSA
6 PRODUCTS COMPANY, INC. with respect to all allegations or liabilities set forth in the First
7 amended Complaint.

8 33. The Third-Party Plaintiff is therefore entitled to all costs and fees expended in the
9 defense of the claims of negligence in this matter as well as prosecution of the Third-Party
10 Complaint.

11 **FOURTH CLAIM FOR RELIEF**

12 **(Contribution as to VERSA)**

13 34. The Third-Party Plaintiff repeats and realleges each and every allegation contained
14 in paragraphs 1-33 above as if more fully set forth herein.

15 35. The Third-Party Plaintiff is entitled to contribution from the Third-Party
16 Defendant VERSA PRODUCTS COMPANY, INC., with respect to any settlement, judgment,
17 awards, or any other type of resolution of the claims brought forward by the Plaintiffs in her
18 Complaint on file herein.

19 36. The Third-Party Plaintiff is entitled to all costs and fees expended in the defense
20 of the claims for negligence in this matter as well as prosecution of the Third-Party Complaint.

21 WHEREFORE, Third-Party Plaintiff demands judgment against Third-Party Defendants
22 as follows:

- 23 1. For implied indemnification with respect to all negligence claims brought against
24 Third-Party Plaintiff in this matter;
25 2. For contribution with respect to all negligence claims brought against Third-Party
26 Plaintiff in this matter;
27 3. For attorneys' fees and costs expended in this matter; and
28

///

1 4. For such other and further relief as this Court deems just and proper in the
2 premises.

3 DATED this 22nd day of June, 2016.

4 THORNDAL ARMSTRONG
5 DELK BALKENBUSH & EISINGER

6 By: 

7 Katherine F. Parks, Esq., State Bar No. 6227
8 Brian M. Brown, Esq., State Bar No. 5233
9 Thierry V. Barkley, Esq., State Bar No. 724
10 6590 S. McCarran Blvd., Suite B
11 Reno, Nevada 89509
12 Attorneys for Defendant/Third-Party Plaintiff
13 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 2nd day of June, 2016.

THORNDAL ARMSTRONG
DELK BALKENBUSH & EISINGER

By: 
Katherine F. Parks, Esq., State Bar No. 6227
Brian M. Brown, Esq., State Bar No. 5233
Thierry V. Barkley, Esq., State Bar No. 724
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Attorneys for Defendant/Third-Party Plaintiff
MDB TRUCKING, LLC

THORNDAL ARMSTRONG
DELK BALKENBUSH
& EISINGER
6590 S. McCarran, Suite B
Reno, Nevada 89509
(775) 784-2882

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 **THIRD-PARTY**
4 **COMPLAINT** to be served on all parties to this action by:

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

7 ☒ Second Judicial District Court Eflex ECF (Electronic Case Filing)

8 _____ hand delivery

9 _____ electronic means (fax, electronic mail, etc.)


10 _____ Federal Express/UPS or other overnight delivery fully addressed to

11
12 Kathleen A. Sigurdson, Esq.
13 1440 Haskell Street
14 Reno, Nevada 89509
Attorneys for Plaintiff

15 Matthew C. Addison, Esq.
16 Jessica L. Woelfel, Esq.
17 McDonald Carano Wilson LLP
100 W. Liberty Street, Tenth Floor
Reno, NV 89501
Third-Party Defendant RMC Lamar Holdings

18 Josh Cole Aicklen
19 David B. Avakian
20 Lewis Brisbois Bisgaard & Smith, LLP
6385 S. Rainbow Blvd., Suite 600
Las Vegas, NV 89118
Third-Party Defendant Versa Products Co., Inc.

21
22
23 DATED this 22 day of June, 2016.

24
25 
26 An employee of Thorndal Armstrong
Delk Balkenbush & Eisinger

27 THORNDAL ARMSTRONG
DELK BALKENBUSH
& EISINGER
6200 S. McCarran, Suite B
Reno, Nevada 89509
(775) 786-2002

EXHIBIT 2

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A P P E A R A N C E S

FOR PLAINTIFFS: (Via telephone)

BRADLEY DRENDEL & JEANNEY

BY: SARAH M. QUIGLEY, ATTORNEY AT LAW

6900 South McCarran Boulevard, Suite 2000

Reno, NV 89509

775.775.525.9164

FOR MDB TRUCKING AND KOSKI:

THORNDAL ARMSTRONG DELK BALKENBUSH & EISINGER

BY: BRIAN M. BROWN, ATTORNEY AT LAW

THIERRY BARKLEY, ATTORNEY AT LAW

6590 South McCarran Boulevard, Suite B

Reno, NV 89509

775.786.2882

FOR DRAGON AND MODERN GROUP: (Via telephone)

GREENBERG TRAUIG, LLP

BY: JACOB D. BUNDICK, ATTORNEY AT LAW

3773 Howard Hughes Parkway, Suite 400 N

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

E X H I B I T S

EXH.

NO.

DESCRIPTION

Exhibit 21

Exhibit 22

Exhibit 23

Exhibit 24

Exhibit 25

Exhibit 26

Exhibit 27

Exhibit 28

Exhibit 29

Report

Report

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A P P E A R A N C E S (Continued)

FOR RMC LAMAR HOLDINGS, INC:

McDONALD CARANO WILSON LLP

BY: JESSICA L. WOELFEL, ATTORNEY AT LAW

100 West Liberty Street,Tenth Floor

Reno, NV 89501

775.788.2000

FOR VERSA PRODUCTS:

LEWIS BRISBOIS BISGAARD & SMITH LLP

BY: PAIGE S. SHREVE, ATTORNEY AT LAW

6385 South Rainbow Boulevard, Suite 600

Las Vegas, NV 89118

702.693.4317

ALSO PRESENT: Daniel Koski, Bill Carder

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Page 3

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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 5

<p style="text-align: right;">Page 6</p> <p>1 just let me know, okay?</p> <p>2 A Okay.</p> <p>3 Q Okay. After we finished yesterday, did you</p> <p>4 go and search for any other documents at MDB?</p> <p>5 A No, I did not. I didn't have a chance. By</p> <p>6 the time I got my work done yesterday, it was pretty</p> <p>7 late.</p> <p>8 Q Okay. Did you have an opportunity to speak</p> <p>9 with anybody other than your attorneys about the</p> <p>10 deposition yesterday?</p> <p>11 A No.</p> <p>12 Q Or this morning?</p> <p>13 A No.</p> <p>14 Q Okay. So yesterday we were talking about</p> <p>15 gate chains underneath belly dumpers.</p> <p>16 Do you recall that conversation?</p> <p>17 A Yes.</p> <p>18 Q Okay. I want to ask you about a similar</p> <p>19 device. Are you aware of a pinning system that can</p> <p>20 be on belly dumpers or other types of dump trucks?</p> <p>21 A Yes.</p> <p>22 Q Do the lead trailers that MDB uses utilize</p> <p>23 a pinning system?</p> <p>24 A Yes, they do.</p> <p>25 Q Okay. And so was Trailer No. 6773</p>	<p style="text-align: right;">Page 8</p> <p>1 objection as to vague and foundation.</p> <p>2 BY MS. WOELFEL:</p> <p>3 Q Is the pinning device utilized in the same</p> <p>4 manner as the gate chains where it can control the</p> <p>5 size of the opening on a belly dumper?</p> <p>6 A Yes.</p> <p>7 Q I'm gonna go back to Exhibit 20.</p> <p>8 Do you have the original exhibits in front</p> <p>9 of you, by chance? So if you go to Exhibit 20 at</p> <p>10 the second page, which is Bates-labeled MDB 240 --</p> <p>11 A Okay.</p> <p>12 Q We talked about this document a little bit</p> <p>13 yesterday. I just wanted to get a little more</p> <p>14 detail from you. Under the "Work done" portion it</p> <p>15 says -- just to lay foundation, this is dated</p> <p>16 August 2nd, 2013, for Trailer No. 6775.</p> <p>17 Is that correct?</p> <p>18 A Yes.</p> <p>19 Q Okay. And this was the investigation of</p> <p>20 the unintentional gate opening that occurred in July</p> <p>21 of 2013. Is that correct?</p> <p>22 A Yes.</p> <p>23 Q Okay. And the work that you did is listed</p> <p>24 under -- or that someone at MDB did is listed under</p> <p>25 the work done. And one of the items listed says</p>
<p style="text-align: right;">Page 7</p> <p>1 utilizing a pinning system?</p> <p>2 A Yes, it does. Yes.</p> <p>3 Q Did it have one in July of 2013?</p> <p>4 A Yes.</p> <p>5 Q And did it have one in July of 2014?</p> <p>6 A Yes.</p> <p>7 Q And is it MDB's policy that the pinning</p> <p>8 system is activated on the -- I guess the smallest</p> <p>9 pin lock when MDB drivers are pulling that trailer?</p> <p>10 A No.</p> <p>11 Q When you drive a truck and pull a trailer</p> <p>12 that has a pinning system, do you have the pinning</p> <p>13 system locked in to prevent opening while you are</p> <p>14 pulling a trailer?</p> <p>15 A No.</p> <p>16 Q Why not?</p> <p>17 A I don't think that's what it was designed</p> <p>18 for.</p> <p>19 Q Would you agree that if you were to drive</p> <p>20 with a pinning system that it would prevent an</p> <p>21 inadvertent opening of a belly dumper?</p> <p>22 A Am I aware of that --</p> <p>23 Q Would you agree that --</p> <p>24 A Oh, yes, I would.</p> <p>25 MR. BROWN: I'm going to make a late</p>	<p style="text-align: right;">Page 9</p> <p>1 "Isolating dump coil circuit, removed coil hose."</p> <p>2 You know what, why don't you just read that for me</p> <p>3 because I'm having trouble reading the second</p> <p>4 sentence under "Work done."</p> <p>5 A It appears that it reads as "Isolating dump</p> <p>6 coil circuit, removed coil case ground from</p> <p>7 circuit."</p> <p>8 Q Can you tell me what that means? Can you</p> <p>9 describe for me the work that was done to isolate</p> <p>10 the dump coil circuit and then what specifically was</p> <p>11 done to remove the coil case?</p> <p>12 A Coil case ground.</p> <p>13 Q Ground. Yes. Thank you.</p> <p>14 A I cannot say for certain what he did.</p> <p>15 Q Do you know why this particular work was</p> <p>16 done?</p> <p>17 A Well, it was done in conjunction with</p> <p>18 preventing it from -- the gate from opening</p> <p>19 unintentionally.</p> <p>20 I believe Mr. Bigby removed the wire that</p> <p>21 goes directly from the case ground to the trailer --</p> <p>22 or I think he isolated it from the trailer and wired</p> <p>23 it directly to -- actually, I'm not sure what he</p> <p>24 did.</p> <p>25 Q Okay.</p>

<p style="text-align: right;">Page 10</p> <p>1 A I can't really say for sure.</p> <p>2 Q You didn't participate in these repairs.</p> <p>3 A No. I wasn't -- I actually didn't start</p> <p>4 work for them until about a week later.</p> <p>5 Q Okay, fair enough. You can put that</p> <p>6 exhibit away. If you could grab Exhibit No. 5.</p> <p>7 A Okay.</p> <p>8 Q Exhibit 5 is a document -- I'm looking at</p> <p>9 the first page Bates-labeled MDB maintenance 000144</p> <p>10 and the equipment number listed is 6773 and the date</p> <p>11 completed is August 11th, 2013. Do you see that?</p> <p>12 A Yes.</p> <p>13 Q And this would be the lead trailer that Mr.</p> <p>14 Koski was pulling in July of 2013. Is that correct?</p> <p>15 A Yes.</p> <p>16 Q Okay. And this is work that was performed</p> <p>17 by you. Is that correct?</p> <p>18 A That is correct.</p> <p>19 Q Okay. Under the notes it says "Pulled out</p> <p>20 unused wire from" -- what's that word?</p> <p>21 A "Loom."</p> <p>22 Q -- "from loom and dissected."</p> <p>23 Is that right?</p> <p>24 A Yes.</p> <p>25 Q So it says "Pulled out unused wire from</p>	<p style="text-align: right;">Page 12</p> <p>1 Do you see that?</p> <p>2 A Yes.</p> <p>3 Q Okay. And 6774 is the second trailer in</p> <p>4 the series of three trailers that we've been</p> <p>5 discussing. Is that correct?</p> <p>6 A Yes, that's correct.</p> <p>7 Q So the first work order at the bottom says</p> <p>8 "Performed by Pat." And the date of this work order</p> <p>9 looks to be July 21st, 2013, with a date completed</p> <p>10 of August 2nd, 2013. Do you see that?</p> <p>11 A Yes.</p> <p>12 Q Do you know if this work order was put</p> <p>13 together after the July 2013 dump incident or</p> <p>14 before?</p> <p>15 A It would appear that it was done after.</p> <p>16 Q So would that suggest to you that the</p> <p>17 July 2013 inadvertent dump occurred before</p> <p>18 July 21st 2013?</p> <p>19 A No. I think it's July 31st.</p> <p>20 Q Oh, you think that says "July 31st"?</p> <p>21 A I would think so.</p> <p>22 Q That would make some sense.</p> <p>23 A Yes.</p> <p>24 Q Thank you for clarifying that. I'm having</p> <p>25 trouble reading some of this writing.</p>
<p style="text-align: right;">Page 11</p> <p>1 loom and disconnected."</p> <p>2 Can you describe for me which wire you were</p> <p>3 pulling out that was unused and from where?</p> <p>4 A Oh, I can't explain where the wire went.</p> <p>5 All I know is when I pulled the 7-way receptacle out</p> <p>6 of the front of the trailer there was an unused wire</p> <p>7 in the loom that didn't go anywhere. It didn't go</p> <p>8 to the solenoid, it didn't go anywhere on the</p> <p>9 trailer, so I just pulled it out and got rid of it.</p> <p>10 Q Do you know what that unused wire was in</p> <p>11 there for?</p> <p>12 A No idea.</p> <p>13 Q Why did you pull it out?</p> <p>14 A Well, there's no reason to have it in there</p> <p>15 if it's not connected to anything.</p> <p>16 Q Was it causing any issue with the trailer?</p> <p>17 A No.</p> <p>18 Q I'm going to hand you a document I'll mark</p> <p>19 as Exhibit 21.</p> <p>20 (Deposition Exhibit 21 marked for</p> <p>21 identification.)</p> <p>22 BY MS. WOELFEL:</p> <p>23 Q These are work orders that are</p> <p>24 Bates-labeled MDB 196197, 204, 205, and 206, and</p> <p>25 they are each for Equipment No. 6774.</p>	<p style="text-align: right;">Page 13</p> <p>1 A I am too but I don't think -- I think it</p> <p>2 happened July 31st is the date. Yeah.</p> <p>3 Q Okay. So your reading on this work order</p> <p>4 is the date of the work order which was prepared by</p> <p>5 Pat is July 31st, 2013.</p> <p>6 A Yes.</p> <p>7 Q Okay, thank you. Can you tell me what this</p> <p>8 work order is for?</p> <p>9 A Okay. He rewired the dump valve circuit</p> <p>10 and this sort of is similar to what he did on the</p> <p>11 prior work order for 6775, about removing the coil</p> <p>12 case ground, and this kind of jars my memory of what</p> <p>13 he did.</p> <p>14 What he did was removed the ground wire</p> <p>15 from the coil that grounds to the trailer, so that</p> <p>16 the wires going to the trailer from the truck go</p> <p>17 directly from the truck straight to the valve</p> <p>18 without having any connection to the trailer --</p> <p>19 Q Okay.</p> <p>20 A -- because --</p> <p>21 Q Go ahead. Why did he do that?</p> <p>22 A He did it to prevent back-feeding through</p> <p>23 the ground. And on a Ranco trailer -- these</p> <p>24 particular Ranco trailers, they are not grounded</p> <p>25 through the trailer. There is no ground.</p>

<p style="text-align: right;">Page 14</p> <p>1 Q Okay.</p> <p>2 A There is no ground from the truck directly</p> <p>3 to the trailer. They're all grounded through the</p> <p>4 wiring system.</p> <p>5 Q Okay. So this indicates a complete -- or</p> <p>6 this describes the complete rewiring job that was</p> <p>7 done on 6774 after -- or is this a portion of that?</p> <p>8 A Just a portion of that. Basically he just</p> <p>9 made sure that the wires, the 4-way wire, which is</p> <p>10 the wire that comes from the truck to the trailer,</p> <p>11 went directly to the Versa valve and didn't travel</p> <p>12 through the grounding, you know, the trailer body</p> <p>13 itself.</p> <p>14 Q Okay. Was there any indication that there</p> <p>15 had been some error or defect with the wiring that</p> <p>16 had occurred that suggested that Pat should remove</p> <p>17 and replace this wiring?</p> <p>18 A No. I think he did this at the same time</p> <p>19 he did 6774 and 6775 as a result of the inadvertent</p> <p>20 dumping to make sure that both trailers were wired</p> <p>21 correctly --</p> <p>22 Q Okay.</p> <p>23 A -- that --</p> <p>24 Q Go ahead. I apologize for interrupting</p> <p>25 you.</p>	<p style="text-align: right;">Page 16</p> <p>1 Q Okay. Next page, MDB 197, this is for</p> <p>2 Equipment No. 6775, 6774 -- actually, why don't you</p> <p>3 tell me what equipment numbers this is for.</p> <p>4 A Okay. This is a work order completed on</p> <p>5 September 15th, 2013, and it's for the set of</p> <p>6 trailers, 6773, 6774, 6775.</p> <p>7 Q Okay. Can you describe for me what this</p> <p>8 work order is for?</p> <p>9 A Yes. I dropped a set of trailers in and I</p> <p>10 did a normal inspect and lube of all three trailers.</p> <p>11 So I inspected the trailers, lubed it, and at the</p> <p>12 same time I noticed that there were some lights that</p> <p>13 were possibly unplugged or -- the plugs weren't</p> <p>14 making good contact so I repaired those.</p> <p>15 There was ABS brake wire that was -- looked</p> <p>16 like the wire tie broke on it so I tied that up.</p> <p>17 And then also I replaced some zerk fittings on the</p> <p>18 back axle of 6775, three zerk fittings.</p> <p>19 Q Okay. If we can go to the next page, MDB</p> <p>20 204, can you tell me what dates this work was</p> <p>21 performed and on what piece of equipment?</p> <p>22 A This was performed February 13th, 2014,</p> <p>23 on Trailer 6774 and Pat worked on it. It says,</p> <p>24 "Troubleshoot in-op lights on trailer." So the</p> <p>25 driver said there was lights that were -- one</p>
<p style="text-align: right;">Page 15</p> <p>1 A There was no reason to have the coil ground</p> <p>2 to the trailer considering that the trailer did not</p> <p>3 get a ground from the truck so, therefore, it's sort</p> <p>4 of not being used as a ground so he removed it, the</p> <p>5 circuit.</p> <p>6 Q Okay. Did MDB maintain any of the wires or</p> <p>7 coil case grounds that they removed from this</p> <p>8 trailer?</p> <p>9 A No.</p> <p>10 Q Did they throw them away?</p> <p>11 A Yes.</p> <p>12 Q Did you do any testing on them at all after</p> <p>13 they were removed?</p> <p>14 A No. Basically he didn't really remove --</p> <p>15 actually physically remove anything from the Versa</p> <p>16 valve. He actually just took the wire that was</p> <p>17 coming from the coil that went to the trailer and</p> <p>18 disconnected -- there's two wires, one that goes</p> <p>19 directly and he just wired them together into the</p> <p>20 grounding system of the truck.</p> <p>21 Q Okay. I understand.</p> <p>22 A He didn't actually remove part of the</p> <p>23 valve.</p> <p>24 Q Just rewired?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 17</p> <p>1 particular light wasn't working so he found -- Pat</p> <p>2 found the male plug at the hitch broken, replaced</p> <p>3 the plug and tested. So on the rear of 6774 he put</p> <p>4 in a 7-way plug. Actually, it's kinda hard -- I</p> <p>5 think he actually did it on the front of 6774.</p> <p>6 Q Okay.</p> <p>7 A I'm sorry. The front, a 7-way plug on the</p> <p>8 front. I think he's talking about the hitch on the</p> <p>9 back of 6773.</p> <p>10 Q Okay. Go to the next page. MDB 205, and</p> <p>11 can you tell me the date of this work order, the</p> <p>12 equipment number, and what was occurring.</p> <p>13 A This is February 15th, 2014, Trailer 6774,</p> <p>14 and he replaced the rear 4-way socket and plug.</p> <p>15 Q Why?</p> <p>16 A It probably wasn't making good contact so</p> <p>17 there was not -- it wasn't -- we were not able to</p> <p>18 dump 6775 with the switch from inside the cab, so he</p> <p>19 replaced the 4-way socket and plug.</p> <p>20 Q Okay.</p> <p>21 A So its 4-way socket is on the rear of 6775,</p> <p>22 I believe. He doesn't make a note of where the plug</p> <p>23 is.</p> <p>24 Q But you would need that in order to --</p> <p>25 A Yeah. The plug is probably on the front of</p>

<p style="text-align: right;">Page 18</p> <p>1 6775. he doesn't designate which.</p> <p>2 Q Okay. And there's no name on the bottom of</p> <p>3 this sheet indicating who performed the work but</p> <p>4 you're presuming that it was Pat?</p> <p>5 A Oh, yeah, it was Pat. Yes.</p> <p>6 Q Okay. Go to MDB 206, the next page. This</p> <p>7 looks like it's a work order dated March 1, 2014.</p> <p>8 Is that right?</p> <p>9 A Yes.</p> <p>10 Q For 6774.</p> <p>11 A Yes.</p> <p>12 Q And the work order is by you and it looks</p> <p>13 like the work is performed by you. Is that correct?</p> <p>14 A Yes.</p> <p>15 Q And here can you tell me what is indicated</p> <p>16 on this work order?</p> <p>17 A The left rear subframe over the rear axle</p> <p>18 on the left side was cracked from damage caused by a</p> <p>19 broken spring.</p> <p>20 Q Okay. So the frame of the trailer was</p> <p>21 cracked?</p> <p>22 A The subframe.</p> <p>23 Q Okay. And it looks like you cut out the</p> <p>24 damaged area of the frame.</p> <p>25 A Yes. Had a new piece fabricated and welded</p>	<p style="text-align: right;">Page 20</p> <p>1 the trailer. It's not in the subframe underneath</p> <p>2 the trailer. So we would have -- I would have taken</p> <p>3 precautions to pull all the hoses out for the brakes</p> <p>4 and get them out of the way so that welding wouldn't</p> <p>5 cause damage to those, but there's no actual trailer</p> <p>6 wiring in that location.</p> <p>7 Q How far away is the trailer wiring from the</p> <p>8 location you were working on?</p> <p>9 A Oh, probably a foot away, and it's enclosed</p> <p>10 in the side frame rail of the trailer.</p> <p>11 Q Okay.</p> <p>12 A In fact, I think it actually is on the</p> <p>13 opposite side of the trailer in that particular</p> <p>14 instance.</p> <p>15 Q All right. I'm going to mark this next.</p> <p>16 (Deposition Exhibit 22 marked for</p> <p>17 identification.)</p> <p>18 BY MS. WOELFEL:</p> <p>19 Q This is a document Bates-labeled MDB 356</p> <p>20 and this is -- can you tell me the date of this?</p> <p>21 A August 5th, 2014.</p> <p>22 Q Can you tell me the piece of equipment that</p> <p>23 was being worked on?</p> <p>24 A It looks like truck 5693.</p> <p>25 Q Is that the truck that you drove?</p>
<p style="text-align: right;">Page 19</p> <p>1 it back into place. So the spring -- we had a</p> <p>2 spring break, the trailer would now fall down on the</p> <p>3 top of the spring, so the U-bolt caused a dent into</p> <p>4 the bottom of the frame, which cracked it, so we cut</p> <p>5 it out and replaced it.</p> <p>6 Q How large of an area did you cut out? How</p> <p>7 large of an area was damaged?</p> <p>8 A The actual damage area was only a few</p> <p>9 inches, a couple inches wide. But the piece I</p> <p>10 fabricated and put in there was probably 6 or</p> <p>11 8 inches wide by 6 or 8 inches high.</p> <p>12 Q Okay. Did you pull the main wiring harness</p> <p>13 on this trailer prior to repairing?</p> <p>14 A No. There's no wires in that location.</p> <p>15 Q Okay. Can you tell me exactly where the</p> <p>16 location is? I'm not sure if I have a photo. I'm</p> <p>17 trying to get a sense of where precisely the</p> <p>18 location of this work was on this trailer of.</p> <p>19 A Okay. It's on the rear of the trailer on</p> <p>20 the left side about a foot in from the side, so it's</p> <p>21 actually the subframe. It's not the actual frame of</p> <p>22 the trailer. It's the subframe that the axle and</p> <p>23 the springs bolt to.</p> <p>24 Q Okay.</p> <p>25 A So the wiring is actually in the frame of</p>	<p style="text-align: right;">Page 21</p> <p>1 A Yes.</p> <p>2 Q Okay. And this is a work order that you</p> <p>3 filled out?</p> <p>4 A No. This is a work order that Pat filled</p> <p>5 out. It was just -- when it says "By Scott" at the</p> <p>6 top, that means I am the one that brought it to his</p> <p>7 attention about the repairs.</p> <p>8 Q Okay. And why did the truck need to be</p> <p>9 repaired here?</p> <p>10 A He says that he troubleshooted intermittent</p> <p>11 first trailer gate function.</p> <p>12 Q What does that mean? Does that mean that</p> <p>13 the gate is not opening or closing properly?</p> <p>14 A I would -- before I read what he actually</p> <p>15 did to fix it, I would assume that that means that</p> <p>16 the driver's unable to operate the gate with the</p> <p>17 switch from inside the truck intermittently, so</p> <p>18 sometimes he could flip the switch and it would open</p> <p>19 and sometimes it wouldn't open.</p> <p>20 Q Do you have a recollection of the truck</p> <p>21 that you were driving having a switch problem in or</p> <p>22 around August of 2014? This is shortly after -- a</p> <p>23 month after your inadvertant dump of the sand truck.</p> <p>24 A I don't specifically remember this but it's</p> <p>25 not -- it's not uncommon.</p>

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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

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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. Koski 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

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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

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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

<p style="text-align: right;">Page 26</p> <p>1 checking lights, brakes, cracks in the trailer, 2 springs --</p> <p>3 Q Okay.</p> <p>4 A -- any safety issues that are related to 5 the trailer.</p> <p>6 Q Okay. And I see that this work order has a 7 total time on the bottom. It says a half.</p> <p>8 Does that indicate that the federal annual 9 inspection took approximately half an hour?</p> <p>10 A I would say -- I would assume so for one 11 trailer, yes.</p> <p>12 Q Do you check the wiring in your federal 13 annual inspection?</p> <p>14 A We check the function of the wiring system.</p> <p>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?</p> <p>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.</p> <p>22 Q Do you look at any of the hidden wiring?</p> <p>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.</p>	<p style="text-align: right;">Page 28</p> <p>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.</p> <p>5 Q And each of those 4-way sockets that you 6 replaced you would have thrown away the old ones.</p> <p>7 A Yes.</p> <p>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.</p> <p>12 (Deposition Exhibit 24 marked for 13 identification.)</p> <p>14 BY MS. WOELFEL:</p> <p>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?</p> <p>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.</p> <p>24 Q Okay. And the first page, MDB 031, can you 25 tell me the date of this work order and what was</p>
<p style="text-align: right;">Page 27</p> <p>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.</p> <p>4 A Yes. This is August 5th, 2014, Trailer 5 6773. The trailer was inspected and lubed and 6 replaced the 4-way socket.</p> <p>7 Q Why did you need to replace the 4-way 8 socket?</p> <p>9 A They probably found that it was -- the pins 10 possibly were oxidized. I mean, I'm speculating.</p> <p>11 Q But that would be a typical reason why you 12 would replace a 4-way socket?</p> <p>13 A Yeah, or it could be loose. The pins could 14 be wore slightly.</p> <p>15 Q Okay. Next page, MDB 186. Same thing. If 16 you could tell me the date and what was occurring 17 here.</p> <p>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."</p> <p>21 Q And that would be probably the same reason 22 as you explained --</p> <p>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</p>	<p style="text-align: right;">Page 29</p> <p>1 occurring here?</p> <p>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."</p> <p>7 Q What gate dump 4-way plug is this referring 8 to?</p> <p>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.</p> <p>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.</p> <p>18 Q Okay.</p> <p>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.</p> <p>25 Q Okay. So when he activated the switches</p>

<p style="text-align: right;">Page 30</p> <p>1 from inside the cab, there was no power getting to 2 that first trailer.</p> <p>3 A Exactly.</p> <p>4 Q Okay. And what was the cause of the lack 5 of power?</p> <p>6 A Okay. He says he "found the switches wired 7 to light circuit."</p> <p>8 Q What's that mean?</p> <p>9 A I'm not sure.</p> <p>10 Q Okay. What's the next line say?</p> <p>11 A "Rewired switches to accessory." I can't 12 read that. "Wired ground to cab ground." Okay. I 13 understand that.</p> <p>14 Q What's that mean?</p> <p>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.</p> <p>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.</p> <p>25 Q What does that mean?</p>	<p style="text-align: right;">Page 32</p> <p>1 a different manner so it worked.</p> <p>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.</p> <p>5 A The date of the work order is July 26th, 6 2013, and it's for Equipment No. 5694.</p> <p>7 Q Okay.</p> <p>8 A And --</p> <p>9 Q What does that work order indicate was 10 occurring?</p> <p>11 A "Rewired gate switches," meaning the 12 switches that operate the bottom inside the cab of 13 the truck.</p> <p>14 Q And that would be the same wires that are 15 referenced on the April 13th work order?</p> <p>16 A Yes, uh-huh.</p> <p>17 Q That's a "yes"?</p> <p>18 A Yes.</p> <p>19 Q Thank you. Why did the gate switches need 20 to be rewired on this date?</p> <p>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?</p>
<p style="text-align: right;">Page 31</p> <p>1 A So, apparently, at the time -- this might 2 have been prior to us operating that truck with the 3 set of triples --</p> <p>4 Q Okay.</p> <p>5 A -- so it's possible that --</p> <p>6 Q He was modifying it to work with a set of 7 triple trailers?</p> <p>8 A Instead of just a set of double trailers.</p> <p>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?</p> <p>12 A Right. That was after he repaired the wire 13 -- repaired the power issue.</p> <p>14 Q Okay. Do you know who drove Truck No. 5694 15 regularly before Mr. Koski was hired?</p> <p>16 A No.</p> <p>17 Q And the date of this work order is pretty 18 shortly after Mr. Koski was hired. Is that correct?</p> <p>19 A Yeah. Within 6 months.</p> <p>20 Q Okay.</p> <p>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</p>	<p style="text-align: right;">Page 33</p> <p>1 Q So when we were looking at some work orders 2 earlier you had indicated that you thought --</p> <p>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.</p> <p>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?</p> <p>12 A Yes, might have been the same day.</p> <p>13 Q Are you certain that this rewiring work was 14 performed after the dump or could it have been 15 performed before?</p> <p>16 A I'm -- I'm certain that it happened 17 afterwards and that was the reason that they did 18 this.</p> <p>19 Q Were you working at MDB on July 26th, 2013?</p> <p>20 A No.</p> <p>21 Q Can you describe for me what work was 22 performed here?</p> <p>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</p>

<p style="text-align: right;">Page 34</p> <p>1 bottom dump trailers.</p> <p>2 So, now, the source of the power, the</p> <p>3 ground and the positive, have to go through the</p> <p>4 master switch so the master switch has to be on in</p> <p>5 order to provide power now to the three subsequent</p> <p>6 dump switches.</p> <p>7 Q Okay.</p> <p>8 A And I believe -- and I do know for sure</p> <p>9 that's why they did that, because that's one of the</p> <p>10 first things they said that they did.</p> <p>11 Q Was install a master switch?</p> <p>12 A Yeah. I don't think -- yeah. Yes. That</p> <p>13 is what they did, yes.</p> <p>14 Q Okay. And there was also the red covers</p> <p>15 over the toggle switches that were installed as</p> <p>16 well. Is that correct?</p> <p>17 A Yeah. Over the three dump switches that</p> <p>18 originally had the covers, and then the master</p> <p>19 switch also has a cover so now there's four switches</p> <p>20 with covers.</p> <p>21 Q Okay. So the covers were there in July of</p> <p>22 2013.</p> <p>23 A For the three switches.</p> <p>24 Q Okay, thank you. Next page. This is MDB</p> <p>25 078. Can you tell me the date of this work order</p>	<p style="text-align: right;">Page 36</p> <p>1 ground from the truck or through the trailers, it</p> <p>2 makes the taillights and the marker lights flash</p> <p>3 with the flashers. They sorta dim at the same time</p> <p>4 that the turn signals flash and that indicates a</p> <p>5 poor ground.</p> <p>6 So he found there was a poor ground at the</p> <p>7 pogo stick at the 7-way plug and he replaced the</p> <p>8 7-way socket and the plug.</p> <p>9 Q Okay. Next page, MDB 081, can you tell me</p> <p>10 the date this work was completed and what was going</p> <p>11 on in this work order.</p> <p>12 A Okay. This is September -- it looks like</p> <p>13 September 15th, 2013, for Truck 5694, and this was</p> <p>14 performed by myself. And at this time it looks like</p> <p>15 the truck came in for normal inspection and during</p> <p>16 that time I found a few things wrong with the truck.</p> <p>17 So this time we replaced the -- I replaced</p> <p>18 the 7-way plug on the end of the cord going to the</p> <p>19 trailer, so that's actually on the other end of the</p> <p>20 cord that Pat Bigby would have just replaced a month</p> <p>21 before. It's on the other end of the cord.</p> <p>22 So I put a new 7-way on, replaced the</p> <p>23 pigtail on the left backup light on the back of the</p> <p>24 trailer -- back of the truck/tractor. Sorry.</p> <p>25 Adjusted the air suspension to proper height.</p>
<p style="text-align: right;">Page 35</p> <p>1 and what this was for?</p> <p>2 A This is on August 19th, 2013, for Truck No.</p> <p>3 5694.</p> <p>4 Q That's the date of completion of the work</p> <p>5 order, correct?</p> <p>6 A Yes.</p> <p>7 Q And the work order is dated August 17th,</p> <p>8 2013.</p> <p>9 A I'm not sure. It could be August 19th.</p> <p>10 Q It's hard to tell.</p> <p>11 A I can't imagine that he would take two days</p> <p>12 to get around to working on it.</p> <p>13 Q Okay.</p> <p>14 A Usually worked on it right away.</p> <p>15 Q Okay. And go ahead and describe for me</p> <p>16 what was going on here.</p> <p>17 A Unfortunately, it doesn't tell me which</p> <p>18 trailers he was pulling that day but I'm assuming</p> <p>19 that we can make the assumption that he was pulling</p> <p>20 the triples. It really doesn't matter which</p> <p>21 trailers he was pulling.</p> <p>22 But he's troubleshooting the "trailer</p> <p>23 lights flashing, poor ground," which means that if</p> <p>24 you turn your clearance lights, taillights on and</p> <p>25 then turn your 4-way flashers and you have a poor</p>	<p style="text-align: right;">Page 37</p> <p>1 Placed the pigtail on the right backup light and</p> <p>2 both stop turn tail lamps. Replace the license</p> <p>3 plate light.</p> <p>4 And then the air conditioning was not</p> <p>5 blowing properly so I pulled out the H -- the heater</p> <p>6 and air conditioning filter, blew it out, put it</p> <p>7 back in and then made a note that we actually needed</p> <p>8 to do a complete disassembly and clean -- and the</p> <p>9 evaporator and the heater core needs to be cleaned.</p> <p>10 Also removed the outside temperature gauge and took</p> <p>11 that in for warranty.</p> <p>12 Q Was this truck out of service for a while</p> <p>13 after this particular work order or did it go right</p> <p>14 back into service?</p> <p>15 A It went back into work. Everything was</p> <p>16 fixed properly.</p> <p>17 Q It seems like there was a lot of work on</p> <p>18 this truck on this day.</p> <p>19 A Well, it seems like it's a lot of work but</p> <p>20 it's only an hour or two worth of work. It's a</p> <p>21 bunch of miscellaneous housekeeping-type work.</p> <p>22 Q Okay. Next work order is MDB 095. Want to</p> <p>23 tell me the date completed and describe what was</p> <p>24 occurring here.</p> <p>25 A This is on October 20th, 2013, Truck 5694.</p>

<p style="text-align: right;">Page 38</p> <p>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.</p> <p>6 Q On the bottom notes it says "Replacing 7 master switch with DPST switch." What is that?</p> <p>8 A Double-pull single-throw.</p> <p>9 Q And "to isolate" -- what's that word?</p> <p>10 A "Isolate ground from 4-way wire."</p> <p>11 Q Why don't you read me the entire sentence 12 under "Notes."</p> <p>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."</p> <p>17 Q Is that -- why would you do that?</p> <p>18 A Why would I rewire it?</p> <p>19 Q Yeah.</p> <p>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.</p> <p>23 Q Okay. And was this an MDB standard? Did 24 you do this type of rewiring on all of the trucks?</p> <p>25 A No. The only reason I did that is because</p>	<p style="text-align: right;">Page 40</p> <p>1 were performed every 10,000 miles.</p> <p>2 Q It's probably practically every other day 3 with the way you guys drive.</p> <p>4 A Yeah, right.</p> <p>5 Q And it looks like you also replaced a 4-way 6 socket.</p> <p>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.</p> <p>11 I know some companies that try to run them forever 12 but just -- we replace them.</p> <p>13 Q All right. Tell me about MDB 109.</p> <p>14 A I believe the date on this is 3/21/2014.</p> <p>15 Q It looks like that could be a "3" to me as 16 well, so we'll go with it.</p> <p>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.</p> <p>22 Q That red part that covers the toggle 23 switch?</p> <p>24 A Yes.</p> <p>25 Q Okay.</p>
<p style="text-align: right;">Page 39</p> <p>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.</p> <p>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.</p> <p>13 Q Okay. Let's go to the next page. MDB 101, 14 could you give me the date of completion of this 15 work order and what this work order is for.</p> <p>16 A November 12th, 2013, Truck 5694. Pat did 17 a PM 1.</p> <p>18 Q What is that?</p> <p>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.</p> <p>24 Q And how often are PM 1s performed?</p> <p>25 A At that particular time we were -- they</p>	<p style="text-align: right;">Page 41</p> <p>1 A And resecured deck plate. The deck plate 2 was loose on the tractor.</p> <p>3 Q Go to the next page, 119. Describe this 4 work order for me.</p> <p>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.</p> <p>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.</p> <p>18 Q All right. Next page, MDB 155, can you 19 tell me the date of this work order and what this 20 involves.</p> <p>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.</p> <p>24 This was done by at the time our mechanic's 25 helper, Brandon Jones, and he would have brought the</p>

<p style="text-align: right;">Page 42</p> <p>1 trailers around to the shop and went and greased and 2 inspected them.</p> <p>3 Q So Brandon Jones was the mechanic's helper 4 at this time?</p> <p>5 A Yes.</p> <p>6 Q Is he still the mechanic's helper?</p> <p>7 A No.</p> <p>8 Q Do you know when Brandon Jones left MDB?</p> <p>9 A No. He wasn't there very long. He was 10 just basically helping out.</p> <p>11 Q Okay. And what did Brandon's inspection 12 involve?</p> <p>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.</p> <p>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.</p> <p>24 Q Okay. You're checking the wiring?</p> <p>25 A No. I mean, you're checking the</p>	<p style="text-align: right;">Page 44</p> <p>1 for repair work done on our Truck 5694. It looks 2 like the work was performed April 4th, 2013.</p> <p>3 Q Okay. So you had sent the truck out to 4 ENGS to be worked on?</p> <p>5 A Yes.</p> <p>6 Q Okay. So this was not work that was 7 performed in-house?</p> <p>8 A That's correct.</p> <p>9 Q And can you tell me why this truck was sent 10 out for repair?</p> <p>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?</p> <p>14 Q Why would you send it out versus doing it 15 in-house.</p> <p>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.</p> <p>22 Q And when you came onboard, did you have 23 your own tools that you brought with you?</p> <p>24 A Yes. I have a laptop that has software 25 that requires you hook up to Cummins or Caterpillar</p>
<p style="text-align: right;">Page 43</p> <p>1 functionality of the lights.</p> <p>2 Q Okay.</p> <p>3 A You're not actually checking the wiring.</p> <p>4 Q And are you checking the valves during an 5 inspection like this, Versa valves?</p> <p>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.</p> <p>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.</p> <p>13 Q Okay. Go ahead and set this exhibit aside.</p> <p>14 MS. WOELFEL: Why don't we take a 15 five-minute break.</p> <p>16 (Recess taken.)</p> <p>17 MS. WOELFEL: I'm going to mark this next 18 in order.</p> <p>19 (Deposition Exhibit 25 marked for 20 identification.)</p> <p>21 BY MS. WOELFEL:</p> <p>22 Q Scott, I've handed you a document MDB 27 23 and 28. Can you tell me what this document is?</p> <p>24 A This is an invoice from ENGS Motor Truck 25 Company specifically for a repair order, and it's</p>	<p style="text-align: right;">Page 45</p> <p>1 engines and do diagnostics.</p> <p>2 Q Okay. So tell me what work this work order 3 reflects.</p> <p>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.</p> <p>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."</p> <p>16 Q What is "ECM"?</p> <p>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.</p> <p>20 Q Okay. And does it look like the ECM was 21 changed?</p> <p>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</p>

<p style="text-align: right;">Page 46</p> <p>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 MDB 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 MDB's 25 production. What is this document?</p>	<p style="text-align: right;">Page 48</p> <p>1 (Deposition Exhibit 27 marked for 2 identification.) 3 BY MS. WOELFEL: 4 Q This is a document MDB 11 and MDB 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 MDB 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.</p>
<p style="text-align: right;">Page 47</p> <p>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.</p>	<p style="text-align: right;">Page 49</p> <p>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 inadvertant 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 MDB 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</p>

<p style="text-align: right;">Page 50</p> <p>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 MDB 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</p>	<p style="text-align: right;">Page 52</p> <p>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 MDB 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.</p>
<p style="text-align: right;">Page 51</p> <p>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</p>	<p style="text-align: right;">Page 53</p> <p>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</p>

<p style="text-align: right;">Page 54</p> <p>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?</p>	<p style="text-align: right;">Page 56</p> <p>1 BY MR. BUNDICK: 2 Q Sure. What facts does MDB have to support 3 the allegations in the third-party complaint that 4 Modern is responsible for contribution for MDB'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 MDB's allegations 16 against my client Modern that we are responsible for 17 contribution for MDB'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.</p>
<p style="text-align: right;">Page 55</p> <p>1 A Good. How are you? 2 Q Good. Are you aware that your client, MDB, 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 MDB have to support the 12 allegations in the complaint that Modern is 13 responsible for contribution to MDB 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</p>	<p style="text-align: right;">Page 57</p> <p>1 BY MR. BUNDICK: 2 Q I'm going to ask you the same question. 3 What facts does MDB have to support the 4 allegations in the complaint that Dragon is 5 responsible for contribution for MDB'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 --</p>

<p style="text-align: right;">Page 58</p> <p>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</p>	<p style="text-align: right;">Page 60</p> <p>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.</p>
<p style="text-align: right;">Page 59</p> <p>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.</p>	<p style="text-align: right;">Page 61</p> <p>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</p>

<p style="text-align: right;">Page 62</p> <p>1 fairly easily.</p> <p>2 Q So specifically Trailer No. 6775, if it</p> <p>3 does not -- if I recall what you said, if it doesn't</p> <p>4 have the air pressure, then it can go to neutral.</p> <p>5 Is that correct?</p> <p>6 MR. BROWN: Objection, foundation.</p> <p>7 THE WITNESS: Well, it takes air pressure</p> <p>8 to close the gates and to open the gates. So if you</p> <p>9 took the Versa valve out of the system, there would</p> <p>10 be no air pressure any longer so the gates would be</p> <p>11 basically -- there would be no pressure holding it</p> <p>12 closed or open. It would basically stay where it</p> <p>13 was.</p> <p>14 BY MS. SHREVE:</p> <p>15 Q So if the Versa valve lost pressure then,</p> <p>16 would the belly gates go to neutral?</p> <p>17 MR. BROWN: I'll object, lack of</p> <p>18 foundation, incomplete hypothetical. Probably</p> <p>19 beyond the scope of the notice. Answer if you can.</p> <p>20 THE WITNESS: That was probably a poor</p> <p>21 choice of words as far as "neutral." When I say</p> <p>22 "neutral," I don't mean the position of the actual</p> <p>23 gates themselves. I'm saying neutral as far as</p> <p>24 there's no pressure holding it one way or the other.</p> <p>25 There's nothing pushing the gates open or closed, so</p>	<p style="text-align: right;">Page 64</p> <p>1 Q So how many hoses are attached to the Versa</p> <p>2 valve -- or in Trailer 6775 when it's installed how</p> <p>3 many hoses are connected to the Versa valve?</p> <p>4 A I believe there's five hoses.</p> <p>5 Q Other than the five hoses, when installing</p> <p>6 the Versa valve on Trailer 6775 in 2013 did anything</p> <p>7 else have to be connected to the Versa valve?</p> <p>8 A Yes. The solenoid that activates the Versa</p> <p>9 valve to the open position via electricity has to be</p> <p>10 wired into the 4-way system of the -- the 4-way</p> <p>11 wiring system of the trailer.</p> <p>12 Q And is the solenoid that you just spoke</p> <p>13 about, is that a Versa product?</p> <p>14 A Yes.</p> <p>15 Q Okay. Does that solenoid come with the</p> <p>16 valve that was purchased August 1st, 2013?</p> <p>17 A Yes.</p> <p>18 Q All right. So you can correct me if I'm</p> <p>19 wrong. If I understand it correctly, you connect</p> <p>20 the 4-way plug to the solenoid -- is that</p> <p>21 correct? -- when you installed it in July 2013?</p> <p>22 A No. The 4-way wire comes from the tractor</p> <p>23 and it goes through all the trailers. And so by the</p> <p>24 time it gets to the last trailer, you still have the</p> <p>25 4-way wire running through the system, but there's</p>
<p style="text-align: right;">Page 63</p> <p>1 generally the gates would stay in a position they</p> <p>2 were.</p> <p>3 BY MS. SHREVE:</p> <p>4 Q Okay.</p> <p>5 A More likely if it's loaded than empty.</p> <p>6 Q Does MDB have to connect the Versa valve --</p> <p>7 so we'll talk specifically the 6775 trailer -- did</p> <p>8 MDB have to connect the Versa valve to anything in</p> <p>9 order for it to be used on the trailer?</p> <p>10 MR. BROWN: Object, foundation, vague as to</p> <p>11 time.</p> <p>12 BY MS. SHREVE:</p> <p>13 Q After the July 2013 incident when MDB</p> <p>14 installed the new Versa valve onto the Trailer 6775,</p> <p>15 did MDB have to connect the Versa valve to anything</p> <p>16 in order for it to be used in the trailer?</p> <p>17 A Yes. The Versa valve would have to be</p> <p>18 attached to the trailer, bolted to the trailer. And</p> <p>19 then the air supply line that comes out of the tank</p> <p>20 and goes to the filter and the oiler then goes to</p> <p>21 the input of the Versa valve.</p> <p>22 Then the hoses going to the open and closed</p> <p>23 positions on each cylinder come out of the Versa</p> <p>24 solve, so the hoses would have to be attached to the</p> <p>25 Versa valve in order for it to work.</p>	<p style="text-align: right;">Page 65</p> <p>1 only one wire hot in the ground wire in that</p> <p>2 particular 4-way in the back trailer. So there's</p> <p>3 two wires that could connect to the solenoid --</p> <p>4 Q Okay.</p> <p>5 A -- the hot wire and the ground wire.</p> <p>6 Q So when installing the Versa valve on</p> <p>7 Trailer 6775 in 2013, in order to install it to the</p> <p>8 trailer, it was bolted down and then five hoses and</p> <p>9 two wires were connected to the Versa product.</p> <p>10 A That's correct.</p> <p>11 Q Okay. Now, you said that there's two wires</p> <p>12 connected to the last trailer. And it made it seem</p> <p>13 like -- are there more wires that are connected to</p> <p>14 the first two trailers, the solenoid in the first</p> <p>15 two trailers?</p> <p>16 A No. To clarify that, the 4-way wire has</p> <p>17 three hot wires -- or hot wires when activated by</p> <p>18 the dump switches in the tractor and one ground</p> <p>19 wire.</p> <p>20 So one of those three hot wires goes to</p> <p>21 each trailer, so as it goes down the trailer -- and</p> <p>22 the front trailer would be, say, the green wire and</p> <p>23 the 4-way system would go to that solenoid. The</p> <p>24 next one would be the yellow wire and the next one</p> <p>25 would be the red wire, whatever wiring color</p>

<p style="text-align: right;">Page 66</p> <p>1 designation that we use.</p> <p>2 Q Okay. So I'm just trying to make sure I</p> <p>3 understand this correctly from how you're explaining</p> <p>4 it. So there's a 4-way wire that comes from the</p> <p>5 truck. Is that correct?</p> <p>6 A Correct.</p> <p>7 Q And it has three hot, one for each, and one</p> <p>8 of them is for each trailer, correct?</p> <p>9 A Correct.</p> <p>10 Q Do all of those wires travel through each</p> <p>11 trailer?</p> <p>12 A Yes. They would have to to get from --</p> <p>13 yes. Yes.</p> <p>14 Q Okay. So when you detach a trailer, what</p> <p>15 happens to that wire if you -- let me rephrase that.</p> <p>16 When you detach Trailer 6775 from 6774,</p> <p>17 what happens with the wire that is going to the</p> <p>18 Versa valve on 6775?</p> <p>19 A It stays with 6775. It's hardwired from</p> <p>20 the trailer. The 4-way wire in that trailer into</p> <p>21 the solenoid where it goes out through the front of</p> <p>22 the trailer, down the draw bar, there's a plug on</p> <p>23 the end of that that gets unplugged from the back of</p> <p>24 6774 and that stays with the trailer. That all</p> <p>25 stays with 6775.</p>	<p style="text-align: right;">Page 68</p> <p>1 A Correct.</p> <p>2 Q Okay. And those wires that are in the -- I</p> <p>3 don't know if it's in or on, which one it should be</p> <p>4 -- but in or on the truck, are those Versa Valves'</p> <p>5 products?</p> <p>6 A No.</p> <p>7 Q Earlier you testified that there was a</p> <p>8 rewiring of Truck 5694 after the July 2013 incident.</p> <p>9 Before MDB rewires the truck and trailers,</p> <p>10 is that wiring what is on truck and Trailer 5693 in</p> <p>11 July 2014? Do you need me to re-word it? That was</p> <p>12 terrible.</p> <p>13 A I think I know what you're saying. Are you</p> <p>14 saying is the wiring configuration of 5693 the same</p> <p>15 or similar to 5694's wiring prior to the 2013</p> <p>16 incident?</p> <p>17 Q Yes. How the wiring was before MDB rewired</p> <p>18 it in 2013 --</p> <p>19 A Yes.</p> <p>20 Q -- is that wiring the wiring that is</p> <p>21 consistent with Truck 5693 or is it the post-wiring</p> <p>22 -- the rewiring MDB did that's on Truck 5693?</p> <p>23 MR. BROWN: I'm going to object. Vague.</p> <p>24 It may only be vague to me, but I'm lost.</p> <p>25 THE WITNESS: I think I know what you're</p>
<p style="text-align: right;">Page 67</p> <p>1 Q Okay. Are the five hoses that are</p> <p>2 connected to the Versa valve, are they Versa valve's</p> <p>3 products?</p> <p>4 A I highly doubt it.</p> <p>5 Q Did those five hoses come with the purchase</p> <p>6 of the Versa valve on August 1st, 2013?</p> <p>7 A No.</p> <p>8 Q The two wires that are attached to the</p> <p>9 Versa valve, are those Versa product? Are they</p> <p>10 owned by -- do you know if they manufactured those</p> <p>11 wires?</p> <p>12 A I don't know if they manufacture them but</p> <p>13 they came with the valve, yes.</p> <p>14 Q Okay. So the two wires that connect --</p> <p>15 that go through the truck --</p> <p>16 A Oh, no. I'm sorry.</p> <p>17 Q Okay.</p> <p>18 A There's two -- there's a pigtail of two</p> <p>19 wires coming off the solenoid when you buy it.</p> <p>20 Q Okay.</p> <p>21 A And when you splice that into our wiring,</p> <p>22 that's where it becomes our wiring at that point.</p> <p>23 Q Okay. So there's two wires on the Versa</p> <p>24 valve that are attached to the wires that are on the</p> <p>25 truck or in the truck.</p>	<p style="text-align: right;">Page 69</p> <p>1 getting at. Truck 5694, I don't believe, was ever</p> <p>2 -- I mean, sorry. Truck 5693, I don't believe, was</p> <p>3 ever rewired. So the wiring on Truck 5694 prior to</p> <p>4 the rewiring after the first incident in July of</p> <p>5 2013 would have been similar to the current wiring</p> <p>6 on Truck 5693.</p> <p>7 But, you know, no truck is gonna be</p> <p>8 identical the way they're wired but there is no</p> <p>9 master switch in 5693 so it would be similar to</p> <p>10 that, yes.</p> <p>11 BY MS. SHREVE:</p> <p>12 Q You said no wiring would be identical.</p> <p>13 Why is that?</p> <p>14 A Well, you used to be able to order trucks</p> <p>15 from the factory with dump switches, and I don't</p> <p>16 know that you can anymore -- no, I think you can.</p> <p>17 You can still get them from the factory with dump</p> <p>18 switches.</p> <p>19 So some trucks come from the factory with</p> <p>20 dump switches already installed as an option and</p> <p>21 some trucks -- well, other trucks that weren't</p> <p>22 necessarily intended to haul bottom dumps and</p> <p>23 somebody would retrofit them with switches for</p> <p>24 bottom dumps. And so depending on where you</p> <p>25 acquired the truck from and if you got it new or</p>

<p style="text-align: right;">Page 70</p> <p>1 used and who originally did the wiring, it could be 2 slightly different.</p> <p>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.</p> <p>9 BY MS. SHREVE:</p> <p>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?</p> <p>14 A Yes, that is correct.</p> <p>15 Q Okay. And where does that electricity come 16 from in activating it if you are activating it 17 electrically?</p> <p>18 MR. BROWN: I'll object, foundation.</p> <p>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.</p> <p>24 BY MS. SHREVE:</p> <p>25 Q So for Trailer 6775 the only way for</p>	<p style="text-align: right;">Page 72</p> <p>1 BY MS. SHREVE:</p> <p>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?</p> <p>6 MR. BROWN: I'm going to -- go ahead.</p> <p>7 THE WITNESS: Can you please clarify when 8 you say "attached to the trailer"? You're talking 9 attached to the trailer wiring?</p> <p>10 BY MR. SHREVE:</p> <p>11 Q The trailer wiring, yes.</p> <p>12 A That would be correct, yes. It could not, 13 not from the tractor, no.</p> <p>14 Q You said "not from the tractor."</p> <p>15 Yesterday you testified that MDB shares a 16 shop with Western Nevada Transport since July 2014. 17 Is that correct?</p> <p>18 A I believe I said --</p> <p>19 Q I'm sorry. January 2014.</p> <p>20 A Yes, that is correct.</p> <p>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?</p> <p>25 A That would have been prior to this.</p>
<p style="text-align: right;">Page 71</p> <p>1 electricity to get to the Versa valve is from 2 activating the switch?</p> <p>3 MR. BROWN: I'm gonna object, lack of 4 foundation, beyond the scope. You're asking for an 5 expert opinion.</p> <p>6 THE WITNESS: I can actually answer that 7 question.</p> <p>8 BY MS. SHREVE:</p> <p>9 Q I'm going to reask it. When MDB was 10 installing -- strike that. I'll let you answer my 11 previous question.</p> <p>12 A The answer to that question is no, not 13 necessarily. That's the \$64,000 question.</p> <p>14 Q Okay. How else can electricity activate 15 the Versa valve that you're aware of?</p> <p>16 MR. BROWN: Objection, foundation, calls 17 for expert opinion.</p> <p>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.</p> <p>25</p>	<p style="text-align: right;">Page 73</p> <p>1 Q So no?</p> <p>2 A Pardon?</p> <p>3 Q So is that a "no"?</p> <p>4 A We didn't share the shop with them at that 5 particular time, so no.</p> <p>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.</p> <p>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?</p> <p>13 A Yes.</p> <p>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?</p> <p>17 MR. BROWN: Calls for speculation, 18 foundation.</p> <p>19 BY MS. SHREVE:</p> <p>20 Q That you're aware of, that you have 21 knowledge of.</p> <p>22 A So the question is, Can it be activated 23 electrically if they're not hooked to the trailer?</p> <p>24 Q No. The question is if the two wires on 25 the MDB valve are not connected to the two wires in</p>

<p style="text-align: right;">Page 74</p> <p>1 the truck, what are the ways the valve can be 2 activated?</p> <p>3 MR. BROWN: Object, asked and answered.</p> <p>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.</p> <p>9 BY MS. SHREVE:</p> <p>10 Q Okay. Now I'm going to Exhibit 17. This 11 is the Driver/Vehicle Inspection Report.</p> <p>12 Based on this inspection report, would 13 there be a work order for this?</p> <p>14 A Are you talking about any --</p> <p>15 Q Sorry. The first page in the Exhibit 17 16 dated 8/19/2015. This is for Tractor 5694 and 17 Trailer 6775.</p> <p>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.</p> <p>22 Q No. Go ahead.</p> <p>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</p>	<p style="text-align: right;">Page 76</p> <p>1 produced there was not a work order for this event 2 or this day --</p> <p>3 A Okay.</p> <p>4 Q -- so I'm just trying to make sure that we 5 have all the work orders --</p> <p>6 A Correct.</p> <p>7 Q -- since it's my understanding you don't 8 keep all of these Driver/Vehicle Inspection Reports.</p> <p>9 A Not past a certain time.</p> <p>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.</p> <p>13 Did I understand that correctly?</p> <p>14 A Yes, I believe so. I might not have been 15 there that day and ...</p> <p>16 Q And what makes you believe that you think 17 this occurred?</p> <p>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.</p> <p>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</p>
<p style="text-align: right;">Page 75</p> <p>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.</p> <p>5 Q But this specific one, is this a minor 6 instance that a work order would not be done on?</p> <p>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.</p> <p>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.</p> <p>18 Is that correct?</p> <p>19 A It's possible, yeah.</p> <p>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?</p> <p>24 A No.</p> <p>25 Q The reason I ask that is what has been</p>	<p style="text-align: right;">Page 77</p> <p>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.</p> <p>4 Q So you said you saw highway patrol come and 5 do an investigation in the yard following the 2013 6 incident.</p> <p>7 A That is correct.</p> <p>8 Q Did this occur on the day of the 2013 9 incident?</p> <p>10 A I believe it was the next day.</p> <p>11 Q Okay. So were you employed with MDB at 12 that time?</p> <p>13 A No. But I was around.</p> <p>14 Q Okay. And why were you around?</p> <p>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.</p> <p>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.</p>

<p style="text-align: right;">Page 78</p> <p>1 Q Okay. And do you know if the highway 2 patrol following their investigation provided MDB 3 with any paperwork?</p> <p>4 A I would imagine they would have.</p> <p>5 Q Okay. And what would MDB have done with 6 that paperwork?</p> <p>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.</p> <p>10 Q Okay, thank you. Yesterday you testified 11 that you keep handwritten notes -- correct? -- 12 maintenance notes. Sorry.</p> <p>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.</p> <p>19 Q And does Pat do the same thing as you?</p> <p>20 A Oh, yeah.</p> <p>21 Q Do you know if Pat keeps his handwritten, I 22 guess --</p> <p>23 A I know that he does not.</p> <p>24 Q Okay. Are the work orders filled out after 25 the work is complete?</p>	<p style="text-align: right;">Page 80</p> <p>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.</p> <p>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?</p> <p>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.</p> <p>13 Q Okay. Can we go to Exhibit 21, please.</p> <p>14 A Okay.</p> <p>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.</p> <p>18 A Are we talking about Exhibit MDB 196?</p> <p>19 Q Oh, strike that. Go to MDB 205. I believe 20 that's where it was spoken about. Sorry about that.</p> <p>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?</p>
<p style="text-align: right;">Page 79</p> <p>1 A Yes.</p> <p>2 Q Okay.</p> <p>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 --</p> <p>9 Q Okay.</p> <p>10 A -- but most of the time it's filled out 11 after the fact.</p> <p>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?</p> <p>17 A Which one?</p> <p>18 Q Oh, I'm sorry. MDB 000240. Sorry.</p> <p>19 A Yes, I did.</p> <p>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?</p> <p>24 A I think what he told me was that it must 25 have been something to that effect, that he must</p>	<p style="text-align: right;">Page 81</p> <p>1 A I would imagine that's the original 2 symptom, yes.</p> <p>3 Q Okay. And if that was the symptom, can 4 Trailer 6775 still be activated by --</p> <p>5 A Yeah.</p> <p>6 Q -- its own switch?</p> <p>7 A Yes, it could be. Not necessarily but it 8 could be, yes.</p> <p>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.</p> <p>12 A Absolutely, yes.</p> <p>13 Q Is the wiring different for a truck that 14 pulls two trailers versus a truck that pulls three 15 trailers?</p> <p>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.</p> <p>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?</p> <p>25 A No. No. This is the work order that there</p>

<p style="text-align: right;">Page 86</p> <p>1 comes off the batteries, which goes, I think -- I 2 believe it goes to a circuit breaker on the frame 3 rail.</p> <p>4 Q Okay.</p> <p>5 A That's all factory wiring, yeah.</p> <p>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?</p> <p>9 MR. BROWN: Objection, vague.</p> <p>10 BY MS. SHREVE:</p> <p>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.</p> <p>16 A Is that the one that's July 26th in that 17 exhibit?</p> <p>18 Q So this would be Exhibit 15. It's the 19 safety measurement system.</p> <p>20 A Oh, yes. And what date is there on that?</p> <p>21 MR. BROWN: Here (indicating).</p> <p>22 BY MS. SHREVE:</p> <p>23 Q So in this report it lists dates of 24 violations for the truck.</p> <p>25 A Okay.</p>	<p style="text-align: right;">Page 88</p> <p>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?</p> <p>7 MR. BROWN: Objection, foundation, 8 speculation.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>22 BY MS. SHREVE:</p> <p>23 Q Okay. Would you agree that same truck had 24 a report done on July 30th, 2013, and July 31st, 25 2013?</p>
<p style="text-align: right;">Page 87</p> <p>1 MR. BROWN: Can you say what page you're 2 looking at for the record.</p> <p>3 MS. SHREVE: Sorry. MDB 008.</p> <p>4 THE WITNESS: Okay.</p> <p>5 BY MS. SHREVE:</p> <p>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.</p> <p>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.</p> <p>13 A Yes. They're inspection report numbers. 14 They're not necessarily violations.</p> <p>15 Q Right. Sorry.</p> <p>16 A But --</p> <p>17 Q Would they have an inspection report done 18 on that July 2013 incident?</p> <p>19 A Yes. Any time the highway patrol stops 20 you, they give you one of those sheets.</p> <p>21 Q Okay.</p> <p>22 A I shouldn't say "every time," but I would 23 imagine they do --</p> <p>24 Q Okay.</p> <p>25 A -- most times.</p>	<p style="text-align: right;">Page 89</p> <p>1 A Yes, it would have had one done. Yes.</p> <p>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?</p> <p>5 A July 25th, 2013.</p> <p>6 Q This is one of the dates listed on the 7 report that we just spoke about, correct?</p> <p>8 A Yes.</p> <p>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?</p> <p>12 A Can somebody refresh my memory about 13 something? I don't know if anybody knows this 14 answer.</p> <p>15 Q Sure.</p> <p>16 A On the July 2013 incident was rock dumped 17 that day or sand? Does anybody -- I don't know if--</p> <p>18 MR. BROWN: I don't think anyone at this 19 table can help.</p> <p>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.</p> <p>24 BY MS. SHREVE:</p> <p>25 Q Now, if you turn that page to MDB 475, does</p>

<p style="text-align: right;">Page 90</p> <p>1 this -- it looks like it was for 7/25/2013 for the 2 subject truck and trailer.</p> <p>3 Does this indicate whether or not this was 4 the day that the trailer had a dump?</p> <p>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.</p> <p>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?</p> <p>14 A You're referring to the scale ticket being 15 changed or whatnot?</p> <p>16 Q Yes.</p> <p>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.</p> <p>23 Q Okay. If you go back to Exhibit 24 and go 24 to MDB 073 --</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 92</p> <p>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.</p> <p>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.</p> <p>8 Q That was going to be my next question, is 9 it possible that the date --</p> <p>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.</p> <p>13 Q Okay. Now, you're saying it's possible 14 that the date could be incorrect.</p> <p>15 Could the miles be incorrect as well, then?</p> <p>16 A No.</p> <p>17 Q Okay. So if you go to Exhibit 2 --</p> <p>18 A So you're putting your detective skills to 19 work here on the mileage, I'm assuming.</p> <p>20 Q I am. 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.</p> <p>24 A Right, that's good.</p> <p>25 Q Okay. So if you go to MDB 471, what's the</p>
<p style="text-align: right;">Page 91</p> <p>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?</p> <p>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?</p> <p>12 A I'm not -- are you saying that I thought 13 this work order originally was from before?</p> <p>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.</p> <p>18 A Yes.</p> <p>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.</p> <p>23 So what would be the reasoning this would 24 have been done?</p> <p>25 A To my knowledge -- okay. I know for</p>	<p style="text-align: right;">Page 93</p> <p>1 date on this daily driver sheet?</p> <p>2 A Oh, the date on this is July 29th, 2013.</p> <p>3 Q Okay. And what is the starting odometer on 4 this log sheet?</p> <p>5 A 396,989 miles.</p> <p>6 Q Now, is that the same mileage that is 7 listed on Exhibit 24, MDB 073?</p> <p>8 A Yes, it is.</p> <p>9 Q Okay. I'll represent to you there is 10 not -- a driver's daily sheet for July 26th was not 11 produced.</p> <p>12 Now, would that be because the truck was in 13 service that day, if that date of July 26th, 2013, 14 is correct?</p> <p>15 A The truck was not in service?</p> <p>16 Q Correct.</p> <p>17 A That is correct.</p> <p>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?</p> <p>22 A I'm sorry. I was thinking.</p> <p>23 Q It's fine. So for Exhibit 24, MDB 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</p>

<p style="text-align: right;">Page 94</p> <p>1 starting odometer in Exhibit 2, MDB 471, for 2 July 29th, 2013?</p> <p>3 A That would be the assumption I would make, 4 yes.</p> <p>5 Q Okay.</p> <p>6 A And as far as a July 26th truck report -- 7 or daily driver sheet missing?</p> <p>8 Q And would that be because it was actually 9 getting maintenance performed on it that day?</p> <p>10 A Well, no. I would say there's one missing 11 because there's a gap in the mileage.</p> <p>12 Q Okay.</p> <p>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?</p> <p>16 Q It was for the truck and the trailer.</p> <p>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.</p> <p>21 Q Okay. Would you drive the truck on the day 22 it is getting serviced?</p> <p>23 A Oh, yes, definitely.</p> <p>24 Q Okay. But it is possible that that date of 25 July 26th is correct, then?</p>	<p style="text-align: right;">Page 96</p> <p>1 extent that it would call for any type of 2 attorney-client privilege that's occurred since the 3 commencement of the litigation.</p> <p>4 You understand that?</p> <p>5 THE WITNESS: Not exactly, but --</p> <p>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.</p> <p>10 THE WITNESS: Okay.</p> <p>11 BY MS. SHREVE:</p> <p>12 Q So in July 2013, right after the incident 13 and your investigation into it --</p> <p>14 A Yes.</p> <p>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?</p> <p>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 ...</p> <p>25 Q Okay.</p>
<p style="text-align: right;">Page 95</p> <p>1 A Yes.</p> <p>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?</p> <p>7 A No. I don't know why they wouldn't have. 8 Now --</p> <p>9 Q Do you know why there would have been a 10 rewiring of the gate switch that day?</p> <p>11 A I'm sorry. Rewiring the switch on 12 July 26th?</p> <p>13 Q Yes. If it occurred before the July 2013 14 incident.</p> <p>15 A No. There would be no reason for it.</p> <p>16 Q You're not aware of any reason?</p> <p>17 A No.</p> <p>18 Q Okay. After the July 2013 incident, did 19 MDB in their investigation into it find any defect 20 with the Versa valve?</p> <p>21 MR. BROWN: Can you read the question back?</p> <p>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?"</p> <p>25 MR. BROWN: I'm going to object to the</p>	<p style="text-align: right;">Page 97</p> <p>1 A Yeah.</p> <p>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?</p> <p>8 MR. BROWN: Objection, foundation, 9 speculation.</p> <p>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.</p> <p>15 BY MS. SHREVE:</p> <p>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?</p> <p>21 A No. That remained in service until such 22 time litigation started.</p> <p>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</p>

<p style="text-align: right;">Page 98</p> <p>1 after -- did MDB discover any design defect with the 2 Versa valve?</p> <p>3 MR. BROWN: Objection, foundation.</p> <p>4 THE WITNESS: No. But, once again, we 5 weren't looking for any sort of design defects or 6 functionality defects. It worked.</p> <p>7 BY MS. SHREVE:</p> <p>8 Q Okay.</p> <p>9 A To the best of our knowledge it still 10 worked.</p> <p>11 Q So it worked as you expected it to work, 12 then?</p> <p>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.</p> <p>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.</p> <p>22 Did MDB in their investigation find any 23 defect with the Versa valve?</p> <p>24 A No.</p> <p>25 Q Okay. And the same goes for the Trailer</p>	<p style="text-align: right;">Page 100</p> <p>1 up a little bit, please.</p> <p>2 MR. BUNDICK: Sure. Let me take you off 3 speaker phone.</p> <p>4 Hello?</p> <p>5 MS. WOELFEL: Go ahead.</p> <p>6 BY MR. BUNDICK:</p> <p>7 Q Mr. Palmer, in your opinion how is my 8 client Modern Group responsible for the accident 9 that occurred in July 2013?</p> <p>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.</p> <p>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.</p> <p>18 THE WITNESS: If you're asking for my 19 opinion, I don't really --</p> <p>20 BY MR. BUNDICK:</p> <p>21 Q Do you have knowledge outside of what you 22 discussed with your attorney?</p> <p>23 A Pardon?</p> <p>24 MR. BROWN: We can't hear you.</p> <p>25 MS. SHREVE: If you could talk slower.</p>
<p style="text-align: right;">Page 99</p> <p>1 6778. After the July 2014 incident did MDB find any 2 defect in the design of the Versa valve after their 3 investigation?</p> <p>4 MR. BROWN: Objection, foundation.</p> <p>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.</p> <p>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.</p> <p>12 MS. WOELFEL: No, I have no other followup. 13 I'm good.</p> <p>14 MS. SHREVE: Does anyone on the phone have 15 any followup questions?</p> <p>16 MS. QUIGLEY: No.</p> <p>17 MR. BUNDICK: Yeah, I have one.</p> <p>18 FURTHER EXAMINATION</p> <p>19 BY MS. BUNDICK:</p> <p>20 Q Mr. Palmer, this is Jacob Bundick and I 21 represent Modern Group and Dragon Ltd.</p> <p>22 In your opinion how is Modern responsible 23 for the --</p> <p>24 MS. WOELFEL: The chiropractor couldn't 25 hear you. Would you be able to talk slower and talk</p>	<p style="text-align: right;">Page 101</p> <p>1 BY MR. BUNDICK:</p> <p>2 Q Mr. Palmer, can you answer the question 3 without divulging attorney-client privilege 4 information?</p> <p>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.</p> <p>8 Q You do not have an opinion. Thank you.</p> <p>9 MR. BUNDICK: I have no further questions.</p> <p>10 MR. BROWN: I have no questions.</p> <p>11 MS. WOELFEL: We've completed this witness' 12 deposition. Thank you for your time.</p> <p>13 THE WITNESS: Thank you.</p> <p>14 MR. BROWN: I know you don't send 15 originals, but I'll take the copy for signature.</p> <p>16 MS. WOELFEL: We've all ordered copies of 17 the transcript.</p> <p>18 THE REPORTER: Counsel on the phone, are 19 you ordering copies of the transcript, or no?</p> <p>20 MS. QUIGLEY: Yes, I'll take an E-tran.</p> <p>21 MR. BUNDICK: Yes, for E-Transcript.</p> <p>22 (Whereupon, deposition was concluded at 23 12:19 p.m.) 24 -o0o- 25</p>

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<p>1 STATE OF NEVADA)</p> <p style="padding-left: 100px;">) ss.</p> <p>2 COUNTY OF WASHOE)</p> <p>3</p> <p>4 I, CHRISTINA AMUNDSON, a duly commissioned and</p> <p>5 licensed court reporter, Washoe County, State of</p> <p>6 Nevada, do hereby certify:</p> <p>7 That I reported the taking of the deposition of</p> <p>8 SCOT ALLEN PALMER, commencing on Wednesday, March 8,</p> <p>9 2017, at 9:30 a.m.</p> <p>10 That prior to being examined, the witness was</p> <p>11 duly sworn to testify to the truth. That I</p> <p>12 thereafter transcribed my said shorthand notes into</p> <p>13 typewriting and that the typewritten transcript of</p> <p>14 said deposition is a complete, true, and accurate</p> <p>15 transcription of said shorthand notes.</p> <p>16 I further certify that I am not a relative or</p> <p>17 employee of an attorney or counsel of any of the</p> <p>18 parties, nor a relative or employee of an attorney</p> <p>19 or counsel involved in said action, nor a person</p> <p>20 financially interested in the action.</p> <p>21</p> <p>22 DATED: At Reno, Nevada, this 14th day of March</p> <p>23 2017. <i>Christina Amundson</i></p> <p>24 CHRISTINA AMUNDSON CCR #641</p> <p>25</p>	<p style="text-align: center;">ERRATA SHEET</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;">Page</th> <th style="width: 5%;">Line</th> <th style="width: 40%;">Should read:</th> <th style="width: 50%;">Reason for Change:</th> </tr> </thead> <tbody> <tr><td>1</td><td></td><td></td><td></td></tr> <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></td> <td colspan="2" style="text-align: center;">Signature of Witness</td> </tr> <tr> <td>20</td> <td></td> <td colspan="2"></td> </tr> <tr> <td>21</td> <td></td> <td colspan="2" 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:	1				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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<p style="text-align: right;">Page 103</p> <p style="text-align: center;">ERRATA SHEET</p> <p>2</p> <p>3</p> <p>4</p> <p>5 I declare under penalty of perjury that I have read the</p> <p>6 foregoing _____ pages of my testimony, taken</p> <p>7 on _____ (date) at</p> <p>8 _____ (city), _____ (state),</p> <p>9</p> <p>10 and that the same is a true record of the testimony given</p> <p>11 by me at the time and place herein</p> <p>12 above set forth, with the following exceptions:</p> <p>13</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;">Page</th> <th style="width: 5%;">Line</th> <th style="width: 40%;">Should read:</th> <th style="width: 50%;">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

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

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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

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<p>1 A P P E A R A N C E S</p> <p>2 For the Plaintiff:</p> <p>3 (Appearing telephonically)</p> <p>4 BRADLEY, DRENDEL & JEANNEY</p> <p>5 BY: SARAH MARIE QUIGLEY, ESQ.</p> <p>6 6900 S. McCarran Blvd, Ste. 2000</p> <p>7 Reno, Nevada 89509</p> <p>8 775-335-9999</p> <p>9 Fax 775-335-9993</p> <p>10 Sarahquigley@bdjlaw.com</p> <p>11 For MDB TRUCKING, LLC, & DANIEL KOSKI:</p> <p>12 THORNDAL, ARMSTRONG, DELK, BALKENBUSH & EISINGER</p> <p>13 BY: BRIAN M. BROWN, ESQ.</p> <p>14 AND THIERRY BARKLEY, ESQ. (a.m. session)</p> <p>15 6590 S. McCarran Blvd., Suite B</p> <p>16 Reno, Nevada 89509-6112</p> <p>17 775-786-2882</p> <p>18 Fax 775-786-8004</p> <p>19 Bmb@thorndal.com</p> <p>20 For RMC LAMAR HOLDINGS, INC.:</p> <p>21 MCDONALD CARANO WILSON LLP</p> <p>22 BY: JESSICA L. WOELFEL, ESQ.</p> <p>23 100 W. Liberty Street, Tenth Floor</p> <p>24 Reno, Nevada 89501</p> <p>25 775-788-2000</p> <p>775-788-2020</p> <p>Jwoelfel@mcwlaw.com</p> <p>For VERSA PRODUCTS COMPANY, INC.:</p> <p>LEWIS, BRISBOIS, BISGAARD & SMITH, LLP</p> <p>BY: PAIGE S. SHREVE, ESQ.</p> <p>6385 South Rainbow Blvd., Suite 600</p> <p>Las Vegas, Nevada 89118</p> <p>702-898-3383</p> <p>Fax 702-893-3789</p> <p>Paige.Shreve@lewisbrisbois.com</p>	<p>1 INDEX</p> <p>2 EXAMINATION PAGE</p> <p>3 SCOTT ALLEN PALMER 5</p> <p>4 EXAMINATION BY MS. SHREVE 5</p> <p>5 EXAMINATION BY MS. WOELFEL 138</p> <p>6 EXHIBITS</p> <p>7 DESCRIPTION PAGE</p> <p>8 NUMBER</p> <p>9 EXHIBIT 8 Work orders, Equipment No. 5693 6</p> <p>10 EXHIBIT 9 Work orders, Equipment No. 6777 9</p> <p>11 EXHIBIT 10 Work orders, Equipment No. 6778 14</p> <p>12 EXHIBIT 11 Invoice, ENGS Motor Truck Co. 53</p> <p>13 EXHIBIT 12 Warnings/Versa Products 62</p> <p>14 EXHIBIT 13 Invoice, Western Nevada Transport 67</p> <p>15 EXHIBIT 14 Equipment lease 68</p> <p>16 EXHIBIT 15 SMS inspection reports 91</p> <p>17 EXHIBIT 16 Koski employment file 105</p> <p>18 EXHIBIT 17 Driver's vehicle inspection reports 132</p> <p>19 EXHIBIT 18 Inspector qualifications, 136</p> <p>20 certification</p> <p>21 EXHIBIT 19 Work orders, Equipment 6777, MDB 388, 178</p> <p>22 394, 400</p> <p>23 EXHIBIT 20 Work orders, Equipment No. 6775 185</p> <p>24 Note: Original Exhibits retained in binder at Sunshine Litigation</p> <p>25 Services.</p>
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<p>1 For THE MODERN GROUP AND DRAGON ESP, LTD.:</p> <p>2 (Appearing telephonically)</p> <p>3 GREENBERG TRAUIG, LLP</p> <p>4 BY: JACOB D. BUNDICK, ESQ.</p> <p>5 3373 Howard Hughes Parkway, Ste. 400 N</p> <p>6 Las Vegas, Nevada 89169</p> <p>7 702-792-9002</p> <p>8 Bundickj@gtlaw.com</p> <p>9 Also present:</p> <p>10 DANIEL KOSKI</p> <p>11 (a.m. session)</p> <p>12 BILL CARTER</p>	<p>1 BE IT REMEMBERED that on Tuesday, March 7, 2017, at the hour</p> <p>2 of 9:45 a.m. of said day, at the offices of McDonald Carano</p> <p>3 Wilson, 100 W. Liberty St., 10th Floor, Reno, Nevada, before me,</p> <p>4 CONSTANCE S. EISENBERG, a Nevada Certified Court Reporter,</p> <p>5 personally appeared SCOTT ALLEN PALMER, who was by me previously</p> <p>6 duly sworn, and was examined as a witness in said cause.</p> <p>7 -o0o-</p> <p>8</p> <p>9 SCOTT ALLEN PALMER</p> <p>10 called as a witness, having been previously</p> <p>11 duly sworn, testified as follows:</p> <p>12</p> <p>13 MS. SHREVE: We can go on the record.</p> <p>14 Good morning, Mr. Palmer.</p> <p>15 THE WITNESS: Good morning.</p> <p>16 MS. SHREVE: Do you understand you are still under oath</p> <p>17 today?</p> <p>18 THE WITNESS: Yes.</p> <p>19</p> <p>20 EXAMINATION</p> <p>21 BY MS. SHREVE:</p> <p>22 Q Yesterday, I gave you some general rules of a</p> <p>23 deposition. Do you remember those rules?</p> <p>24 A Yes.</p> <p>25 Q Do you need me to repeat those rules or go over them</p>

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

<p style="text-align: right;">Page 10</p> <p>1 handle loose, and air spring action on lever not working</p> <p>2 correctly.</p> <p>3 Remove Versa valve, disassemble, found accumulator rubber</p> <p>4 bad. Swapped accumulator with one from another valve. Clean the</p> <p>5 inside of valve and accumulator, oil with air tool and reassemble.</p> <p>6 Also adjust handle not to tighten. Test. All okay.</p> <p>7 Q Okay. On this one, it says that you removed and</p> <p>8 disassembled the Versa valve, correct?</p> <p>9 A Correct.</p> <p>10 Q And it says you swapped the accumulator with another</p> <p>11 valve?</p> <p>12 A The rubber inside the accumulator.</p> <p>13 Q Okay. And do you know which valve you switched it out</p> <p>14 with?</p> <p>15 A No.</p> <p>16 Q Do you keep records of which one you would have switched</p> <p>17 it out with?</p> <p>18 A No. It would have been a valve that would have been</p> <p>19 removed. It's probably a used valve that had been sitting around</p> <p>20 in the shop, might not have even been our valve.</p> <p>21 Q Would it have been a Versa valve?</p> <p>22 A Oh, absolutely, yeah.</p> <p>23 Q When you take valves, Versa valves, out of your -- out</p> <p>24 of a trailer, what do you do with them? Do you keep them, or do</p> <p>25 you throw them away?</p>	<p style="text-align: right;">Page 12</p> <p>1 Q Do you recall seeing any other Versa valve around other</p> <p>2 than the one that was taken off of 6775 from the -- around</p> <p>3 August 2013?</p> <p>4 A Do I remember seeing any other valves around in our</p> <p>5 shop?</p> <p>6 Q Yes, that could have possibly been one that you would</p> <p>7 have used.</p> <p>8 A I don't recall. I don't think so.</p> <p>9 Q Okay. All right. I'm going to go to the next one. I'm</p> <p>10 going to come back later and ask some more on that one, but I'll</p> <p>11 move to the next work order, which is MOEMAINT 000321.</p> <p>12 Can you tell me the date completed on this one and what</p> <p>13 occurred.</p> <p>14 A December 1st, 2014; Equipment Number 6777 again.</p> <p>15 Troubleshoot gates not closing with switch. Found accumulator</p> <p>16 Versa valve not functioning. Replaced Versa valve.</p> <p>17 Okay. There's another one I must not have remembered.</p> <p>18 Q So would this be the same Versa valve that was in the</p> <p>19 previous work order we just spoke about, the MOEMAINT 315?</p> <p>20 A No, this would be the new Versa valve.</p> <p>21 Q So was the Versa valve, then, replaced -- because --</p> <p>22 sorry to go back -- strike that.</p> <p>23 To go back to the previous one, MOEMAINT 315, it does</p> <p>24 not appear that you actually replaced the Versa valve. It</p> <p>25 appears, from my understanding, that you did some maintenance on</p>
<p style="text-align: right;">Page 11</p> <p>1 A Well, we haven't had too many that we've taken off. In</p> <p>2 fact, this is actually contrary to what I said yesterday where we</p> <p>3 don't repair them. Apparently, I forgot about this.</p> <p>4 This is actually -- this accumulator valve is actually</p> <p>5 attached to the side of the Versa valve. So I guess I didn't</p> <p>6 think about it as being actually taking a Versa valve apart.</p> <p>7 But I guess it would be considered a part of the Versa</p> <p>8 valve. It's not part of the main spool of the Versa valve, in</p> <p>9 other words.</p> <p>10 Q How many Versa valves -- you just testified that you</p> <p>11 haven't taken many off. How many would you say you've taken off</p> <p>12 of trailers at MDB?</p> <p>13 A Other than the two that we took off for --</p> <p>14 Q Yes, other than the two that you took off -- that the</p> <p>15 experts took off for testing of the valve.</p> <p>16 A Yes, other than those, I don't think we took off more</p> <p>17 than one or two.</p> <p>18 Q Would you know which trailer you would have taken those</p> <p>19 valves off of?</p> <p>20 A I would say the only one that I know for sure of, since</p> <p>21 my time there, was the one taken off of 6775 and replaced with a</p> <p>22 new valve in October -- October -- I think it was August of 2013,</p> <p>23 that first incident.</p> <p>24 In fact, that might be the valve that I took the</p> <p>25 accumulator rubber out of, because we saved that valve.</p>	<p style="text-align: right;">Page 13</p> <p>1 it; is that correct?</p> <p>2 A That is correct, changed the rubber in the accumulator</p> <p>3 portion of the valve.</p> <p>4 Q So then on the MOEMAINT 321, before you replaced the</p> <p>5 Versa valve -- is that the same Versa valve --</p> <p>6 A Oh, yes, this -- I'm sorry. Yes. I would imagine that</p> <p>7 it probably still had a problem with it not -- not sealing</p> <p>8 correctly. So we just put a new Versa valve on it at that time.</p> <p>9 Q And it looks like this order was -- I know it says it</p> <p>10 was performed by Pat, but it was, I guess, maybe requested by you;</p> <p>11 is that correct?</p> <p>12 A Yes.</p> <p>13 Q Do you recall how you became aware of this issue?</p> <p>14 A I would have become aware of it from the driver or I</p> <p>15 might have been the driver. I would have to go back and look at</p> <p>16 the records to see who was driving the truck right before this</p> <p>17 date.</p> <p>18 That, either way, whether it was myself or another</p> <p>19 driver, a driver would have said the gates are opening with the</p> <p>20 switch, but they are not closing with the switch, which,</p> <p>21 generally, means the accumulator is not holding air.</p> <p>22 So seeing as how we already tried to fix it once, we</p> <p>23 just -- I told Pat just replace it, put a new valve on it.</p> <p>24 MS. SHREVE: Okay. All right. And I'm probably going</p> <p>25 to come back to these when I have additional questions, but for</p>

<p style="text-align: right;">Page 14</p> <p>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 MDEMSUP 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, MDEMSUP 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 --</p>	<p style="text-align: right;">Page 16</p> <p>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 MDB 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 MDB 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</p>
<p style="text-align: right;">Page 15</p> <p>1 A Yes. 2 Q -- that we talked about? 3 A Yes. 4 Q Let's go to the next one, MDEMAINT 000336. Can you 5 please 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 MDEMSUP 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?</p>	<p style="text-align: right;">Page 17</p> <p>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 MDB notify anyone from Versa about the incident that occurred? 10 A Not to my knowledge, no. 11 Q How about the subject incident on July 7th, did they 12 notify -- did MDB 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 MDB 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</p>

<p style="text-align: right;">Page 18</p> <p>1 truck that you were driving on the day of the subject incident, 2 did anyone from MDB, 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 MDB 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 MDB? 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</p>	<p style="text-align: right;">Page 20</p> <p>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?</p>
<p style="text-align: right;">Page 19</p> <p>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.</p>	<p style="text-align: right;">Page 21</p> <p>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</p>

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

<p style="text-align: right;">Page 26</p> <p>1 Q Okay. And when you said you called people, do you</p> <p>2 remember who you called?</p> <p>3 A No.</p> <p>4 Q Would they have been other trucking companies?</p> <p>5 A Yes, competitors.</p> <p>6 Q So other than the Internet searching and making phone</p> <p>7 calls to the competitors, did you do anything else in</p> <p>8 investigating?</p> <p>9 A No, I do not believe so.</p> <p>10 Pretty much after the 2014 incident, we pretty much gave</p> <p>11 up on figuring out why it opened. We put the gate locks in, and</p> <p>12 at that point, it becomes not an issue on why they opened, because</p> <p>13 they can't open now.</p> <p>14 So that would -- you know, so everything I did would</p> <p>15 have been prior to that, which would have been almost three years</p> <p>16 ago.</p> <p>17 So a lot of it is informal. Just when you talk to</p> <p>18 somebody, you know, initially, you say, hey, what are you guys</p> <p>19 doing, do you have any problems, you know. It's just informal.</p> <p>20 So I don't remember exactly what I would have talked</p> <p>21 about it to them about.</p> <p>22 Q Okay. So are you saying this investigation would have</p> <p>23 occurred before the 2014 incident. Is that what you were saying</p> <p>24 there?</p> <p>25 A No, it would have been after.</p>	<p style="text-align: right;">Page 28</p> <p>1 Q So no one specifically told you with certainty that that</p> <p>2 trailer had -- that the trailers had Versa valves on them, the</p> <p>3 ones that had --</p> <p>4 A I don't recall that, but I knew they were all Ranco</p> <p>5 trailers and I'm pretty sure all Ranco trailers have Versa valves.</p> <p>6 Q How do you know they were Ranco trailers?</p> <p>7 A Just because that's the type of trailers that these</p> <p>8 companies operate.</p> <p>9 Q Is Ranco the only type of trailer that --</p> <p>10 A Manufacture --</p> <p>11 Q -- that has the belly dump?</p> <p>12 A No.</p> <p>13 Q What are the other manufacturers, other than Ranco?</p> <p>14 A I'm sorry?</p> <p>15 Q Other than Ranco, what are the other manufacturers that</p> <p>16 the trailers could have been?</p> <p>17 A I can't even think of any other ones that these other</p> <p>18 competitors operate. Pretty much everybody runs Ranco in this</p> <p>19 area.</p> <p>20 Q And what are other valves other than Versa valves that</p> <p>21 could have been on --</p> <p>22 A I know Wabco makes a valve, but I haven't seen any of</p> <p>23 those in use since -- for 20 years, too much, you know. Many</p> <p>24 newer trailers don't usually come with those. And it is possible,</p> <p>25 but not likely.</p>
<p style="text-align: right;">Page 27</p> <p>1 Q Okay.</p> <p>2 A I don't know. I don't know exactly, you know, the</p> <p>3 timeline. It would have been before or after. It could have been</p> <p>4 either one. I just know it's been something that I've always been</p> <p>5 curious about.</p> <p>6 Q Okay. Did you do any investigation after the 2013</p> <p>7 incident?</p> <p>8 A Yes.</p> <p>9 Q Okay. What did you do after the 2013 incident?</p> <p>10 A Just talked to some of the people in the industry. I</p> <p>11 think that's probably when I called Versa.</p> <p>12 I don't know. I don't think anybody called Ranco. I</p> <p>13 don't really remember too much about it because I never really</p> <p>14 received any valuable information from anything I investigated.</p> <p>15 Q So you said you did not call Ranco. Is that --</p> <p>16 A I don't believe I did, no.</p> <p>17 Q Do you know if anybody else did?</p> <p>18 A I don't think so.</p> <p>19 Q Do you know for a fact that the unintentional openings</p> <p>20 on other trucks or other trailers occurred with a Versa valve?</p> <p>21 A Yes.</p> <p>22 Q And how do you know that?</p> <p>23 A Just common knowledge I suppose. All the trailers that</p> <p>24 are in this town, almost -- I would say 98 percent of them have</p> <p>25 Versa valves on them.</p>	<p style="text-align: right;">Page 29</p> <p>1 Q Do you know what models of the Versa valves were on all</p> <p>2 of the trailers that did unintentional dumping?</p> <p>3 A I can't say for certain, but I would be almost sure they</p> <p>4 are the exact valve that we have on our trailers.</p> <p>5 Q And why would you be almost sure about that?</p> <p>6 A Because that's what all the trailers in this area come</p> <p>7 with.</p> <p>8 I've been doing this for 30 years, and pretty much</p> <p>9 everybody runs the same valve.</p> <p>10 There's only two different configurations I've seen in</p> <p>11 this area for Versa, and they are both identical. One just</p> <p>12 happens to be a -- mounts on a manifold, and one is a direct</p> <p>13 mount.</p> <p>14 But they are the same -- same design valve. Just the</p> <p>15 way they mount, it's only two different.</p> <p>16 Q So in your 30 years, have you seen any other valve on a</p> <p>17 trailer than -- other than the Versa valve?</p> <p>18 A Yes.</p> <p>19 Q Do you see a lot of them, a lot of -- in your past 30</p> <p>20 years of experience, seen a lot of other valves, other than Versa</p> <p>21 valves on trailers?</p> <p>22 A Not a lot in percentage to the Versa valves, no, not in</p> <p>23 the last, say, 15 years.</p> <p>24 Q So what would be your estimate of the percentage that</p> <p>25 have Versa valves?</p>

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

<p style="text-align: right;">Page 34</p> <p>1 three?</p> <p>2 A The only one I have firsthand knowledge of that are</p> <p>3 three trailers are the ones that we dumped. Not that many people</p> <p>4 run three trailers.</p> <p>5 Q Do you ever run more than three trailers?</p> <p>6 A No.</p> <p>7 Q Okay. On the ones that had two trailers, do you know of</p> <p>8 whether it was the first or second trailer that was -- caused the</p> <p>9 dump?</p> <p>10 A No, I don't recall that, other than the one that I know</p> <p>11 that dumped in front of me on the highway was the rear trailer.</p> <p>12 Q Okay. So that's the only one that you actually saw that</p> <p>13 there was a Versa valve on?</p> <p>14 A Yes.</p> <p>15 Q Do you recall who manufactured that truck?</p> <p>16 A Peterbilt.</p> <p>17 Q Do you recall who manufactured that trailer?</p> <p>18 A Ranco, Ranch Manufacturing. I'm not sure. They changed</p> <p>19 names a few times, but Ranco trailer is what it is, yes.</p> <p>20 Q Do you recall when that was?</p> <p>21 A No, I do not.</p> <p>22 Q Do you recall if it was before 2013?</p> <p>23 A Yes, it was.</p> <p>24 I believe it was.</p> <p>25 Q So was it before you were employed with MDB?</p>	<p style="text-align: right;">Page 36</p> <p>1 I understand you are just trying to get a feel.</p> <p>2 But you can answer if you can. So go ahead.</p> <p>3 THE WITNESS: Are you specifically talking about trucks</p> <p>4 configured with bottom dumps?</p> <p>5 BY MS. SHREVE:</p> <p>6 Q Yes.</p> <p>7 A Yes, I would say there are hundreds of trucks in the</p> <p>8 Western Nevada, Northern Nevada area that travel hauling materials</p> <p>9 daily, five, six days a week.</p> <p>10 Q Okay. So in your past 35 years, there's been -- trucks</p> <p>11 are driving, approximately 100 a day, six days a week, for the</p> <p>12 past 35 years then, roughly?</p> <p>13 A That's a good -- yes.</p> <p>14 Q So I can't do math that quick, but it's a lot of trucks?</p> <p>15 A Yes.</p> <p>16 Q And with all of those belly dump trucks, you are only</p> <p>17 aware of 12 times that this occurred?</p> <p>18 A I wouldn't necessarily say that. You mean my personal</p> <p>19 knowledge of it?</p> <p>20 Q Yes, that you are aware of an unintentional belly dump</p> <p>21 opening.</p> <p>22 A Personally, yes, I only know of 10, 15, 20, something</p> <p>23 like that. But that's not -- yeah, that's all I personally would</p> <p>24 know about.</p> <p>25 Q Right. So your personal knowledge of the three that</p>
<p style="text-align: right;">Page 35</p> <p>1 A I think it was, yes.</p> <p>2 MS. SHREVE: Do you mind if we take a break for a second</p> <p>3 and go off the record.</p> <p>4 (A discussion was held off the record.)</p> <p>5 MS. SHREVE: Let's go back on the record again.</p> <p>6 BY MS SHREVE:</p> <p>7 Q Mr. Palmer, you understand you are still under oath</p> <p>8 after this break, correct?</p> <p>9 A Yes.</p> <p>10 Q I'm just going to do a couple more questions in regards</p> <p>11 to the dumps that you have seen or are aware of.</p> <p>12 Now, in your 35 -- roughly, 35 years of experience, how</p> <p>13 many trucks would have been driving, that you would have seen --</p> <p>14 like how many trucks a day drive in Nevada, carrying trailers</p> <p>15 of -- belly dump trailers?</p> <p>16 A On an average day?</p> <p>17 Q Yes.</p> <p>18 A Are you saying, like, in this area, how many a day?</p> <p>19 Hundreds of them.</p> <p>20 Q Hundreds of them?</p> <p>21 A Yes.</p> <p>22 Q And then are hundreds of them driven every day, or is it</p> <p>23 five days a week, like Monday through Friday, or is it seven days</p> <p>24 a week?</p> <p>25 MR. BROWN: I'm going to just object as to foundation.</p>	<p style="text-align: right;">Page 37</p> <p>1 occurred at MDB, correct?</p> <p>2 A Uh-huh.</p> <p>3 MR. BROWN: Asked and answered.</p> <p>4 BY MS. SHREVE:</p> <p>5 Q The one that you actually observed have a belly dump on</p> <p>6 the highway, correct? You observed one belly dump on the highway;</p> <p>7 is that correct?</p> <p>8 A I've seen, actually, two. I've seen one in California</p> <p>9 dump as well. Maybe I'm getting off track here.</p> <p>10 Q I'm just going over the ones that you say you have</p> <p>11 knowledge -- you testified that you had knowledge of unintentional</p> <p>12 belly dumps occurring, correct?</p> <p>13 A Yes.</p> <p>14 Q I'm trying to understand your knowledge of the belly</p> <p>15 dumps that occurred.</p> <p>16 A Yes.</p> <p>17 Q Okay. You had said there was three that you are aware</p> <p>18 of from MDB. And earlier, you testified you actually observed one</p> <p>19 occur. Is it more than one that you actually observed?</p> <p>20 A Yes.</p> <p>21 Q Okay. How many have you actually observed in your 35</p> <p>22 years?</p> <p>23 A Are we talking about actually occurred while it's</p> <p>24 happening?</p> <p>25 Q Yes, that you actually observed the belly dump opening</p>

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

<p style="text-align: right;">Page 42</p> <p>1 trailer?</p> <p>2 A I don't believe so, not after my time there.</p> <p>3 Q What sort of information would an MDB employee need to</p> <p>4 know when they are installing a new Versa valve on a trailer?</p> <p>5 MR. BROWN: Well, object, vague, overbroad.</p> <p>6 Answer if you can.</p> <p>7 BY MS. SHREVE:</p> <p>8 Q I can re-ask it if you need me to.</p> <p>9 A I'm not sure what you are asking. You would need to</p> <p>10 know that it needs to be replaced and replace it.</p> <p>11 Are you talking about what does he -- how -- what does</p> <p>12 he need to know how to do it?</p> <p>13 Q Yes. So I'm talking specifically with just installing a</p> <p>14 valve on to the trailer.</p> <p>15 Is there any specific knowledge you would need to know</p> <p>16 to install a valve, a Versa valve?</p> <p>17 A If you are asking me is it difficult or is it highly</p> <p>18 technical to install a valve? No, it's not. It's very easy.</p> <p>19 Q So there's no training that you would need to have on</p> <p>20 installing a valve, a Versa valve?</p> <p>21 A You wouldn't want to let somebody install it that's not</p> <p>22 a mechanic. So if you have your 20, 30 years experience as a</p> <p>23 mechanic, yes, you could do it. It's very simple.</p> <p>24 Q Okay. And why is it that you wouldn't want someone</p> <p>25 other than a mechanic installing the Versa valve?</p>	<p style="text-align: right;">Page 44</p> <p>1 Q So who installed the Versa valve on Trailer 6775 in</p> <p>2 August 2013?</p> <p>3 A Pat Bigby.</p> <p>4 Q Had he ever installed a Versa valve prior to the</p> <p>5 installation of that valve on August of 2013?</p> <p>6 A I'm quite certain that he has, but I can't testify that</p> <p>7 for sure he has; that he's worked with other companies that have</p> <p>8 Versa valves, so I'm sure, along the course of his experience, he</p> <p>9 has done that.</p> <p>10 Q Do you know if he was provided any training on</p> <p>11 installing the Versa valve?</p> <p>12 A I do not think so, no.</p> <p>13 Q Have you ever provided any training on installing a</p> <p>14 Versa valve?</p> <p>15 A No.</p> <p>16 Q So after the incident that occurred on July -- in</p> <p>17 July 2013, who made the decision to purchase a new valve to put in</p> <p>18 Trailer 6775?</p> <p>19 A We're talking about the 2013 incidence?</p> <p>20 Q Correct.</p> <p>21 A That was before I came to work there, where I believe</p> <p>22 Tracy Shane was the manager at the time and Pat Bigby was the</p> <p>23 mechanic. Pat Bigby would have said we're going to put a new</p> <p>24 valve on it, and Tracy said okay and ordered the valve.</p> <p>25 Q And who determined what valve to -- in 2013, after the</p>
<p style="text-align: right;">Page 43</p> <p>1 A No difference than you wouldn't want anybody working on</p> <p>2 your car that's not a mechanic. I mean, if they are not</p> <p>3 mechanically inclined, you don't want them.</p> <p>4 Q So a mechanic would need to know specific information of</p> <p>5 how to install a Versa valve?</p> <p>6 A They would have to have basic mechanical knowledge.</p> <p>7 Q Okay. So then would it be fair to say that you wouldn't</p> <p>8 need anything other than basic mechanical knowledge to install a</p> <p>9 Versa valve?</p> <p>10 A It would be fair to say that, yes.</p> <p>11 Q Do you know who designed this system that -- in which</p> <p>12 the Versa valve is a component of?</p> <p>13 MR. BROWN: Objection, vague, foundation.</p> <p>14 THE WITNESS: Can you rephrase that --</p> <p>15 BY MS. SHREVE:</p> <p>16 Q Sure.</p> <p>17 A -- maybe a little bit differently.</p> <p>18 Q What is the Versa valve connected to?</p> <p>19 A The Versa valves that we have installed on our trailers</p> <p>20 operate the gates that open and close to dump your load, hooked to</p> <p>21 the air cylinders and the air supply tank.</p> <p>22 Q Okay. So do they work as a system, the Versa valve with</p> <p>23 the hose and the tank, then, to open the gate?</p> <p>24 A I don't know if it's a specifically designed system, but</p> <p>25 I guess they work in concert with each other, yes.</p>	<p style="text-align: right;">Page 45</p> <p>1 2013 incident, who determined what valve to replace the Versa</p> <p>2 valve with on the 6775 trailer?</p> <p>3 A Do you mean which model valve?</p> <p>4 Q Which model, which brand. Who determined which -- what</p> <p>5 valve they were going to use to replace the Versa valve that was</p> <p>6 on Trailer 6775?</p> <p>7 A It would have been Pat Bigby.</p> <p>8 Q And why was it determined to -- strike that.</p> <p>9 What valve was purchased to install on Trailer 6775</p> <p>10 after the 2013 -- July 2013 incident?</p> <p>11 A It would have been a Versa valve with the same model</p> <p>12 number and part number that was currently installed on the</p> <p>13 trailer.</p> <p>14 Q And why was it decided to use that, to purchase that</p> <p>15 Versa valve to install it on the trailer?</p> <p>16 A Why was it -- can you repeat the question, please.</p> <p>17 Q Sure.</p> <p>18 Why was it determined to purchase the Versa valve that</p> <p>19 was the same as the one that was on Trailer 6775?</p> <p>20 A You mean why did we replace it with the exact same model</p> <p>21 number that was on the trailer?</p> <p>22 Q Yes.</p> <p>23 A A couple of reasons.</p> <p>24 One is, as I said before, almost every trailer in this</p> <p>25 area has a Versa valve to control the gates. So therefore, the</p>

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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.

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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 ///

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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?

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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

<p style="text-align: right;">Page 50</p> <p>1 supplied with the Versa valve, but I could not tell you what those 2 are right now.</p> <p>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.</p> <p>7 A Yes, he would have known at that time.</p> <p>8 Q How about the specifications for the pressure for the 9 Versa valve for installing it on 6775?</p> <p>10 MR. BROWN: I'm going to object to the extent it calls 11 for speculation.</p> <p>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.</p> <p>15 BY MS. SHREVE:</p> <p>16 Q Are you the person most knowledgeable about the 17 installation of Versa valve 6775 on the subject trailer?</p> <p>18 A In 2013?</p> <p>19 Q Yes.</p> <p>20 A I would say I have equal knowledge to what Pat has, but 21 I didn't actually install it.</p> <p>22 Q Okay.</p> <p>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</p>	<p style="text-align: right;">Page 52</p> <p>1 MR. BARKLEY: Okay. I will note for the record that 12 2 does not talk about specifications of the manufacturer.</p> <p>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?</p> <p>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.</p> <p>10 This one is now lubrication.</p> <p>11 MR. BROWN: Okay.</p> <p>12 MS. SHREVE: So it's in regards to the installation, if 13 they --</p> <p>14 MR. BROWN: Okay. I understand.</p> <p>15 MS. SHREVE: Okay?</p> <p>16 BY MR. BROWN:</p> <p>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?</p> <p>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.</p> <p>25 When I say the person -- I'm specifically talking about</p>
<p style="text-align: right;">Page 51</p> <p>1 general, business acumen. So -- MDB, in regard to the maintenance 2 issue.</p> <p>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.</p> <p>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.</p> <p>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.)</p> <p>13 BY MS. SHREVE:</p> <p>14 Q How about specifically, Versa's specifications regarding 15 lubrication of the valve when installing it on Trailer 6775?</p> <p>16 This goes to Versa's -- sorry. This goes to MDB's 17 knowledge of --</p> <p>18 MR. BARKLEY: Which category, Counsel?</p> <p>19 MS. SHREVE: Number 11, installation of the Versa valve.</p> <p>20 MR. BROWN: No, that's the decision to purchase subject 21 valve.</p> <p>22 MS. SHREVE: Oh, sorry. Do I have the wrong number? 23 Maybe it's 12. Sorry, I wasn't finished with my question.</p> <p>24 MR. BROWN: I know.</p> <p>25 MS. SHREVE: Sorry, it's Number 12, not 11.</p>	<p style="text-align: right;">Page 53</p> <p>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.</p> <p>4 So if there's anything in there about the pressure or 5 the oil or whatever, he would have known that.</p> <p>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?</p> <p>9 A The same, yes.</p> <p>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.</p> <p>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.</p> <p>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.)</p> <p>22 BY MR. BROWN:</p> <p>23 Q So this is Bates number MDB 016. Can you tell me what 24 this document is.</p> <p>25 A It is an invoice from ENGS Motor Truck Company, dated</p>

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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 MDB -- that MDB 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 MDB purchase the valve from?

24 A ENGS Motor Truck Company.

25 Q How did you decide to purchase the Versa valve from

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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 MDB purchase products from ENGS Motor
24 Truck Company?

25 A Currently or at this particular time?

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1 Q At this particular time.

2 A Probably three or four times a week.

3 Q Did you or did MDB ask ENGS Motor Company about
4 purchasing another valve, other than the Versa valve?

5 A No.

6 Q Did MDB 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 MDB
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 MDB
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.

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1 A Can you repeat the question.

2 Q Sure.

3 A Are you specifically talking about MDB Trucking or
4 myself?

5 Q Yes, you're -- to clarify, you are speaking on behalf of
6 MDB Trucking, so any knowledge that MDB Trucking would have
7 through its employees or whoever it would be.

8 A No, I don't think MDB 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.

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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 MDB 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 MDB received the valve?

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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 MDB keep that
 8 literature?
 9 A No, not in 2013.
 10 Q Does MDB 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

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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 MDB 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 MDB 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 MDB 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.

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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

<p style="text-align: right;">Page 62</p> <p>1 much.</p> <p>2 Q So then if this product did come with a warranty, you</p> <p>3 would not have kept it?</p> <p>4 A No, I seriously doubt it.</p> <p>5 Q Does MDB read the warranties that come with their</p> <p>6 products?</p> <p>7 A Once again, I don't think so.</p> <p>8 Q Does MDB read any of the warnings that would come with</p> <p>9 their product?</p> <p>10 A Yes.</p> <p>11 MS. SHREVE: With the product.</p> <p>12 I am going to do the -- our next exhibit, which would be</p> <p>13 Number 12.</p> <p>14 (Exhibit 12 marked for identification.)</p> <p>15 BY MS SHREVE:</p> <p>16 Q This is MDB 722.</p> <p>17 This was a document that was produced by MDB regarding</p> <p>18 warranty of the Versa valve.</p> <p>19 Does this document look familiar to you?</p> <p>20 A Yes, it does.</p> <p>21 Q Did you -- did MDB read this document prior to</p> <p>22 installing the Versa valve on the subject Trailer 6775 in</p> <p>23 August 2013?</p> <p>24 MR. BROWN: Objection, lack of foundation.</p> <p>25 THE WITNESS: I seriously doubt that we did, because</p>	<p style="text-align: right;">Page 64</p> <p>1 packaged.</p> <p>2 Q Is there a reason why you would have kept this one, but</p> <p>3 not the one from the purchase of the August -- was it 1st, 2013?</p> <p>4 A No, other than the box, I still have the box for that.</p> <p>5 Q Okay. Is there a reason you kept the box for this one?</p> <p>6 A It probably had the old valve stuck in it. That's the</p> <p>7 only thing I can think of.</p> <p>8 Q And was that valve purchased through ENG -- or</p> <p>9 ENG Motor Truck Company?</p> <p>10 A I don't believe so.</p> <p>11 You are talking about the --</p> <p>12 Q The valve that came with this.</p> <p>13 A I do not think so, no.</p> <p>14 Q Do you know who you would have purchased it from, if it</p> <p>15 wasn't ENG Motor Truck Company?</p> <p>16 A I believe it was purchased through Peterbilt Truck Parts</p> <p>17 and Equipment Company.</p> <p>18 Q Is there a reason you would have purchased it through</p> <p>19 them, instead of ENG Motor Truck Company?</p> <p>20 A The reason would be, if you call up ENG and they say</p> <p>21 no, we don't have one and you call up Peterbilt and they say yeah,</p> <p>22 we have one, and we need one, because we need to replace it today.</p> <p>23 So that would be the reason.</p> <p>24 Q When you purchased your parts, do you purchase them new?</p> <p>25 A All of our parts?</p>
<p style="text-align: right;">Page 63</p> <p>1 this is dated same date. This particular one is dated July</p> <p>2 of 14th, it appears. So it would have been -- it would have been</p> <p>3 this -- whatever Versa was putting in their valve at the time.</p> <p>4 I don't know if it was this exact one at that particular</p> <p>5 time. You would have to show me the one that came with that, for</p> <p>6 me -- but, yes, this looks familiar to every one I've ever read.</p> <p>7 I don't know about the exact language. Maybe in July</p> <p>8 '14, they changed the language.</p> <p>9 BY MR. BROWN:</p> <p>10 Q Okay. So this did not come with the Versa valve that</p> <p>11 was purchased on August 1st, 2013?</p> <p>12 A I do not think so.</p> <p>13 Q Okay.</p> <p>14 A I think it came with one of the other valves that we</p> <p>15 purchased.</p> <p>16 Q Okay. And you kept this in regards to a different valve</p> <p>17 that you purchased then; is that correct?</p> <p>18 A Yes. I mean, Versa could provide -- maybe Versa could</p> <p>19 provide me with the one that came with the one in 2013, because</p> <p>20 I -- it could be the same as this. I don't know.</p> <p>21 Q Yeah, I --</p> <p>22 A Yeah, I'm not asking you to do that. I'm just saying --</p> <p>23 Q Yeah, I don't know. That's why I was asking you whether</p> <p>24 the Versa valve actually came packaged. We don't know that.</p> <p>25 A I don't know that. I can't imagine it would not come</p>	<p style="text-align: right;">Page 65</p> <p>1 Q If you were -- when you purchase Versa valves, do you</p> <p>2 purchase Versa valves new?</p> <p>3 A Oh, yes. Yes.</p> <p>4 Q Do you know who originally owned Trailer 6775?</p> <p>5 A No.</p> <p>6 If I understand the question, you mean who originally</p> <p>7 purchased it?</p> <p>8 Q Yes, who originally -- I'm sorry.</p> <p>9 A Maybe I do. Maybe Western Nevada Transport is who we</p> <p>10 purchased it from. I do believe they bought them new, but I can't</p> <p>11 say for sure.</p> <p>12 Q When you say you purchased them from --</p> <p>13 A Well --</p> <p>14 Q -- lease -- do you mean who you lease it from? Is</p> <p>15 that --</p> <p>16 A Yeah, let me restate that, when SKS purchased them from</p> <p>17 WNT and leased them to MDB Trucking.</p> <p>18 I do believe that Western Nevada Transport is the</p> <p>19 original owner of those trailers, but I could be wrong. I'm just</p> <p>20 making that assumption.</p> <p>21 Q MDB leased Trailer 6775 from Western Nevada Transport,</p> <p>22 correct?</p> <p>23 A For a period of time, yes.</p> <p>24 Q Did MDB lease 6775 brand-new?</p> <p>25 A No.</p>

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

<p style="text-align: right;">Page 70</p> <p>1 are owned by -- have the same common ownership, so the records are 2 easily available to them.</p> <p>3 Q So if SKS Corp. wanted to have any records regarding the 4 maintenance on a trailer that was leased, they could just pull it 5 from MDB?</p> <p>6 A Exactly, yes.</p> <p>7 Q Did SKS Corp. provide MDB with any suppliers' or 8 manufacturers' warranties that came with the trailer or the 9 trailers leased?</p> <p>10 A No.</p> <p>11 Q Does MDB typically lease their trailers?</p> <p>12 A Yes.</p> <p>13 Q Does MDB lease all of their trailers from 14 SKS Corporation?</p> <p>15 A To my knowledge, yes, they do.</p> <p>16 Q Does Equipment Number 5695 -- is it always connected 17 with Trailer 6773, 6774 and 6775?</p> <p>18 A I think you said 5695. I think you mean --</p> <p>19 Q 5694.</p> <p>20 A Yeah. Is it always connected with those trailers?</p> <p>21 Q Yes.</p> <p>22 A No.</p> <p>23 Q When is it not connected to those trailers?</p> <p>24 A When it's pulling another trailer, getting worked on.</p> <p>25 Q How often does it occur that it pulls -- that Truck 5694</p>	<p style="text-align: right;">Page 72</p> <p>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?</p> <p>3 A Probably more.</p> <p>4 Q And why would it be more?</p> <p>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.</p> <p>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.</p> <p>13 Q Are Trailer 6773, 6774 and 6775 always connected?</p> <p>14 A Not always.</p> <p>15 Q When are they not connected?</p> <p>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.</p> <p>19 Q Would you ever run the -- just the back two trailers?</p> <p>20 A No, not possible, not practically possible, no.</p> <p>21 Q Okay. I'm going to go back to Exhibit 2.</p> <p>22 MR. BROWN: I'm sorry, Counsel, did you say Exhibit 2?</p> <p>23 MS. SHREVE: Yes.</p> <p>24 BY MS. SHREVE:</p> <p>25 Q Would Trailer 6773, 6774 or 6775 run with a truck other</p>
<p style="text-align: right;">Page 71</p> <p>1 pulls trailers other than 6773, 6774 and 6775?</p> <p>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?</p> <p>5 Q So we'll go per month.</p> <p>6 So in a month, is it typical for Truck 5694 to run with 7 or to pull 6773, 6774 and 6775?</p> <p>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.</p> <p>12 And even during the summer, summertime, it can be 13 unhooked, hooked to an end dump.</p> <p>14 This is normal course of business for us, trucks 15 switching trailers.</p> <p>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.</p> <p>19 Q So since -- strike that.</p> <p>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?</p> <p>24 A I would say we disconnect it 40 percent of the time.</p> <p>25 Q And then the same would go for the July 7th, 2014,</p>	<p style="text-align: right;">Page 73</p> <p>1 than 6 -- 5694?</p> <p>2 A Yes.</p> <p>3 Q If -- strike that.</p> <p>4 Okay. We'll go to Exhibit 2, MDB 483.</p> <p>5 Yeah, you can pull that off.</p> <p>6 Would this be a time that all three trailers, 6773, 6774 7 and 6775, were not run together?</p> <p>8 Or, can you read the truck number and then the trailer 9 numbers for -- on this daily driver sheet.</p> <p>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.</p> <p>12 But I would have no idea why that would be.</p> <p>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.</p> <p>15 Q So it's not typical to run 6774 and 6775 without 6773?</p> <p>16 A Correct, and also not behind a transfer truck. But I 17 guess you could do it.</p> <p>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.</p> <p>22 Q Okay.</p> <p>23 A But it is technically possible to run it behind.</p> <p>24 Technically possible, it's not practical.</p> <p>25 Q Okay. From July 2013 to the subject incident on</p>

<p style="text-align: right;">Page 74</p> <p>1 July 7th, 2014 -- again, you can give me percentages --</p> <p>2 approximately how many times a month are Trailers 6773, 6774 and</p> <p>3 6775 disconnected, or were they disconnected?</p> <p>4 A From 5694 or any --</p> <p>5 Q From each other.</p> <p>6 A Oh, two percent possibly.</p> <p>7 Q So not very often?</p> <p>8 A No. Very rare.</p> <p>9 Q How about from the subject incident of July 7th, 2014,</p> <p>10 until the present, how often has Trailer 6773, 6774 and 6775 been</p> <p>11 disconnected?</p> <p>12 A Probably the same, five percent.</p> <p>13 I mean, I could be wrong. There are times when we run</p> <p>14 the front trailer by itself, and in 2014, we might have ran it</p> <p>15 five percent of the time.</p> <p>16 Q Okay.</p> <p>17 A But it's not a common configuration.</p> <p>18 Q If you perform maintenance on any of those trailers, do</p> <p>19 you disconnect them?</p> <p>20 A No, not generally, not normal maintenance, not</p> <p>21 preventative maintenance.</p> <p>22 The only time we unhook them, if we want to put it in</p> <p>23 the shop and close the doors, because it won't fit in the shop</p> <p>24 without disconnecting it.</p> <p>25 Q So with the maintenance records, if there was</p>	<p style="text-align: right;">Page 76</p> <p>1 valve that was on the Truck --</p> <p>2 MR. BROWN: Objection, asked and answered.</p> <p>3 BY MS. SHREVE:</p> <p>4 Q -- 6775?</p> <p>5 A No, we did not. Didn't think there was a need to,</p> <p>6 especially considering the brand-new trailers were coming with the</p> <p>7 same valve. So they are still shipping the same valves on the</p> <p>8 same trailers, so I would imagine that's still the standard</p> <p>9 de facto valve.</p> <p>10 Q I'm going to go back to Exhibit Number 9. So it's the</p> <p>11 work orders on Equipment 6777.</p> <p>12 A Okay. Thank you.</p> <p>13 Q Earlier, you testified that you were aware of a</p> <p>14 different Versa valve model that Versa used. I believe you said</p> <p>15 in April 2014, you were aware of a different Versa valve.</p> <p>16 A That was the first time I seen one installed on a bottom</p> <p>17 dump trailer, yes, something different.</p> <p>18 Q So if you look at MDMAINT 000321.</p> <p>19 A Okay.</p> <p>20 Q And this is dated December 1st, 2014. And this</p> <p>21 indicates that the -- you replaced the Versa valve, correct?</p> <p>22 A Correct.</p> <p>23 Q Did you -- did MDB ever contact Versa to inquire about</p> <p>24 the difference in the Versa valve model that you were aware of and</p> <p>25 the one that was purchased to replace this Versa valve?</p>
<p style="text-align: right;">Page 75</p> <p>1 maintenance done on any of these trailers and it indicates it was</p> <p>2 done in the shop, then the trailer would have been -- the trailers</p> <p>3 would have been disconnected?</p> <p>4 A Depends on what time of the year it is. In the</p> <p>5 summertime, you just pull it in the shop, work on it, pull it out.</p> <p>6 Wintertime, snowing outside, they probably disconnect,</p> <p>7 more than -- if you have more than a little bit of work to do on</p> <p>8 the trailer, they disconnect it, bring it in the shop and close</p> <p>9 the doors.</p> <p>10 Q Is there any way to determine whether or not the trailer</p> <p>11 was disconnected when the maintenance was performed?</p> <p>12 A No.</p> <p>13 Q Okay.</p> <p>14 MS. WOELFEL: Take a break? It's 12:02.</p> <p>15 MS. SHREVE: We'll go off the record.</p> <p>16 (A recess was taken.)</p> <p>17 MS. SHREVE: Can we go back on the record.</p> <p>18 BY MS. SHREVE:</p> <p>19 Q Mr. Palmer, you understand you are still under oath</p> <p>20 today, correct?</p> <p>21 A Yes.</p> <p>22 Q So in regards to the July 2013 incident that occurred --</p> <p>23 A Uh-huh.</p> <p>24 Q -- did anyone from MDB consult Versa or reach out to</p> <p>25 Versa to ask what Versa valve they should purchase to replace the</p>	<p style="text-align: right;">Page 77</p> <p>1 A Do you mean in regards to before purchasing this valve</p> <p>2 to replace the valve on this trailer?</p> <p>3 Q Yes, to replace.</p> <p>4 A No, because the valve -- we had already installed a</p> <p>5 lockout device on the valve, our own version of a lockout device.</p> <p>6 So there's no reason to purchase a valve that was</p> <p>7 different. We already had the lockout device in place at this</p> <p>8 particular instance. This was after we put the lockout devices on</p> <p>9 there.</p> <p>10 Q And so then that's the reason why you chose that valve</p> <p>11 as well to purchase to replace the Versa valve that was already on</p> <p>12 that trailer?</p> <p>13 A Is that why, because we already had a lockout device in</p> <p>14 place?</p> <p>15 Q Yes. Was that your -- strike that. Let me rephrase.</p> <p>16 Why did you decide to purchase the same Versa valve to</p> <p>17 replace the one on Equipment Number 6777 on -- for this</p> <p>18 December 1st, 2014, replacement?</p> <p>19 A Because that's the valve -- I think I stated before that</p> <p>20 that's the valve that people stock, so that's the standard valve</p> <p>21 that people use.</p> <p>22 And we had already installed a lockout device for that</p> <p>23 style of valve, so we just went back to that valve.</p> <p>24 Q Okay. Thank you.</p> <p>25 Earlier, you testified that there are times that you</p>

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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?

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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.

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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.

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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?

<p style="text-align: right;">Page 82</p> <p>1 A You lift up the safety cover. The switch is underneath</p> <p>2 it. The cover is to keep you from accidentally activating it by</p> <p>3 bumping it. And then you push up on the switch.</p> <p>4 It's like you are turning on a light, headlights, or</p> <p>5 whatever. And that activates the solenoid on the valve, and it</p> <p>6 operates the gates.</p> <p>7 Q Now -- if you were going to do it manually, how do you</p> <p>8 activate it manually?</p> <p>9 A You just -- which is what we do most of the time. You</p> <p>10 stop the truck where you are going to dump, get out, and just move</p> <p>11 the lever by hand.</p> <p>12 There is an accumulator valve on the valve that you push</p> <p>13 in initially to keep the hand valve, the operating valve from</p> <p>14 springing back so you can control the gates to keep them in a</p> <p>15 semiopen position, because we dump in -- we call it a grizzly,</p> <p>16 which is like a hopper, so we can't dump it too fast.</p> <p>17 We have to open the gates up, crack them open, like,</p> <p>18 maybe a foot or two and control that by hand. It's easier to</p> <p>19 control it after you push the accumulator in to release the</p> <p>20 trapped air pressure in the valve.</p> <p>21 Q Okay. Then if you are going to close the valve, how do</p> <p>22 you close it?</p> <p>23 A Just pull the handle closed.</p> <p>24 Q Okay.</p> <p>25 A It closes the gates. And you visually check to make</p>	<p style="text-align: right;">Page 84</p> <p>1 plates and the proper fenders. So when you go to the pit, the</p> <p>2 loader puts the material in the hopper, doesn't load the rest --</p> <p>3 you know, he doesn't spill it over the ends.</p> <p>4 Q Was there a policy and procedure in place in July 2014</p> <p>5 regarding making sure that the cargo in the belly dump trailers is</p> <p>6 secure?</p> <p>7 A Is what?</p> <p>8 Q Was there a policy and procedure in place in July 2014</p> <p>9 to make sure that the cargo is secure?</p> <p>10 MR. BROWN: Object, foundation.</p> <p>11 THE WITNESS: Not a written policy, I don't think. It</p> <p>12 was all verbal training.</p> <p>13 BY MS. SHREVE:</p> <p>14 Q And so what would be the verbal training that MDB would</p> <p>15 provide?</p> <p>16 A Well, if the loader operator -- are you talking about</p> <p>17 keeping the load from blowing out, or are you talking about</p> <p>18 keeping the load from spilling out? I'm not sure I completely</p> <p>19 understand. Just secure in general?</p> <p>20 Q Yeah, secure in general, make sure the load does not</p> <p>21 come out of the trailer, whether it comes out from the top,</p> <p>22 bottom, side.</p> <p>23 A Well, it's pretty easy. It's not rocket science.</p> <p>24 I mean, you go out to the pit. The loader puts the</p> <p>25 material into the hopper. For some reason, some gets spilled out,</p>
<p style="text-align: right;">Page 83</p> <p>1 sure the gate is closed. And you can hear them closed. It's</p> <p>2 not -- they are right there, two feet away.</p> <p>3 Q Do you have to wait any certain amount of time after you</p> <p>4 close it to reopen it again?</p> <p>5 A The only time -- you only have to wait -- are you</p> <p>6 talking about hand?</p> <p>7 Q Yes.</p> <p>8 A You only have to wait -- you are only limited by your</p> <p>9 air supply.</p> <p>10 So if you open the gates and close them in enough time,</p> <p>11 it's going to lower your air pressure and you have to wait for the</p> <p>12 air pressure to build back up. But other than that, you can open</p> <p>13 them up right away.</p> <p>14 Q How do you know if the air pressure is built back up?</p> <p>15 A The gates won't open, or you can also look at the</p> <p>16 gauges. All our trailers have gauges. You can see right there if</p> <p>17 it doesn't have enough air pressure.</p> <p>18 Q Does MDB have any policy and procedure regarding</p> <p>19 securing the cargo it carries in their belly dump?</p> <p>20 A We do now. This particular point, that I know of.</p> <p>21 Q In July 2013.</p> <p>22 A Not that I know of. I don't know if there was one, a</p> <p>23 written one in effect.</p> <p>24 But it's common knowledge. Everybody knows how to make</p> <p>25 sure -- you know, all of our trailers are equipped with shed</p>	<p style="text-align: right;">Page 85</p> <p>1 then you would -- after you get off the scale, you get out and you</p> <p>2 brush it off.</p> <p>3 I can't remember the last time that happened, not in</p> <p>4 this area.</p> <p>5 Q Is there anything, as a driver, that the driver does to</p> <p>6 make sure the material inside the trailer is secure when driving,</p> <p>7 not just at the loading?</p> <p>8 A Not while driving, no. Nothing -- there's nothing</p> <p>9 special he has to do. Stays in the trailer. He's going down the</p> <p>10 road.</p> <p>11 After you leave -- after you leave the scale, if you are</p> <p>12 hauling sand, you got to go under the water rack and water your</p> <p>13 load down to make sure it doesn't blow.</p> <p>14 I mean, I'm not sure if that's what you are looking for.</p> <p>15 Q Does MDB require their drivers to inspect their load</p> <p>16 after they have picked it up to make sure the contents inside the</p> <p>17 trailer is secure from --</p> <p>18 A Yes.</p> <p>19 Q -- coming out of top, bottom, sides?</p> <p>20 A Yes. Yes. It's the driver's responsibility.</p> <p>21 Q And what does MDB require their drivers to do in this</p> <p>22 inspection after the contents in the trailer has been loaded, to</p> <p>23 make sure that nothing comes out from the top, bottom or sides of</p> <p>24 the trailer?</p> <p>25 A Then MDB requires their drivers to make sure their gates</p>

<p style="text-align: right;">Page 86</p> <p>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 MDB require its drivers to check the pressure 11 gauges on the valve, the Versa 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 MDB 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.</p>	<p style="text-align: right;">Page 88</p> <p>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 MDB 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 6778 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,</p>
<p style="text-align: right;">Page 87</p> <p>1 Q How does MDB 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 MDB 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</p>	<p style="text-align: right;">Page 89</p> <p>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 MDB aware of any government 8 regulations requiring the chains to be shortened to help secure 9 their load? 10 A No. 11 Q Has MDB 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</p>

<p style="text-align: right;">Page 90</p> <p>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.</p> <p>3 Q What would be the way to stop it?</p> <p>4 A If you are concerned with the gates opening up by the 5 valve, then we put a lockout device on the valve.</p> <p>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?</p> <p>9 A Oh, yes. That's what they are designed for, yes.</p> <p>10 Q Are you able to still drive the truck with the chains 11 shortened?</p> <p>12 A Yes.</p> <p>13 Q Are you aware -- or, is MDB aware of any regulations 14 requiring a pin, a lockout pin on a Versa valve?</p> <p>15 A No, not in Nevada. I mean, there might be some state 16 regulations, but none that I know of.</p> <p>17 Q Let's go to -- you briefly touched upon this. Does MDB 18 require its drivers to have certain certifications or special 19 license in order to drive their trucks?</p> <p>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.</p> <p>24 Q How about for employees that perform maintenance on the 25 trucks and trailers?</p>	<p style="text-align: right;">Page 92</p> <p>1 Q If you flip to MDB 008.</p> <p>2 A Okay.</p> <p>3 Q What do all of these inspection data numbers, state 4 plates -- what are all of these?</p> <p>5 A These are inspections of vehicles for whatever, for -- 6 performed by law enforcement, it looks like.</p> <p>7 Q And do you get copies of these inspections?</p> <p>8 A Oh, yes, I do. Yes.</p> <p>9 Q And do you have copies of these inspections?</p> <p>10 A At this particular point in time?</p> <p>11 Q Yes. Does MDB.</p> <p>12 A Probably. They are also available online, are they not?</p> <p>13 I don't --</p> <p>14 Q No.</p> <p>15 A Oh.</p> <p>16 Q I would request that you search for these, and if you 17 have them, please provide them to your attorney.</p> <p>18 MR. BROWN: The ones that match up with these, on this 19 document?</p> <p>20 MS. SHREVE: Well, we had requested everything through 21 the present from -- I believe it was June 30th through the 22 present. And --</p> <p>23 MR. BROWN: What did you call these?</p> <p>24 MS. SHREVE: The SMS system.</p> <p>25 And this document -- I was told this was everything</p>
<p style="text-align: right;">Page 91</p> <p>1 A Is there any certification that's required?</p> <p>2 Q Yes.</p> <p>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.</p> <p>7 Q But for regular routine maintenance and repairs, there's 8 no -- MDB doesn't require any specific certifications or license?</p> <p>9 A No.</p> <p>10 MS. SHREVE: Okay. I'm going to go to the next exhibit, 11 which is 15.</p> <p>12 (Exhibit 15 marked for identification.)</p> <p>13 BY MS. SHREVE:</p> <p>14 Q So this is MDB 007 through MDB 10. Have you seen this 15 before?</p> <p>16 A Have I seen this specific document before?</p> <p>17 Q Yes.</p> <p>18 A I don't think -- I'm not sure.</p> <p>19 Q Are you familiar with what this document is?</p> <p>20 A Yes.</p> <p>21 Q And what is this?</p> <p>22 A It's part of the SMS, Safety Measurement System, part of 23 Federal Highway, FMCSA.</p> <p>24 Q And do you keep records of these documents?</p> <p>25 A I suppose, on occasion, I do.</p>	<p style="text-align: right;">Page 93</p> <p>1 through the present, but this document, obviously, is 2 April 2014 -- or April 4th. You understand.</p> <p>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.</p> <p>5 MR. BROWN: We'll see what we can find.</p> <p>6 MS. SHREVE: Perfect. Thank you.</p> <p>7 THE WITNESS: I don't think I ever was asked for those.</p> <p>8 BY MS. SHREVE:</p> <p>9 Q If you can just look to see and provide to your 10 attorney, I would appreciate that.</p> <p>11 So let's go down to -- it looks like on 7/7/2014 --</p> <p>12 A Okay.</p> <p>13 Q That's the day of the specific incident.</p> <p>14 It looks like there was an inspection done on the 15 subject truck; is that correct?</p> <p>16 MR. BROWN: It's on the next page.</p> <p>17 THE WITNESS: Oh, you are on Number 9? I'm sorry.</p> <p>18 MS. SHREVE: No, on Number 8.</p> <p>19 MS. WOELFEL: It's five lines down. If you look at the 20 inspection date, start at the top and go five.</p> <p>21 THE WITNESS: I see the 7/7, yes. What's it 22 specifically that you are asking for?</p> <p>23 BY MS. SHREVE:</p> <p>24 Q Is that -- for the subject truck and trailer on the day 25 of the incident, the subject incident?</p>

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

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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.

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1 Q Does MDB 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

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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?

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1 A No.

2 Q Is a driver required to check in with MDB 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 MDB 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 MDB 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 MDB 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.

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

<p style="text-align: right;">Page 106</p> <p>1 A -- was also signed also on 6/8/2012. So provided that</p> <p>2 the I-9 form was filled out properly at the time that he was</p> <p>3 hired, that was his hire date.</p> <p>4 Q And who does it say is the representative from MDB?</p> <p>5 A Tracy Shane.</p> <p>6 Q And what's the date there?</p> <p>7 A 6/8/2012.</p> <p>8 Q So safe to say that, likely, he was hired on June 8th,</p> <p>9 2012?</p> <p>10 A Yes.</p> <p>11 Q When Mr. Koski was hired, what training did he undergo?</p> <p>12 A He would have went underwent the normal training</p> <p>13 procedures that we train our drivers on, on how we expect them to</p> <p>14 operate in accordance with our values, as far as you are expected</p> <p>15 to do proper pre-trip inspections, you are expected to obey the</p> <p>16 traffic laws.</p> <p>17 You are trained on where you are going to -- you know,</p> <p>18 how to haul the material that we haul, how to fill out the</p> <p>19 paperwork, how to dump the material what -- at the place. And</p> <p>20 this is all done hands-on.</p> <p>21 Q Okay. And how long does this training -- how long would</p> <p>22 this training have lasted?</p> <p>23 A It usually lasts one to two days, full days.</p> <p>24 Q Did he -- was he provided any other training other than</p> <p>25 from MDB, like any outside company?</p>	<p style="text-align: right;">Page 108</p> <p>1 A First time I met him, he was driving for Rainbow Rock.</p> <p>2 And we had a yard right next to Rainbow Rock, so he used to cut</p> <p>3 through our yard every day. So I've known him since at least</p> <p>4 1994.</p> <p>5 Q So you've known him in the truck driving capacity, I</p> <p>6 guess?</p> <p>7 A Absolutely.</p> <p>8 So everybody -- the word of mouth is he's a good driver.</p> <p>9 Everybody knows he is a good driver, that kind of thing. That's</p> <p>10 how -- that's how you know a driver.</p> <p>11 Q Okay.</p> <p>12 A By his reputation.</p> <p>13 And you also work with him. You are out there driving</p> <p>14 with him on days.</p> <p>15 Q Okay. After Mr. Koski was employed through when --</p> <p>16 actually, strike that.</p> <p>17 Is Mr. Koski still employed by MDB?</p> <p>18 A No.</p> <p>19 Q How long ago did he stop working for MDB?</p> <p>20 A I believe he stopped working for us sometime around</p> <p>21 January, February of 2015.</p> <p>22 Q Okay. And why does -- how come he no longer works for</p> <p>23 MDB?</p> <p>24 A From my understanding, he had some sort of a mini stroke</p> <p>25 and that -- he was off work for a while.</p>
<p style="text-align: right;">Page 107</p> <p>1 A Not after he was hired by us, no. Well -- no.</p> <p>2 Q Did Mr. Koski receive any company policies or handbooks</p> <p>3 when he was hired?</p> <p>4 A I'm not sure if he received the Federal Motor Carrier</p> <p>5 green book, they call it. I'm not sure if he received that.</p> <p>6 There's no record in his file that says he received it.</p> <p>7 Q Okay.</p> <p>8 A So I'm not sure.</p> <p>9 When you say "other training," I mean, he went to MSHA</p> <p>10 training. I mean, that's really nothing to do with driving a</p> <p>11 truck, but --</p> <p>12 Q What training was that?</p> <p>13 A MSHA, Mine Safety Health Administration training. He</p> <p>14 did three days of training with that so he could get on to mine</p> <p>15 sites, but that's really nothing to do with driving a truck.</p> <p>16 Q Okay. Any other training, whether it was related to</p> <p>17 driving the truck or not?</p> <p>18 A No.</p> <p>19 This is an individual that's known to us, known to</p> <p>20 Tracy Shane. I've known him for 25 years. Everybody knows he has</p> <p>21 driven trucks his whole life. So he's got experience. You put</p> <p>22 him in the truck, you can see that he can do the job.</p> <p>23 Q You said you've known Mr. Koski for over 25 years?</p> <p>24 A I have, yes.</p> <p>25 Q And how have you -- how did you first meet Mr. Koski?</p>	<p style="text-align: right;">Page 109</p> <p>1 He actually came in from the job and said he felt dizzy</p> <p>2 and left, and they took him to the hospital. He ended up having</p> <p>3 sort of a mini stroke, and he hasn't been the same since. So he</p> <p>4 decided to retire.</p> <p>5 Q And do you recall when that was?</p> <p>6 A That would have been around January, February of 2015,</p> <p>7 to the best of my recollection.</p> <p>8 Q So Mr. Koski retired from MDB; is that correct?</p> <p>9 A Yes.</p> <p>10 Q So from the time he started until when he retired in,</p> <p>11 roughly, January or February 2015, was Mr. Koski ever provided any</p> <p>12 additional company policies or handbooks or training manuals?</p> <p>13 A Not from my knowledge. I mean, not that I can say for</p> <p>14 sure, I should say. He may have, but I don't -- I can't prove</p> <p>15 that he was.</p> <p>16 Q How did MDB decide to assign Truck --</p> <p>17 A 5694.</p> <p>18 Q -- to Mr. Koski?</p> <p>19 A That was just the truck that probably would have been</p> <p>20 available at the time. We may have just recently purchased it,</p> <p>21 and he -- he was next in line to get that truck and that -- he</p> <p>22 started driving that truck and he liked it, so you just keep him</p> <p>23 in there.</p> <p>24 Q Did Mr. Koski drive any other trucks?</p> <p>25 A Oh, yes.</p>

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

<p style="text-align: right;">Page 114</p> <p>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 MDB 679 and MDB 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.</p>	<p style="text-align: right;">Page 116</p> <p>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 Versa 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</p>
<p style="text-align: right;">Page 115</p> <p>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</p>	<p style="text-align: right;">Page 117</p> <p>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</p>

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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

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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

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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

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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

<p style="text-align: right;">Page 122</p> <p>1 on how many buckets he puts in because of the weight of the sand, 2 but the same scenario.</p> <p>3 Q Okay. And then after your sand was all loaded, did you 4 check to see if your gates were closed?</p> <p>5 A No.</p> <p>6 Q Did you check the pressure?</p> <p>7 A No.</p> <p>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.</p> <p>11 Q And then, so after you were loaded, what -- what 12 happened next?</p> <p>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.</p> <p>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.</p> <p>20 Q Okay. And with this load, did you manually use -- did 21 you use the manual lever to open the belly dump?</p> <p>22 A Yes.</p> <p>23 Q Did you do that for all three trailers?</p> <p>24 A Yes.</p> <p>25 Q And did you open it in the same manner as you did with</p>	<p style="text-align: right;">Page 124</p> <p>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.</p> <p>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?</p> <p>7 A No.</p> <p>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 --</p> <p>11 A No.</p> <p>12 Q -- and trailers?</p> <p>13 A No.</p> <p>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?</p> <p>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.</p> <p>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.</p> <p>23 Q So you say you do your visual inspection. Do you have a 24 routine visual inspection that you do?</p> <p>25 A I mean -- me, personally?</p>
<p style="text-align: right;">Page 123</p> <p>1 the first load?</p> <p>2 A Yes.</p> <p>3 Q Did you ensure that all trailers were closed prior to 4 leaving?</p> <p>5 A Yes.</p> <p>6 Q Did you check the pressure on all three trailers?</p> <p>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.</p> <p>10 Q Okay. And so after you were unloaded, what did you do 11 next?</p> <p>12 A This is on the second load?</p> <p>13 Q Yeah, the second.</p> <p>14 A I went back to Palute, 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.</p> <p>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?</p> <p>20 A No.</p> <p>21 Q Did you check the pressure gauge?</p> <p>22 A No.</p> <p>23 Q Did you check the connections between the trailers?</p> <p>24 A No.</p> <p>25 Q Did you do any inspection of your truck or trailers?</p>	<p style="text-align: right;">Page 125</p> <p>1 Q Yes.</p> <p>2 A Yeah, I'm always looking at my equipment as I'm walking 3 by it.</p> <p>4 Q Do you have kind of a mental checklist of --</p> <p>5 A Yes. Uh-huh, yeah.</p> <p>6 Q And what does your mental checklist include of your 7 visual inspection?</p> <p>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.</p> <p>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.</p> <p>14 But for the most part, you are just looking to make sure 15 everything looks right.</p> <p>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.</p> <p>19 Q So you did your visual inspection after you had your 20 load when you were walking?</p> <p>21 A Uh-huh.</p> <p>22 Q And then -- and you didn't notice anything in your 23 visual inspection?</p> <p>24 A No.</p> <p>25 Q And then what occurred?</p>

<p style="text-align: right;">Page 126</p> <p>1 A I left the pit and headed to Reno to dump at the same 2 Cemex Concrete plant.</p> <p>3 Q Okay. And did anything occur on your drive to the 4 plant?</p> <p>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?</p>	<p style="text-align: right;">Page 128</p> <p>1 do?</p> <p>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</p>
<p style="text-align: right;">Page 127</p> <p>1 A I was at Vista Boulevard heading into town. I'm not 2 sure what exit that is. 21?</p> <p>3 Q Do you know approximately how long it had been since you 4 had left?</p> <p>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</p>	<p style="text-align: right;">Page 129</p> <p>1 picture of the Versa valve, just visually, to make sure we have 2 the same understanding. 3 So MDB 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, MDB's yard.</p>

<p style="text-align: right;">Page 130</p> <p>1 Q And what occurred at the yard?</p> <p>2 A Well, after doing a cursory inspection at plant, seeing</p> <p>3 if there's nothing obviously wrong with the valve, with the</p> <p>4 plumbing or the wiring, nothing -- there's nothing that was</p> <p>5 broken, going to the yard, looking at it there, there's no obvious</p> <p>6 thing that -- once again, there's nothing obvious that pointed to</p> <p>7 why this thing opened, I decided to put the truck out of service</p> <p>8 and to fabricate the lockout devices.</p> <p>9 Q Did you tell anyone about what occurred with your truck</p> <p>10 and trailer?</p> <p>11 A No. Everybody already knew it.</p> <p>12 You are talking about did I tell my supervisor at the</p> <p>13 time?</p> <p>14 Q Yes.</p> <p>15 A Yeah, he already knew it. Yes, I talked to him about</p> <p>16 it.</p> <p>17 Q How did he already know?</p> <p>18 A Because everybody -- news travels fast. I'm sure</p> <p>19 everybody in Northern Nevada knew somebody lost a load, as soon</p> <p>20 as -- you know.</p> <p>21 Q So there's a lot of gossip going around?</p> <p>22 A Yes.</p> <p>23 Q And at that time, had you heard about Daniel Koski's</p> <p>24 load?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 132</p> <p>1 problems. So it could have been, I don't know, the driver.</p> <p>2 Tracy Shane might have said -- I don't know.</p> <p>3 Q Did anyone implement that?</p> <p>4 A I don't know. I never did. As a driver, I never did</p> <p>5 it.</p> <p>6 Q Okay. Would shortening the gate chain help ensure that</p> <p>7 the belly gate dump wouldn't fully open?</p> <p>8 A Oh, yes.</p> <p>9 Q So that would be a way to help secure your load from</p> <p>10 unloading, I guess, fully?</p> <p>11 A I suppose it could. I mean, it could help, yes.</p> <p>12 MS. SHREVE: Can we take a short break so I can just do</p> <p>13 a quick review over my notes to make sure that I don't have</p> <p>14 anything else.</p> <p>15 MS. WOELFEL: Sure.</p> <p>16 MS. SHREVE: We're going to go off the record.</p> <p>17 (A recess was taken.)</p> <p>18 MS. SHREVE: So we'll go back on the record.</p> <p>19 BY MS. SHREVE:</p> <p>20 Q Mr. Palmer, you understand you are still under oath,</p> <p>21 correct?</p> <p>22 A Yes.</p> <p>23 MS. SHREVE: So next, I'm going to hand to you, which is</p> <p>24 Exhibit 17. This was brought to us today by your counsel.</p> <p>25 (Exhibit 17 marked for identification.)</p>
<p style="text-align: right;">Page 131</p> <p>1 Q And did you speak with anyone regarding your load and</p> <p>2 his load both occurring that day?</p> <p>3 A Well, my immediate contact was Pat Bigby. And I just</p> <p>4 said, you know, I'm putting these trailers out of service, I'm</p> <p>5 going to fabricate these, and that's what I'm going to do, because</p> <p>6 it's just -- we had already been through this the year before. We</p> <p>7 couldn't find anything wrong. We still can't explain why it</p> <p>8 happened.</p> <p>9 So we just decided to go the -- this route, where his --</p> <p>10 make it so the handle cannot move.</p> <p>11 Q At any point, did you guys -- or, did anyone from MDB</p> <p>12 suggest maybe shortening of the gate chains just as a safety</p> <p>13 precaution to ensure that it wouldn't -- the belly gates would not</p> <p>14 fully open?</p> <p>15 A After this issue or before this issue?</p> <p>16 Q Any time -- I guess any time after January -- or, sorry,</p> <p>17 July 2013.</p> <p>18 A Maybe somebody suggested it. I'm not sure. I wouldn't</p> <p>19 have suggested it, because, like I say, it's not a positive</p> <p>20 lockout device.</p> <p>21 Some of the Ranco trailers have a way to do that, but</p> <p>22 our back two trailers don't have a way of doing that.</p> <p>23 Q Do you have an idea of who may have suggested shortening</p> <p>24 the gate?</p> <p>25 A Oh, everybody has got their ideas about how to solve</p>	<p style="text-align: right;">Page 133</p> <p>1 BY MS. SHREVE:</p> <p>2 Q Yesterday and possibly today as well, you testified that</p> <p>3 the -- that your drivers provide vehicle inspection reports when</p> <p>4 they do their inspection. Is that correct?</p> <p>5 A At the time of this happening, our drivers --</p> <p>6 MS. SHREVE: Can you repeat my question to him. Sorry.</p> <p>7 (The question was read by the reporter.)</p> <p>8 THE WITNESS: That was correct up until the point that</p> <p>9 they changed the law.</p> <p>10 BY MS SHREVE:</p> <p>11 Q Okay. What is the -- what law was changed?</p> <p>12 A The requirement to fill out the DVIRs is now only</p> <p>13 required to fill it out if there's a defect noted.</p> <p>14 Q Okay. And when was that change?</p> <p>15 A I don't know, approximately a year and a half ago.</p> <p>16 Q And what was required prior to the law change?</p> <p>17 A You had to fill out a DVIR every day regardless of if</p> <p>18 there is a defect or not.</p> <p>19 Q So approximately a year and a half ago, that was changed</p> <p>20 to only if the driver noted some sort of defect, correct?</p> <p>21 A Correct.</p> <p>22 Q Okay. And so what you brought to us today is what a</p> <p>23 Driver Vehicle Inspection Report is for MDB that would be filled</p> <p>24 out?</p> <p>25 A Correct, even though, if you look at that, it says</p>

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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 "MDB 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 "MDB Trucking."

11 Q Okay.

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

14 Q He likes to recycle.

15 Is MDB 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.

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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

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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 MDB'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.)

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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, MDB 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

<p style="text-align: right;">Page 138</p> <p>1 than these two that you have provided today?</p> <p>2 A I mean, I have other -- not provided by my employer, I</p> <p>3 do not think so. I have air-conditioning certifications to be</p> <p>4 able to perform air-conditioning work on a commercial vehicle.</p> <p>5 Q Any other certifications in regards to performing any</p> <p>6 repair work or maintenance on these vehicles?</p> <p>7 A I don't think so.</p> <p>8 MS. SHREVE: I think that's all the questions I have</p> <p>9 right now. I reserve the right to ask some more after other</p> <p>10 counsel continues.</p> <p>11 So at this moment, I would pass the witness.</p> <p>12 MS. WOELFEL: Great. Thank you.</p> <p>13 MS. SHREVE: Do you want to take a break and switch?</p> <p>14 MS. WOELFEL: No, we can get started. I'll just try to</p> <p>15 speak up.</p> <p>16 If you can't hear me, let me know.</p> <p>17 THE WITNESS: Okay.</p> <p>18</p> <p>19 EXAMINATION</p> <p>20 BY MS. WOELFEL:</p> <p>21 Q My name is Jessica Woelfel. I represent RMC Lamar.</p> <p>22 I'll get through as much as I can today, then we'll pick</p> <p>23 back up tomorrow morning, just depending where we are.</p> <p>24 So I want to go back to, just really quickly, Exhibit 17</p> <p>25 that you were just looking at, the Driver Vehicle Inspection</p>	<p style="text-align: right;">Page 140</p> <p>1 Q So there was a wiring issue that was preventing the</p> <p>2 switch from operating the gate?</p> <p>3 A Correct.</p> <p>4 Q How did you correct that problem?</p> <p>5 A I believe I unplugged the four-way from the front of the</p> <p>6 front trailer, cleaned it, put it back in and it worked.</p> <p>7 Q And you used the same four-way?</p> <p>8 A Yes.</p> <p>9 Q And cleaning that four-way fixed the problem?</p> <p>10 A Yes, because when you clean it, you are also -- if it</p> <p>11 gets any kind of corrosion on it whatsoever, the switch -- it's</p> <p>12 not really corrosion, it just -- basically, you are just cleaning</p> <p>13 it with a wire brush and spreading the prongs out slightly and</p> <p>14 plugging it back in and it worked.</p> <p>15 Q Is that a pretty typical issue where you would have some</p> <p>16 sort of corrosion or debris in one of these plugs that would</p> <p>17 prevent or that would cause some sort of a malfunction in the</p> <p>18 wiring?</p> <p>19 A It's possible. When I say "corrosion," that's probably</p> <p>20 a bad choice.</p> <p>21 It's more of oxidation of the brass. It doesn't make</p> <p>22 good contact. So you have to get in there and clean it with a</p> <p>23 wire brush.</p> <p>24 Q Do you do any type of regular inspections of the wiring</p> <p>25 to check for those types of issues, or do you just wait until a</p>
<p style="text-align: right;">Page 139</p> <p>1 Report.</p> <p>2 A Can you explain something for a second.</p> <p>3 Q Sure.</p> <p>4 A RMC Lamar, is that the parent company to Ranco, or is</p> <p>5 that the company who purchased Ranco? I'm not sure who --</p> <p>6 Q That's the company that sold to Dragon. So that's --</p> <p>7 A Okay. Just in relation to Ranco trailers?</p> <p>8 Q Yes, manufacturer of the trailer, original manufacturer.</p> <p>9 Okay. With respect to this trailer -- this is Trailer</p> <p>10 Number 6775 on the first page -- the remarks here -- well, first</p> <p>11 of all, can you tell me who the mechanic's signature is on this</p> <p>12 document, first page of Exhibit 17?</p> <p>13 A Are you talking about the --</p> <p>14 Q First page of the Driver's Vehicle Inspection Report.</p> <p>15 A Oh, that would be my signature, that the defects were</p> <p>16 corrected.</p> <p>17 Q Okay. And the remarks were that the cab switch is not</p> <p>18 opening the gate. What does that mean?</p> <p>19 A That means that the switch inside the cab, that has the</p> <p>20 cover on that you open to activate the trailer to dump it with the</p> <p>21 electric solenoid, was not operating, something that -- the</p> <p>22 trailer was not being -- you cannot operate from the truck cab.</p> <p>23 It doesn't necessarily mean it was the switch, it</p> <p>24 just -- it could be the wiring between the switch and the valve.</p> <p>25 Somewhere along the lines, it wasn't working, wasn't operating.</p>	<p style="text-align: right;">Page 141</p> <p>1 driver brings it to your attention that a cab switch isn't</p> <p>2 working?</p> <p>3 A When they come in for the routine inspections, we check</p> <p>4 to make sure that the wire is in place and the wire is not --</p> <p>5 everything looks mechanically correct, in other words, it's not</p> <p>6 broken, the wire is not broken, the four-way plug is not</p> <p>7 physically broken.</p> <p>8 But we do not unplug and clean it every time we check it</p> <p>9 off, no.</p> <p>10 Q Do you ever, in the annual inspection, unplug and clean</p> <p>11 and check the wires at that point?</p> <p>12 A On the annual inspection? I would -- I don't think so,</p> <p>13 no.</p> <p>14 It -- you have to understand the nature of these plugs,</p> <p>15 and you change them all the time anyway because of damage. And</p> <p>16 so --</p> <p>17 Q Okay. So going all the way back --</p> <p>18 A Okay.</p> <p>19 Q -- to the very beginning, I want to go to when MDB first</p> <p>20 leased the Trailer 6775 from Western Nevada Transport.</p> <p>21 A Okay.</p> <p>22 Q Do you know what year MDB first leased Trailer 6775?</p> <p>23 A I believe it was 2012.</p> <p>24 Q Can you tell me how MDB came to work with Western Nevada</p> <p>25 Transport to lease trailers and vehicles?</p>

<p style="text-align: right;">Page 142</p> <p>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 MDB 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.</p>	<p style="text-align: right;">Page 144</p> <p>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 MDB 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 SKS have any of those documents? 8 A No. 9 Q Now, when Trailer 6775 was first leased, can you tell me 10 what efforts MDB 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,</p>
<p style="text-align: right;">Page 143</p> <p>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 MDB 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 MDB made any inquiries as 12 to any changes or modifications that were made to 6775 by 13 Western Nevada in the ten years before MDB 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</p>	<p style="text-align: right;">Page 145</p> <p>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 rest 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,</p>

<p style="text-align: right;">Page 146</p> <p>1 which would be a rub point. You check that.</p> <p>2 You check seven-way and the four-way connection in the</p> <p>3 front of the trailer, make sure that the plug looks good, check it</p> <p>4 in the back of the trailer.</p> <p>5 Now, you do have cords that go between the trailers.</p> <p>6 Those, you check. You pull out the seven-ways and the four-ways,</p> <p>7 make sure that they are all -- they all look good. You put it all</p> <p>8 back together.</p> <p>9 But the main thing you are looking for when you are</p> <p>10 testing the lights is the lights work and you don't have a ground</p> <p>11 issue. Then, generally, you don't have -- generally, you don't</p> <p>12 have to look any farther.</p> <p>13 Q Okay. All right. And then with respect to regular</p> <p>14 maintenance on the electrical system, we kind of touched on that,</p> <p>15 but you said that you would do a visual inspection when the</p> <p>16 trailer came in on your regular kind of multi-week inspections.</p> <p>17 A Uh-huh.</p> <p>18 Q Is that a "yes"?</p> <p>19 A Yes. I'm sorry. Yes.</p> <p>20 Q And then you would -- when somebody would bring it to</p> <p>21 your attention that there was a problem with a connection, you</p> <p>22 might pull a plug, replace a plug or check for debris or</p> <p>23 corrosion, correct?</p> <p>24 A Yes.</p> <p>25 Q And then during your annual inspections, what would you</p>	<p style="text-align: right;">Page 148</p> <p>1 A Absolutely -- no, they have not. There's no evidence --</p> <p>2 they have not been repainted.</p> <p>3 Q Okay. Now, SKS is owned by the same owners of MDB; is</p> <p>4 that correct?</p> <p>5 A That's correct.</p> <p>6 Q Is there any difference in ownership?</p> <p>7 A It's a different structure. One is a limited liability</p> <p>8 company and -- each of them being a member.</p> <p>9 Q Correct.</p> <p>10 A And the other one is -- SKS is a corporation where</p> <p>11 Travis Bonanno was the president and Kari Bonanno, I think, is the</p> <p>12 secretary-treasurer.</p> <p>13 Q So it's Travis Bonanno and Kari Bonanno, correct?</p> <p>14 A Yes.</p> <p>15 Q And they are -- are they the sole members of</p> <p>16 MDB Trucking?</p> <p>17 A Yes.</p> <p>18 Q Are they the sole shareholders of SKS?</p> <p>19 A Yes. As far as I know, the last time I looked.</p> <p>20 Q Now, you mentioned yesterday that you report to a person</p> <p>21 named Terry Davis?</p> <p>22 A Yes.</p> <p>23 Q What company does he work for?</p> <p>24 A He's officially employed by Bonanno Concrete, but I</p> <p>25 think he works for both Bonanno Concrete and MDB Trucking.</p>
<p style="text-align: right;">Page 147</p> <p>1 do with respect to the electrical system on the trailer?</p> <p>2 A We would go through the same process. We don't</p> <p>3 actually -- I mean, it's not like we pull all the wiring out. I</p> <p>4 mean, we're talking a major project. We are talking a two-day</p> <p>5 project to pull all the wiring out.</p> <p>6 We wouldn't do that in every trailer if it didn't show</p> <p>7 any signs of malfunctioning.</p> <p>8 Q Okay. When MDB first leased Trailer 6775 in 2012, do</p> <p>9 you know if they had it repainted?</p> <p>10 A No, we did not. To my knowledge, I do not believe we</p> <p>11 had it painted.</p> <p>12 Q Have you repainted any of your trailers since 2012?</p> <p>13 A No.</p> <p>14 Any of our trailers?</p> <p>15 Q Yes.</p> <p>16 A Oh, boy, I think we have. Not any of these trailers.</p> <p>17 Q Tell me, when you do repaint a trailer, do you remove</p> <p>18 any components from the trailer before you do a repaint?</p> <p>19 A If we were to repaint a trailer, we would remove a lot</p> <p>20 of components, lights, fenders, tires, wheels, that sort of</p> <p>21 things.</p> <p>22 Q And none of the trailers at issue that we've been</p> <p>23 discussing, 6773, 6774, 6775, none of those have been repainted --</p> <p>24 A No.</p> <p>25 Q -- since MDB has leased those trailers?</p>	<p style="text-align: right;">Page 149</p> <p>1 Q Do you know what his job title is?</p> <p>2 A Now, on his email, it says "safety coordinator."</p> <p>3 Q How long has he worked with Bonanno Concrete and/or MDB?</p> <p>4 Can you tell me approximately when he started working with MDB?</p> <p>5 A Approximately a year ago.</p> <p>6 Q So can you narrow that down a little bit more? Are we</p> <p>7 talking about approximately March of 2016, or -- is that your best</p> <p>8 recollection of when Terry Davis started working with MDB,</p> <p>9 approximately March 2016?</p> <p>10 A Yeah, that sounds about right, yes.</p> <p>11 Q Now, you said he was working with Bonanno Concrete</p> <p>12 approximately two years ago; is that correct?</p> <p>13 A Yes.</p> <p>14 Q Okay. How long have you had to report to Terry Davis?</p> <p>15 MR. BROWN: Object to foundation.</p> <p>16 Go ahead.</p> <p>17 THE WITNESS: I'm sorry.</p> <p>18 BY MS. WOELFEL:</p> <p>19 Q Do you report to Terry Davis?</p> <p>20 A I communicate to him.</p> <p>21 Q How often do you communicate with him?</p> <p>22 A A couple times a week, two or three times a week,</p> <p>23 sometimes three or four times a day, depends on what we're doing.</p> <p>24 Q And what types of issues do you communicate with</p> <p>25 Terry Davis about?</p>

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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.

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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

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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. Koski'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 No, 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

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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.

<p style="text-align: right;">Page 154</p> <p>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 MDB 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 MDB 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.</p>	<p style="text-align: right;">Page 156</p> <p>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?</p>
<p style="text-align: right;">Page 155</p> <p>1 Q Okay. Did you inspect every other MDB 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. Koski, 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 MDB 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</p>	<p style="text-align: right;">Page 157</p> <p>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.</p>

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

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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 think 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 charged, 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 MDB; 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

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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

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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

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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 MDB 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 MDB Trucking?

<p style="text-align: right;">Page 166</p> <p>1 Q At any time in your 35-year career, have you utilized</p> <p>2 that chain system?</p> <p>3 A Oh, yes, extensively, but not to keep the gates from</p> <p>4 opening, to keep the gates -- to restrict the opening of the</p> <p>5 gates, yes --</p> <p>6 Q Okay. So you have used them --</p> <p>7 A -- for the size of windrow they want on a job site, yes.</p> <p>8 Q Have you ever been injured in putting the chains on or</p> <p>9 off?</p> <p>10 A All the trailers that I have ever chained are semi</p> <p>11 trailers that have ten feet between the axles and the gates. So</p> <p>12 you walk under the trailer and you chain them.</p> <p>13 These are short trailers. They have -- it's only,</p> <p>14 like -- you can barely get your head in there to chain them.</p> <p>15 Q So my question is, have you ever been injured setting up</p> <p>16 the chaining device --</p> <p>17 A No.</p> <p>18 Q -- under a truck?</p> <p>19 A No.</p> <p>20 Q Are you aware of any other employee that you've worked</p> <p>21 with being injured setting up a chain device underneath a belly</p> <p>22 dumper?</p> <p>23 MR. BROWN: Objection, foundation.</p> <p>24 THE WITNESS: I don't know of any.</p> <p>25 ///</p>	<p style="text-align: right;">Page 168</p> <p>1 Q At the scene of the accident.</p> <p>2 A Well, the truck was not at the scene of the accident.</p> <p>3 Q Well, the truck pulled over to the side of the road.</p> <p>4 A No, he was not asked to do that.</p> <p>5 Q Okay. Thank you.</p> <p>6 Did you test the electrical system of any of the three</p> <p>7 trailers that were involved in this incident upon its return to</p> <p>8 the yard?</p> <p>9 A No.</p> <p>10 Q Why not?</p> <p>11 A There was no need to.</p> <p>12 Q Why was there no need to?</p> <p>13 A Because we put lockout devices on there, which prevents</p> <p>14 the gates from opening.</p> <p>15 We had already rewired the trailers completely. We had</p> <p>16 already checked the trailers out extensively.</p> <p>17 At this point, we felt that putting a lockout device was</p> <p>18 the best way to prevent this from happening again. And so far, it</p> <p>19 has been two and a half years and we haven't had a problem.</p> <p>20 Q So when you were -- when the truck came back to the</p> <p>21 yard -- and you said you had already rewired the trailer</p> <p>22 completely, you are talking about the rewire that took place one</p> <p>23 year ago?</p> <p>24 A Yes.</p> <p>25 Q And there was no inspection of the electrical system</p>
<p style="text-align: right;">Page 167</p> <p>1 BY MS. WOELFEL:</p> <p>2 Q Okay. So going to the July 2014 release, my</p> <p>3 understanding is that Mr. Koski contacted MDB while he was at the</p> <p>4 site of the dump and he had pulled over; is that correct? He had</p> <p>5 contacted them to advise them that this incident in July of 2014</p> <p>6 had occurred?</p> <p>7 A Yes.</p> <p>8 Q And do you know who he spoke to?</p> <p>9 A Tracy Shane.</p> <p>10 Q Okay. And do you know if anybody requested that</p> <p>11 Mr. Koski take any photos or do any documentation of the truck or</p> <p>12 the site of the event?</p> <p>13 MR. BROWN: Objection, foundation.</p> <p>14 THE WITNESS: Okay. The site of the event was a mile</p> <p>15 back down the road. So it would be pretty hard for him to walk</p> <p>16 down the freeway a mile to take pictures, especially while they</p> <p>17 are waiting for fire and rescue to arrive.</p> <p>18 He's on the side of the road, talking to a</p> <p>19 Highway Patrol officer at the time. I don't think that would be</p> <p>20 the time for Mr. Koski to be to do an independent investigation of</p> <p>21 what happened.</p> <p>22 BY MS. WOELFEL:</p> <p>23 Q So my question is, did anybody from MDB ask him to take</p> <p>24 any photos or document the truck?</p> <p>25 A At the scene of the accident?</p>	<p style="text-align: right;">Page 169</p> <p>1 after July of 2014?</p> <p>2 A No, not -- not in direct relation to that incident, no.</p> <p>3 Well, I shouldn't say that. We didn't do that</p> <p>4 inspection. The forensic -- the people -- the scientists and</p> <p>5 forensic people came out and did a complete inspection, all -- a</p> <p>6 year later, or whatever it was, a year and a half later.</p> <p>7 Q After the lawsuit had been filed?</p> <p>8 A Yeah.</p> <p>9 Q And the wiring system in the trailers, the subject</p> <p>10 trailers, is it your statement that the wiring system was exactly</p> <p>11 the same as the wiring system that was installed in July of 2013?</p> <p>12 A To the best of my knowledge, yes, it was. I don't</p> <p>13 think -- we never -- we didn't make any modifications to it, no.</p> <p>14 Q No modifications to it outside of changing plugs?</p> <p>15 A Maybe -- exactly, something like that, yes.</p> <p>16 Q Okay. Did you save the plugs that you changed after the</p> <p>17 July 2014 event until the time that the forensic inspection,</p> <p>18 electrical inspection had occurred?</p> <p>19 A No.</p> <p>20 Q What did you do with the plugs or any plugs that you</p> <p>21 changed on the subject trailers?</p> <p>22 A We throw them in the garbage after that, yeah.</p> <p>23 Q Did you do any testing -- outside of creating this pin</p> <p>24 system, did you do any testing to the Versa valve to see if it was</p> <p>25 malfunctioning in any way?</p>

<p style="text-align: right;">Page 170</p> <p>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 MDB 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 MDB concerned that they might get sued on the date</p>	<p style="text-align: right;">Page 172</p> <p>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 possibly 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</p>
<p style="text-align: right;">Page 171</p> <p>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 Was -- did you think that it was a possibility that MDB 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.</p>	<p style="text-align: right;">Page 173</p> <p>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 MDB's possession related to 25 this inspection by the Highway Patrol?</p>

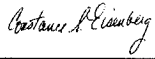
<p style="text-align: right;">Page 174</p> <p>1 A I would have to look and see if there is.</p> <p>2 Q And I would ask that you take a look, and if you do have</p> <p>3 anything --</p> <p>4 A Yes.</p> <p>5 Q -- to turn it over to your attorney.</p> <p>6 Are you aware of any findings by the Highway Patrol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

<p style="text-align: right;">Page 178</p> <p>1 Q Okay. I'm going to show you some documents.</p> <p>2 A Okay.</p> <p>3 MS. WOELFEL: Jump into some documents.</p> <p>4 And I apologize to the folks on the phone because I</p> <p>5 don't have -- I didn't circulate these earlier.</p> <p>6 (Exhibit 19 marked for identification.)</p> <p>7 BY MS. WOELFEL:</p> <p>8 Q So Exhibit 19 is a document that's Bates-labeled MDB 388</p> <p>9 on page 1, 394 on page 2, and 400 on page 3. If you look at the</p> <p>10 top, they all relate to Equipment Number 6777.</p> <p>11 Do you see that?</p> <p>12 A Yes.</p> <p>13 Q And can you tell me which piece of Equipment 6777 was or</p> <p>14 is.</p> <p>15 A I believe 677 -- well, I don't believe it. 677 is the</p> <p>16 front -- is the middle trailer of the set that I was pulling on</p> <p>17 subject day, July 7th, 2014.</p> <p>18 Q Okay. And if we look at the first page of the page that</p> <p>19 is Bates-labeled MDB 388, on the work order, it is by you?</p> <p>20 A Uh-huh.</p> <p>21 Q Scott, that's you, correct?</p> <p>22 A Yes.</p> <p>23 Q Is there any other person named Scott that works for</p> <p>24 MDB?</p> <p>25 A No. The work order is made up by me, but the work was</p>	<p style="text-align: right;">Page 180</p> <p>1 Q When did you make this change to your timecards such</p> <p>2 that I would be able to allocate your time working on maintenance</p> <p>3 issues?</p> <p>4 A I think -- I believe it was January of 2015 that we</p> <p>5 changed timecard formats.</p> <p>6 Q Why did you change your timecard formats in</p> <p>7 January 2015?</p> <p>8 A Because somebody in the office wanted to start figuring</p> <p>9 out how much it was costing to work maintenancewise on each piece</p> <p>10 of equipment, but it never really came about.</p> <p>11 But that's where -- how it started.</p> <p>12 Q Okay. All right. So looking at the first page of this</p> <p>13 work order -- and can you read the first -- or read what is listed</p> <p>14 or written in under where it says "Additional."</p> <p>15 I don't see anything checked on the top. It says</p> <p>16 "Additional," and then you have something written. Can you read</p> <p>17 that for me.</p> <p>18 A Yes. It says rewire trailer to meet MDB standards.</p> <p>19 Replace lights with LEDs.</p> <p>20 Q Okay. What are MDB standards? What does that mean,</p> <p>21 that you are rewiring this trailer to meet MDB standards?</p> <p>22 A Our standards is to wire the trailer in conjunction with</p> <p>23 FMCSA rules and proper techniques, I would suppose.</p> <p>24 Q Okay. You said in conjunction with something,</p> <p>25 something, something rules --</p>
<p style="text-align: right;">Page 179</p> <p>1 performed by myself and Pat.</p> <p>2 Q Okay. And there's a section on each of these work</p> <p>3 orders for total time, and I've noticed that most of them are</p> <p>4 blank.</p> <p>5 Is that to indicate the time it took to perform the work</p> <p>6 order or the maintenance that needs to be performed?</p> <p>7 A That's what -- that's what that's for, yes, but we don't</p> <p>8 generally use that.</p> <p>9 Q Why not?</p> <p>10 A Because we don't allocate time to a particular piece of</p> <p>11 equipment.</p> <p>12 And the way we do it, we do it with a separate timesheet</p> <p>13 that has got all the trailer numbers and the time it took the --</p> <p>14 the mechanic worked on each trailer.</p> <p>15 Q So I just want to make sure I understand what you are</p> <p>16 saying.</p> <p>17 Are you saying that on your timesheet -- for example, if</p> <p>18 I wanted to know how long it took you to perform the work that is</p> <p>19 indicated on the December 1, 2013, work order, I could figure that</p> <p>20 out by looking at your timesheets; is that correct?</p> <p>21 A You could. Presently, you could. When this -- November</p> <p>22 of 2013, you would not be able to, no.</p> <p>23 Q Why not?</p> <p>24 A Because that wasn't -- that's not the way we filled our</p> <p>25 timecards out then.</p>	<p style="text-align: right;">Page 181</p> <p>1 A Federal Motor Carrier Safety Administration rules.</p> <p>2 Q Okay.</p> <p>3 A That would -- that would apply probably to -- more to</p> <p>4 ABS system than anything else where they require certain type --</p> <p>5 gauge of wire for ABS brakes, that sort of thing.</p> <p>6 Q So can you describe for me what you did here to rewire</p> <p>7 this trailer to meet MDB standards.</p> <p>8 A We installed junction boxes at the front of the trailer</p> <p>9 to eliminate the seven-way and the four-way plugs at the front of</p> <p>10 trailer, so they could be hard wired in.</p> <p>11 I don't -- we installed all new four-way and seven-way</p> <p>12 cable on the draw bar and plugs on the draw bar, installed new</p> <p>13 three-way wire from front to rear.</p> <p>14 Installed junction box at rear of trailer to isolate</p> <p>15 wires to dump valves. Replaced all lights with LEDs.</p> <p>16 Q So what you just described, that would be considered MDB</p> <p>17 standards with respect to the wiring of the trailer?</p> <p>18 A Yes, to -- yes, the type of wiring we did, you know, and</p> <p>19 the techniques that we used to do it.</p> <p>20 Q Would you do this to every trailer so that you ensured</p> <p>21 that it met MDB standards?</p> <p>22 A Not if it already met MDB standards. If it already met</p> <p>23 our standards to begin with, then we wouldn't rewire the trailer,</p> <p>24 no.</p> <p>25 Q Does any part of this work that you described involve</p>

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

<p style="text-align: right;">Page 186</p> <p>1 work order prepared by Pat; is that correct?</p> <p>2 A Pardon?</p> <p>3 Q This is a work order that was prepared by Pat, is that</p> <p>4 correct, so far as you can tell?</p> <p>5 A You know, actually, it was prepared by his wife.</p> <p>6 Q I was going to say it's really nice handwriting.</p> <p>7 A He must have had a bunch of them to do and took them</p> <p>8 home and dictated them, I guess. But it is Pat's work order, yes.</p> <p>9 Q And the work was performed by Pat?</p> <p>10 A Yes.</p> <p>11 Q And can you describe for me the work that was performed</p> <p>12 here.</p> <p>13 A Troubleshoot air leak at the gate control valve.</p> <p>14 Q Do you know if this work order was before or after the</p> <p>15 July '13 dump incident, because there's some confusion as to the</p> <p>16 date. So I'm wondering if you know whether this work order is</p> <p>17 from before that incident or after that incident.</p> <p>18 A Well, it's kind of a loaded question.</p> <p>19 MR. BROWN: Well, ask -- listen to what she said, do you</p> <p>20 know. And all you can say is yes or no, whether you know or not.</p> <p>21 THE WITNESS: Well, if you are saying is it after the</p> <p>22 July 13th incident, then, yeah, for sure, it's after the July 13th</p> <p>23 incident.</p> <p>24 BY MS. WOELFEL:</p> <p>25 Q No. Well, I'm not -- the July 2013 incident. So let me</p>	<p style="text-align: right;">Page 188</p> <p>1 for leaks, okay.</p> <p>2 Q Now, this handwriting, we established, is not Pat's.</p> <p>3 His wife is writing this, it looks like.</p> <p>4 A I think so, yes.</p> <p>5 Q Where is his wife getting information? Is Pat making</p> <p>6 notes? Is he just telling her what he did? Do you have any idea</p> <p>7 where she's getting the information that's included on this</p> <p>8 document?</p> <p>9 A She is probably getting it from his notes. This is</p> <p>10 exactly -- this looks exactly like what Pat would have written if</p> <p>11 he wrote it.</p> <p>12 It doesn't look -- I mean, it doesn't look -- I</p> <p>13 understand what he did, what he was -- so whether she wrote it or</p> <p>14 he wrote it, I think it's the same -- same thing, yes.</p> <p>15 Q Do you usually keep handwritten notes on something other</p> <p>16 than a work order when you are performing work on one of the MDB</p> <p>17 trucks or trailers?</p> <p>18 A I don't know if he does. I think he does. I do, just</p> <p>19 so you don't forget to write the mileage down or the part number</p> <p>20 or something like that, and then when you go to do your work --</p> <p>21 sit down to do your work order, you have it in front of you, fill</p> <p>22 out your work order, throw the paper away, you don't need it now.</p> <p>23 Q So you throw away your handwritten notes once you fill</p> <p>24 out the work order. Is that your testimony?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 187</p> <p>1 clarify.</p> <p>2 THE WITNESS: Oh, oh, I see. Okay.</p> <p>3 MR. BROWN: There you go. We don't know when it is.</p> <p>4 BY MS. WOELFEL:</p> <p>5 Q I'm not trying to trick you.</p> <p>6 A Oh, no, no, I know that.</p> <p>7 Q So my question is, we know that a dump occurred sometime</p> <p>8 in July of the year 2013 involving Equipment 6775, correct?</p> <p>9 A Yes.</p> <p>10 Q Okay. We don't know the exact date that that occurred,</p> <p>11 but we have a work order in front of us, MDB 239, that's dated</p> <p>12 July 18 that discusses an air leak at a gate control valve.</p> <p>13 A Uh-huh, yes.</p> <p>14 Q My question for you is, did this occur -- or is this</p> <p>15 work order from before that incident or after that incident, if</p> <p>16 you know?</p> <p>17 A I don't know for sure, but I believe it was done before</p> <p>18 the incident. I believe that the incident -- the first incident</p> <p>19 with the bottom opening inadvertently was the end of the month in</p> <p>20 July, so I believe this was done before.</p> <p>21 Q Okay. Can you tell me what was done to fix this</p> <p>22 problem.</p> <p>23 A Pat found the O-rings on the oiler and water separator</p> <p>24 leaking. Tried to repair with O-rings, removed units, bypassed</p> <p>25 air lines, plumbed solid with pipe fittings, reinstalled, tested</p>	<p style="text-align: right;">Page 189</p> <p>1 Q Go down to the next page --</p> <p>2 A Can I make a clarification? This actually wasn't the</p> <p>3 gate control valve that we were working on. You guys do know</p> <p>4 that, right?</p> <p>5 Q Sure, you can make that clarification.</p> <p>6 A Yeah, we weren't actually working on the gate control</p> <p>7 valve, which would be the Versa valve. We were actually working</p> <p>8 on the oiling system that's the head of it, yeah.</p> <p>9 Q Thank you for that clarification.</p> <p>10 Okay. So on to the next page, which would be MDB 240,</p> <p>11 and this work order is dated 8/1/2013. And it says date</p> <p>12 completed, 8/2/2013, for Equipment 6777.</p> <p>13 Do you see that?</p> <p>14 A Yes.</p> <p>15 Q Is this Pat's handwriting?</p> <p>16 A Yes, it is.</p> <p>17 Q And this says investigate unintentional gate opening.</p> <p>18 So this is the work order to deal with the unintentional gate</p> <p>19 opening that occurred at the end of July 2013; is that correct?</p> <p>20 A That is correct.</p> <p>21 Q And the total time is not filled out. And was it your</p> <p>22 testimony that there's no way to figure out how much time it took</p> <p>23 to fix this problem?</p> <p>24 A I could only guess.</p> <p>25 Q Now, this is the work order for rewiring the trailers,</p>

<p style="text-align: right;">Page 190</p> <p>1 is that correct, to rewire?</p> <p>2 A This, no. I think it's to rewire the truck. He might</p> <p>3 have actually done something to the trailer. I'm not sure.</p> <p>4 Q Can you actually take a look and tell me what this work</p> <p>5 order is for.</p> <p>6 A Okay. This was -- his notes was investigation --</p> <p>7 investigating unintentional gate opening. So he replaced the</p> <p>8 Versa valve and rewired dump valve circuit from valve to truck.</p> <p>9 Q What does that mean -- stop you there -- "rewired dump</p> <p>10 valve circuit from valve to truck"? Can you describe where those</p> <p>11 components are.</p> <p>12 A So what he did was, he made sure that the wiring from</p> <p>13 the batteries of the truck went to the switches, and from the</p> <p>14 switches in the four-way through -- directly to each Versa valve</p> <p>15 on each trailer without going through any other wiring, any --</p> <p>16 it's not -- inclusive in any other wire. It's separate from all</p> <p>17 other -- all other portions of the trailer.</p> <p>18 Q Okay. So what you are saying is, the wire from the</p> <p>19 truck, he switched the wiring so that it went straight from the</p> <p>20 truck -- the battery directly to the Versa valve?</p> <p>21 A No, from the battery directly to the switches in the</p> <p>22 truck, and from there, directly to each Versa valve, instead of</p> <p>23 going through the seven-ways.</p> <p>24 Q So before we were speaking, we talked about how you</p> <p>25 completely rewired the three trailers --</p>	<p style="text-align: right;">Page 192</p> <p>1 A Yes.</p> <p>2 Q And what did you do with -- or, what do you typically do</p> <p>3 with the four-way socket and plug that you remove?</p> <p>4 A Throw them away.</p> <p>5 Q Do you know why you had to remove or replace the</p> <p>6 four-way socket and plug here?</p> <p>7 A Now, once again, if there's any issues with wiring,</p> <p>8 something not making contact, we replace -- these are pretty</p> <p>9 high-maintenance items. We replace them, rather than try to clean</p> <p>10 them or whatever. We just replace them.</p> <p>11 Q Next one is June 4th, 2014. Again, no name on the</p> <p>12 bottom. But does that look like Pat's handwriting to you, or is</p> <p>13 that your handwriting?</p> <p>14 A It's got a little of both. It looks like it's got</p> <p>15 Tracy's handwriting, my handwriting and Pat's -- or, no, Tracy's</p> <p>16 handwriting and Pat's handwriting -- and my handwriting, yes.</p> <p>17 Q And the work order, it says by -- I think that says</p> <p>18 Scott?</p> <p>19 A Yes, by Scott, but Pat wrote "by Scott," meaning I'm the</p> <p>20 one that brought it to his attention and told him, hey, we need to</p> <p>21 fix this.</p> <p>22 Q Describe to me what this work order entails.</p> <p>23 A The trailer came in to the yard. Driver would have</p> <p>24 noticed -- let us know by filling out a DVIR, which we may or may</p> <p>25 not have at this particular time, that the ABS light was on,</p>
<p style="text-align: right;">Page 191</p> <p>1 A Yes.</p> <p>2 Q -- in response to this incident, correct?</p> <p>3 A I believe so.</p> <p>4 Q Is this the work order for the rewiring?</p> <p>5 A No, not for the complete trailer.</p> <p>6 Q Okay. That would be a different work order?</p> <p>7 A Yes. If -- yeah, it would be.</p> <p>8 Q Okay. And what's reflected on this work order does</p> <p>9 not -- does not discuss or identify the work that you did in</p> <p>10 rewiring the three trailers, 6773, 6774 --</p> <p>11 A No.</p> <p>12 Q -- and 6775?</p> <p>13 A No.</p> <p>14 Q On to the next document, and that's a work order dated</p> <p>15 February 15th, 2014, for Equipment Number 6775.</p> <p>16 And can you tell me what this -- first of all, you can't</p> <p>17 identify who performed this work because there's no name; is that</p> <p>18 correct?</p> <p>19 A That is correct. When -- I can identify it by his</p> <p>20 handwriting.</p> <p>21 Q That looks like Pat's handwriting, too?</p> <p>22 A It is Pat's handwriting. And, apparently, he didn't</p> <p>23 even put the date on, because that's my handwriting for the date.</p> <p>24 Q And it says "replace four-way socket and plug"; is that</p> <p>25 correct?</p>	<p style="text-align: right;">Page 193</p> <p>1 indicating a malfunction in the ABS system on the trailer.</p> <p>2 Q And so what did you do to repair that?</p> <p>3 A Pat would have hooked up our computer to it, figured out</p> <p>4 what was wrong with it, diagnosed it, found that the YE-1 wire was</p> <p>5 broken, which is one of the wires going from the modulator to one</p> <p>6 of the four wheels, wheel ends.</p> <p>7 And he temporarily repaired the broken wire, spliced it,</p> <p>8 which you are really not supposed to do, but it does work. And</p> <p>9 then he replaced it on -- two days later when the new one came in.</p> <p>10 Q Next page is 6775 on 6/30, 2014, and I believe we</p> <p>11 touched upon this one earlier in your testimony.</p> <p>12 A Yes.</p> <p>13 Q Since the last time -- I think you touched upon it</p> <p>14 yesterday -- do you have any idea what this work order is about?</p> <p>15 A No. In fact, this morning, I pulled this work order out</p> <p>16 before coming here and went over it with Pat Bigby.</p> <p>17 Q Okay. Tell me what you guys discussed.</p> <p>18 A And he says the only thing he can think of is the bolts</p> <p>19 were loose and he tightened up the bolts.</p> <p>20 Q On the Versa valve?</p> <p>21 A Yes. That's the only thing he could think of.</p> <p>22 Q Did he have any personal recollection of it, or was he</p> <p>23 just kind of speculating as to what it could possibly --</p> <p>24 A I think he was speculating, yes.</p> <p>25 Q What else did you chat with Pat about this morning</p>

<p style="text-align: right;">Page 194</p> <p>1 before your deposition? Did you talk about anything else with 2 respect to your testimony the day before?</p> <p>3 A Oh, no. No.</p> <p>4 Q Did you get any more clarification or talk through any 5 other issues?</p> <p>6 A Huh-uh.</p> <p>7 MR. BROWN: Is that a "no"?</p> <p>8 THE WITNESS: Huh?</p> <p>9 MR. BROWN: Is that a "no"?</p> <p>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.</p> <p>13 BY MS. WOELFEL:</p> <p>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?</p> <p>17 A Yes, that's correct.</p> <p>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?</p> <p>21 A No, I did not talk to anybody.</p> <p>22 Q All right. Next page, MDB 258, date on there is 23 July 2nd, 2014. What's going on with this work order?</p> <p>24 A Same trailer again, came in with ABS light on again. He 25 would have done -- gone through his typical diagnostics test,</p>	<p style="text-align: right;">Page 196</p> <p>1 Q You don't keep those?</p> <p>2 A No.</p> <p>3 Q For any purpose.</p> <p>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.</p> <p>7 A Okay.</p> <p>8 MS. WOELFEL: It's 5 o'clock right now. Why don't we 9 break and pick it up in the morning.</p> <p>10 THE WITNESS: Okay.</p> <p>11 MS. WOELFEL: And we'll shoot to have you done by 12 noontime. We'll do our best to make it happen. Okay?</p> <p>13 THE WITNESS: Okay.</p> <p>14 MS. WOELFEL: Thank you very much.</p> <p>15 THE WITNESS: Yes. Thank you.</p> <p>16 MS. SHREVE: Bye, everyone on the phone.</p> <p>17 (The proceedings concluded at 4:59 p.m.)</p> <p>18 -o0o-</p> <p>19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 195</p> <p>1 hooking the computer to it, found both sensors wires to the front 2 sensors damaged, replaced both wires.</p> <p>3 Q And with respect to the wires that he removed, he would 4 have thrown those away, correct?</p> <p>5 A Yes.</p> <p>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.</p> <p>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.</p> <p>13 Q Okay.</p> <p>14 A This time, he found the problem with the extension 15 cable.</p> <p>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?</p> <p>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.</p> <p>23 Q And with respect to the items he replaced, he would 24 throw the ones he removed away; is that correct?</p> <p>25 A Yeah. No, we do not have those.</p>	<p style="text-align: right;">Page 197</p> <p>1 REPORTER'S CERTIFICATION</p> <p>2</p> <p>3 I, CONSTANCE S. EISENBERG, a Certified Court Reporter in 4 and for the State of Nevada, do hereby certify;</p> <p>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;</p> <p>9 That said deposition was taken in verbatim stenotype 10 notes by me and thereafter transcribed into typewriting as herein 11 appears;</p> <p>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;</p> <p>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.</p> <p>18 DATED: At Reno, Nevada, this 16th day of March, 2017.</p> <p>19</p> <p>20 </p> <p>21 _____</p> <p>22 CONSTANCE S. EISENBERG, CCR #142, RMR, CRR</p> <p>23 24 25</p>

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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),
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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:
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EXHIBIT 4

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

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IN AND FOR THE COUNTY OF WASHOE

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ERNEST BRUCE FITZSIMMONS and
CAROL FITZSIMMONS, husband and
wife,

Case No. CV15-02349

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Plaintiffs,

Department No. 10

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vs.

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MDB TRUCKING, LLC; et al.,

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Defendants.

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AND RELATED THIRD-PARTY MATTERS
AND CONSOLIDATED CASE.

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DEPOSITION OF PMK OF MDB TRUCKING

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SCOTT ALLEN PALMER

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March 6, 2017

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Reno, Nevada

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Volume I

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

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Job No. 378331

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EXAMINATION

SCOTT ALLEN PALMER

EXAMINATION BY MS. SHREVE

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Note: Original Exhibits retained in binder at Sunshine Litigation Services.

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BE IT REMEMBERED that on Monday, March 6, 2017, at the
hour of 1:39 p.m. of said day, at the offices of McDonald Carano
Wilson, 100 W. Liberty St., 10th Floor, Reno, Nevada, before me,
CONSTANCE S. EISENBERG, a Nevada Certified Court Reporter,
personally appeared SCOTT ALLEN PALMER, who was by me first duly
sworn, and was examined as a witness in said cause.

-o0o-

SCOTT ALLEN PALMER
called as a witness, having been duly sworn,
testified as follows:

EXAMINATION

BY MS. SHREVE:

Q Good afternoon. My name is Paige Shreve, and I
represent defendant Versa Product Company in this suit.

Would you please say your name and spell it for the
record.

A Scott Palmer, S-c-o-t-t, P-a-l-m-e-r.

Q Okay. Mr. Palmer, you understand the oath that you just
took is the same oath that you would take in a court of law and
you are subject to the same penalty of perjury?

A Yes.

Q Okay. Have you ever been deposed before?

A I don't think so.

<p style="text-align: right;">Page 6</p> <p>1 Q So we're going to go over a couple of ground rules for 2 the deposition just so you understand how this goes. You might 3 have already spoke to your counsel about it, but I'm just going to 4 reiterate. 5 First of all, to my right is a court reporter. She is 6 taking down everything that we say. So if you could please make 7 sure your responses are all verbal responses, she doesn't -- she 8 can't take down "uh-huh" or "yeah," just like "yes," "no." 9 Just make sure they are verbal, please. Or, shaking 10 your head, she can't type that down. 11 Another thing is, it's really hard for the court 12 reporter to get down what we're saying if we talk over each other. 13 So I would request that you let me finish my question, and I will 14 give you the same courtesy and let you finish your answer. 15 I know, sometimes, you can anticipate what the question 16 is going to be and so you start to answer. So if you could just 17 wait until the question is complete before you answer, I would 18 appreciate that. 19 Also, at any time, your attorney or another attorney in 20 the room may make an objection. That's okay. You can let them 21 make an objection, and then you can go ahead and answer the 22 question, unless your attorney instructs you otherwise. 23 I'll be asking you questions. And if, for some reason, 24 you do not understand any question I ask, please let me know. 25 If you answer the question, I'm going to assume that you</p>	<p style="text-align: right;">Page 8</p> <p>1 of your name may be incorrect. 2 However, significant changes, which would be something 3 like, you know, there was a red light and you then later say no, 4 the light was green, not red, that's a substantial change. And 5 then you would be subject at trial for me to comment on your 6 change. 7 Additionally, if you need any breaks at all during the 8 deposition, just let me know and we can take a break at any time. 9 I just request that you answer the question that I had 10 asked before we do take the break. 11 A Okay. 12 Q Now, is there any reason why you are unable to give your 13 best testimony today? 14 A No. 15 Q Have you taken any medication in the last 24 hours? 16 A No. 17 Q Do you understand that you are being deposed today as 18 the person most knowledgeable for MDB Trucking? 19 A Yes. 20 Q I know earlier, you testified that you don't recall ever 21 being deposed before, so I'm guessing this answer is going to be 22 no. But have you ever been a deponent and been the person most 23 knowledgeable for something before? 24 A Yes. 25 Q You have?</p>
<p style="text-align: right;">Page 7</p> <p>1 understood the question. 2 Sometimes I can ask bad questions. So just say, "Hey, 3 can you please rephrase that," or, "I don't understand." That's 4 okay to let me know, and I'll gladly rephrase the question. 5 A Okay. 6 Q Another thing is, sometimes, you might be unsure of 7 something and I may ask for you to give your best estimate. 8 Do you understand the difference between an estimate and 9 a guess? 10 A Yes. 11 Q Okay. So I'll give you an example. 12 I can ask you to estimate, you know, the length of this 13 table. You, obviously, can see the table and can estimate it. 14 But if I ask you to estimate the table in my house, that would be 15 a guess because you've never seen it before. 16 A Yes. 17 Q So I may ask you to give your best estimate. If you 18 don't know, it's okay to not know, just let me know, you know, you 19 don't know and you are unable to. 20 Additionally, a transcript will be prepared at the end 21 of this deposition. You will have a chance to look over it and 22 make any changes you want. 23 There are two type of changes. There's grammatical 24 changes, small changes, and then there's substantive changes. 25 It's okay to make grammatical changes or something. The spelling</p>	<p style="text-align: right;">Page 9</p> <p>1 A Yes. I'm not sure -- yeah, I'm not sure I understand 2 the question. 3 Q Have you ever been asked to be the person most 4 knowledgeable and been subject to a deposition, like you are here 5 today, before? 6 A Oh. No. 7 Q Do you understand what is meant by "the person most 8 knowledgeable"? 9 A Yes. 10 Q I'm going to just reiterate to make sure we have the 11 same understanding. 12 Basically, it means you are here to testify on behalf of 13 the company. So you are not here to testify in your own personal 14 capacity, it's for the company. 15 I will ask you a couple of questions in the beginning to 16 get some just background about yourself before I go into questions 17 about the company. Okay? 18 A Okay. 19 MR. BROWN: Can I just say one thing? 20 As you are aware, Mr. Palmer was also the driver of the 21 sand truck. 22 MS. SHREVE: Yes. 23 MR. BROWN: So to the extent that you want to ask him 24 questions about that as the driver of the sand truck, I would 25 appreciate it if you do it sometime over the next few days so he</p>

<p style="text-align: right;">Page 10</p> <p>1 doesn't have to come back as a fact witness. I know he wasn't 2 noticed for that. 3 MS. SHREVE: Yeah. 4 MR. BROWN: But I think it would be economically 5 feasible for everybody. 6 MS. SHREVE: We were going to ask you that as well. 7 MR. BROWN: So I don't have an objection to that, if you 8 want to ask him factual questions as to his knowledge of that from 9 a factual standpoint. 10 MS. SHREVE: Perfect. Thank you. 11 MS. WOELFEL: I would just comment, I think that that 12 makes a lot of economical sense, as long as we don't get an 13 objection saying, you know, we have seven hours with him or we're 14 running out of time with him. 15 MR. BROWN: Sorry, I'm eating candy. 16 As long as we finish and everybody is moving along 17 reasonably, I'm not going to throw a fit about the times in any 18 regard. 19 MS. WOELFEL: Okay. 20 MR. BROWN: But, you know, I don't anticipate everybody 21 asking the same questions over and over again, so as long as 22 that's not the case. 23 MS. SHREVE: All right. Okay. So we will begin. 24 BY MS. SHREVE: 25 Q Can you give me your full name, please. I know earlier,</p>	<p style="text-align: right;">Page 12</p> <p>1 Q Okay. And where did you go to high school? 2 A I went to North Branford High School in North Branford, 3 Connecticut. And Reno High School is where I graduated, in Reno, 4 Nevada. 5 Q And after graduation from high school, did you attend 6 any other secondary school? 7 A No. 8 Q What's your current occupation? 9 A Manager. 10 Q Manager for where? 11 A MDB Trucking, LLC. 12 Q How long have you been in that position as the manager 13 of MDB? 14 A About 14 months. 15 Q And what was your title before then? 16 A Maintenance manager. 17 Q How long have you been with MDB Trucking? 18 A Since August of 2014. 19 Q So would you briefly take me through the job duties that 20 you perform on a daily basis as the manager of MDB. 21 A I do paperwork in the morning, the prior day's 22 paperwork. I dispatch trucks. I oversee the maintenance of the 23 vehicles. I actually perform some of the maintenance on the 24 vehicles on occasion. 25 On a rare occasion, I drive.</p>
<p style="text-align: right;">Page 11</p> <p>1 you said Scott Palmer, but first, middle and last name. 2 A Scott Allen Palmer. 3 Q What's your date of birth? 4 A 11/2/1960. 5 Q Where were you born? 6 A California. 7 Q What city? 8 A Vallejo. 9 Q How long did you live there? 10 A Three years, four years. 11 Q Where did you go after that? 12 A Napa. 13 Q How long were you in Napa? 14 A Until 1971. 15 Q Where did you go after Napa? 16 A Northford, Connecticut. 17 Q How long were you in Northward, Connecticut, for? 18 A Northford, Connecticut, until 1975. 19 Q Where did you go after that? 20 A Reno. 21 Q So have you been in Reno, Nevada, ever since? 22 A Reno, Sparks, state of Nevada, since 1975, yes. 23 Q What's your current address? 24 A 6717 Rolling Meadows Drive, Apartment 721, Sparks, 25 Nevada 89436.</p>	<p style="text-align: right;">Page 13</p> <p>1 Q Okay. And you said paperwork. What kind of paperwork? 2 A The drivers' daily paperwork, invoicing, truck reports, 3 you have IFTA reports, that kind of stuff, mileage. 4 Q What sort of maintenance do you perform? 5 A Personally? 6 Q Yes. 7 A I go out and work on electrical problems, ABS problems, 8 stuff that takes a little bit more of a technical background. 9 Q Okay. And do you have any certifications for performing 10 any maintenance work? 11 A I've got -- yes, I have a few certifications. 12 Q Okay. And what are those certifications? 13 A Air-conditioning, tire and brake repair. I'm certified 14 to do annual inspections of vehicles. 15 Q Where did you receive these certifications from? 16 A Different places I worked, employers, previous employers 17 and current employers, and also from taking classes. 18 Q Did you receive any of these certifications from your 19 time employed at MDB? 20 A Yeah. Yes. 21 Q And which certification was that? 22 A In order to do annual inspections or brake specs at a 23 company, you have to be certified by their management. 24 Q And what did that entail for you to get your 25 certification from the management?</p>

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

<p style="text-align: right;">Page 18</p> <p>1 89506.</p> <p>2 Q What about the physical address?</p> <p>3 A The physical address of the yard I manage is 905 East</p> <p>4 Mustang Road.</p> <p>5 Q Are there more than one locations of MDB?</p> <p>6 A Yes.</p> <p>7 Q How many locations are there?</p> <p>8 A We have two yards, two operations, one in Dixon,</p> <p>9 California, and one in Sparks, Nevada; Reno, Nevada.</p> <p>10 Q And what's the address for the one in California?</p> <p>11 A 7059 Tremont Road, Dixon, California.</p> <p>12 Q And do you have any interaction with the yard in</p> <p>13 California?</p> <p>14 A Not over the last six months. They pretty much run on</p> <p>15 their own. But before that, I have knowledge of it, yes.</p> <p>16 Q Who owns MDB?</p> <p>17 A The partners are -- or the members -- I'm not sure how</p> <p>18 you would say that -- are Travis Bonanno and Kari Bonanno.</p> <p>19 Q And they both -- they own both locations in Nevada and</p> <p>20 California?</p> <p>21 A Yes.</p> <p>22 Q How many employees does MDB have?</p> <p>23 MR. BROWN: Are you talking total or just in --</p> <p>24 MS. SHREVE: We'll do in Nevada and then we'll do in</p> <p>25 California.</p>	<p style="text-align: right;">Page 20</p> <p>1 A I don't report directly to the owner very much right</p> <p>2 now. I report to a gentleman named Terry Davis, who works for the</p> <p>3 owner.</p> <p>4 Q And what is Terry Davis' job title?</p> <p>5 A I'm not sure.</p> <p>6 Q Is he an employee of the company?</p> <p>7 A I'm not sure.</p> <p>8 Q How often do you speak with Terry Davis?</p> <p>9 A Probably daily, at least a couple -- a few times a week.</p> <p>10 Q What are the things that you discuss with him?</p> <p>11 A Mostly, just general administrative issues, maybe, that</p> <p>12 the office might have, or whether or not we might be purchasing</p> <p>13 something that's going to cost a significant amount of money.</p> <p>14 Like, I'll run that by him and he can run that by the owner.</p> <p>15 Q Do the drivers and maintenance employees report to you?</p> <p>16 A Yes, the ones in Reno, yes.</p> <p>17 Q Right. Exactly.</p> <p>18 How many -- let me -- strike that.</p> <p>19 Do you make the decisions to purchase or lease any truck</p> <p>20 or trailer in Nevada?</p> <p>21 A Yes.</p> <p>22 Q Do you have to ask anyone above you to purchase or lease</p> <p>23 a truck or trailer --</p> <p>24 A Yes.</p> <p>25 Q -- in Nevada?</p>
<p style="text-align: right;">Page 19</p> <p>1 THE WITNESS: Twenty-two.</p> <p>2 BY MS. SHREVE:</p> <p>3 Q In Nevada?</p> <p>4 A No, total. I'm sorry. I missed --</p> <p>5 Q No.</p> <p>6 A I'm sorry.</p> <p>7 Q So how many would you say are in Nevada?</p> <p>8 A Twelve.</p> <p>9 Q So, roughly, ten in California --</p> <p>10 A Yes.</p> <p>11 Q -- if my math is correct?</p> <p>12 A Yes.</p> <p>13 Q And what are the different jobs entailed of the</p> <p>14 employees? We'll start with Nevada. Like, are they drivers,</p> <p>15 maintenance? What are the positions that you have in Nevada?</p> <p>16 A Okay. Myself as the manager, then we have one mechanic,</p> <p>17 one mechanic's helper, and the rest are truck drivers.</p> <p>18 Q And what about in California?</p> <p>19 A We have a manager that works down there that is also a</p> <p>20 driver. And then we have one mechanic and eight drivers, eight</p> <p>21 additional drivers.</p> <p>22 Q And I know you've briefly talked about it, but can you</p> <p>23 explain the managerial structure? So in regards to -- is there</p> <p>24 the owner, and then does the owner go to the manager, which would</p> <p>25 be you? Do you report to the owner? How does that work?</p>	<p style="text-align: right;">Page 21</p> <p>1 Is that person Terry Davis?</p> <p>2 A Yes, currently, yes.</p> <p>3 Q Currently.</p> <p>4 How many trucks does MDB own and/or lease in Nevada?</p> <p>5 A Eleven -- twelve.</p> <p>6 MR. BROWN: Are you specifically talking about trucks</p> <p>7 that will tow trailers?</p> <p>8 THE WITNESS: I was just going to --</p> <p>9 BY MS. SHREVE:</p> <p>10 Q I'm going to go into what those trucks entail, so --</p> <p>11 but, yes.</p> <p>12 A Yeah, if you are speaking of pickups, I mean, I guess</p> <p>13 you could make it 13, but 13 total vehicles.</p> <p>14 Q So for the different trucks, how many does MDB actually</p> <p>15 own?</p> <p>16 A To my knowledge, none.</p> <p>17 Q Okay. So of the 12 trucks or possibly 13 trucks, what</p> <p>18 are the different trucks? Are they all the same, or are they</p> <p>19 different?</p> <p>20 A Are you talking about make or model or type of vehicle?</p> <p>21 Q The type of vehicle, whether it tows, dump trucks, or a</p> <p>22 pickup truck.</p> <p>23 A Oh, we have -- well, we would have one pickup truck, one</p> <p>24 mechanic service truck, and the rest are heavy-duty tractor</p> <p>25 trailers or truck trailers.</p>

<p style="text-align: right;">Page 22</p> <p>1 I can go into more detail on that, whether they are a</p> <p>2 tractor that pulls bottom dumps or a truck that has the transfers</p> <p>3 behind it, but I'm not sure if that's what you are looking for.</p> <p>4 Q Yes. So how many pull belly dumps?</p> <p>5 A We have four. We have six power units that can pull</p> <p>6 bottom dumps.</p> <p>7 Q Are all six in service daily?</p> <p>8 A No.</p> <p>9 Well, yes, they could be, yes, not pulling bottom dumps,</p> <p>10 though, if that's what you meant.</p> <p>11 Q What would they pull if they are not pulling the bottom</p> <p>12 dumps?</p> <p>13 A They would pull pneumatic trailers that haul cement.</p> <p>14 They could be hauling a transport trailer. They could be hauling</p> <p>15 equipment.</p> <p>16 Q And then how many trailers does MDB own or lease in</p> <p>17 Nevada?</p> <p>18 A I'm completely guessing on this because it's not</p> <p>19 something I keep count of. It's probably close to 40.</p> <p>20 Q And are the, roughly, 40 trailers -- are any of them</p> <p>21 owned by MDB?</p> <p>22 A I do not think so.</p> <p>23 Q And of the approximately 40 trailers, how many are used</p> <p>24 daily?</p> <p>25 A I would say 70 percent of them would be used daily in</p>	<p style="text-align: right;">Page 24</p> <p>1 transmission or rebuild a transmission, so we sent it to somebody</p> <p>2 that could have the time to do it.</p> <p>3 MS. SHREVE: All right. So I'm going to hand out the</p> <p>4 first exhibit. So I would like to mark this as Exhibit 1. This</p> <p>5 is going to be the amended notice of the deposition for today.</p> <p>6 (Exhibit 1 marked for identification.)</p> <p>7 BY MS. SHREVE:</p> <p>8 Q I'll give you a second to look over this document.</p> <p>9 Have you seen this document before?</p> <p>10 A I think so, yes.</p> <p>11 Q What is your understanding of what this document is?</p> <p>12 A What you are going to be asking me today, what I'm going</p> <p>13 to be responsible for answering.</p> <p>14 Q And, again, you understand that this requires MDB to</p> <p>15 produce the person that is most knowledgeable on all the topics</p> <p>16 that are listed in this notice?</p> <p>17 MR. BROWN: Objection. He can give his notice of -- his</p> <p>18 understanding of what he'll testify, not legal implications.</p> <p>19 You can answer, if you can.</p> <p>20 THE WITNESS: Do I need to answer? I'm sorry.</p> <p>21 BY MS. SHREVE:</p> <p>22 Q Yes. Do you need me to --</p> <p>23 A Yes, please, repeat the question.</p> <p>24 Q I'll try and repeat it.</p> <p>25 Do you understand that this notice of deposition</p>
<p style="text-align: right;">Page 23</p> <p>1 possible different combinations.</p> <p>2 Q And of those trailers, how many are the belly dump</p> <p>3 trailers?</p> <p>4 A Nine.</p> <p>5 Q What other -- what services does MDB provide for its</p> <p>6 trucks or trailers?</p> <p>7 A Services?</p> <p>8 Q Yes. Do you do all of your repairs in-house?</p> <p>9 A Yes.</p> <p>10 Q And what sort of repairs do you do to the trucks or</p> <p>11 trailers?</p> <p>12 A We do every bit of maintenance, preventive maintenance,</p> <p>13 routine maintenance and general repairs.</p> <p>14 Q Do you ever have to send a truck or trailer to another</p> <p>15 company for any repairs or maintenance?</p> <p>16 A Very seldom. That would only be in case of, like,</p> <p>17 alignment. Mostly, we do everything in-house.</p> <p>18 Q So is alignment the only thing you would send a truck or</p> <p>19 trailer to a company to for maintenance or repair?</p> <p>20 A I mean, it's not the only thing that we've ever sent it</p> <p>21 out for, but that's generally -- yes, other than tires. We have a</p> <p>22 tire service that comes and does our tire work for us.</p> <p>23 Q What are other things that you've had to send out the</p> <p>24 truck or trailer for?</p> <p>25 A Maybe we didn't have enough time to replace a</p>	<p style="text-align: right;">Page 25</p> <p>1 requires MDB to designate a person to testify on its behalf in the</p> <p>2 case?</p> <p>3 A Yes, I do.</p> <p>4 Q Do you understand that MDB is required to prepare that</p> <p>5 person to provide all information known or reasonably available to</p> <p>6 them based on all 47 topics listed?</p> <p>7 MR. BROWN: Same objection.</p> <p>8 Go ahead.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MS. SHREVE:</p> <p>11 Q You are testifying on behalf of MDB as their person most</p> <p>12 knowledgeable, correct?</p> <p>13 A Yes.</p> <p>14 Q When did you become aware that you would be the person</p> <p>15 most knowledgeable for MDB in this deposition?</p> <p>16 A When I received the notice of the deposition.</p> <p>17 Q Do you recall when that was?</p> <p>18 A I think it was maybe a month ago, a few weeks ago. I</p> <p>19 don't exactly remember.</p> <p>20 MR. BROWN: The day after it was sent?</p> <p>21 MR. BARKLEY: I don't think you are testifying, Counsel.</p> <p>22 BY MS. SHREVE:</p> <p>23 Q And besides looking at this notice of deposition, as you</p> <p>24 said earlier, is there anything else that you did or discussed</p> <p>25 with anyone to ensure that you were prepared as the person most</p>

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

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IN AND FOR THE COUNTY OF WASHOE

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ERNEST BRUCE FITZSIMMONS and
CAROL FITZSIMMONS, husband and
wife,

Case No. CV15-02349

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Department No. 10

Plaintiffs,

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vs.

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MDB TRUCKING, LLC; et al.,

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Defendants.

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AND RELATED THIRD-PARTY MATTERS
AND CONSOLIDATED CASE.

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DEPOSITION OF PMK OF MDB TRUCKING

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SCOTT ALLEN PALMER

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March 6, 2017

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Reno, Nevada

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Volume I

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

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Job No. 378331

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EXAMINATION

SCOTT ALLEN PALMER

EXAMINATION BY MS. SHREVE

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Note: Original Exhibits retained in binder at Sunshine Litigation Services.

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For THE MODERN GROUP AND DRAGON ESP, LTD.:
(Appearing Telephonically)

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BE IT REMEMBERED that on Monday, March 6, 2017, at the
hour of 1:39 p.m. of said day, at the offices of McDonald Carano
Wilson, 100 W. Liberty St., 10th Floor, Reno, Nevada, before me,
CONSTANCE S. EISENBERG, a Nevada Certified Court Reporter,
personally appeared SCOTT ALLEN PALMER, who was by me first duly
sworn, and was examined as a witness in said cause.
-o0o-

SCOTT ALLEN PALMER
called as a witness, having been duly sworn,
testified as follows:

EXAMINATION
BY MS. SHREVE:
Q Good afternoon. My name is Paige Shreve, and I
represent defendant Versa Product Company in this suit.
Would you please say your name and spell it for the
record.
A Scott Palmer, S-c-o-t-t, P-a-l-m-e-r.
Q Okay. Mr. Palmer, you understand the oath that you just
took is the same oath that you would take in a court of law and
you are subject to the same penalty of perjury?
A Yes.
Q Okay. Have you ever been deposed before?
A I don't think so.

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<p style="text-align: right;">Page 6</p> <p>1 Q So we're going to go over a couple of ground rules for 2 the deposition just so you understand how this goes. You might 3 have already spoke to your counsel about it, but I'm just going to 4 reiterate. 5 First of all, to my right is a court reporter. She is 6 taking down everything that we say. So if you could please make 7 sure your responses are all verbal responses, she doesn't -- she 8 can't take down "uh-huh" or "yeah," just like "yes," "no." 9 Just make sure they are verbal, please. Or, shaking 10 your head, she can't type that down. 11 Another thing is, it's really hard for the court 12 reporter to get down what we're saying if we talk over each other. 13 So I would request that you let me finish my question, and I will 14 give you the same courtesy and let you finish your answer. 15 I know, sometimes, you can anticipate what the question 16 is going to be and so you start to answer. So if you could just 17 wait until the question is complete before you answer, I would 18 appreciate that. 19 Also, at any time, your attorney or another attorney in 20 the room may make an objection. That's okay. You can let them 21 make an objection, and then you can go ahead and answer the 22 question, unless your attorney instructs you otherwise. 23 I'll be asking you questions. And if, for some reason, 24 you do not understand any question I ask, please let me know. 25 If you answer the question, I'm going to assume that you</p>	<p style="text-align: right;">Page 8</p> <p>1 of your name may be incorrect. 2 However, significant changes, which would be something 3 like, you know, there was a red light and you then later say no, 4 the light was green, not red, that's a substantial change. And 5 then you would be subject at trial for me to comment on your 6 change. 7 Additionally, if you need any breaks at all during the 8 deposition, just let me know and we can take a break at any time. 9 I just request that you answer the question that I had 10 asked before we do take the break. 11 A Okay. 12 Q Now, is there any reason why you are unable to give your 13 best testimony today? 14 A No. 15 Q Have you taken any medication in the last 24 hours? 16 A No. 17 Q Do you understand that you are being deposed today as 18 the person most knowledgeable for MDB Trucking? 19 A Yes. 20 Q I know earlier, you testified that you don't recall ever 21 being deposed before, so I'm guessing this answer is going to be 22 no. But have you ever been a deponent and been the person most 23 knowledgeable for something before? 24 A Yes. 25 Q You have?</p>
<p style="text-align: right;">Page 7</p> <p>1 understood the question. 2 Sometimes I can ask bad questions. So just say, "Hey, 3 can you please rephrase that," or, "I don't understand." That's 4 okay to let me know, and I'll gladly rephrase the question. 5 A Okay. 6 Q Another thing is, sometimes, you might be unsure of 7 something and I may ask for you to give your best estimate. 8 Do you understand the difference between an estimate and 9 a guess? 10 A Yes. 11 Q Okay. So I'll give you an example. 12 I can ask you to estimate, you know, the length of this 13 table. You, obviously, can see the table and can estimate it. 14 But if I ask you to estimate the table in my house, that would be 15 a guess because you've never seen it before. 16 A Yes. 17 Q So I may ask you to give your best estimate. If you 18 don't know, it's okay to not know, just let me know, you know, you 19 don't know and you are unable to. 20 Additionally, a transcript will be prepared at the end 21 of this deposition. You will have a chance to look over it and 22 make any changes you want. 23 There are two type of changes. There's grammatical 24 changes, small changes, and then there's substantive changes. 25 It's okay to make grammatical changes or something. The spelling</p>	<p style="text-align: right;">Page 9</p> <p>1 A Yes. I'm not sure -- yeah, I'm not sure I understand 2 the question. 3 Q Have you ever been asked to be the person most 4 knowledgeable and been subject to a deposition, like you are here 5 today, before? 6 A Oh. No. 7 Q Do you understand what is meant by "the person most 8 knowledgeable"? 9 A Yes. 10 Q I'm going to just reiterate to make sure we have the 11 same understanding. 12 Basically, it means you are here to testify on behalf of 13 the company. So you are not here to testify in your own personal 14 capacity, it's for the company. 15 I will ask you a couple of questions in the beginning to 16 get some just background about yourself before I go into questions 17 about the company. Okay? 18 A Okay. 19 MR. BROWN: Can I just say one thing? 20 As you are aware, Mr. Palmer was also the driver of the 21 sand truck. 22 MS. SHREVE: Yes. 23 MR. BROWN: So to the extent that you want to ask him 24 questions about that as the driver of the sand truck, I would 25 appreciate it if you do it sometime over the next few days so he</p>

<p style="text-align: right;">Page 10</p> <p>1 doesn't have to come back as a fact witness. I know he wasn't 2 noticed for that. 3 MS. SHREVE: Yeah. 4 MR. BROWN: But I think it would be economically 5 feasible for everybody. 6 MS. SHREVE: We were going to ask you that as well. 7 MR. BROWN: So I don't have an objection to that, if you 8 want to ask him factual questions as to his knowledge of that from 9 a factual standpoint. 10 MS. SHREVE: Perfect. Thank you. 11 MS. WOELFEL: I would just comment, I think that that 12 makes a lot of economical sense, as long as we don't get an 13 objection saying, you know, we have seven hours with him or we're 14 running out of time with him. 15 MR. BROWN: Sorry, I'm eating candy. 16 As long as we finish and everybody is moving along 17 reasonably, I'm not going to throw a fit about the times in any 18 regard. 19 MS. WOELFEL: Okay. 20 MR. BROWN: But, you know, I don't anticipate everybody 21 asking the same questions over and over again, so as long as 22 that's not the case. 23 MS. SHREVE: All right. Okay. So we will begin. 24 BY MS. SHREVE: 25 Q Can you give me your full name, please. I know earlier,</p>	<p style="text-align: right;">Page 12</p> <p>1 Q Okay. And where did you go to high school? 2 A I went to North Branford High School in North Branford, 3 Connecticut. And Reno High School is where I graduated, in Reno, 4 Nevada. 5 Q And after graduation from high school, did you attend 6 any other secondary school? 7 A No. 8 Q What's your current occupation? 9 A Manager. 10 Q Manager for where? 11 A MDB Trucking, LLC. 12 Q How long have you been in that position as the manager 13 of MDB? 14 A About 14 months. 15 Q And what was your title before then? 16 A Maintenance manager. 17 Q How long have you been with MDB Trucking? 18 A Since August of 2014. 19 Q So would you briefly take me through the job duties that 20 you perform on a daily basis as the manager of MDB. 21 A I do paperwork in the morning, the prior day's 22 paperwork. I dispatch trucks. I oversee the maintenance of the 23 vehicles. I actually perform some of the maintenance on the 24 vehicles on occasion. 25 On a rare occasion, I drive.</p>
<p style="text-align: right;">Page 11</p> <p>1 you said Scott Palmer, but first, middle and last name. 2 A Scott Allen Palmer. 3 Q What's your date of birth? 4 A 11/2/1960. 5 Q Where were you born? 6 A California. 7 Q What city? 8 A Vallejo. 9 Q How long did you live there? 10 A Three years, four years. 11 Q Where did you go after that? 12 A Napa. 13 Q How long were you in Napa? 14 A Until 1971. 15 Q Where did you go after Napa? 16 A Northford, Connecticut. 17 Q How long were you in Northward, Connecticut, for? 18 A Northford, Connecticut, until 1975. 19 Q Where did you go after that? 20 A Reno. 21 Q So have you been in Reno, Nevada, ever since? 22 A Reno, Sparks, state of Nevada, since 1975, yes. 23 Q What's your current address? 24 A 6717 Rolling Meadows Drive, Apartment 721, Sparks, 25 Nevada 89436.</p>	<p style="text-align: right;">Page 13</p> <p>1 Q Okay. And you said paperwork. What kind of paperwork? 2 A The drivers' daily paperwork, invoicing, truck reports, 3 you have IFTA reports, that kind of stuff, mileage. 4 Q What sort of maintenance do you perform? 5 A Personally? 6 Q Yes. 7 A I go out and work on electrical problems, ABS problems, 8 stuff that takes a little bit more of a technical background. 9 Q Okay. And do you have any certifications for performing 10 any maintenance work? 11 A I've got -- yes, I have a few certifications. 12 Q Okay. And what are those certifications? 13 A Air-conditioning, tire and brake repair. I'm certified 14 to do annual inspections of vehicles. 15 Q Where did you receive these certifications from? 16 A Different places I worked, employers, previous employers 17 and current employers, and also from taking classes. 18 Q Did you receive any of these certifications from your 19 time employed at MDB? 20 A Yeah. Yes. 21 Q And which certification was that? 22 A In order to do annual inspections or brake specs at a 23 company, you have to be certified by their management. 24 Q And what did that entail for you to get your 25 certification from the management?</p>

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

<p style="text-align: right;">Page 18</p> <p>1 89506.</p> <p>2 Q What about the physical address?</p> <p>3 A The physical address of the yard I manage is 905 East</p> <p>4 Mustang Road.</p> <p>5 Q Are there more than one locations of MDB?</p> <p>6 A Yes.</p> <p>7 Q How many locations are there?</p> <p>8 A We have two yards, two operations, one in Dixon,</p> <p>9 California, and one in Sparks, Nevada; Reno, Nevada.</p> <p>10 Q And what's the address for the one in California?</p> <p>11 A 7059 Tremont Road, Dixon, California.</p> <p>12 Q And do you have any interaction with the yard in</p> <p>13 California?</p> <p>14 A Not over the last six months. They pretty much run on</p> <p>15 their own. But before that, I have knowledge of it, yes.</p> <p>16 Q Who owns MDB?</p> <p>17 A The partners are -- or the members -- I'm not sure how</p> <p>18 you would say that -- are Travis Bonanno and Kari Bonanno.</p> <p>19 Q And they both -- they own both locations in Nevada and</p> <p>20 California?</p> <p>21 A Yes.</p> <p>22 Q How many employees does MDB have?</p> <p>23 MR. BROWN: Are you talking total or just in --</p> <p>24 MS. SHREVE: We'll do in Nevada and then we'll do in</p> <p>25 California.</p>	<p style="text-align: right;">Page 20</p> <p>1 A I don't report directly to the owner very much right</p> <p>2 now. I report to a gentleman named Terry Davis, who works for the</p> <p>3 owner.</p> <p>4 Q And what is Terry Davis' job title?</p> <p>5 A I'm not sure.</p> <p>6 Q Is he an employee of the company?</p> <p>7 A I'm not sure.</p> <p>8 Q How often do you speak with Terry Davis?</p> <p>9 A Probably daily, at least a couple -- a few times a week.</p> <p>10 Q What are the things that you discuss with him?</p> <p>11 A Mostly, just general administrative issues, maybe, that</p> <p>12 the office might have, or whether or not we might be purchasing</p> <p>13 something that's going to cost a significant amount of money.</p> <p>14 Like, I'll run that by him and he can run that by the owner.</p> <p>15 Q Do the drivers and maintenance employees report to you?</p> <p>16 A Yes, the ones in Reno, yes.</p> <p>17 Q Right. Exactly.</p> <p>18 How many -- let me -- strike that.</p> <p>19 Do you make the decisions to purchase or lease any truck</p> <p>20 or trailer in Nevada?</p> <p>21 A Yes.</p> <p>22 Q Do you have to ask anyone above you to purchase or lease</p> <p>23 a truck or trailer --</p> <p>24 A Yes.</p> <p>25 Q -- in Nevada?</p>
<p style="text-align: right;">Page 19</p> <p>1 THE WITNESS: Twenty-two.</p> <p>2 BY MS. SHREVE:</p> <p>3 Q In Nevada?</p> <p>4 A No, total. I'm sorry. I missed --</p> <p>5 Q No.</p> <p>6 A I'm sorry.</p> <p>7 Q So how many would you say are in Nevada?</p> <p>8 A Twelve.</p> <p>9 Q So, roughly, ten in California --</p> <p>10 A Yes.</p> <p>11 Q -- if my math is correct?</p> <p>12 A Yes.</p> <p>13 Q And what are the different jobs entailed of the</p> <p>14 employees? We'll start with Nevada. Like, are they drivers,</p> <p>15 maintenance? What are the positions that you have in Nevada?</p> <p>16 A Okay. Myself as the manager, then we have one mechanic,</p> <p>17 one mechanic's helper, and the rest are truck drivers.</p> <p>18 Q And what about in California?</p> <p>19 A We have a manager that works down there that is also a</p> <p>20 driver. And then we have one mechanic and eight drivers, eight</p> <p>21 additional drivers.</p> <p>22 Q And I know you've briefly talked about it, but can you</p> <p>23 explain the managerial structure? So in regards to -- is there</p> <p>24 the owner, and then does the owner go to the manager, which would</p> <p>25 be you? Do you report to the owner? How does that work?</p>	<p style="text-align: right;">Page 21</p> <p>1 Is that person Terry Davis?</p> <p>2 A Yes, currently, yes.</p> <p>3 Q Currently.</p> <p>4 How many trucks does MDB own and/or lease in Nevada?</p> <p>5 A Eleven -- twelve.</p> <p>6 MR. BROWN: Are you specifically talking about trucks</p> <p>7 that will tow trailers?</p> <p>8 THE WITNESS: I was just going to --</p> <p>9 BY MS. SHREVE:</p> <p>10 Q I'm going to go into what those trucks entail, so --</p> <p>11 but, yes.</p> <p>12 A Yeah, if you are speaking of pickups, I mean, I guess</p> <p>13 you could make it 13, but 13 total vehicles.</p> <p>14 Q So for the different trucks, how many does MDB actually</p> <p>15 own?</p> <p>16 A To my knowledge, none.</p> <p>17 Q Okay. So of the 12 trucks or possibly 13 trucks, what</p> <p>18 are the different trucks? Are they all the same, or are they</p> <p>19 different?</p> <p>20 A Are you talking about make or model or type of vehicle?</p> <p>21 Q The type of vehicle, whether it tows, dump trucks, or a</p> <p>22 pickup truck.</p> <p>23 A Oh, we have -- well, we would have one pickup truck, one</p> <p>24 mechanic service truck, and the rest are heavy-duty tractor</p> <p>25 trailers or truck trailers.</p>

<p style="text-align: right;">Page 22</p> <p>1 I can go into more detail on that, whether they are a</p> <p>2 tractor that pulls bottom dumps or a truck that has the transfers</p> <p>3 behind it, but I'm not sure if that's what you are looking for.</p> <p>4 Q Yes. So how many pull belly dumps?</p> <p>5 A We have four. We have six power units that can pull</p> <p>6 bottom dumps.</p> <p>7 Q Are all six in service daily?</p> <p>8 A No.</p> <p>9 Well, yes, they could be, yes, not pulling bottom dumps,</p> <p>10 though, if that's what you meant.</p> <p>11 Q What would they pull if they are not pulling the bottom</p> <p>12 dumps?</p> <p>13 A They would pull pneumatic trailers that haul cement.</p> <p>14 They could be hauling a transport trailer. They could be hauling</p> <p>15 equipment.</p> <p>16 Q And then how many trailers does MDB own or lease in</p> <p>17 Nevada?</p> <p>18 A I'm completely guessing on this because it's not</p> <p>19 something I keep count of. It's probably close to 40.</p> <p>20 Q And are the, roughly, 40 trailers -- are any of them</p> <p>21 owned by MDB?</p> <p>22 A I do not think so.</p> <p>23 Q And of the approximately 40 trailers, how many are used</p> <p>24 daily?</p> <p>25 A I would say 70 percent of them would be used daily in</p>	<p style="text-align: right;">Page 24</p> <p>1 transmission or rebuild a transmission, so we sent it to somebody</p> <p>2 that could have the time to do it.</p> <p>3 MS. SHREVE: All right. So I'm going to hand out the</p> <p>4 first exhibit. So I would like to mark this as Exhibit 1. This</p> <p>5 is going to be the amended notice of the deposition for today.</p> <p>6 (Exhibit 1 marked for identification.)</p> <p>7 BY MS. SHREVE:</p> <p>8 Q I'll give you a second to look over this document.</p> <p>9 Have you seen this document before?</p> <p>10 A I think so, yes.</p> <p>11 Q What is your understanding of what this document is?</p> <p>12 A What you are going to be asking me today, what I'm going</p> <p>13 to be responsible for answering.</p> <p>14 Q And, again, you understand that this requires MDB to</p> <p>15 produce the person that is most knowledgeable on all the topics</p> <p>16 that are listed in this notice?</p> <p>17 MR. BROWN: Objection. He can give his notice of -- his</p> <p>18 understanding of what he'll testify, not legal implications.</p> <p>19 You can answer, if you can.</p> <p>20 THE WITNESS: Do I need to answer? I'm sorry.</p> <p>21 BY MS. SHREVE:</p> <p>22 Q Yes. Do you need me to --</p> <p>23 A Yes, please, repeat the question.</p> <p>24 Q I'll try and repeat it.</p> <p>25 Do you understand that this notice of deposition</p>
<p style="text-align: right;">Page 23</p> <p>1 possible different combinations.</p> <p>2 Q And of those trailers, how many are the belly dump</p> <p>3 trailers?</p> <p>4 A Nine.</p> <p>5 Q What other -- what services does MDB provide for its</p> <p>6 trucks or trailers?</p> <p>7 A Services?</p> <p>8 Q Yes. Do you do all of your repairs in-house?</p> <p>9 A Yes.</p> <p>10 Q And what sort of repairs do you do to the trucks or</p> <p>11 trailers?</p> <p>12 A We do every bit of maintenance, preventive maintenance,</p> <p>13 routine maintenance and general repairs.</p> <p>14 Q Do you ever have to send a truck or trailer to another</p> <p>15 company for any repairs or maintenance?</p> <p>16 A Very seldom. That would only be in case of, like,</p> <p>17 alignment. Mostly, we do everything in-house.</p> <p>18 Q So is alignment the only thing you would send a truck or</p> <p>19 trailer to a company to for maintenance or repair?</p> <p>20 A I mean, it's not the only thing that we've ever sent it</p> <p>21 out for, but that's generally -- yes, other than tires. We have a</p> <p>22 tire service that comes and does our tire work for us.</p> <p>23 Q What are other things that you've had to send out the</p> <p>24 truck or trailer for?</p> <p>25 A Maybe we didn't have enough time to replace a</p>	<p style="text-align: right;">Page 25</p> <p>1 requires MDB to designate a person to testify on its behalf in the</p> <p>2 case?</p> <p>3 A Yes, I do.</p> <p>4 Q Do you understand that MDB is required to prepare that</p> <p>5 person to provide all information known or reasonably available to</p> <p>6 them based on all 47 topics listed?</p> <p>7 MR. BROWN: Same objection.</p> <p>8 Go ahead.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MS. SHREVE:</p> <p>11 Q You are testifying on behalf of MDB as their person most</p> <p>12 knowledgeable, correct?</p> <p>13 A Yes.</p> <p>14 Q When did you become aware that you would be the person</p> <p>15 most knowledgeable for MDB in this deposition?</p> <p>16 A When I received the notice of the deposition.</p> <p>17 Q Do you recall when that was?</p> <p>18 A I think it was maybe a month ago, a few weeks ago. I</p> <p>19 don't exactly remember.</p> <p>20 MR. BROWN: The day after it was sent?</p> <p>21 MR. BARKLEY: I don't think you are testifying, Counsel.</p> <p>22 BY MS. SHREVE:</p> <p>23 Q And besides looking at this notice of deposition, as you</p> <p>24 said earlier, is there anything else that you did or discussed</p> <p>25 with anyone to ensure that you were prepared as the person most</p>

<p style="text-align: right;">Page 26</p> <p>1 knowledgeable for the 47 topics?</p> <p>2 A No.</p> <p>3 Q Do you think there is any other person that would be</p> <p>4 knowledgeable -- more knowledgeable than you for any of the topics</p> <p>5 listed in this notice of deposition?</p> <p>6 MR. BROWN: Objection to the extent it calls for</p> <p>7 speculation.</p> <p>8 MR. BARKLEY: I'm going to ask for a clarification. Are</p> <p>9 you asking for actual personal knowledge versus preparation for</p> <p>10 the 30(b)(6) topics?</p> <p>11 MS. SHREVE: I'm asking for the person most -- is there</p> <p>12 anyone else that would be a person more knowledgeable on topic.</p> <p>13 MR. BARKLEY: On any topic?</p> <p>14 MS. SHREVE: Of the 47.</p> <p>15 THE WITNESS: My question would be, is this somebody</p> <p>16 that would be currently employed at MDB Trucking?</p> <p>17 BY MS. SHREVE:</p> <p>18 Q No. If there's anyone that's more knowledgeable than</p> <p>19 you in any of the topics listed -- and if you want, we can go</p> <p>20 through each one and I'll ask it. It might be easier.</p> <p>21 So we'll go through each topic.</p> <p>22 A Could you clarify that.</p> <p>23 MR. BROWN: I think what he's trying to tell you is,</p> <p>24 he's the person most knowledgeable on all the topics that's</p> <p>25 currently employed there.</p>	<p style="text-align: right;">Page 28</p> <p>1 MR. BROWN: How about you say Number 3 and let him read</p> <p>2 it and then have him answer "yes" or "no." It might speed it up.</p> <p>3 THE WITNESS: I have already read these and I'm ready to</p> <p>4 answer.</p> <p>5 BY MS. SHREVE:</p> <p>6 Q Okay. Then I'll just stay the number and we can go</p> <p>7 through.</p> <p>8 Are you the person most knowledgeable in regards to</p> <p>9 Topic Number 3?</p> <p>10 A Yes.</p> <p>11 Q Are you the person most knowledgeable currently employed</p> <p>12 in regards to Topic Number 4?</p> <p>13 A Yes.</p> <p>14 Q Are you the person most knowledgeable in regards to</p> <p>15 Topic Number 5?</p> <p>16 A Yes.</p> <p>17 Q Are you the person most knowledgeable in Topic Number 6?</p> <p>18 A Yes.</p> <p>19 Q In Topic Number 7?</p> <p>20 A Yes.</p> <p>21 Q Topic Number 8?</p> <p>22 A Yes.</p> <p>23 Q Topic Number 9?</p> <p>24 A Yes.</p> <p>25 Q Topic Number 10?</p>
<p style="text-align: right;">Page 27</p> <p>1 THE WITNESS: Yes.</p> <p>2 MR. BROWN: There may be somebody that has more</p> <p>3 knowledge that no longer works for us, but otherwise, he's --</p> <p>4 THE WITNESS: Yeah, I'm it, yeah.</p> <p>5 BY MS. SHREVE:</p> <p>6 Q Okay. Perfect.</p> <p>7 So I'm going to go through each topic listed, and I'm</p> <p>8 just going to ask if you are the person most knowledgeable</p> <p>9 currently employed --</p> <p>10 A Okay.</p> <p>11 Q -- at MDB.</p> <p>12 A All right.</p> <p>13 Q So the first topic is the purchase, lease or sale of</p> <p>14 vehicles owned or leased by MDB. Are you the person most</p> <p>15 knowledgeable employed by MDB?</p> <p>16 A Yes.</p> <p>17 Q Number 2 is in regards to the maintenance and equipment</p> <p>18 policy and procedures for MDB vehicles. Are you the person most</p> <p>19 knowledgeable currently employed at MDB regarding this topic?</p> <p>20 A Yes.</p> <p>21 Do you have to go through all 47 that way, or can I</p> <p>22 just --</p> <p>23 Q Yes. If you want, I can just read it and then you can</p> <p>24 just say "yes," and I'll have the standing question of are you the</p> <p>25 most knowledgeable from --</p>	<p style="text-align: right;">Page 29</p> <p>1 A Yes.</p> <p>2 Q Topic Number 11?</p> <p>3 A Yes.</p> <p>4 Q Topic Number 12?</p> <p>5 A Yes.</p> <p>6 Q Topic Number 13?</p> <p>7 A Yes.</p> <p>8 Q Topic Number 14?</p> <p>9 A Yes.</p> <p>10 Q Topic Number 15?</p> <p>11 A Yes.</p> <p>12 Q Topic Number 16?</p> <p>13 A Yes.</p> <p>14 Q Topic Number 17?</p> <p>15 A Yes.</p> <p>16 Q Topic Number 18?</p> <p>17 A Yes.</p> <p>18 Q Topic Number 19?</p> <p>19 A Yes.</p> <p>20 Q Topic Number 20?</p> <p>21 A Yes.</p> <p>22 Q Topic Number 21?</p> <p>23 A Yes.</p> <p>24 Q Topic Number 22?</p> <p>25 A Yes.</p>

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

<p style="text-align: right;">Page 34</p> <p>1 Q And was that the order in which the truck pulled the 2 trailers?</p> <p>3 A Yes.</p> <p>4 Q So Trailer 6775 was the last trailer?</p> <p>5 A That's correct.</p> <p>6 Q Okay. And what was the trailer that allegedly dumped 7 the gravel, the belly opened?</p> <p>8 A What trailer number?</p> <p>9 Q Yes.</p> <p>10 A 6775.</p> <p>11 Q And is that trailer owned by MDB?</p> <p>12 A No.</p> <p>13 Q Who is that -- who is Trailer 6775 owned by?</p> <p>14 A It's owned by SKS Corporation.</p> <p>15 Q How about -- are the other trailers, 6773 and 6774, 16 owned by the same company?</p> <p>17 A Yes.</p> <p>18 Q Does SKS Corp. also own Truck 5964?</p> <p>19 A Yes, to my knowledge, yes.</p> <p>20 Q Does MDB lease those trucks and trailers from SKS?</p> <p>21 A Yes.</p> <p>22 Q How long has MDB leased those trucks and trailers?</p> <p>23 A Since they were purchased.</p> <p>24 Q Since they were purchased by who?</p> <p>25 A SKS Corporation.</p>	<p style="text-align: right;">Page 36</p> <p>1 Nevada Transport.</p> <p>2 Q And did you lease the truck from Davis Corporation 3 before?</p> <p>4 A No.</p> <p>5 Q Did you lease the trailers from -- Western?</p> <p>6 A Western Nevada Transport?</p> <p>7 Q Did you lease the trailers from them prior to them 8 selling them to SKS Corp.?</p> <p>9 A Yes.</p> <p>10 Q And how long did you lease from them for?</p> <p>11 A I believe it was a year and a half. I mean, that's a 12 guesstimate, a year, year and a half.</p> <p>13 Q And did someone own the trailers prior to West States 14 Nevada?</p> <p>15 A Western Nevada?</p> <p>16 Q Western Nevada.</p> <p>17 A I don't have any knowledge of that. I don't know where 18 they got them from. I think they probably purchased them new, but 19 I don't know.</p> <p>20 Q So you did not lease them from anyone else prior?</p> <p>21 A Oh, no.</p> <p>22 Q Okay. To your knowledge, is SKS Corp. owned by Versa, 23 Versa Products?</p> <p>24 A No.</p> <p>25 Q To your knowledge, did Versa have any control over the</p>
<p style="text-align: right;">Page 35</p> <p>1 Q And do you know when SKS Corporation purchased the truck 2 and trailers?</p> <p>3 A I would have to look at the -- to refresh my memory. I 4 have a general idea when they were purchased, but without looking 5 at the documents, I wouldn't know exactly.</p> <p>6 It would have been 2012, I believe, for 5694 and 7 probably early 2013 or late 2012 for the three bottom dump 8 trailers.</p> <p>9 Q What document would you need to look at to refresh your 10 memory?</p> <p>11 A Just bill of sale or the --</p> <p>12 Q Did SKS Corp. provide you a bill of sale for the truck 13 and trailers?</p> <p>14 A Provide me personally?</p> <p>15 Q Provide MDB.</p> <p>16 A Oh, no.</p> <p>17 Q Does MDB have copies of the purchase of the truck and 18 trailer by SKS Corp.?</p> <p>19 A Yes.</p> <p>20 I have them.</p> <p>21 Q And who owned -- who did SKS Corp. purchase the truck 22 and trailer from?</p> <p>23 A The truck was purchased from Davis Company.</p> <p>24 Q Okay.</p> <p>25 A And the three trailers were purchased from Western</p>	<p style="text-align: right;">Page 37</p> <p>1 subject truck on the day of the subject incident of July 7th, 2 2014?</p> <p>3 MR. BROWN: Objection to the extent that it calls for 4 legal conclusion.</p> <p>5 THE WITNESS: Can you repeat the first part of the 6 question.</p> <p>7 BY MS. SHREVE:</p> <p>8 Q Sure. Let me try to rephrase that.</p> <p>9 I guess, who was -- who was driving the truck on the day 10 of the incident?</p> <p>11 A Daniel Koski.</p> <p>12 Q Who was Daniel Koski employed by?</p> <p>13 A MDB Trucking.</p> <p>14 Q To your knowledge, does Versa Products Company own 15 MDB Trucking?</p> <p>16 A No, it does not.</p> <p>17 Q On the day of the subject incident, were you working 18 that day?</p> <p>19 A Yes, I was.</p> <p>20 Q What time did you arrive at work?</p> <p>21 A I believe I arrived at work at 4:45 a.m.</p> <p>22 Q Is that a typical time you arrived at work?</p> <p>23 A When I'm driving, yes.</p> <p>24 Q How often do you drive?</p> <p>25 A Well, back then, I was driving more than I'm driving</p>

<p style="text-align: right;">Page 38</p> <p>1 now. So back then, I would have been -- I might have been working 2 most every day -- driving, I'm sorry, driving most every day. 3 Q Now, when you get to work, are you arriving to which 4 location? 5 A Sparks, Nevada. 6 Q Okay. And is it the yard? Is that what you -- 7 A I call it -- Mustang yard we call it. 8 Q So in a typical day, when you arrive, like, the day of 9 the subject incident, what's the first thing you do? 10 Do you have to clock in? Do you pick up a report that 11 you have to drive a truck? What do you do in a typical day? 12 A Just walk over to the truck, put my stuff in the truck 13 and do my pre-trip inspection of the vehicles that I'm pulling. I 14 mean, it's possible that I -- yes, that's what I do. 15 If you have to hook the truck up, if it's not hooked up 16 already, then you have to arrive earlier than that to make sure 17 it's hooked up, but yes. 18 Q How do you know which truck you were driving that day? 19 A You get a dispatch, text dispatch the night before. And 20 generally, you drive the same truck every day. 21 Q You said "a text dispatch"; is that correct? 22 A Yes, text message with your dispatch of what you are 23 doing, where you are going, what time. 24 Q And who sends that text dispatch? Where does it come 25 from?</p>	<p style="text-align: right;">Page 40</p> <p>1 Q Okay. Does it give you information as to how much the 2 load is going to weigh? 3 A No. 4 Q Okay. And this is going to test your memory. 5 That day, do you recall what time you had to pick up 6 your load? 7 A Yes, I was scheduled to be at the pit, which is in 8 Wadsworth, Nevada, at 5:30 a.m. Actually, it was 5:31 a.m. I do 9 specifically remember that. 10 Q Okay. And what happens if you are late for picking up 11 your load? 12 A Then you -- I guess you get yelled at. But other than 13 that, nothing. I mean, you just -- you are a few minutes late and 14 you just get in line and you are behind schedule. 15 Q Okay. And are there any repercussions if you are behind 16 schedule and you are late in your drop-off of the product? 17 A I'm not sure. That's somewhat of a broad question. 18 I mean, if you are really late, the customer might be 19 really upset if they are running out of material because you 20 didn't show up. But, generally, if you are just a few minutes 21 late, nobody knows the difference. 22 Q Okay. Do you recall seeing Mr. Koski that morning? 23 A Yes. 24 Q And do you recall, did he arrive at the same time as you 25 that day?</p>
<p style="text-align: right;">Page 39</p> <p>1 A Currently, it comes from me. I send it out. Then, it 2 was Tracy Shane sent it out. He was the dispatcher then. 3 Q And then how do you decide, since you now are in that 4 position to send it out, who drives which truck? 5 A Well, they -- every driver is pretty much assigned a 6 truck, and their truck is capable of hauling certain types of 7 material to certain plants. And that's how you decide. 8 If it's a transfer, the transfer drivers go here. The 9 bottom dump drivers go here. 10 And so, basically, you just dispatch the trucks that are 11 capable of doing the job to the correct locations that the 12 customer wants. 13 Q Okay. And do the trucks usually carry the same trailer 14 with it on a daily basis? 15 A For the most part, yes, but it's not a rule. 16 Q How often does the truck carry a different trailer? 17 A It could be -- some trucks, hardly ever. Some trucks 18 might switch every day, every other day. 19 Q Okay. So you get this dispatch text the night before? 20 A Yes. 21 Q So when you -- will it tell you the time you have to 22 pick up your load and where? 23 A Yes. It tells you what you are picking -- where you are 24 loading, what you are picking up, what time to be there and where 25 you are going to.</p>	<p style="text-align: right;">Page 41</p> <p>1 A I don't recall. I would have to look at his actual 2 truck report or a bill of lading. But I believe he loaded 3 probably earlier than I did by just a few minutes, maybe 4 15 minutes. 5 Q And did you see him at the yard? 6 A Oh, yeah, I would have saw him at the yard in the 7 morning. I would have saw him at the pit. We were both hauling 8 to the same place. 9 Q Okay. Earlier, you were talking about when you first 10 get there, you do your inspection of your truck that you are 11 assigned. 12 A Yes. 13 Q Can you go through with me your inspection that you do. 14 A Step by step? 15 Q Yes, please. 16 A I get there. You -- I mean, according to the DOT rules, 17 you have to do your walk-around. They call it walk-around, 18 pre-trip inspection. 19 So the first thing you do is observe is there anything 20 wrong with the truck when you are walking up to it, any oil under 21 the truck, that stuff. 22 Then you tilt the hood, check your fluids, check your 23 belts, check all the mechanical things under the hood. 24 If those are good, you start the truck up so it can warm 25 up and build air pressure while you are checking your tires,</p>