

ProTEXT Transcript Condensing for Windows

1

IN THE CIRCUIT COURT FOR THE SIXTH
CIRCUIT OF FLORIDA, IN AND FOR
PINELLAS COUNTY, FLORIDA

ROSS MACKILLOP,
Plaintiff,
vs. CASE NO.: 08-10912 CI

PARLIAMENT COACH CORPORATION,
BLUE BIRD BODY COMPANY and
BLUE BIRD CORPORATION,
Defendants.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

W. LEROY WILSON, GLENDA E.
WILSON, and WLWGEW LLC,
Plaintiffs, Civil Action File
vs. No. 4:08-CV-183-HLM

BLUE BIRD CORPORATION,
PEACH COUNTY HOLDINGS, INC.,
BLUE BIRD COACHWORKS SALES,
LLC, BLUE BIRD BODY COMPANY
and PARLIAMENT COACH CORPORATION,
Defendants.

DEPOSITION OF
ERIK JOHNSON
November 13th, 2009
9:42 a.m.
Bibb County Courthouse
601 Mulberry Street
Fourth Floor
Macon, Georgia

Deborah J. Combs, RPR, CCR-B-1000
COMBS COURT REPORTING
P.O. Box 721
Macon, Georgia 31202
(478) 474-6987
Debcombs@cox.net

3

1 STIPULATIONS:
2 REPORTER'S NOTE: Reading and signing of
3 transcript by witness was not waived.
4 (Witness sworn.)
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

2

1 APPEARANCES OF COUNSEL:
2
3 On Behalf of the Plaintiff ROSS MACKILLOP:
4 STEPHEN D. MILBRATH, Esquire
5 Allen, Dyer, Doppelt, Milbrath & Gilchrist
6 255 South Orange Avenue
7 Suite 1401
8 P.O. Box 3791
9 Orlando, Florida 32802-3791
10 (407) 841-2330
11
12 On Behalf of the Plaintiff W. LEROY WILSON, GLENDA
13 E. WILSON and WLWGEW LLC, Appearing Telephonically:
14 CAROL M. BALLARD, Esquire
15 Maddox & Anderson
16 835 Georgia Avenue
17 Suite 600
18 Chattanooga, Tennessee 37402
19 (423) 265-2560
20
21 On Behalf of the Defendant PARLIAMENT COACH
22 CORPORATION, Appearing Telephonically:
23 A. FRANKLIN BEACHAM, III
24 Brison, Askew, Berry, Siegler, Richardson & Davis
25 P.O. Box 5007
615 West 1st Street
Omberg House
Rome, Georgia 30161-5513
26
27 On Behalf of the Defendant BLUE BIRD COMPANY:
28 EDWARD H. WASMUTH, JR., Esquire
29 Smith, Gambrell & Russell
30 1230 Peachtree Street, N.E.
31 Suite 3100
32 Promenade II
33 Atlanta, Georgia 30309-3592
34 (404) 815-3500
35

4

INDEX OF WITNESS		
Witness: Erik Johnson		
		Page
4	Cross Examination	
5	by Mr. Milbrath	5
6	Direct Examination	
7	by Mr. Beacham	227
8	Recross Examination	
9	by Mr. Milbrath	232
10	Direct Examination	
11	by Mr. Wasmuth	236
12	Further Recross Examination	
13	by Mr. Milbrath	250
14	- - -	
16	INDEX OF PLAINTIFF'S EXHIBITS	
17	No.	Page
18	226	
19	227	
20	228	
21	229	
22	230	
23	231	
24	232	
25	233	

ProTEXT Transcript Condensing for Windows

5
 1 ERIK JOHNSON,
 2 having been produced and first duly sworn,
 3 testified as follows:
 4 CROSS EXAMINATION
 5 BY MR. MILBRATH:
 6 Q Mr. Johnson, would you please give us your
 7 full name?
 8 A Erik R. Johnson.
 9 Q And where do you live, please?
 10 A Forsyth, Georgia.
 11 Q And what is your street address?
 12 A 168 Old Cork.
 13 Q By whom are you presently employed?
 14 A International Disaster Services.
 15 Q Was there a time when you were employed by
 16 Blue Bird Body Company?
 17 A By Coachworks, yes.
 18 Q I am going to be asking you some questions
 19 that relate to two different cases. One of those is
 20 in reference to Ross Mackillop against Blue Bird Body
 21 Company and others. The other is a Wilson case, and
 22 their counsel is here as well.
 23 At any time you don't understand a question
 24 that I put to you, would you let me know?
 25 A Yes.

7
 1 Q And where was that discussion?
 2 A On the phone.
 3 Q And how long did you and Mr. Wasmuth speak?
 4 A Five minutes.
 5 Q And did he send you any documents?
 6 A No.
 7 Q And a week ago, did you speak in person or
 8 by phone?
 9 A In person.
 10 Q And where was that?
 11 A That was at International Disaster
 12 Services.
 13 Q And how long did you speak with Mr. Wasmuth
 14 at International Disaster Services?
 15 A Approximately an hour.
 16 Q And did he show you any documents?
 17 A No, just the ones that I sent to him.
 18 Q What documents did you send to him?
 19 A The ones that you sent to me.
 20 Q You mean the subpoena?
 21 A That was actually served while he was
 22 there.
 23 MR. MILBRATH: I need to go off the
 24 record for just one second.
 25 (Brief recess, 9:45 a.m.)

6
 1 Q And you understand that it's important that
 2 you answer audibly?
 3 A Okay. Sorry.
 4 Q And it's important that you let me finish
 5 my question before you answer, particularly with all
 6 these lawyers, there will be a lot of objections, I
 7 imagine, and then I'll try not to interrupt you as
 8 well.
 9 A Okay.
 10 Q And it will be helpful to everyone,
 11 including the judge, if you would answer yes or no to
 12 a question if it can be answered in that manner
 13 truthfully.
 14 A All right.
 15 Q All right. Now, have you spoken to counsel
 16 for Blue Bird Body Company prior to today?
 17 A Yes.
 18 Q On how many occasions?
 19 A Twice.
 20 Q And when was that?
 21 A Once was a week ago, prior to that was
 22 probably a month.
 23 Q And who did you speak with about a month
 24 ago?
 25 A Mr. Wasmuth.

8
 1 (Reconvene, 9:46 a.m.)
 2 BY MR. MILBRATH:
 3 Q I'm going to mark as Exhibit 226, a copy of
 4 that deposition notice -- subpoena.
 5 (Plaintiff's Exhibit No. 226 marked for
 6 identification.)
 7 BY MR. MILBRATH:
 8 Q Does this appear to be a copy of the
 9 subpoena that was served on you?
 10 (Tenders document.)
 11 A Yes.
 12 Q And did you have any of the documents that
 13 were requested in the subpoena?
 14 A Just my resume.
 15 Q And did you bring that resume with you?
 16 A Yes.
 17 Q And could I see that?
 18 (Tenders document.)
 19 MR. MILBRATH: We are going to mark
 20 that resume as Exhibit 227, which is a
 21 four-page resume.
 22 (Plaintiff's Exhibit No. 227 marked for
 23 identification.)
 24 BY MR. MILBRATH:
 25 Q And it shows that you are presently Chief

ProTEXT Transcript Condensing for Windows

9
 1 Engineer at International Disaster Services?
 2 A That's correct.
 3 Q Is it okay if I call that IDS?
 4 A Uh-huh (affirmatively).
 5 Q And what does IDS do?
 6 A We upfit shipping containers into various
 7 billing structures.
 8 Q And it indicates in your resume that you
 9 began working at IDS in about October 2007, right?
 10 A Correct.
 11 Q And then you left Blue Bird Body Company
 12 also in October 2007, right?
 13 A That's correct.
 14 Q And were you an employee of Blue Bird Body
 15 Company itself at Fort Valley, Georgia up until
 16 October 2007?
 17 A Well, the division was Coachworks.
 18 Q When you say the division was Coachworks,
 19 you are referring to a division of Blue Bird Body
 20 Company?
 21 A Yes.
 22 Q And the Coachworks division did what?
 23 A RV and coach.
 24 Q And was the Coachworks division then
 25 responsible for the Wanderlodge 450 LXI?

11
 1 functioned out of California?
 2 A Yes.
 3 Q Do you know what the legal name of that
 4 entity is?
 5 A The parent name?
 6 Q Yes -- no. Complete Coachworks, was it
 7 called Complete Coachworks, Inc.?
 8 A I believe it was. It was a division of
 9 DT Carson Enterprises.
 10 Q DP?
 11 A DT.
 12 Q Carson Enterprises.
 13 And what was DT Carson Enterprises at the
 14 time?
 15 A I believe they were the parent of Complete
 16 Coachworks, Coachworks in Fort Valley. There were a
 17 few other companies.
 18 Q And does DT Carson Enterprises still exist?
 19 A I believe it does, yes.
 20 Q And do you know what state it's
 21 incorporated under?
 22 A No, I don't.
 23 Q But did it have offices in California?
 24 A Yes.
 25 Q So after DT Carson Enterprises or some

10
 1 A Yes.
 2 Q Were you ever an employee of the company
 3 called Complete Coachworks?
 4 A Yes.
 5 Q And what was Complete Coachworks?
 6 A I don't understand.
 7 Q The division called -- that you are
 8 referring to was called Coachworks?
 9 A Correct.
 10 Q Was there also a company called Complete
 11 Coachworks that functioned for a time before it filed
 12 bankruptcy in California?
 13 A I don't think they filed bankruptcy in
 14 California.
 15 Q Was there a company called Complete
 16 Coachworks?
 17 A Yes.
 18 Q And is that the successor to the division
 19 of Blue Bird Body Company?
 20 A I believe that Coachworks was sold to
 21 Complete Coachworks.
 22 Q And when was the Coachworks division of
 23 Blue Bird Body Company sold to Complete Coachworks?
 24 A I believe it was August of 2007.
 25 Q And Complete Coachworks was a company that

12
 1 affiliate purchased the Coachworks division from Blue
 2 Bird Body Company, what used to be Coachworks became
 3 Complete Coachworks in California. Do I have that
 4 roughly correct?
 5 A Well, Complete Coachworks existed as its
 6 own entity. Coachworks in Fort Valley, Georgia was
 7 purchased by DT Carson Enterprises.
 8 Q And so what was the entity that actually
 9 ran what used to be the division of Coachworks --
 10 excuse me, the Coachworks division of Blue Bird Body
 11 Company? This is very confusing.
 12 A What was the entity that ran it?
 13 Q Yes.
 14 A I'm not sure I understand.
 15 Q After the purchase --
 16 A Okay.
 17 Q -- what entity actually owned what used to
 18 be Coachworks?
 19 A My understanding from when we all were
 20 brought on board was that it was DT Carson
 21 Enterprises.
 22 Q Doing business as Complete Coachworks?
 23 A I believe that's correct.
 24 Q And were you ever an employee of that
 25 entity?

ProTEXT Transcript Condensing for Windows

SHEET 4 PAGE 13

13
 1 A Yes.
 2 Q For what period of time?
 3 A From August until October 2007.
 4 Q And who was the president of that entity,
 5 DT Carson Enterprises doing business as Complete
 6 Coachworks?
 7 A Dale Carson.
 8 Q And what was your job title at that entity?
 9 A Chief Engineer.
 10 Q And was there a Board of Directors?
 11 A I'm not sure.
 12 Q Were there any other officers besides
 13 Mr. Carson?
 14 A There was a vice president named Macy
 15 Neshati.
 16 Q And is DT Carson still in business?
 17 A I believe they are.
 18 Q Under what name?
 19 A Complete Coachworks, I believe.
 20 Q And does it still make the Wanderlodge
 21 450 LXI?
 22 A I believe not.
 23 Q Why not, if you know?
 24 A Well, all the tooling and fixtures have
 25 been sold at auction.

PAGE 15

15
 1 know?
 2 A Bus repair and retrofits.
 3 Q And how did he and his company come to buy
 4 the Coachworks division, if you know?
 5 A I don't know.
 6 Q Were you involved at all in the
 7 negotiations?
 8 A No.
 9 Q Did you ever have in your possession any of
 10 the purchase documents whereby the Coachworks
 11 division of Blue Bird Body Company was sold to
 12 Mr. Carson's company?
 13 A No.
 14 Q Do you know what representations were made
 15 to Mr. Carson or his company by Blue Bird Body
 16 Company about the warranty status of the 450 LXI?
 17 A No.
 18 Q In your capacity -- withdraw that.
 19 Before the sale by Blue Bird Body Company
 20 to Mr. Carson's company, were you the Chief Engineer
 21 of the Wanderlodge division?
 22 A No.
 23 Q What was your job?
 24 A Senior Product Engineer.
 25 Q Of what?

PAGE 14

14
 1 Q As a result of a bankruptcy filing?
 2 A I believe that's correct, yes.
 3 Q By what entity?
 4 A DT Carson.
 5 Q What was your responsibility as Chief
 6 Engineer during the two months that you worked there
 7 at DT Carson doing business as Complete Coachworks?
 8 A Oversee engineering activities.
 9 Q And when in October did you leave the
 10 employment of that company?
 11 A I believe it was the 20th. 19th or 20th.
 12 Q And is Mr. Macy Neshati still there at DT
 13 Carson Enterprises doing business as Complete
 14 Coachworks?
 15 A I don't know.
 16 Q Is he a friend of yours?
 17 A No.
 18 Q Have you spoken to him in the last two
 19 months?
 20 A No.
 21 Q Who was your immediate supervisor when you
 22 were there at DA Carson doing business as Complete
 23 Coachworks?
 24 A Dale Carson.
 25 Q And what is Mr. Carson's background, if you

PAGE 16

16
 1 A Bus and coach -- I'm sorry, RV and coach.
 2 Q And what was your responsibility as the
 3 Senior Product Engineer?
 4 A Body and systems development.
 5 Q And who was your boss?
 6 A Roy Kitaoka.
 7 Q How is the last name spelled?
 8 A K-I-T-A-O-K-A.
 9 Q And was Mr. Roy Kitaoka an employee of Blue
 10 Bird Body Company?
 11 A I believe he was Coachworks as well.
 12 Q By that you mean the division of Blue Bird
 13 Body Company?
 14 A Yes.
 15 Q And what was his title?
 16 A Chief Engineer -- it was either Chief
 17 Engineer or Engineering Manager, I'm not sure.
 18 Q How long before the sale of the division to
 19 Mr. Carson's company was Mr. Kitaoka -- am I saying
 20 that right?
 21 A Uh-huh (affirmatively).
 22 Q The Engineering Manager or Chief Engineer?
 23 A How long before.
 24 Q Yes.
 25 A I believe he was hired November of '01.

ProTEXT Transcript Condensing for Windows

SHEET 5 PAGE 17

17
 1 Q And are you familiar with his involvement
 2 in the design and production of the Wanderlodge
 3 450 LXI?
 4 A Yes.
 5 Q What was his involvement?
 6 A He directed engineering activities.
 7 Q By that do you mean to say that he would be
 8 the final engineer in charge of the Wanderlodge's
 9 development and production?
 10 A Yes.
 11 Q And did you assist him in that capacity?
 12 A Yes.
 13 Q And how did you assist him?
 14 A I had certain responsibilities on the
 15 platform.
 16 Q What were those?
 17 A Body design, systems design, and several
 18 other areas that were given to me.
 19 Q When was the last time you spoke to Mr. Roy
 20 Kitaoka?
 21 A Year-and-a-half, maybe more.
 22 Q After the sale of the Coachworks division
 23 of Blue Bird Body Company did he become, that is
 24 Mr. Kitaoka, become an employee of Mr. Carson's
 25 company?

PAGE 19

19
 1 Coach. I think he was retired.
 2 Q And do you know where --
 3 A I'm sorry. Lee -- I can't grab his last
 4 name, I'm sorry.
 5 Q And did Mr. Peterson and this other
 6 gentleman, Lee, whoever his last name was, come to
 7 Fort Valley, Georgia where you were then working?
 8 A Yes.
 9 Q And did they conduct a due diligence
 10 investigation of the Coachworks division?
 11 A I believe that's what they were doing, yes.
 12 Q And did they ask you questions about the
 13 Wanderlodge 450 LXI?
 14 A Yes.
 15 Q And did they ask you to provide them with
 16 documents?
 17 A No.
 18 Q And did they ask you questions about
 19 warranty related matters?
 20 A Matters of the coach, yes, or the coach and
 21 RV, yes.
 22 Q What sort of questions did they ask about
 23 the coach and the RV?
 24 A They wanted to know what types of problems
 25 there were. They wanted to know information

PAGE 18

18
 1 A No.
 2 Q Where did he go, if you know?
 3 A I can't remember the name of the company.
 4 It was a truck mirror company in Columbia, South
 5 Carolina.
 6 Q And have you been in touch with him by
 7 e-mail or phone?
 8 A No.
 9 Q Were you aware that there were negotiations
 10 leading to the sale of the Coachworks division before
 11 it occurred?
 12 A Yes.
 13 Q Were you asked to assist Mr. Kitaoka in
 14 making any type of due diligence report to the buyer?
 15 A I was asked questions by representatives of
 16 the buyer.
 17 Q And who were those persons?
 18 A Steve Peterson. I don't know his job
 19 title, and they hired a consultant. I need to think
 20 about his name, I can't remember it off the top of my
 21 head.
 22 Q Was it Mr. Corwin (Phonetically).
 23 A No.
 24 Q Do you know where the consultant work?
 25 A He was Director of Engineering for National

PAGE 20

20
 1 regarding where we were purchasing components from,
 2 information about how we built the units.
 3 Q And did you provide them answers to those
 4 questions?
 5 A To the best I could, yes.
 6 Q Do you provide them any documents?
 7 A No.
 8 Q What did you tell Peterson and Lee, last
 9 name unknown, in response to those questions that
 10 you've identified?
 11 A I answered the questions.
 12 Q What did you tell them about the types of
 13 problems?
 14 A I'm not sure how I can answer that. I
 15 mean, it was several days of questions.
 16 Q Well, did you discuss, for example, whether
 17 there were any issues over the Wanderlodge 450 LXI
 18 being overweight?
 19 A Yes.
 20 Q Was this something that you brought up or
 21 that you were asked?
 22 A I don't recall.
 23 Q What did you say about the issues regarding
 24 overweight conditions in the Wanderlodge 450 LXI?
 25 A That the coach was heavy.

ProTEXT Transcript Condensing for Windows

21
1 Q And is that all you said or did you give
2 any specifics?
3 A I tried to explain how the weight had
4 increased since its inception.
5 Q Did you tell them what the weight --
6 withdraw that.
7 Did you give them any parameters as to how
8 heavy the Wanderlodge was?
9 A I would suspect I did, yes.
10 Q You don't remember any more?
11 A Not specifically.
12 Q Would this have been in writing?
13 A No.
14 Q Okay. So you told them this coach is
15 heavy. Did you tell them anything more particular
16 than that?
17 A I don't recall.
18 Q Did you say, for example, that a number of
19 the Wanderlodge units were then known by you to be in
20 excess of the rated capacity for the independent
21 front suspension?
22 A I don't recall specifically.
23 Q Do you have a recollection of withholding
24 that information from them?
25 A No.

23
1 MR. WASMUTH: I'll object to the
2 form of the question to the extent it calls
3 for the witness to speculate about matters
4 not in his personal knowledge.
5 Erik, when I object, unless I instruct
6 you to answer, you can provide an answer if
7 you have one.
8 THE WITNESS: Okay.
9 A Would you repeat the question.
10 MR. MILBRATH: Read it back,
11 please.
12 (Thereupon, the designated portion was read
13 back by the court reporter.)
14 A Yes, I believe it would.
15 BY MR. MILBRATH:
16 Q Are there any records that would
17 substantiate your claim that you did disclose to
18 Complete Coachworks that the 450 LXI units were, in
19 fact, overweight?
20 A Records that I disclosed?
21 Q In other words, would there be an e-mail,
22 some sort of due diligence disclosure letter, or any
23 other type of document whereby you said these coaches
24 are believed to be over the rated capacity in these
25 parameters?

22
1 Q Did you know that the 450 LXI units were in
2 some cases heavier than the rated capacity for the
3 independent front suspension?
4 A Yes.
5 Q And how did you know that?
6 A I had each coach weighed.
7 Q You had each coaches weighed?
8 A Yes.
9 Q Did you supply the weight parameters to
10 either Lee, last name unknown, or Mr. Steve Peterson?
11 A I may have, I don't recall.
12 Q If they were to say that you withheld that
13 from them, would they be telling the truth?
14 A No.
15 Q Were you aware that Mr. Carson's company
16 doing business as Complete Coachworks assumed certain
17 warranty responsibilities for the 450 LXI?
18 A Yes.
19 Q Do you know what the scope of that warranty
20 responsibility was?
21 A No.
22 Q As the purchaser assuming warranty
23 responsibilities up to a certain level, would it be
24 important for Complete Coachworks to know the truth
25 about whether these coaches were overweight?

24
1 A No, nothing that was addressed specifically
2 to anyone from Complete Coach.
3 Q So is there any writing in existence that
4 you know of, if someone were to say, you know,
5 Mr. Johnson didn't tell us the truth, he didn't tell
6 us just how bad the problem was on these coaches,
7 would there be any document that you could point to
8 that would prove that you did, in fact, tell them?
9 A Not that I recall.
10 Q Did you and Mr. Carson ever talk about the
11 overweight conditions in the coaches?
12 A Yes.
13 Q When was the first time that that occurred,
14 before or after the sale?
15 A After.
16 Q And how did that come about?
17 A He called me into his office and had an
18 engineer from Body Company there and wanted me to
19 turn over any documents that I had to him.
20 Q And who was the engineer?
21 A His first name was Scott. I don't recall
22 his last name.
23 Q And what was the company?
24 A That Scott worked for?
25 Q Yes.

ProTEXT Transcript Condensing for Windows

25
1 A That was blue Bird Body.
2 Q Why would Blue Bird Body Company, the very
3 company that sold the Coachworks division to your
4 then employer, Complete Coachworks, need information
5 about the overweight condition?
6 A My understanding was that they wanted to
7 address the problem.
8 Q Are you referring to Scott Bauer?
9 A I think that's his last name, yes.
10 Q And is this a conversation that occurred on
11 or about September 11, 2007?
12 A That would probably be about the right
13 time.
14 Q How did Mr. Bauer end up talking to you and
15 Mr. Carson?
16 A I don't know.
17 Q Is it true that Blue Bird Body Company
18 affirmatively misled Complete Coachworks and
19 affirmatively did not disclose the overweight
20 condition of the Wanderlodge units before the sale?
21 A I don't know.
22 Q Was there any scheme to defraud Complete
23 Coachworks by Blue Bird Body Company by omitting
24 material facts concerning the overweight condition of
25 the Wanderlodge 450 LXI units --

27
1 Q So do you believe that he turned that
2 responsibility over to you?
3 A I don't know that it was -- that he turned
4 anything over to me. I was asked questions by
5 Complete Coach. We were told to be open with them.
6 Q Who told you that?
7 A Mr. Kitaoka.
8 Q Did you become aware that Coachworks later
9 claimed after the sale, after it -- that is,
10 Mr. Carson's company, after it then owned the Blue
11 Bird Wanderlodge 450 LXI units and the warranty
12 responsibility that went with it to some degree,
13 claimed that they had not been told?
14 A I wasn't aware of that.
15 Q I would like for you as specifically as you
16 can then walk us through what you said and to whom in
17 order to inform the potential buyer, Mr. Carson's
18 company, about the issues regarding the Wanderlodge
19 weight problem.
20 A Well, the first time it was with a finished
21 Wanderlodge out in front of the plant with Steve
22 Peterson and Lee -- I think his last name might have
23 been Atwood. And we spent an afternoon talking about
24 materials, issues we were seeing, manufacturing
25 processes, fit and finish, and that's where, you

26
1 MR. WASMUTH: I object --
2 BY MR. MILBRATH:
3 Q -- for the sale?
4 MR. WASMUTH: I apologize.
5 I object to the form of the question to
6 the extent it calls for the witness to
7 speculate about matters not in his personal
8 knowledge.
9 A None that I'm aware.
10 BY MR. MILBRATH:
11 Q Are you then in a position where you can
12 tell me how you would show that Coachworks, Complete
13 Coachworks, Carson's company, was, in fact, informed
14 of the overweight problem for the 450 LXIs before the
15 sale?
16 A I have no written record other than verbal.
17 Q Now, let's go back. I asked you about your
18 then boss, Mr. -- I've forgotten his name.
19 A Kitaoka.
20 Q -- Kitaoka. Was he involved more than you
21 were involved in communications over the due
22 diligence investigation?
23 A I believe he was involved very little.
24 Q Very little?
25 A Very little.

28
1 know, the first time we discussed the weight of the
2 coach. And following that, there were several line
3 walks where you walk down the assembly line and point
4 out specific items.
5 Q Was the Wanderlodge 450 LXI being made at
6 that point in time?
7 A I believe we had some online, yes.
8 Q And you believe that Mr. Atwood is the
9 consultant that was with Mr. Peterson?
10 A I think that was his last name, yes.
11 Q You don't remember his first name, do you?
12 A I think it was Lee.
13 Q Lee, lee Atwood.
14 Okay. So let's go to that first time. I
15 take it there is a completed unit that you are
16 showing and they are walking through, right?
17 A Yes. They asked for one to be brought out
18 to the front of the plant and they asked me to walk
19 them through it.
20 Q And did you that?
21 A Yes.
22 Q And do you remember what unit that was?
23 A No.
24 Q But this was one that had not been sold?
25 A That's correct.

ProTEXT Transcript Condensing for Windows

29
1 Q All right. And but it was one that was
2 going to be delivered to a dealer?
3 A Eventually, yes.
4 Q Now, what did you say at that point in time
5 about the weight issues?
6 A I informed them that it was heavy. The
7 axle weights were heavy. The overall vehicle weight
8 was heavy.
9 Q All right. And did you say by how much?
10 A I don't recall.
11 Q Now, did Blue Bird Body Company -- withdraw
12 that.
13 This conversation that you are relating to
14 us occurred at Fort Valley, Georgia, right?
15 A Correct.
16 Q And was there a scale to weigh the units at
17 that facility?
18 A Across the street. That's not where we
19 weighed them, though.
20 Q Where did you weigh them?
21 A At the Pilot Truck Stop in Byron, Georgia.
22 Q In Byron, Georgia?
23 A I believe that's where it's located.
24 Q Is that B-Y-R-O-N?
25 A B-Y-R-O-N.

31
1 the road if there is any issues, right?
2 A Well, I wasn't asked any questions before
3 then.
4 Q And the only persons that were there at
5 this particular event you were telling us about is
6 Peterson, Lee Atwood and yourself, right?
7 A Yes.
8 Q And all you can remember saying is that it
9 was heavy on the front and heavy overall?
10 A It was heavy pretty much everywhere.
11 Q Okay. And did you tell them why it was
12 heavy pretty much everywhere?
13 A I tried to explain that, yes.
14 Q What did you say?
15 A Stainless steel frame, stainless steel side
16 sheets, interior components have become heavier and
17 heavier based on the direction that sales gave us.
18 Q Is that a problem that's unique to Blue
19 Bird Body Company or was that something that you then
20 knew was common in the industry?
21 A I knew it was common in the industry.
22 Q And how did you know that?
23 A I worked for a retailer, an RV retailer
24 several years earlier, and one of my responsibilities
25 was to weigh each coach coming on to the lot, and

30
1 Q And whose truck stop is that?
2 A Pilot.
3 Q And is that an independent truck stop?
4 A It's a chain.
5 Q Okay. And do they give certified weights?
6 A Yes, that's why I requested that.
7 Q And did you supply the certified weights on
8 that particular unit to Mr. Peterson and Lee Atwood?
9 A I don't recall.
10 Q Do you remember if you gave any weight
11 parameters? For example, did you say, well, this
12 front suspension system is over the maximum for a
13 front axle by a particular amount?
14 A I don't recall if I had a particular
15 amount.
16 Q If they were to say, you know, Johnson
17 never told us any of that, there would be no record
18 that you could rely on to defend yourself and say I
19 did and here's what I gave them?
20 A No.
21 Q Have you ever been in a due diligence
22 process for a sale of a business before?
23 A About two years before that.
24 Q So you were familiar that what you say and
25 disclose to a buyer could be really important down

32
1 I've worked for other motor home manufacturers and
2 was aware of weight issues.
3 Q Which RV dealer are you talking about?
4 A Buddy Gregg Motor Homes in Lakeland,
5 Florida.
6 Q Did Mr. Atwood or Mr. Peterson indicate any
7 surprise about what you were telling them?
8 A No, not really.
9 Q Did they ask you what you proposed to do
10 about the weight problem?
11 A Well, we had a general discussion.
12 Q Tell me about that.
13 A Well, the question was how do we make the
14 coach lighter. And we were talking about various
15 materials; changing some of the thicknesses of
16 structural and finish members, steel members. Again,
17 it was generally.
18 Q But this is something you had been thinking
19 about all along, I take it?
20 A Absolutely.
21 Q Was Mr. Kitaoka present during any part of
22 this conversation?
23 A No.
24 Q Now, you then said you went through the
25 actual line. I take it you walked them through the

ProTEXT Transcript Condensing for Windows

33
 1 production line that was then in business producing
 2 the Wanderlodge, right?
 3 A I know I was with Mr. Atwood. I'm not sure
 4 if Mr. Peterson was there.
 5 Q Okay. And tell us what occurred while you
 6 were doing that.
 7 A Well, we were discussing components and
 8 this was a daily thing. He was on-site, I would say,
 9 probably a month. And he would see me on the line or
 10 he would be on the line and I would ask him, you
 11 know, do you have any questions. Well, again, we
 12 were told to be open. And he would ask me about
 13 various components.
 14 Q So you are saying that Mr. Atwood was there
 15 for a month?
 16 A I think it was about a month.
 17 Q And is Mr. Atwood an engineer?
 18 A Yes.
 19 Q And do you know if he's a degreed engineer?
 20 A I'm not sure.
 21 Q Did he seem to know something about
 22 mechanical engineering.
 23 A Yes, and RVs.
 24 Q And do you know what his prior RV
 25 experience was?

35
 1 pictures.
 2 Q And do you know when this was?
 3 A July and August of '07. He stayed on after
 4 the sale.
 5 Q When did Blue Bird Body Company quit making
 6 the Wanderlodge at Fort Valley, Georgia?
 7 A They had one unit in production when I
 8 left.
 9 Q In October of '07?
 10 A Yes. And I don't know if that was the last
 11 one.
 12 Q So was there ever a production line for the
 13 Wanderlodge in California?
 14 A Not that I am aware of.
 15 Q Do you know why there was never a
 16 production line in California?
 17 A They weren't set up as a manufacturer.
 18 Q So how was the Wanderlodge going to get
 19 built?
 20 A I believe still in Fort Valley.
 21 Q And who was going to build it after the
 22 sale?
 23 A They brought everybody from the plant in
 24 the offices into the cafeteria and basically offered
 25 all of us employment.

34
 1 A What he told me was that he was Director of
 2 Engineering for National Coach, and had been an
 3 Interim Director of Engineering for Country Coach. I
 4 think there were a couple of others in there, but I
 5 don't recall them.
 6 Q So you are saying that Mr. Atwood was
 7 physically present during the production cycle for as
 8 much as a month there at Fort Valley, Georgia?
 9 A Yes.
 10 Q And during that month, he was there
 11 typically everyday?
 12 A Yes.
 13 Q And during that month, he would be in a
 14 position to observe various stations of the
 15 production line itself?
 16 A Yes, he had full reign of the plant.
 17 Q And at any point in that process, he could
 18 then ask people questions?
 19 A Yes.
 20 Q And had you instructed your staff to give
 21 him straightforward answers?
 22 A Everything he needed.
 23 Q Do you know if he took any footage, film
 24 footage?
 25 A I'm not sure. He may have taken some

36
 1 Q So let me see if I have this right. In
 2 roughly -- the closing occurred in roughly
 3 August 2007, right?
 4 A Uh-huh (affirmatively).
 5 Q You have to say yes or no.
 6 A I'm sorry, yes.
 7 Q All right. When that closing took place,
 8 there was an entire production line still building
 9 these Wanderlodge units?
 10 A Yes.
 11 Q And your understanding was that the new
 12 company, Mr. Carson's company doing business as
 13 Complete Coachworks, was going to keep making these
 14 units at Fort Valley, Georgia in that very same
 15 production plant?
 16 A Yes.
 17 Q Only now the people who were making these
 18 would be employees of the new company, Mr. Carson's
 19 company?
 20 A That's correct.
 21 Q And in effect, Carson's company offered the
 22 whole plant employment, right?
 23 A Short of a few people, yes.
 24 Q And that included yourself. You became the
 25 Chief Engineer; is that right?

ProTEXT Transcript Condensing for Windows

37
 1 A Yes.
 2 Q And why did Mr. Kitaoka not go with them?
 3 A I don't believe he was asked to join the
 4 new company.
 5 Q Do you know why that is the case?
 6 A No, I never discussed it.
 7 Q Had he been fired at Blue Bird Body
 8 Company?
 9 A At that time?
 10 Q Yes.
 11 A I don't believe so.
 12 Q Now, at the point that you became --
 13 withdraw that.
 14 I take it that that's what happened after
 15 the sale or closing on the sale, August, for a period
 16 of time the plant continued to make Wanderlodge
 17 units, right?
 18 A Yes.
 19 Q And you were the Chief Engineer working at
 20 Fort Valley, Georgia doing that?
 21 A Yes.
 22 Q Even though you reported to an employer
 23 that was functioning out in California?
 24 A Yes.
 25 Q And Mr. Carson was then in California?

39
 1 Q Yes, sir.
 2 A Structural changes, finish material
 3 changes, thickness of material changes. I guess in
 4 general that would cover most of it.
 5 Q What were the structural changes in
 6 general?
 7 A There was some areas -- we had a structural
 8 engineer who designed the body to be fairly heavy and
 9 fairly rigid, and we came up with some solutions to
 10 eliminate some of the structures that he had added.
 11 Q This would take out structural components
 12 or just use lighter weight components?
 13 A It would replace flat plates with tubes.
 14 Q What about the generator, did that stay in
 15 the same place?
 16 A Yes.
 17 Q And what were the finish material changes?
 18 A Countertops, some of the flooring materials
 19 which were half inch thick marble, some modifications
 20 to cabinetry to make it lighter, various other
 21 components.
 22 Q And you said one of the changes was in the
 23 thickness of the materials?
 24 A Well, we had side metal on the exterior
 25 that was 18 gauge and we proposed going to 20 gauge.

38
 1 A No, he was commuting.
 2 Q So he spent some time in Fort Valley as
 3 well, right?
 4 A Yes.
 5 Q And what about Mr. Neshati?
 6 A He was commuting as well.
 7 Q So I take it for a period of time in
 8 '07 after the August closing, Carson, you, and
 9 Neshati would be working in the same office complex
 10 overseeing the production of Wanderlodge units,
 11 right?
 12 A Yes.
 13 Q Now, and you were, at that time, the Chief
 14 of Engineering, right?
 15 A Yes.
 16 Q Okay. And your testimony is you had
 17 disclosed to the buyer the problem with the
 18 overweight condition, right?
 19 A Yes.
 20 Q Did you have a plan whereby you were going
 21 to fix that? How were you going to fix the
 22 overweight problem?
 23 A We had the beginnings of a plan.
 24 Q Okay. What was that?
 25 A It was fairly involved. You want more?

40
 1 Q And did you have any calculations as to how
 2 much weight you would save from those kinds of
 3 measures?
 4 A We had some rough calculations.
 5 Q What were those?
 6 A Seven to 10,000 pounds.
 7 Q And where were those rough calculations
 8 made?
 9 A In an Excel spreadsheet.
 10 Q And what was that Excel spreadsheet called?
 11 A I don't remember.
 12 Q But if you were there today and I said,
 13 Mr. Johnson, could you please find that, where would
 14 you go to find it?
 15 A I had a directory on my computer called
 16 450 LXI.
 17 Q Do you know what happened to that?
 18 A To the file or the computer?
 19 Q To the file.
 20 A I don't know what the -- what was done to
 21 the computers before they were sold.
 22 Q Did you ever consider whether it would make
 23 sense to relocate the generator as part of your
 24 weight saving measures?
 25 A Yes.

ProTEXT Transcript Condensing for Windows

SHEET 11 PAGE 41

41
 1 Q And what did you decide about that?
 2 A We decided to explore all other options
 3 first. There was a customer perception and there was
 4 a noise level that we were trying to separate the
 5 generator as far from the bedroom as possible.
 6 Q The generator was located where at that
 7 time?
 8 A In the nose of the unit.
 9 Q And why was it located there, do you know?
 10 A I don't know why the original design had
 11 that. That was where it was when I arrived at
 12 Coachworks.
 13 Q I'LL show you what has previously been
 14 marked as Exhibit 127.
 15 (Tenders document.)
 16 That is from Dr. Mackillop's manual. And
 17 it shows at the top first page, RM 68, photograph of
 18 this tray that comes out, slides out that has a
 19 generator on it. Do you see that?
 20 A Yes.
 21 Q And is that where you intended to keep it
 22 basically on that same tray?
 23 A It was the tray design was different.
 24 Q How would it differ from what is shown on
 25 Exhibit 127?

PAGE 43

43
 1 Q It was there before you came there?
 2 A Yes. The majority of it was, yes.
 3 Q Did the generator contribute to the
 4 overweight condition on the front axle?
 5 A Yes.
 6 Q And by what amount?
 7 A I believe the generator was roughly
 8 900 pounds.
 9 Q So if you moved it somewhere else, let's
 10 say towards the bay area, would that take some of the
 11 load off the front?
 12 A Yes.
 13 Q And you considered that?
 14 A Yes.
 15 Q And why did you not decide to just relocate
 16 it?
 17 A Because there were other areas that we
 18 could exploit first.
 19 Q And those are the ones that you told me
 20 about?
 21 A Yes.
 22 Q And you thought they would shave off how
 23 much weight?
 24 A We were -- our goal was seven to
 25 10,000 pounds.

PAGE 42

42
 1 A It was a thinner material.
 2 Q But otherwise it would stay in that same
 3 compartment?
 4 A Yes.
 5 Q And what were the advantages of having it
 6 there?
 7 A Not using up bay space, low noise.
 8 Q How about maintenance issues? If you
 9 needed to maintain something on that generator,
 10 having it on the tray, would that be of any benefit?
 11 A Being able to slide it out, yes.
 12 Q And if you moved it towards the rear, let's
 13 say in one of the bays, what would that contribute to
 14 the noise level?
 15 A We felt it would raise it, raise it in the
 16 bedroom.
 17 Q Which is where the folks would be sleeping,
 18 right?
 19 A Correct.
 20 Q Okay. And typically, if the generator was
 21 on, they might be in the bedroom, right?
 22 A Correct.
 23 Q Who was it that designed the generator
 24 location, and the tray and that subsystem?
 25 A I don't know.

PAGE 44

44
 1 Q As Chief Engineer, when you became an
 2 employee of Mr. Carson's company, after the sale, did
 3 you consider what to do about the units that had
 4 already been sold that were overweight?
 5 A No.
 6 Q Was there ever a time when you were an
 7 employee of Blue Bird Body Company before the sale to
 8 Mr. Carson's company, this division, that you
 9 considered whether customers should be warned about
 10 the overweight conditions?
 11 A No, that was out of my scope.
 12 Q Whose job was it at Blue Bird Body Company
 13 to consider such things?
 14 A I'm not sure.
 15 Q Was Mr. Steve Clark involved at all in the
 16 Wanderlodge unit before the sale to Carson's company?
 17 A I'm not sure who that is.
 18 Q He's an engineer, was employed -- and risk
 19 manager. You are not familiar with that name?
 20 A At Coachworks?
 21 Q At Blue Bird Body Company?
 22 A No, I'm not familiar with that name.
 23 MR. MILBRATH: Okay. Why don't we
 24 take a brief coffee break.
 25 MR. WASMUTH: Sure.

ProTEXT Transcript Condensing for Windows

SHEET 12 PAGE 45

45
 1 (Brief recess, 10:39 a.m.)
 2 (Reconvene, 10:46 a.m.)
 3 BY MR. MILBRATH:
 4 Q Mr. Johnson, you told us that Mr. Atwood
 5 was consulting with the buyer before the sale, right?
 6 A Yes.
 7 Q And that he was there as much as a month
 8 watching the production?
 9 A Yes.
 10 Q During which time you would talk to him
 11 from time to time?
 12 A Yes.
 13 Q And did you talk to him during that month
 14 about the overweight condition?
 15 A I don't recall specifically, but I'm sure I
 16 did.
 17 Q And did you talk to him about your various
 18 plans for reducing the weight on the Wanderlodge
 19 450 LXI?
 20 A Yes.
 21 Q And did you give him details about those
 22 plans?
 23 A Yes.
 24 Q After the sale, did he continue to have any
 25 sort of capacity with the buyer?

PAGE 47

47
 1 A No, several Wanderlodges. They didn't
 2 weigh the same, unit to unit.
 3 Q Your testimony is that you didn't concern
 4 yourself with whether to warn customers about that
 5 because it wasn't your job?
 6 A No, it would have been someone else's job.
 7 Q Whose job was that?
 8 A I know that the final weight slip went into
 9 the body file. I don't know where it went from
 10 there. I don't know if it actually ended up in the
 11 customer's hands or not.
 12 Q Mr. Bauer has testified that after you
 13 spoke to him on September 11, 2007, he concluded that
 14 there was a danger to vehicle safety, although not a
 15 specific violation of a safety standard as a result
 16 of the overweight conditions on these RVs. Was that
 17 also your opinion?
 18 A I don't believe it was a safety issue, it
 19 was an overweight issue.
 20 Q But you believe that if a vehicle like --
 21 withdraw that.
 22 If the RV, 450 LXI in particular is over
 23 the rated capacity on the front suspension system,
 24 doesn't that create a safety issue?
 25 A Not necessarily.

PAGE 46

46
 1 A He was a consultant.
 2 Q And did he come to the plant from time to
 3 time while you were still employed there?
 4 A Yes.
 5 Q And what sort of work did Mr. Atwood do
 6 during that time?
 7 A He was consulting on all engineering
 8 activities.
 9 Q And as you are thinking him, do you
 10 remember the name of his company?
 11 A I didn't know he had a company, I thought
 12 it was just him.
 13 Q He was retired from another company.
 14 A National Coach -- or National RV, I'm
 15 sorry.
 16 Q And do you know whatever happened to him?
 17 A I do not.
 18 Q But you believe that he would remember your
 19 talking to him about these issues?
 20 A I would hope so.
 21 Q Now, none of this was news to you because
 22 you knew that the 450 LXI had been overweight for a
 23 long time, right?
 24 A Several coaches were, yes.
 25 Q Not just the Wanderlodge, but --

PAGE 48

48
 1 Q But it might, right?
 2 A It might.
 3 Q Now, there were RVs that were as much as
 4 2000 pounds over the rated capacity manufactured by
 5 your production line at Blue Bird Body Company. Were
 6 you aware of that?
 7 A I would need to see the data to remember.
 8 Q If the facts were that -- let's take the
 9 Wilson coach, for example.
 10 If the facts were that the Wilson coach was
 11 as much as 2000 pounds over the rated capacity when
 12 it left Blue Bird Body Company, wouldn't that create
 13 a safety hazard to the driver?
 14 A Well, there was a margin of safety designed
 15 in.
 16 Q What sort of margin of safety?
 17 A The standard was 1.2 times the rated
 18 weight.
 19 Q Where do I find that?
 20 A ArvinMeritor.
 21 THE REPORTER: I'm sorry?
 22 THE WITNESS: ArvinMeritor,
 23 A-R-V-I-N-M-E-R-I-T-O-R.
 24 BY MR. MILBRATH:
 25 Q So if the 16 -- if the rated weight was

ProTEXT Transcript Condensing for Windows

SHEET 13 PAGE 49

49
 1 16,000 pounds per axle, recognizing this is an
 2 independent front suspension system -- withdraw that.
 3 If it was 16,000 pounds total for the front
 4 axle, you're saying that 1.2 times 16,000 would give
 5 you the margin of safety?
 6 A Yes, that's what we designed to.
 7 Q So what is 1.2 times 16,000?
 8 A I need a calculator.
 9 Q I've got you covered.
 10 MR. WASMUTH: Steve comes
 11 prepared. We've seen the calculator before.
 12 MR. MILBRATH: If I can find it.
 13 MR. WASMUTH: I have one on my
 14 phone.
 15 A 19,200.
 16 BY MR. MILBRATH:
 17 Q 19,200. You want to check your math, I'll
 18 let you do that.
 19 A Touch the screen?
 20 MR. WASMUTH: Yeah.
 21 A That's cool. 19,200.
 22 BY MR. MILBRATH:
 23 Q Now, you are saying that you would bet your
 24 life on that?
 25 A Yes.

PAGE 51

51
 1 Q And don't you tell them that the rated
 2 capacity of the front is 16,000 pounds?
 3 A Yes.
 4 Q And wasn't Dr. Mackillop entitled to
 5 believe that to be true?
 6 A Yes.
 7 Q Wasn't Mr. Wilson and his wife entitled to
 8 believe that to be true?
 9 A Yes.
 10 Q But it wasn't true.
 11 A I don't recall the data.
 12 Q But at the time that you were in
 13 engineering at that company, you knew that you were
 14 making these buses over the rated capacity?
 15 A Yes.
 16 Q And why is it that Blue Bird Body Company
 17 didn't tell people that?
 18 A I don't know.
 19 Q Don't you think it would be material to
 20 somebody like Dr. Mackillop to know that it's above
 21 the capacity?
 22 MR. WASMUTH: I object to the form
 23 of the question to the extent it calls for
 24 the witness to speculate about matters not
 25 in his personal knowledge.

PAGE 50

50
 1 Q You would bet your customer's life on that?
 2 A No.
 3 Q Who is it that said that it was 1.2 times
 4 the rated weight?
 5 A Steve Federighe.
 6 Q How is that last name spelled?
 7 A I'll try. F-E-D-E-R-I-G-H-E.
 8 Q And is there anything in writing from
 9 Mr. Federighe that purports to demonstrate that there
 10 is a margin of safety within the range of 1.2 times
 11 the rated capacity of the front suspension system?
 12 A Not that I've seen.
 13 Q And is there any literature by ArvinMeritor
 14 whereby ArvinMeritor said, customers, don't worry
 15 about the fact that your RV is 2000 pounds overweight
 16 because you can bet your life on the fact that there
 17 is a margin of safety of 1.2?
 18 A No.
 19 Q There is nothing like that, is there?
 20 A No.
 21 Q And a consumer that buys your RVs, back
 22 when you were in Blue Bird Body Company engineering,
 23 is entitled to believe what you tell them about their
 24 RV, aren't they?
 25 A I would assume that, yes.

PAGE 52

52
 1 A I guess I could say that I'm not sure it
 2 wasn't.
 3 BY MR. MILBRATH:
 4 Q If the facts were that his unit was
 5 2000 pounds over the rated capacity, don't you think
 6 that would be material to him?
 7 A Yes.
 8 Q In fact, it would be material to him if it
 9 were 1,000 pounds above the capacity, wouldn't it?
 10 A Yes.
 11 Q So was there a conscious decision by Blue
 12 Bird Body Company not to tell customers like the
 13 Mackillops and the Wilsons about the weight problem?
 14 MR. WASMUTH: Same objection.
 15 A I'm not aware of one.
 16 BY MR. MILBRATH:
 17 Q Was there a decision to tell them, to warn
 18 them that, you know, this really doesn't have the
 19 capacity that we are representing?
 20 A I'm not aware of one.
 21 Q And you were not the Chief of Engineering,
 22 but where would you expect the buck to stop at Blue
 23 Bird Body Company? Who, in other words, had the
 24 responsibility to let people know about this
 25 overweight problem?

ProTEXT Transcript Condensing for Windows

SHEET 14 PAGE 53

53
 1 A I don't know who at Blue Bird Body Company
 2 would have -- where it would have stopped there.
 3 Q But you were the No. 2 man on the
 4 engineering side?
 5 A Not on Blue Bird Body Company.
 6 Q Where in the order of management were you
 7 at Blue Bird Body Company?
 8 A I wasn't with Blue Bird Body Company.
 9 Q Well, you were with a division of Blue Bird
 10 Body Company, the Coachworks division?
 11 A Yes.
 12 Q Right? And you were the No. 2 man on the
 13 engineering side there, right?
 14 A I was a senior engineer, yes.
 15 Q Now, your resume says that you had -- your
 16 primary areas of responsibility included body and
 17 chassis, mechanical systems, mechanisms and molded
 18 parts, and that you supervised up to 12 designers,
 19 right?
 20 A Yes.
 21 Q And if you had responsibility for body and
 22 chassis, mechanical systems, mechanisms and molded
 23 parts, would that encompass whether -- knowing
 24 whether the RV was over the rated capacity on the
 25 front end?

PAGE 55

55
 1 A No. I asked the quality person to be
 2 outside of the vehicle.
 3 Q So that would give you basically the
 4 unoccupied weight without water?
 5 A Curb weight, yes.
 6 Q And you would get back from -- what was the
 7 name of the place again, I'm sorry?
 8 A Pilot Truck Stop.
 9 Q Pilot Truck Stop, this certified weight
 10 ticket?
 11 A Yes, I would get a copy.
 12 Q Did Pilot Truck Stop keep a copy also?
 13 A I'm not sure.
 14 Q Where did the copy of the weight ticket go?
 15 A In a file that I kept and in the body file
 16 for the unit.
 17 Q And by the body file for the unit, you mean
 18 what?
 19 A There was a record of all the quality
 20 checks that were done, tests that were done. I
 21 believe it had a build sheet with all the options,
 22 and that was kept by quality.
 23 Q What was done with the body files after the
 24 sale by Blue Bird Body Company of the Coachworks
 25 division to Mr. Carson's company?

PAGE 54

54
 1 A Yes.
 2 Q And what records did you keep concerning
 3 that issue?
 4 A I had a certified weight ticket for each
 5 unit and a spreadsheet.
 6 Q So I would like for you to walk us through
 7 the process of how you would get the certified weight
 8 for each unit manufactured by the Coachworks division
 9 of Blue Bird Body Company during your employment.
 10 A I asked quality to fill it with fuel, drive
 11 it to the Pilot Truck Stop in Byron and weigh it and
 12 get a certified ticket.
 13 Q Why did you ask them to fill with fuel?
 14 A Because I wanted to know what its wet
 15 weight was.
 16 Q And does the wet weight include full water?
 17 A No.
 18 Q So when you used the term, "wet weight," is
 19 simply the fuel and not the water?
 20 A Fuel, oil and coolant.
 21 Q Fuel, oil?
 22 A Oil and coolant.
 23 Q And when you asked the certified weights to
 24 be done, did it include any weights for the occupants
 25 and passengers?

PAGE 56

56
 1 A I don't know.
 2 Q During the time that you worked there --
 3 withdraw that.
 4 When became an employer of Carson's
 5 company, you were working in the production plant,
 6 right?
 7 A Yes.
 8 Q All right. And did you have the body files
 9 at that time?
 10 A I did not.
 11 Q So where was that facility -- where was --
 12 withdraw that.
 13 Where was the body file before the sale,
 14 physically?
 15 A In the Wanderlodge offices.
 16 Q And whose office in particular?
 17 A I don't remember who sat there.
 18 Q Well, who was -- functionally, whose office
 19 was it?
 20 A I can't remember who sat in there.
 21 Q Well, what part of the building was it?
 22 Was it in engineering? Was it in sales?
 23 A No, it was in the middle of the building.
 24 It was not in sales, it was not in engineering, it
 25 was down the hall from engineering.

ProTEXT Transcript Condensing for Windows

SHEET 15 PAGE 57

57
 1 Q And why was it there?
 2 A That's why the file cabinets were. I don't
 3 know why it was there.
 4 Q And was that file cabinet identified in any
 5 way?
 6 A It said "body files" on it, and then
 7 letters.
 8 Q And was there a person that was in charge
 9 of that unit?
 10 A The body files?
 11 Q Yes.
 12 A That was our director of quality.
 13 Q Who was the director of quality just before
 14 the sale?
 15 A Before the sale, Amogh Dhavale.
 16 Q Spell that for us, if you will?
 17 A First name A-M-O-G-H. Last name
 18 D-H-A-V-A-L-E, I believe.
 19 Q Is this a he or a she?
 20 A That's a he.
 21 Q And technical background?
 22 A I believe engineering.
 23 Q What happened to Amogh Dhavale after the
 24 sale?
 25 A He left the company right before the sale.

PAGE 59

59
 1 cabinet would disappear after the sale?
 2 A No.
 3 Q It should be still be there, right?
 4 A I don't think it's there now, there was an
 5 auction.
 6 Q Okay. But let's go back in time. During
 7 the time immediately before you left in October of
 8 '07, wasn't that file cabinet still there?
 9 A It had been moved.
 10 Q And who moved it?
 11 A Several Wanderlodge employees.
 12 Q And do you know why?
 13 A They were refurbishing the offices.
 14 Q And do they throw it away?
 15 A No, I don't believe they did.
 16 Q And do you know what happened to the
 17 contents of the file cabinet?
 18 A The last I saw, most of the files, they
 19 were in the showroom.
 20 Q And where was the showroom?
 21 A That was right next to the production line,
 22 beginning of the production line.
 23 Q And were they in a file cabinet or were
 24 they just sitting around the showroom?
 25 A No, they took the whole file cabinets.

PAGE 58

58
 1 Q And do you know where he went?
 2 A I believe he went to Trane Corporation in
 3 Macon.
 4 Q Maitland, Florida?
 5 A Macon.
 6 Q Macon. And do you know if he's still
 7 there?
 8 A Don't know.
 9 Q But by background and training, he was an
 10 engineer?
 11 A I believe that's correct, yes.
 12 Q And who took his place as director of
 13 quality?
 14 A Russell Hight, H-I-G-H-T.
 15 Q And what happened to him?
 16 A He's deceased.
 17 Q Now, this file cabinet located in the
 18 middle of the building was where in relation to where
 19 the production line was?
 20 A It was in the office area. I'm not sure
 21 how to answer that question.
 22 Q Was it in the same physical facility where
 23 the production took place?
 24 A Yes.
 25 Q So is there any reason that that file

PAGE 60

60
 1 Q So they were not in file cabinet?
 2 A No, they were in file cabinets.
 3 Q All right. So when you left, there were
 4 body files still in the showroom next to the
 5 production line?
 6 A There were file cabinets. I can't tell you
 7 if they were in there.
 8 Q All right. And your testimony is that you
 9 understood that your then employer, the new company,
 10 the buyer, Carson's company, assumed some level of
 11 responsibility over warranty claims?
 12 A Yes.
 13 Q And it would be important for a company
 14 that has responsibility for warranty claims to keep
 15 and maintain as a permanent record the body files,
 16 right?
 17 A Yes.
 18 Q That would only make sense. You would want
 19 the body file if you were going to have
 20 responsibility for the warranty claim on that body,
 21 right?
 22 A That would make sense.
 23 Q So since you were Chief of Engineering
 24 didn't you have responsibility for making sure you
 25 had that?

ProTEXT Transcript Condensing for Windows

SHEET 16 PAGE 61

61
 1 A No.
 2 Q Why not?
 3 A It wasn't an engineering function.
 4 Q It was a quality function?
 5 A Yes.
 6 Q And who was running quality at that point
 7 before you left?
 8 A Russell Hight.
 9 Q And he died?
 10 A Yes.
 11 Q But I take it he died after October '07?
 12 A About a year after I left.
 13 Q You left in October of '07?
 14 A Yes.
 15 Q So your testimony is that on
 16 September 11/07 you spoke to Mr. Bauer about the
 17 weight issue, right?
 18 A I believe that was the date, yes.
 19 Q At that point in time, Mr. Hight was still
 20 alive?
 21 A Yes.
 22 Q He was still working at Mr. Carson's
 23 company?
 24 A Yes.
 25 Q And the file cabinet in the showroom next

PAGE 63

63
 1 showroom next to the production line.
 2 A That's correct.
 3 Q So why wouldn't they be there in
 4 September 11, 2007 when Blue Bird Body Company was
 5 considering a recall?
 6 A That I don't know.
 7 Q Do you know of anyone consciously
 8 destroying the body files on these units?
 9 A No.
 10 Q Do you know why -- well, do you have any
 11 reason to believe that someone destroyed the weight
 12 tickets?
 13 A No.
 14 Q So they should still exist?
 15 A I would assume they would.
 16 MR. MILBRATH: Counsel, I want to
 17 take this opportunity to request that they
 18 be immediately produced preliminary to a
 19 motion to compel.
 20 MR. WASMUTH: I don't think you
 21 appreciate the witness's testimony. Those
 22 records were sold to Carson's company.
 23 MR. MILBRATH: And they are now --
 24 if that's correct, then they would have been
 25 in the possession of --

PAGE 62

62
 1 to the production line that had the body files, still
 2 existed?
 3 A As far as I know.
 4 Q And the body files were still in that file
 5 cabinet?
 6 A As far as I know.
 7 Q So did you ever retrieve any of those
 8 documents?
 9 A No.
 10 Q Do you know whatever happened to them?
 11 A No.
 12 Q Would it surprise you to learn that the
 13 body files were not produced in this lawsuit?
 14 A Yes.
 15 Q Would it surprise you to learn that there
 16 were no certified weight tickets produced by Blue
 17 Bird Body Company among the thousands and thousands
 18 of pages of documents?
 19 A No, I guess that wouldn't surprise me.
 20 Q Why is that?
 21 A Well, there was no interaction between both
 22 sides of the street. It was two different companies.
 23 Q But you said that the body files and the
 24 file cabinets that contained them were on your side
 25 of the street where the production line was, and the

PAGE 64

64
 1 MR. WASMUTH: Carson.
 2 MR. MILBRATH: -- or control of
 3 Mr. Bauer September 11th 2007.
 4 MR. WASMUTH: No. They were sold
 5 as part of the assets sale. Mr. Bauer did
 6 not control. Mr. Bauer was an employee of
 7 Blue Bird Body Company. The records were
 8 the property of Coachworks Holdings, the
 9 Carson entity.
 10 MR. MILBRATH: It's my
 11 understanding that Parliament has acquired
 12 whatever records there were --
 13 MR. WASMUTH: I don't know what
 14 they --
 15 MR. MILBRATH: -- as part of the
 16 sale.
 17 MR. WASMUTH: I don't know what
 18 they've acquired. You may need to take that
 19 up with Parliament.
 20 MR. MILBRATH: We may have an issue
 21 of spoliation here. I'm just putting you on
 22 notice now.
 23 MR. BEACHAM: I'm sorry, what was
 24 it that was sold to Parliament?
 25 MR. MILBRATH: Supposedly the

ProTEXT Transcript Condensing for Windows

SHEET 17 PAGE 65

65
 1 Parliament Company bought all of the
 2 documents relating to the Wanderlodge
 3 450 LXI. That's what they claim on their
 4 website.
 5 MR. BEACHAM: That's what
 6 Parliament claims?
 7 MR. MILBRATH: That's correct.
 8 BY MR. MILBRATH:
 9 Q Now, who was it that told you to meet with
 10 Scott Bauer on September 11, 2007?
 11 A Dale Carson.
 12 Q And he didn't tell you why you were
 13 supposed to meet with him?
 14 A No, he called me and said come to his
 15 office.
 16 Q And when you came in, Mr. Bauer was there?
 17 A Yes.
 18 Q And tell me what happened from then on.
 19 A Dale and -- Dale told me that Complete
 20 Coach did not have responsibility for the overweight
 21 issues, that I was to turn over my documents to Scott
 22 Bauer.
 23 Q And what did Mr. Bauer say?
 24 A He gave me his e-mail address and asked me
 25 for any other information that I had.

PAGE 67

67
 1 Q And did you have copies on your laptop?
 2 A No, I didn't have a work laptop.
 3 Q And did Bauer tell you why he wanted the
 4 spreadsheets?
 5 A Well, we discussed what the issues were,
 6 and I told him that I had specific weights of each of
 7 the units, full fuel. And he said how do you have
 8 those, and I said an Excel sheet. And he said e-mail
 9 them to me please so he could study them.
 10 Q Did you do that?
 11 A Yes.
 12 Q And did Mr. Bauer tell you why he was there
 13 in the office that day?
 14 A He was told to come over to discuss weight
 15 issues.
 16 Q What I'm interested in is did anyone ever
 17 inform you how it was that Bauer, an employee of Blue
 18 Bird -- consultant for Blue Bird Body Company, was
 19 there asking you these questions?
 20 A No.
 21 Q Do you have any reason to believe that
 22 Mr. Carson or others at Coachworks had spoken to
 23 Bauer before you had about this issue?
 24 A Probably Mr. Carson, I guess, since he
 25 called him over or however he got there.

PAGE 66

66
 1 Q Was Mr. Carson angry?
 2 A It was hard to tell with him.
 3 Q Did you believe that your job was in
 4 jeopardy at that point?
 5 A No.
 6 Q And was this a surprise to you or had you
 7 heard through the grapevine that there was some issue
 8 brewing over the overweight condition?
 9 A It was a surprise to me.
 10 Q Because know one had told you that
 11 customers were complaining about overweight problems?
 12 A No, that's not what was the surprise.
 13 Q What was the surprise?
 14 A That someone from Blue Bird Body was there
 15 to take the documents.
 16 Q And what documents did you give Mr. Bauer?
 17 A I had several spreadsheets and information
 18 that we had passed back and forth with ArvinMeritor.
 19 Q Did you keep a copy of any of those
 20 documents?
 21 A Well, they were on my computer.
 22 Q And would this be a computer that was
 23 networked at Complete Coachworks?
 24 A I think it was only networked internally at
 25 Coachworks.

PAGE 68

68
 1 MS. BALLARD: I'm sorry to
 2 interrupt. I wanted to let you all know
 3 that I'm leaving the deposition now.
 4 MR. MILBRATH: Okay.
 5 MR. WASMUTH: Thank you.
 6 MR. MILBRATH: Thank you.
 7 BY MR. MILBRATH:
 8 Q I want to show you what has previously been
 9 identified as Exhibit 102, which is a document
 10 identified during Mr. Bauer's deposition. And at the
 11 bottom you will see that there is an Excel extension
 12 where it says 450 weights.XLS 9/11/2007?
 13 A Uh-huh (affirmatively).
 14 Q Is this the document that you sent --
 15 withdraw that.
 16 Is this the spreadsheet that you sent
 17 Mr. Bauer?
 18 A I believe it is.
 19 Q Did you sent him any other Excel
 20 spreadsheets?
 21 A I don't recall.
 22 UNIDENTIFIED PERSON: AT&T Teleconference.
 23 Did you loose Carol Ballard on line?
 24 MR. WASMUTH: Yes, but that was on
 25 purpose.

ProTEXT Transcript Condensing for Windows

69
 1 UNIDENTIFIED PERSON: Oh, okay. She
 2 just hung up, then?
 3 MR. WASMUTH: Yes, sir.
 4 UNIDENTIFIED PERSON: All right. Thank
 5 you.
 6 MR. WASMUTH: Thank you.
 7 That's somewhat troubling that they
 8 monitor the call.
 9 MR. MILBRATH: Anybody still there?
 10 MR. BEACHAM: This is Frank. I'm
 11 still here.
 12 MR. MILBRATH: Okay.
 13 BY MR. MILBRATH:
 14 Q All right. So is this your document,
 15 Exhibit 102? Did you prepare the Excel part of this
 16 document?
 17 A I believe I did.
 18 Q And when did you prepare it?
 19 A It was an ongoing document.
 20 Q Now, there are a number of these units that
 21 don't have any weights on them.
 22 A Yes.
 23 Q Why is that?
 24 A I was never given a weight ticket.
 25 Q What was the purpose of your keeping this

71
 1 is that right?
 2 A I believe that is correct, yes.
 3 Q All right. So would I be correct in
 4 assuming that in most instances you did not get
 5 weight tickets -- withdraw that.
 6 That you did not collect weight tickets?
 7 A That's correct.
 8 Q For those.
 9 So let me ask it a little more artfully.
 10 Would the fact that there are no weights on
 11 some of these units during 2004 be explained by the
 12 fact that you did not collect weight tickets on those
 13 units during 2004?
 14 A Yes.
 15 Q All right. Were there nonetheless weights
 16 taken of those units?
 17 A That was standard procedure.
 18 Q So somebody would have weighed them?
 19 A Yes.
 20 Q You just didn't keep the tickets?
 21 A Correct.
 22 Q And would whoever it was who was weighing
 23 them, have weighed them internally at Blue Bird Body
 24 Company or would they have been weighed at Pilot or
 25 some other certified facility?

70
 1 document?
 2 A So I can keep track of where the weights
 3 were going.
 4 Q Why were you not given weight tickets on a
 5 number of these units?
 6 A I had not requested them.
 7 Q So are you telling me that the reason there
 8 are blanks here is because you only recently began
 9 keeping them?
 10 A Well, I started to see a trend towards
 11 becoming heavier.
 12 Q And would that be in 2005?
 13 A Roughly, yes.
 14 Q So would your testimony be that you didn't
 15 have the units weighed until 2005?
 16 A I didn't have them weighed at a certified
 17 scale full fuel.
 18 Q All right. Let's talk about that period
 19 before you started having them weighed.
 20 A Okay.
 21 Q That would have been during the 2004 time
 22 frame?
 23 A Yes.
 24 Q The Wanderlodge 2000 -- excuse me,
 25 Wanderlodge 450 LXI was made between 2004 and 2007;

72
 1 A Normally Blue Bird Body Company.
 2 Q Okay. And so I take it your testimony is
 3 that at some point you started becoming concerned
 4 about these units being overweight and that's when
 5 you started collecting weight tickets?
 6 A Well, I asked for the units to be filled
 7 with fuel and weighed at a certified scale.
 8 Q And then you would record the weights on
 9 your Excel spreadsheet, Exhibit 102, from the
 10 certified weight scale, right?
 11 A Yes.
 12 Q And this would be typically full fuel but
 13 no water?
 14 A That's correct.
 15 Q And there would be no passengers?
 16 A Correct.
 17 Q All right. Now, this is not the world's
 18 best copy, but this is all I have. If you will look
 19 at Item No. 39.
 20 A Okay.
 21 Q There is a unit there which I believe to be
 22 Unit 425. Is that how you read that?
 23 A Yes.
 24 Q And that would be the Wilson unit.
 25 A Okay.

ProTEXT Transcript Condensing for Windows

73
 1 Q What is the front axle weight shown there
 2 from the certified tickets?
 3 A Either 15 or 16,920.
 4 Q You can't make out as to whether that's a
 5 16 or a 15?
 6 A Well, add the three weights together and
 7 that should give you the total.
 8 Q Okay. Let me give you that calculator
 9 again.
 10 A Oh, I get to do it again?
 11 Q Yes, sir. I'm a social science person.
 12 Most of my partners are engineers and they delight in
 13 telling me that.
 14 A Well, I screwed that one up. I fat
 15 fingered it, I'm sorry.
 16 Q No problem. Take your time.
 17 A It looks like it's 16,920.
 18 Q All right. So the Wilson is 16,920 on the
 19 front?
 20 A Uh-huh (affirmatively).
 21 Q And what is the tag axle?
 22 A 12,960 or 80.
 23 Q And what is the drive axle?
 24 A 20,480, it looks like.
 25 Q Now, what was the rated capacity of the

75
 1 A Yes.
 2 Q And I take it -- just so I understand the
 3 process, backtrack for a second. The process was you
 4 would send someone over to get -- to Pilot to get a
 5 certified weight ticket, right?
 6 A I asked quality to do that on every
 7 Wanderlodge.
 8 Q The quality people would do that?
 9 A Uh-huh (affirmatively).
 10 Q And you would get back a copy of the weight
 11 ticket?
 12 A Yes.
 13 Q You would put a copy in the body file?
 14 A Quality would do that.
 15 Q And you would record information from the
 16 certified weight ticket into your Excel spreadsheet?
 17 A Yes.
 18 Q So the weights that are reflected here for
 19 Mackillop and Wilson and the others, are weights that
 20 were recorded in the regular course of your business
 21 as an engineer at Blue Bird Body Company?
 22 A Yes.
 23 Q From certified weight tickets?
 24 A Correct.
 25 Q Those certified weight tickets being

74
 1 front at that time?
 2 A 16,000.
 3 Q And what was the rated capacity of the tag?
 4 A 13,000.
 5 Q And what was the rated capacity of the
 6 drive at the time?
 7 A I believe at that time it was 22,000 -- 22
 8 or 23.
 9 Q Now, if you look down a little bit further,
 10 you will come to Dr. Mackillop's unit, which is 451.
 11 That should be Item 44.
 12 A Okay.
 13 Q And what is the -- what does your Excel
 14 show as the front end front axle on the Mackillop
 15 unit?
 16 A Appears to be 15,800.
 17 Q 15,8?
 18 A Yes.
 19 Q And what is the drive?
 20 A 20,500.
 21 Q And what is the tag?
 22 A 12,400.
 23 Q Now, you had been in the RV business for a
 24 long time by the time you began keeping these
 25 weights, right?

76
 1 maintained and kept in the regular course of Blue
 2 Bird Body Company?
 3 A Well, Coachworks, yes.
 4 Q And you recorded those weights
 5 contemporaneously, that is, you got them as soon as
 6 you got them from the ticket, right?
 7 A Correct.
 8 Q And you kept and maintained the Excel
 9 spreadsheet as a permanent record of Blue Bird Body
 10 Company, right?
 11 A Yes.
 12 Q And in the regular course of your business
 13 as an engineer employed by them, right?
 14 A Yes.
 15 Q And the purpose of your keeping them was as
 16 a business record of your employer, right?
 17 MR. WASMUTH: Object to the form
 18 of the question to the extent it calls for a
 19 legal conclusion. You can answer.
 20 A I'm not sure what you mean.
 21 BY MR. MILBRATH:
 22 Q It was kept -- the record you kept as a
 23 regular part of your business responsibilities as an
 24 engineer at Blue Bird Body Company?
 25 A You mean was I told to do it?

ProTEXT Transcript Condensing for Windows

SHEET 20 PAGE 77

77
 1 Q No. Whether you were told to do it or not,
 2 the reason you did it was because it was part of your
 3 regular responsibilities as an engineer for that
 4 company?
 5 A Yes.
 6 Q And you kept it so you would have an
 7 accurate record of the weights?
 8 A So I could present it, yes.
 9 Q Now, from your involvement in the industry,
 10 you were aware of the RVIA, right?
 11 A Yes, yes.
 12 Q And wasn't Blue Bird Body Company a member
 13 of the RVIA?
 14 A Yes, for a period.
 15 Q And what is the RVIA?
 16 A It's the Recreational Vehicle Industry
 17 Association.
 18 Q And why do manufacturers belong to the
 19 RVIA?
 20 A It's a standardized set of -- it's a set of
 21 standards that reflects RVs in general.
 22 Q And the standards are set by the
 23 association, right?
 24 A Correct.
 25 Q And it's an association of manufacturers,

PAGE 79

79
 1 home weight label minimum required information?
 2 A Yes.
 3 Q I'll show you Exhibit 122.
 4 (Tenders document.)
 5 Is that from your binder?
 6 A Yes.
 7 Q And that was a binder that you kept in the
 8 regular course of your business as an employee of
 9 Blue Bird Body Company?
 10 A Yes, Coachworks.
 11 Q The Coachworks division of Blue Bird Body
 12 Company?
 13 A Yes.
 14 Q What does Exhibit 122 tell you?
 15 A It's a formula to calculate cargo carrying
 16 capacity, and it also has definitions of what the
 17 different functions are.
 18 Q And does it give you specifics as to what a
 19 member of the RVIA will tell customers about the RV?
 20 A Yes.
 21 Q That they buy?
 22 A It gives minimum requirements.
 23 Q And when you say minimum requirements, do
 24 you mean to say that if you are a member of the RVIA,
 25 you agree to supply these minimums to customers?

PAGE 78

78
 1 right?
 2 A Yes.
 3 Q And so the reason Blue Bird Body Company
 4 was a member is because it was a manufacturer of an
 5 RV, right?
 6 A Well, there are certain states or there
 7 used to be, I'm not sure if it's the same. There are
 8 certain states you had to be a member to sell in that
 9 state.
 10 Q By a state regulation?
 11 A Correct.
 12 Q Do you know if Florida was one of those?
 13 A I don't know.
 14 Q And who was the person responsible for
 15 attending the Recreational Vehicle Manufacturers
 16 Association meetings on behalf of the Blue Bird Body
 17 Company in 2007?
 18 A I don't know.
 19 Q Did you ever go to their functions?
 20 A No.
 21 Q They had trade shows and the like?
 22 A No.
 23 Q Did you keep up with their literature?
 24 A I had a binder, yes.
 25 Q And does your binder include the RVIA motor

PAGE 80

80
 1 A Yes.
 2 Q And did you keep them in the binder because
 3 you wanted to make sure you were aware of what the
 4 RVIA required of its member?
 5 A Yes, it was an RVIA binder.
 6 Q And while you were an engineer at Blue Bird
 7 Body Company's Coachworks division, did you attempt
 8 to ensure that your company was compliant with the
 9 RVIA requirements?
 10 A I would do the calculations.
 11 Q And what do you mean by that?
 12 A Well, there was a formula available on how
 13 to calculate the cargo carrying capacity. It was in
 14 the same binder.
 15 Q And did you attempt to I adhere to that
 16 formula?
 17 A Yes.
 18 Q And why did you do that?
 19 A We were compelled to because we were a
 20 member.
 21 Q Let me show you a similar document I've
 22 marked as Exhibit 156. Is this also from your
 23 binder?
 24 (Tenders document.)
 25 It's a two-page version.

ProTEXT Transcript Condensing for Windows

81
1 A Oh, sorry. Yes.
2 Q And the second page has something entitled,
3 "Motor home weight information sample label." Do you
4 see that?
5 A Yep -- yes.
6 Q And is that the formula you were referring
7 to?
8 A Yes.
9 Q That tells you how to go about calculating
10 the cargo carrying capacity that a customer will be
11 told?
12 A Yes.
13 Q And I want to go through that for a minute
14 and see if we understand it.
15 It starts off with a VIN or serial number,
16 right?
17 A Yes, top of the form.
18 Q And should we understand that to mean that
19 that's going to be on a label somewhere?
20 A Yes.
21 Q And then it says, "Gross Vehicle Weight
22 Rating"?
23 A Yes.
24 Q "Is the maximum permissible weight of this
25 fully loaded motor home," right?

83
1 full LP gas weight, if any, and the SCWR, which is
2 the sleeping capacity, right?
3 A Yes.
4 Q And all of that information was to be
5 supplied on a label, the label being in the RV
6 itself, right?
7 A Correct.
8 Q And where was the label supposed to be
9 according to the motor home weight label minimum
10 required information under the RVIA?
11 A I don't know if they had a specific
12 location.
13 Q Where was it in the Blue Bird 450 LXI units
14 that were made while you were there?
15 A On the overhead dash.
16 Q So if you are sitting in the driver's seat,
17 where would it be, typically?
18 A On the passenger's side, just behind the
19 windshield.
20 Q So you would have to look up, but it
21 would be -- you would look up and it was sort of
22 underneath the windshield?
23 A It was on a horizontal surface, so you
24 could see it if you looked up.
25 Q Now, I'm going to show you a document

82
1 A Correct.
2 Q And then it has, the next category,
3 unloaded vehicle weight. Do you see that?
4 A Yes.
5 Q And it defines that as the weight of the
6 motor home as manufactured at the factory with full
7 fuel engine oil and coolants, right?
8 A Yes.
9 Q And then it has the SCWR, sleeping capacity
10 weight rating, right?
11 A Yes.
12 Q Which is the manufacturer's designated
13 number of sleeping positions multiplied by
14 154 pounds, right?
15 A Yes.
16 Q And what was the designated number of
17 sleeping positions for the 450 LXI?
18 A I believe it was four.
19 Q And then it has cargo carrying capacity is
20 equal to GVWR. That would be the gross vehicle
21 weight rating, right?
22 A Yes.
23 Q Minus each of the following, and that it
24 would be minus the unloaded vehicle weight, full
25 fresh potable water weight, including water heater;

84
1 that's part of Exhibit 123 in the prior deposition.
2 And just for clarity purposes, I'm going to make this
3 an exhibit in this deposition. This is going to be
4 the next deposition.
5 (Plaintiff's Exhibit No. 228 marked for
6 identification.)
7 MR. MILBRATH: That will be Exhibit
8 228.
9 (Tenders document.)
10 BY MR. MILBRATH:
11 Q Exhibit 228 gives a photograph of the
12 labeling for the Mackillop unit for the cargo
13 carrying capacity, right?
14 A I don't know if it's that unit.
15 Q And if you look at the last page -- I will
16 direct your attention to Exhibit 228, the third page.
17 It says Ross Mackillop, and it gives you the job code
18 and the body number right, and it's body No. 451?
19 A Yes.
20 Q And that would correspond to body No. 451
21 on your Excel spreadsheet, right?
22 A Yes.
23 Q Now, I want to have you look at this label
24 that is shown there and does that appear to be the
25 label affixed to the Mackillop unit by Blue Bird Body

ProTEXT Transcript Condensing for Windows

85
 1 Company during its manufacturing?
 2 A It's affixed to a unit, yes.
 3 Q And is that what it looked like during the
 4 time that you were an engineer there?
 5 A Yes.
 6 Q And take a moment to look at the
 7 information displayed there. Does that appear to be
 8 the information placed on that label consistent with
 9 Exhibit 156, the RVIA motor home weight label minimum
 10 required information requirements?
 11 A Yes.
 12 Q So if we go through this label, it gives
 13 you the VIN or serial number, right?
 14 A Uh-huh (affirmatively), yes.
 15 Q And it gives you the cargo carrying
 16 capacity computation for this particular vehicle,
 17 correct?
 18 A Yes.
 19 Q And it uses the same parameters that we
 20 just discussed in the context of Exhibit 156, doesn't
 21 it?
 22 A Yes.
 23 Q It gives you the unloaded vehicle weight as
 24 manufactured, right?
 25 A Yes.

87
 1 A That's the gross vehicle weight rating,
 2 plus the gross weight of a trailer.
 3 Q So how much weight, according to this, this
 4 should someone be able to tow in tongue weight?
 5 A I believe we were rated at 18,000 pounds --
 6 well, tongue weight, I'm sorry 1800 pounds.
 7 Q 1800 pounds. So in English, that would be
 8 what? What does that mean?
 9 A That's how much weight the tongue on the
 10 back of the RV can support.
 11 Q So according to this label on
 12 Dr. Mackillop's unit, he ought to be able to tow a
 13 car or a boat or anything else that under
 14 1800 pounds.
 15 A 1800 pounds tongue weight, yes.
 16 Q Tongue weight. And can you tell us what
 17 tongue weight is exactly?
 18 A That's the weight of a vehicle being towed,
 19 the weight that it exerts on to the towing vehicle.
 20 Q Which is not necessarily the weight that
 21 you are carrying?
 22 A No, it's the --
 23 Q Towing?
 24 A It's the downward weight.
 25 Q Okay. So it would be the load, if you

86
 1 Q And it gives you the fresh water
 2 computation of 12 gallons?
 3 A I believe that's a typo. That should be
 4 120 --
 5 Q 120 --
 6 A -- or 125.
 7 Q And it gives you a total poundage of 1,037.
 8 Is that a typo or is that accurate?
 9 A I believe that's accurate.
 10 Q All right. And there is no LP gas, so that
 11 shows nonapplicable, right?
 12 A Correct.
 13 Q And then it gives you the sleep capacity of
 14 four hypothetical sleepers at 154 pounds a person,
 15 right?
 16 A Correct.
 17 Q And then it gives you the result in cargo
 18 carrying capacity, right?
 19 A Correct.
 20 Q 3,277 pounds?
 21 A Yes.
 22 Q Now, it gives you the gross computation,
 23 right?
 24 A Gross combination.
 25 Q And what is that?

88
 1 will, on the tongue caused by the thing you are
 2 towing?
 3 A Correct.
 4 Q So you could have a 3,000 pound car or
 5 5,000 pound car that you are towing and that wouldn't
 6 matter so long as you were within the tongue
 7 weight --
 8 A Rating.
 9 Q -- rating.
 10 And how do you determine what the tongue
 11 weight is on a particular towing application?
 12 A Well, normally on a trailer it's 10 percent
 13 of the overall weight, but a car is different.
 14 Q Say you are towing a car, what would it be?
 15 A Normally less than 100 pounds.
 16 Q Meaning what? Say you have a -- you want
 17 to tow a Honda behind your RV.
 18 A Yes.
 19 Q So how do you determine if you are within
 20 the tongue weight parameters?
 21 A What a lot of folks do is use a bathroom
 22 scale.
 23 Q Okay.
 24 A And it will weigh the actual mechanism that
 25 connects to the coach.

ProTEXT Transcript Condensing for Windows

SHEET 23 PAGE 89

89
 1 Q The tongue?
 2 A Yes.
 3 Q Okay. Now what?
 4 A That's it. That determines your tongue
 5 weight.
 6 Q Now, was Dr. Mackillop entitled to believe
 7 the information that was on this label?
 8 A Yes.
 9 Q In his RV?
 10 A Yes.
 11 Q And under the RVIA motor home weight label
 12 minimum requirements, didn't all the manufacturers,
 13 including Blue Bird, agree that the label that would
 14 result from this set of requirements would be
 15 something that buyers are entitled to rely on?
 16 MR. WASMUTH: Object to the form
 17 of the question. It calls for the witness
 18 to speculate about matters not in his
 19 personal knowledge.
 20 A Could you repeat it, please.
 21 MR. MILBRATH: I'll have her read
 22 it back.
 23 THE WITNESS: I'm sorry.
 24 (Thereupon, the designated portion was read
 25 back by the court reporter.)

PAGE 91

91
 1 systems, to life safety, to clearances to labeling,
 2 everything.
 3 Q If I wanted to know where that entire
 4 notebook was today, where would you expect it would
 5 be?
 6 A Probably in a dumpster.
 7 Q Why in a dumpster?
 8 A I don't believe that was part of the
 9 auction materials.
 10 Q Do you know what was part of the auction
 11 materials?
 12 A Yes, I was the auction.
 13 Q Oh, why were you at the auction?
 14 A I was buying things for IDS.
 15 Q Is IDS in the RV business?
 16 A No.
 17 Q And so why were you there?
 18 A Trying to purchase items for IDS.
 19 Q What sort of items?
 20 A Shop tools mostly.
 21 Q What sort of things were auctioned?
 22 A Everything in the down to the furniture.
 23 Q Did you see some things you recognized?
 24 A Oh, absolutely.
 25 Q Did you see any of those file cabinets with

PAGE 90

90
 1 A Yes.
 2 BY MR. MILBRATH:
 3 Q That would be the whole purpose of having
 4 the requirement, wouldn't it?
 5 A Yes.
 6 Q I mean, what is the point of doing it if
 7 the people aren't trying to rely on it, correct?
 8 A Correct.
 9 Q And who at Blue Bird Body Company while you
 10 were there had the responsibility for making sure
 11 that those labels were accurate?
 12 A Quality control.
 13 Q And who? What particular person at quality
 14 control was that?
 15 A You'll have to give me a minute, I'm sorry.
 16 Well, ultimately Russell Hight, because he was in
 17 charge. I'm trying to remember the gentleman's name
 18 that actually printed the stickers.
 19 Q And the reason you had the RVIA
 20 requirements in your notebook is so you could keep an
 21 eye on quality doing their job?
 22 A No. I mean, that was what we had to design
 23 to.
 24 Q And how did you design to that?
 25 A Well, it covered everything from electrical

PAGE 92

92
 1 the body files in them?
 2 A I saw the file cabinets. I'm not sure if
 3 the ones with the body files were there.
 4 Q So do you know if the body files were among
 5 the auctioned items?
 6 A I'm not sure.
 7 Q And who was doing the auction?
 8 A I would have to -- it's an auction house in
 9 Macon. I don't recall the name.
 10 Q How did you go about designing these
 11 coaches so that the cargo carrying capacity was a
 12 real thing; that is, that it was actually satisfied?
 13 A Normally you wouldn't do that from the
 14 onset, you would do that after your prototypes were
 15 built.
 16 Q And how would you do that?
 17 A How would you build back from the
 18 prototypes?
 19 Q Yeah. In other words, how would you --
 20 after the prototype is built, how would you know that
 21 the RVs you are making are going to meet the design
 22 parameters, they're going to give you the cargo
 23 carrying capacity that's reflected in the Mackillop
 24 unit, for example?
 25 A Well, normally there would be at least two

ProTEXT Transcript Condensing for Windows

93
 1 prototypes built, the first being proof of concept,
 2 the second being a production pilot. And the
 3 production pilot was your benchmark.
 4 Q Were you involved in that process at all?
 5 A Yeah, some.
 6 Q And because you were at Blue Bird Body
 7 Company at the time in 2002, 2003?
 8 A Yes.
 9 Q Were you involved in any of the testing?
 10 A Yes, durability testing.
 11 Q Now, if I understand what you are saying,
 12 once the Mackillop unit was built in the regular
 13 practice at Blue Bird Body Company, the people at
 14 quality that -- either Mr. Hight or someone who
 15 worked for him, would have had the responsibility of
 16 insuring that the cargo carrying capacity indicated
 17 in the label was, in fact, truthful?
 18 A Yes.
 19 Q And what was that process? How did they go
 20 about determining if it was truthful?
 21 A Well, they had a weight ticket, and there
 22 is an Excel sheet, and they would enter the weights
 23 into the weight ticket or the actually overall weight
 24 into the weight -- into that Excel sheet and it would
 25 do the calculations for them.

95
 1 would be behind?
 2 A I would expect that.
 3 Q So what would you expect the load
 4 contribution to be to that vehicle with four people?
 5 A Well, depending on where the two were in
 6 the unit, somewhere four to 500 pounds.
 7 Q That would put you over the 16,000-pound
 8 rating, right?
 9 A Yes.
 10 Q And if you had full fluids, full water,
 11 what would that contribute to the weight, overall of
 12 the vehicle?
 13 A It would contribute 1,037 overall.
 14 Q And how much of that 1,037 would be load
 15 bearing on the front axle?
 16 A I would have to calculate it.
 17 Q How would you go about doing that?
 18 A I had another Excel sheet that did that for
 19 me.
 20 Q And where did the formula for that Excel
 21 sheet come from?
 22 A I made it up.
 23 Q Okay. And tell me how you went about
 24 making it up.
 25 A I divided -- I took the wheel base, which

94
 1 Q So the Excel, was this your Excel?
 2 A No, this was something that quality had.
 3 Q So in essence, you had an algorithm built
 4 into the Excel that would take these calculations and
 5 spit out the number?
 6 A Correct.
 7 Q Right?
 8 Now, if we go back to Exhibit 102, which
 9 shows that the Mackillop unit has a particular front
 10 axle -- actual front axle weight. What is that front
 11 axle weight?
 12 A It appears to be 15,800.
 13 Q And that would be unloaded because you made
 14 a point of having nobody in it when these were
 15 weighed, right?
 16 A That's correct.
 17 Q And it would also be without water?
 18 A That's correct.
 19 Q So if you added four people, the
 20 hypothetical four persons weighing 154 pounds, how
 21 much load would that put on the front axle?
 22 A It depends on how many are in front.
 23 Q Well, in a typical scenario, if you had
 24 four, and you are driving, would you expect two would
 25 be in the front, the driver and the occupant, and two

96
 1 was 296 inches, I divided the coach up into inches so
 2 each inch was a region, and you would enter the data
 3 at that position. So it would ask you from front
 4 axle -- from center line of front axle, where is the
 5 load you're at, and it would tell you the
 6 contribution to each axle.
 7 Q I think I understand what you just said,
 8 but I'm sort of a picture person. I wonder if you
 9 can illustrate graphically how you would go about
 10 doing that.
 11 So you've got the 450 LXI.
 12 A You've got the 450 LXI, you've got your
 13 front axle, drive axle, tag axle, and then I would
 14 divide the entire vehicle into inches all the way
 15 back.
 16 Q Okay.
 17 A And then the sheet would -- you would enter
 18 data. You would say I'm going to add 50 pounds right
 19 there, and everything was based on center line of
 20 front axle. So as you added -- you would add it at
 21 200 inches back from the front axle. It would have
 22 more contribution to the drive axle than it would to
 23 the front axle. If you added weight behind the drive
 24 axle, it would actually remove weight from the front
 25 axle.

ProTEXT Transcript Condensing for Windows

SHEET 25 PAGE 97

97
 1 Q And what happened to that Excel sheet?
 2 A It was in my computer.
 3 Q Was it still there when you left in
 4 October?
 5 A Yes.
 6 Q But if we wanted to duplicate it, how would
 7 we go about doing it using your example, because what
 8 we would like to be able to do is determine the
 9 location in inches of your passengers, the location
 10 in inches, bay locations and determine what
 11 contribution a given load would add to a given axle.
 12 A I would have to go back to Excel and
 13 reformat it and then we prove the design, prove the
 14 spreadsheet by weighing the coach and adding weight
 15 to it.
 16 Q Did you ever supply anybody with a copy of
 17 that?
 18 A Yes.
 19 Q Did you supply Mr. Bauer with that?
 20 A I'm not sure.
 21 Q Based on your use of it and not having the
 22 program in front of you, obviously, what do you
 23 believe the load on the front axle to be from having
 24 full fluids of 1,037 pounds?
 25 A Probably one to 200.

PAGE 99

99
 1 Q Okay. So doesn't that present a hazard of
 2 a tire degrading, demylinating, or otherwise blowing
 3 apart?
 4 A It could present itself.
 5 Q And if the front axle capacity is not
 6 16,000, but -- excuse me.
 7 If the front axle capacity is 16,000 and
 8 it's exceeded by one or 2,000 pounds in that coach,
 9 what does that do to the cargo carrying capacity?
 10 A It would lower it from a coach that weighs
 11 less.
 12 Q So for some of these overweight condition
 13 coaches like the Mackillop's or the Wilson's, the
 14 cargo carrying capacity would actually -- the real
 15 cargo carrying capacity would actually be less than
 16 what is indicated in the labeling; isn't that so?
 17 A Is the labeling accurate?
 18 Q Yes.
 19 A Would you ask that question again?
 20 Q If the vehicle is overweight and the
 21 conditions that are assumed to exist for the
 22 labeling, that is four passengers, full fuel, full
 23 water, then the cargo carrying capacity on the label
 24 must be less than what is represented; isn't that
 25 correct?

PAGE 98

98
 1 Q So if your Excel spreadsheet is correct,
 2 the impact of having four passengers and full fluids
 3 would be that the moment you got into the vehicle, it
 4 would be over the rated capacity and that would be
 5 without any weight added to the bays, right?
 6 A Or the rear.
 7 Q And how much weight would a typical person
 8 put in the bays if they were traveling for, let's
 9 say, two weeks?
 10 A I don't think I could answer that.
 11 Q But you would expect that those bays would
 12 be loaded with two weeks provisions, right?
 13 A Well, they would be loaded with something.
 14 Q And each time you add weight to the bays,
 15 you are adding some level of weight to the already
 16 overloaded front axle, right?
 17 A Yes.
 18 Q And what was the rating of the tires on
 19 that 450 LXI at the time?
 20 A I believe they were 9,000 each.
 21 Q So if they were 9,000 each and you had
 22 2,000 pounds over the rated capacity, you were in the
 23 range of 18,000 pounds on the front axle, would that
 24 also exceed the rated capacity of the tires?
 25 A If you were over 18,000, yes.

PAGE 100

100
 1 A No.
 2 Q Why not?
 3 A Well, the labeling takes into account the
 4 water and the passengers.
 5 Q Well, that's what I'm saying because your
 6 Excel sheet does not. It doesn't have in the
 7 computations the water, or the passengers, does it?
 8 A That's correct.
 9 Q All right. If you factor those in, they
 10 are going to come out over the rated capacity by a
 11 good deal more than what is indicated on Exhibit 102,
 12 isn't that so?
 13 A 451, right?
 14 Q Right.
 15 A Well, you would still be within capacity.
 16 Q How do we know if the 52,000 cargo carrying
 17 capacity computation for this vehicle is true or not
 18 true?
 19 A I don't understand.
 20 Q It says gross vehicle weight rating is
 21 52,000, right?
 22 A Correct.
 23 Q And the unloaded vehicle weight is 47,070,
 24 right?
 25 A Correct.

ProTEXT Transcript Condensing for Windows

SHEET 26 PAGE 101

PAGE 103

101
 1 Q That's periportal an actual value. Someone
 2 has determined that the unloaded weight is 47,070,
 3 right?
 4 A Correct.
 5 Q How do we know that's an accurate number?
 6 A We do not.
 7 Q Can you tell if it's -- well, what is the
 8 unloaded vehicle weight value shown here?
 9 A On?
 10 Q In other words, what does it mean to say an
 11 unloaded vehicle weight?
 12 A That's with no cargo, full fuel, engine
 13 oil, and coolants.
 14 Q And what does Exhibit 102 indicate to be
 15 the unloaded vehicle weight?
 16 A 46,880.
 17 Q So do you have any idea where the 47,070
 18 came from?
 19 A I would expect that it was topped off with
 20 fuel.
 21 Q So you believe that we could arrive at
 22 47,070 by taking into account topping it off with
 23 fuel?
 24 A Yes.
 25 Q Is that right? Was the certified weight

103
 1 customers be advised that the front axle rating was
 2 being exceeded in those cases?
 3 A I didn't say I didn't consider it
 4 important.
 5 Q Well, did you consider it important?
 6 A Yes.
 7 Q All right. Did you ever raise that with
 8 management?
 9 A Yes.
 10 Q Who?
 11 A Roy Kitaoka and Wayne Joseph.
 12 Q And when and where?
 13 A Roy was almost every time we -- I got a new
 14 weight slip, I would give him that sheet.
 15 Q And what would you say to him?
 16 A We're getting heavier.
 17 Q And did he say?
 18 A Usually not a lot.
 19 Q And did you go above Roy's head?
 20 A Well, I know that there was a staff meeting
 21 everyday and when Roy was not able to attend, I would
 22 attend in his place, and that was an item on the
 23 living meeting agenda.
 24 Q The living meeting?
 25 A Living meeting agenda. I mean, it was a

PAGE 102

PAGE 104

102
 1 labeling -- withdraw that.
 2 Was the certified weight ticket supplied to
 3 the dealer, Parliament?
 4 A I don't know.
 5 Q Was there a practice in place to supply
 6 that weight ticket to Parliament?
 7 A I don't know.
 8 Q I'll show you Exhibit 120.
 9 (Tenders document.)
 10 This is a weight report requested by Scott
 11 Bauer on 4/15/08 on the Mackillop unit, and we'll see
 12 that the front weights for Mackillop are shown at
 13 value of 17,000.
 14 A Right.
 15 Q Do you have any explanation as to why
 16 Mr. Bauer's weighing using a certified scale would be
 17 in the range of 17,000 on the front?
 18 A I don't know.
 19 Q Now, if you knew that for units like
 20 Mackillop and Wilson, the moment -- Mackillop, for
 21 example, you are at 15,8- with nobody in it, and no
 22 full fluids. For Wilson, you are already above 16
 23 the moment it leaves with nobody in it.
 24 A Uh-huh (affirmatively). Yes.
 25 Q Why did you not think it important that

104
 1 day-to-day and you would update the agenda as you
 2 went.
 3 Q Okay. And who would attend the meeting
 4 typically?
 5 A Roy, Wayne Joseph, purchasing, quality,
 6 production, sales.
 7 Q Okay. Wayne Joseph's job at the company
 8 was what?
 9 A Vice president, general manager of
 10 Coachworks.
 11 Q Where did he go after the sale?
 12 A I'm not sure.
 13 Q And you mentioned quality, I forgot his
 14 name. Who was in charge of quality at the time?
 15 A Amogh Dhavale.
 16 Q And purchasing, who was that?
 17 A I don't recall his name.
 18 Q Production?
 19 A John Pervis.
 20 Q Where did Pervis go after the sale?
 21 A I believe he went to North American Bus
 22 Industries -- I'm sorry. After the sale, he was
 23 still employed.
 24 Q So for a period of time he was actually
 25 with the new company, Mr. Carson's company, Complete

ProTEXT Transcript Condensing for Windows

105
 1 Coachworks?
 2 A Correct.
 3 Q In production as well?
 4 A I believe that was his role, yes.
 5 Q Do you have any idea where he is now?
 6 A I believe he's with North American Bus
 7 Industries.
 8 Q So Wayne Joseph would be the most senior
 9 management person who would attend these meeting?
 10 A Yes.
 11 Q And what were these meetings called?
 12 A It was basically a staff meeting.
 13 Q And your testimony is that you would
 14 sometimes sit in these staff meetings when your boss
 15 the Chief of Engineering, was not available?
 16 A Yes.
 17 Q And when that occurred, you would bring to
 18 the attention of others present that Blue Bird Body
 19 Company was making these coaches over their rated
 20 capacity?
 21 A It was an item on the agenda that would be
 22 discussed.
 23 Q So were those agendas printed?
 24 A Yes.
 25 Q So we should find those agendas somewhere

107
 1 the agenda?
 2 A It was a line item that we would bring up
 3 for discussion. People would speak up saying that
 4 they were concerned, quality was concerned, I was
 5 concerned. We would be asked what the possible
 6 resolutions were, and I would give my general list of
 7 where we could reduce weight.
 8 Q Why were you concerned?
 9 A Because it was overweight, and the initial
 10 concern when they were just barely drifting over the
 11 weight was that we were not legal. But then the
 12 weight kept increasing and it became a contention
 13 that they could become unsafe.
 14 Q And you are saying that you expressed
 15 concerns about it being overweight. Did you express
 16 concern about it being unsafe?
 17 A No, we were more engaged with overweight.
 18 Quality was more concerned with safety.
 19 Q And who from quality expressed that?
 20 A It would have been Amogh Dhavale and then
 21 Russell Hight.
 22 Q What did Mr. Dhavale say about safety?
 23 A He said we could have a potentially unsafe
 24 situation.
 25 Q And what was the response back?

106
 1 in the records of Blue Bird Body Company?
 2 A Well, of coachworks. So again, you
 3 probably wouldn't find them.
 4 Q Well, when you say that, as a lawyer, it
 5 causes me extreme frustration because don't you think
 6 that Blue Bird Body Company as the warrantor ought to
 7 have kept some records if it had responsibility to
 8 consumers like my client under the warranty?
 9 A I think the records were kept, I just think
 10 they were kept at Coachworks.
 11 Q Did Blue Bird Body Company make an
 12 intentional decision to sanitized its records after
 13 the sale so if someone were killed in one of these
 14 units as happened, that there would be no ability to
 15 go back and find the records?
 16 A I don't believe so.
 17 Q These were just called staff meetings or
 18 was there some particular name on the agenda that was
 19 typed up that somebody would ask for?
 20 A I think it just said, "Staff Meeting."
 21 Q Okay. So you're saying that you would have
 22 input on the agenda ahead of time and there would be
 23 an agendaed item about our weight problem?
 24 A Yes.
 25 Q And how would it typically be referenced on

108
 1 A Usually it was, we'll take it under
 2 advisement and disuses it again.
 3 Q And who would say that? Would it be senior
 4 management, the person of Mr. Joseph or someone else?
 5 A Usually Wayne, yes. Mr. Joseph.
 6 Q Who was his boss?
 7 A I believe there were several.
 8 Q Let's see. A guy by the name of Cooper,
 9 was he there then?
 10 A Yes, yes.
 11 Q Was Cerberus the owner of Blue Bird and its
 12 various affiliates in 2007 before the sale?
 13 A Yes, that's correct.
 14 Q And was Mr. Cooper the Cerberus man? Was
 15 he their representative for the management?
 16 A He was there. I'm not sure what exactly
 17 his capacity was.
 18 Q How about a guy named Paul Yousif,
 19 Y-O-U-S-I-F? Do you know who that is?
 20 A I don't know that name.
 21 Q Bruce Miles? Is that name familiar to you?
 22 A Yes.
 23 Q Was Mr. Miles in on any of these meetings?
 24 A No.
 25 Q Was Miles with the company before the sale?

ProTEXT Transcript Condensing for Windows

SHEET 28 PAGE 109

PAGE 111

109
 1 A He was with Blue Bird Body Company.
 2 Q So what you are telling me, it sounds like,
 3 you correct me if I'm wrong, that you came -- you and
 4 sometimes Mr. Dhavale expressed concerns about being
 5 noncompliant legally?
 6 A Yes.
 7 Q And Mr. Dhavale expressed concerns about
 8 safety --
 9 A Yes.
 10 Q -- over the weight problem?
 11 A Correct.
 12 Q And in both cases, senior management of
 13 Blue Bird Body Company will respond, we'll get back
 14 to you?
 15 A Well, senior management of Coachworks, yes.
 16 Q And that would be Mr. Wayne Joseph, VP?
 17 A Vice president and general manager.
 18 Q And he was also a Blue Bird Body Company
 19 management level person, wasn't he?
 20 A I'm not sure how that worked specifically.
 21 Q Was he the top guy for Blue Bird? Excuse
 22 me.
 23 Was he the top guy for the Coachworks
 24 division of Blue Bird Body Company?
 25 A Yes.

111
 1 in '02?
 2 A No.
 3 Q When do you believe it existed?
 4 A I thought it was more like '04.
 5 Q All right. In Dr. Mackillop's unit, it
 6 looks like it was made in '05, right?
 7 A Let me find it again.
 8 Q Item 44, I think it is.
 9 A Yes. It was weighed for me on
 10 September 28th or 29th.
 11 Q And how about Mr. Wilson's unit?
 12 A Which number was that?
 13 Q That is 39, I think.
 14 A It looks like August 29th, 2005.
 15 Q Okay. So at least for those units -- by
 16 the way, do you know which one is the Pervis unit,
 17 the gentleman that was killed in his?
 18 A No. Who was killed?
 19 Q Pervis, I believe is the name. Do I have
 20 the name wrong?
 21 A I'm not sure.
 22 Q At least for the Wilson and Mackillop
 23 units, during the time that those were actively under
 24 production by the Coachworks division of Blue Bird
 25 Body Company, you had specific things you wanted to

PAGE 110

PAGE 112

110
 1 Q I mean, there wasn't anyone above him, you
 2 had to go to senior management of Blue Bird, right?
 3 A Well, again, I don't know if it was Blue
 4 Bird or Cerberus. I'm not sure how that worked.
 5 Q But nobody ever got back to you about this?
 6 A Well, it became -- it was brought up
 7 everyday, because it never left the agenda.
 8 Q And nothing ever happened?
 9 A No, I was never instructed to undertake an
 10 engineering program.
 11 Q All right. Wouldn't it have been -- let me
 12 ask it this way: You had some ideas about how to fix
 13 the problem, right?
 14 A Yes.
 15 Q There were things that you could do in the
 16 production line to make the bus -- to make the RV
 17 lighter that you thought would solve the weight
 18 problem, right?
 19 A Yes.
 20 Q And these were things that you thought of
 21 doing what period of time?
 22 A Since the units's inception.
 23 Q That was in 2002, right?
 24 A No.
 25 Q The prototype? Didn't the prototype exist

112
 1 do to lower the weight of those units?
 2 A Yes.
 3 Q To make them compliant?
 4 A Yes.
 5 Q To reduce legal exposure?
 6 A Correct.
 7 Q And to correct any safety issues that might
 8 be associated with it?
 9 A Yes.
 10 Q And what was it that prevented you from
 11 actually doing that?
 12 A Capital.
 13 Q Somebody had to commit to spending the
 14 money to do it?
 15 A That's correct.
 16 Q And because it would have involved what,
 17 retooling, repurchasing?
 18 A It was more design-related costs.
 19 Q Explain that for me.
 20 A Well, you have ten people working on a
 21 project, they have costs.
 22 Q Because if you are having different gauged
 23 steel, for example, it might actually be less
 24 expensive to make, right?
 25 A Slighter.

ProTEXT Transcript Condensing for Windows

SHEET 29 PAGE 113

PAGE 115

113
 1 Q And if you are having thinner, rather than
 2 fatter tubes, you might spend less on the
 3 superstructure, I'm taking it?
 4 A Structurally you would be compelled to
 5 retest.
 6 Q So the capital that you are referring to is
 7 the capital to design all these new things?
 8 A Design and test.
 9 Q And what kind of capital are we talking
 10 about?
 11 A I think our budget was somewhere between
 12 six and \$800,000.
 13 Q So we are talking about six to 800,000 that
 14 you thought would fix this?
 15 A I thought it would get us substantially
 16 closer.
 17 Q And did you actually write up a budget?
 18 A No, I believe Roy Kitaoka did.
 19 Q Was that budget one of the agendaed items?
 20 A No.
 21 Q But it was -- was it ever discussed at one
 22 of these meetings with Wayne Joseph?
 23 A I believe it was discussed at the budget
 24 meetings.
 25 Q Did you ever attend any budget meetings?

115
 1 A I helped prepare the budget for the cost
 2 savings expenditures or the weight savings
 3 expenditures, excuse me.
 4 Q All right. How about walking us through
 5 that process. Tell us what you did to prepare the
 6 budget.
 7 A It was basically just a document that you
 8 asked questions and try to formulate hours spent in
 9 design, and then historic costs of testing.
 10 Q Because he would need your input as to what
 11 design work would be required in order to come up
 12 with a budget, right?
 13 A Correct.
 14 Q So you do know this budget existed because
 15 you helped prepare it, in excess?
 16 A Well, I didn't help to prepare the overall
 17 department budget, just that segment of it.
 18 Q And who is it that you understand from
 19 Mr. Kitaoka to have been involved in the approval
 20 process? Who was it that it was presented to and who
 21 unapproved it?
 22 A I believe it would have been Wayne.
 23 Q And where is Mr. Wayne Joseph presently, do
 24 you know?
 25 A I don't know.

PAGE 114

PAGE 116

114
 1 A No.
 2 Q But there were regular budget meetings, I
 3 gather, at the Coachworks division?
 4 A It was like a yearly thing.
 5 Q And Mr. Kitaoka did a budget as to what it
 6 would cost in reengineering design to make the
 7 vehicle lighter, more compliant?
 8 A Correct.
 9 Q And what happened to that budget?
 10 A It was not approved.
 11 Q And was it affirmatively not approved, that
 12 is to say it came before a budget meeting and someone
 13 said, we are not going to do this?
 14 A I don't know.
 15 Q Were you present at that meeting?
 16 A No.
 17 Q How do you know about it?
 18 A Roy Kitaoka told me that the budget was not
 19 approved.
 20 Q Did he say who not approved it?
 21 A No.
 22 Q And did you help -- did you review that
 23 budget before it was presented?
 24 A No.
 25 Q Did you have input into the budget?

116
 1 Q Where was he the last time you heard about
 2 him?
 3 A Still living in Macon.
 4 Q And Mr. Kitaoka, the last you heard of him
 5 was where?
 6 A Columbia, South Carolina.
 7 Q Did Mr. Kitaoka indicate to you any reasons
 8 that Mr. Joseph gave for unapproving the budget?
 9 A No, but I just assumed it was cost.
 10 Q Did that have anything to do with the
 11 decision to sell the division?
 12 A I don't know.
 13 Q Did you have any input into management's
 14 decision to sell the division?
 15 A No.
 16 Q Was it ever explained to you by management
 17 as to why it was selling the division?
 18 A I was told that they had a specific amount
 19 of money to spend on the entire corporation, and they
 20 could either spend it on Wanderlodge, or they could
 21 spend it retooling school bus lines.
 22 Q And they elected to do the school buses?
 23 A There is more profit.
 24 Q And who told you that?
 25 A Christoph Majeske.

ProTEXT Transcript Condensing for Windows

117
 1 Q Who is that? Who is that?
 2 A He was a consultant brought in. I don't
 3 know if he was a consultant or employee brought in,
 4 and he had some sort of function throughout the
 5 corporation.
 6 Q How is Mr. Majeske's name spelled?
 7 A I believe it's M-A-J-E-S-K-E.
 8 Q Sort of like it sounds.
 9 MR. MILBRATH: I need to take five
 10 minutes.
 11 THE WITNESS: Okay.
 12 MR. MILBRATH: We'll go off the
 13 record.
 14 (Brief recess, 12:30 p.m.)
 15 (Reconvene, 12:36 p.m.)
 16 BY MR. MILBRATH:
 17 Q How many times did you meet in person with
 18 Scott Bauer?
 19 A Maybe two or three.
 20 Q First time on September 11?
 21 A Yes, if that was at Wanderlodge.
 22 Q And when was the next time you met with
 23 him?
 24 A I think I went across the street and met
 25 with him maybe a few weeks later.

119
 1 A No.
 2 Q Have you ever seen this document before
 3 today?
 4 A No.
 5 Q Did you have any role in preparing it, so
 6 far as you know?
 7 A No.
 8 Q Did you attend a meeting on September 12th,
 9 2007?
 10 A I don't recall.
 11 Q And as the document you are looking at
 12 right now, you have not seen this until you walked
 13 into this room today?
 14 A Correct.
 15 Q I want to walk through it a little bit with
 16 you.
 17 A Okay.
 18 Q It says under Concern Description, When
 19 Identified, 2005 calendar year. Who identified, Erik
 20 Johnson. Model year, '05 through '07.
 21 Does that sound about right?
 22 A Yes.
 23 Q It says, "As of September 20, 2007,
 24 Complete Coachworks" -- that's who you were employed
 25 at the time by, right?

118
 1 Q A few weeks later?
 2 A Well, something like that. I don't
 3 remember exactly.
 4 Q And then the final time was when?
 5 A Shortly after that. I don't recall the
 6 dates.
 7 Q The first time you met with him, you gave
 8 him the Excel spreadsheet, right?
 9 A Shortly thereafter, yes.
 10 Q Bear with me, I have misplaced part of my
 11 exhibit.
 12 I'm going to show you Exhibit 113
 13 previously identified during the deposition of
 14 Mr. Bauer.
 15 (Tenders document.)
 16 And this particular document is dated
 17 September 20, 2007 entitled, "450 LXI Motor Home
 18 Front and Tag Axle Weight Ratings." And it shows
 19 engineering lead, Erik Johnson. That would be you,
 20 right?
 21 A Uh-huh (affirmatively). Yes.
 22 Q Do you prepare this document?
 23 A I don't believe I did.
 24 Q Do you know why it references you as the
 25 engineering lead?

120
 1 A Yes.
 2 Q "Has identified 18, 2005 through 2007 model
 3 year 450 LXI motor homes produced from March '04
 4 through September '06 with an as-built front axle
 5 curb weight that exceeded the specified 16,000-pound
 6 weight rating."
 7 Do you see that?
 8 A Yes.
 9 Q Does that sound about right?
 10 A We can count them up from the spreadsheet.
 11 Q Probably a fair summary of your
 12 spreadsheet?
 13 A Yes.
 14 Q And it says, "Two of these units also had
 15 tag axle weights that exceeded the specified
 16 13,000-pound weight rating," right?
 17 A Yes, that's what it says.
 18 Q And is that what your Excel sheet shows as
 19 well?
 20 A I have one.
 21 Q Okay.
 22 A I'm sorry, there are two.
 23 Q Two, all right.
 24 And it shows three owner reports where
 25 customers were complaining. Do you know who those

ProTEXT Transcript Condensing for Windows

SHEET 31 PAGE 121

PAGE 123

121
 1 were?
 2 A No.
 3 Q And it says, "As noted on the attachment,
 4 an additional 17 subject motor homes had front axle
 5 weights ranging from 15,500 to 15,999 pounds. CCW
 6 engineering is reviewing production records from the
 7 subject build period to identify the as-built axle
 8 and vehicle weights for the remaining 22 subject
 9 motor homes." Is that an accurate statement?
 10 A I don't know if they were reviewing that.
 11 Q You would have been CCW engineering, right?
 12 You were head of their engineering?
 13 A I guess at that point I was, yes.
 14 Q So was that what you were doing, trying to
 15 identify others that were overweight?
 16 A I don't recall doing that, no.
 17 Q So this may be a little exaggerating as to
 18 what you were doing at that point?
 19 A Yes.
 20 Q It says, "On September 11, 2007 CCW
 21 notified Blue Bird of the suspect condition." You
 22 don't know if that's true or not, I guess, because
 23 you didn't notify Bauer personally?
 24 A Correct.
 25 Q It says, "On September 12, 2007, CCW and BB

123
 1 Q And how much before? The sale was in
 2 August 2007.
 3 A I don't remember the specific dates. It
 4 was about 18 months.
 5 Q About 18 months before the sale?
 6 A Yes.
 7 Q So that puts you back in the 2005 time
 8 frame.
 9 A Right.
 10 Q And tell us what you remember about that.
 11 A I was asked to find alternatives to
 12 redesigning the coach weight. And one of the
 13 alternatives was to up the axle weight rating.
 14 So I contacted ArvinMeritor and we entered
 15 into an agreement to, No. one, test a front axle
 16 assembly to find out where the failure points would
 17 be by upgrading it, and then to redesign any or all
 18 components that required it.
 19 Q And what happened?
 20 A We found out that the failure point was the
 21 tie rods.
 22 Q How did you find that out?
 23 A Through a test in their test lab.
 24 Q And tell me about the test.
 25 A It's a cycle test. It will torque a front

PAGE 122

PAGE 124

122
 1 engineers met to review the build history on the
 2 subject motor homes." Did you do that?
 3 A That may have been one of the meetings,
 4 yes.
 5 Q Then it says, "On September 18, CCW and BB
 6 engineers had a telephone conference with
 7 ArvinMeritor Engineering to discuss the successfully
 8 completed steering cycle lab test performed on the
 9 existing front suspension with redesigned TRW tie
 10 rods ends by ArvinMeritor in September of 2005." Do
 11 you know anything about that?
 12 A Yes.
 13 Q Were you, in fact, involved in a discussion
 14 on September 18, '07 with ArvinMeritor?
 15 A I don't recall specifically.
 16 Q Do you remember having some discussion in
 17 the September time frame with ArvinMeritor?
 18 A I don't recall specifically.
 19 Q Do you recall having discussions with
 20 ArvinMeritor at any point?
 21 A Absolutely.
 22 Q What was it about?
 23 A About upgrading the front axle weight rate.
 24 Q And was this before or after the sale?
 25 A Before.

124
 1 suspension assembly from the tires through the
 2 assembly to simulate, to some extent, road
 3 conditions, and we tell them the number of cycles.
 4 Q And what was it about the cycle test that
 5 revealed the failure point was a tie rod?
 6 A What was it about the test?
 7 Q Yes.
 8 A It was the forces involved in the test.
 9 Q That it deformed or broke before at a
 10 certain point where you would have expected it to not
 11 break, is that it?
 12 A No. It was a matter of changing the weight
 13 rating, exerting that additional force on that
 14 suspension to see where the fail points would be.
 15 Q Okay. And so what did that reveal
 16 essentially?
 17 A We started to see hairline fractures in the
 18 bends on the tie rods.
 19 Q And what did that suggest?
 20 A That suggested a redesign of the tie rods.
 21 Q And was there a redesign of the tie rods?
 22 A Yes.
 23 Q And who redesigned them?
 24 A TRW.
 25 Q And when was the redesigned?

ProTEXT Transcript Condensing for Windows

125
 1 A I don't recall the specific dates. It was
 2 during that 18-month period.
 3 Q So somewhere after 2005?
 4 A Yes.
 5 Q And were the redesigned tie rods
 6 retrofitted to any units?
 7 A The first redesign failed.
 8 Q Okay. Tell me about the redesign then.
 9 A Well, we went back on the test rack and
 10 went through our cycle testing and saw the same
 11 issues. So then TRW went to their steel manufacturer
 12 and did some analysis of the actual steel that made
 13 the tie rods and found that the alloy needed to be
 14 corrected, so that when the tie rods were bent, there
 15 wasn't undue stresses in the material.
 16 Q So it was a matter -- it wasn't a matter of
 17 geometry, it was a matter of materials of the tie rod
 18 itself?
 19 A It was material, bend radius, and stress
 20 relief.
 21 Q Bend radius, material, and stress relief?
 22 A Right.
 23 Q Bend radius, explain for me.
 24 A Bend radius would be in a normal situation,
 25 a tie rod is shaped something like that. This would

127
 1 recall it.
 2 And the stress relief, explain that for us.
 3 A Part of the process after you bend a piece
 4 of steel of that magnitude, of that composition, is
 5 you subject it to a process to relieve the surface
 6 stresses in it. Normally that's done by shot
 7 heating, meaning that you blast the part with steel
 8 shot.
 9 When you see fractures occur, they'll start
 10 on the surface of the part and work their way in, so
 11 if you can relieve the stresses on the surface, you
 12 have a much better chance of a longer life.
 13 Q So what was the intended life of the
 14 redesigned TRW tie rods?
 15 A 250,000 miles.
 16 Q 150,000?
 17 A 250,000.
 18 Q 250,000.
 19 So those redesigned units were then tested
 20 about when?
 21 A That would have been in late '06, early
 22 '07.
 23 Q And the redesigns failed?
 24 A Yes.
 25 Q And then what?

126
 1 be the bend radius right here. So this portion from
 2 here to here. (Demonstrating.)
 3 The original tie rod design was a 3-inch
 4 radius. So from here to here is 3 inches. When we
 5 redesigned it, we realized that we were -- the stress
 6 cracks were right here (Indicating.) When we
 7 redesigned it, we went to a 9-inch radius.
 8 Q And were you involved in that redesigned
 9 process?
 10 A I was involved just from an informational
 11 point.
 12 Q Okay.
 13 A The only elements they asked me to confirm
 14 were that we would still have sufficient tire
 15 clearance by changing that bend radius.
 16 Q And so TRW did the engineering behind that,
 17 essentially?
 18 A On the tie rod, yes.
 19 Q Okay. And what differences were there in
 20 the material?
 21 A I know that there were discussions with the
 22 steel mill regarding alloy.
 23 Q And what was the name of the steel company?
 24 A I don't recall that.
 25 Q Okay. I have that somewhere, and I don't

128
 1 A And then that's when we went to -- back to
 2 TRW. They changed the alloy, they changed the stress
 3 relief process, and we went back to test again.
 4 Q And what happened with the retesting units?
 5 A We passed that test.
 6 Q And a pass would be what?
 7 A That you achieved your mileage goal.
 8 Q Of 250,000?
 9 A Correct. And the cracks that we saw were
 10 not noticed until we were close to that number.
 11 Q And when was the retested process finished?
 12 A I believe it was sometime in the summer of
 13 '07. I know there were conference calls regarding
 14 how to do the field campaign.
 15 Q Who was involved in the conference call?
 16 A Myself, ArvinMeritor, TRW.
 17 Q Who from TRW was involved in that
 18 conference call?
 19 A I don't recall a name.
 20 Q Who from ArvinMeritor?
 21 A That would have been my counterpart, Steve
 22 Federighe.
 23 Q And what was the subject of the discussion?
 24 A Field campaign to replace tie rods.
 25 Q A field campaign?

ProTEXT Transcript Condensing for Windows

129
 1 A Yes s.
 2 Q Meaning retrofitting these into units?
 3 A Correct.
 4 Q Basically a recall?
 5 A No, it was a field campaign.
 6 Q What is the difference?
 7 A Recall is when you are compelled to
 8 immediately take action.
 9 Q And a field campaign is?
 10 A A field campaign is you go find the units,
 11 you inform the customers and you make arrangements
 12 with the customers at their next available moment to
 13 do the retrofit for it.
 14 Q So did you have any input from TRW or
 15 ArvinMeritor as to the likely useful life of these
 16 deficient tie rods that need to be replaced?
 17 A If I recall, we failed. We started to see
 18 the fractures around 240, 242,000 miles.
 19 Q So the defective tie rods, the ones that
 20 needed to be replaced, would likely last for how
 21 long?
 22 A 240, 242. And that's only until you start
 23 to see fractures. There is a long period of time,
 24 and I asked ArvinMeritor during one of the tests when
 25 they started to see failures, to keep running it

131
 1 Q All right. So tell me what you said and to
 2 whom.
 3 A This would have been with Steve Federighe
 4 with ArvinMeritor, that our front axles were growing
 5 heavier, and we needed to come up with a solution on
 6 how to -- I wanted to do a two-step process. I
 7 wanted to ultimately be at 18,000, but our interim
 8 point was 17,000.
 9 Q Why was the interim 17?
 10 A Because that was something that could be
 11 done with the least amount of changes to vehicles.
 12 When you go to 18,000, you have to change tires and
 13 wheels, which means a brake change, which means you
 14 are compelled to do an FMVSS 121 retest.
 15 Did you get all that?
 16 Q FM -- what is that?
 17 A FMVSS 121.
 18 Q What is that?
 19 A That's Federal Motor Vehicle Safety
 20 Standards.
 21 Q So you would have to do a full recall?
 22 A It still wouldn't be a recall, it would be
 23 a redesign, to go to 18,000.
 24 Q And what does that involve other than
 25 changing the tires, the wheels, the brakes?

130
 1 until you have a complete failure, catastrophic
 2 failure, and that was well over 400,000 miles.
 3 Q Now, this process of testing the TRW tie
 4 rods, redesigning, retesting, and retesting again,
 5 was going on between 2005 to 2007; is that right?
 6 A Yes.
 7 Q And so it was going on during the period of
 8 time leading up to the sale?
 9 A Correct.
 10 Q So the sale closed in August 2007. You
 11 were still involved now as a Coachworks employee of
 12 the buyer, the new company, and getting those tie
 13 rods retrofitted into units, right?
 14 A To some extent, yes.
 15 Q Now, during that whole process between
 16 '05 and '07, was there ever any discussion between
 17 you and TRW or ArvinMeritor about the more general
 18 problem of exceeding the rated capacity on the front
 19 axle?
 20 A Yes.
 21 Q And when did those conversations first take
 22 place?
 23 A When I first contacted them.
 24 Q All right. So that would have been in '05?
 25 A I believe so, yes.

132
 1 A There would be structural changes, there
 2 would be air line changes, there would be some brake
 3 component changes. Clearances were an issue, so the
 4 whole front area would have to be examined closely to
 5 see what all needed to be redone.
 6 And then the issue came up from Bendix that
 7 if we changed the front brakes, they would recommend
 8 that we change the other wheel brakes as well.
 9 Q Why was that?
 10 A Well, just to keep a balance between axles.
 11 Q Was there ever a budget prepared to make
 12 all these changes?
 13 A No. That was going to come at a later
 14 time.
 15 Q Were any of these changes put in place
 16 before the sale?
 17 A To the 18 or the 17?
 18 Q To the 17.
 19 A Well, the only change necessary for 17 was
 20 tie rods, and that was not in place before the sale.
 21 Q You say the only change in making the 17
 22 was tie rods. I want to kind of explore that. By
 23 that do you mean to say that you had to make changes
 24 in the geometry and the material of the tie rod in
 25 order to get to a 17,000 --

ProTEXT Transcript Condensing for Windows

133
 1 A Right.
 2 Q -- rating?
 3 A Correct.
 4 Q Were the tie rods sufficient for a
 5 16,000-pound rating or were they otherwise defective?
 6 A No, they were sufficient.
 7 Q So if I understand what you are saying, if
 8 the RVs had not been overweight, the tie rods were
 9 not defective in a sense that they were suitable for
 10 a 16,000-pound rated front inched. Do I have that
 11 right?
 12 A Yes.
 13 Q Even though they had bad steel, in essence?
 14 A Well, it was not bad steel, it was the
 15 wrong alloy.
 16 Q Wrong alloy.
 17 A Yes.
 18 Q But even aside from that, those tie rods
 19 should have lasted the 250,000-mile expected life,
 20 but for the fact that these RVs were heavier than the
 21 rated 16,000-pound capacity; is that right?
 22 A Yes.
 23 Q That would suggest, would it not, that the
 24 problem with the tie rods was a problem at the Blue
 25 Bird end for the most part. It was a problem in that

135
 1 with more hydraulic effort.
 2 Q And would there be any tradeoff from a
 3 steering standpoint in terms of steering radius?
 4 A Turning radius?
 5 Q Yes.
 6 A Without a substantial redesign, you would
 7 have to minimize the turning radius.
 8 Q And would you have to have still different
 9 tie rods for an 18,000 pound rated front suspension?
 10 A Well, what I asked TRW to do or actually
 11 ArvinMeritor to do is as soon as we were approved for
 12 17, to start the testing for the 18.
 13 Q And was that ever done?
 14 A I don't know.
 15 Q But if I understand what you are saying,
 16 the 17,000 -- let me ask -- let me say it this way:
 17 If I understand what you are saying, the tie rods
 18 that were redesigned for a 17,000-pound rating would
 19 not necessarily work for an 18,000-pound rating?
 20 A Well, they were designed for an 18, but
 21 tested at 17.
 22 Q Okay. So maybe you could keep the same tie
 23 rods?
 24 A But you would have to test. That's the
 25 only way that they will certify an assembly.

134
 1 you were exceeding your design parameters?
 2 A Yes.
 3 Q It wasn't TRW's fault that the RVs were too
 4 heavy?
 5 A No.
 6 Q So your testimony would not be that it was
 7 TRW's fault, it wasn't?
 8 A No.
 9 Q Now, if I understand what you are saying,
 10 to get to the 18,000-pound independent front
 11 suspension, it's not just a matter of retrofitting a
 12 new suspension, there is a lot more that needs to be
 13 done in order to accommodate that change?
 14 A That's correct.
 15 Q And you would have to have different tires,
 16 that would be one thing?
 17 A Yes.
 18 Q And you would have to have different
 19 brakes?
 20 A Yes.
 21 Q And you would have issues of restearing, I
 22 take it, or would you? Would you expect there to be
 23 any steering issues associated with an 18,000-pound
 24 front end with --
 25 A You would need a different steering box

136
 1 Q And did you make known to upper management
 2 at Blue Bird Body Company's Coachworks division while
 3 you were an employee of them, that you were talking
 4 to ArvinMeritor about all this?
 5 A Yes.
 6 Q And did they approve you doing that?
 7 A Yes, there was cost involved.
 8 Q And they approved those costs?
 9 A Yes.
 10 Q And was ArvinMeritor paid for that work?
 11 A I don't know.
 12 Q Did ArvinMeritor ever provide any type of
 13 quote for an 18,000-pound independent front
 14 suspension for the 450 LXIs?
 15 A To purchase parts?
 16 Q What it would cost.
 17 A What it would cost to develop?
 18 Q To develop and supply you with one, yeah.
 19 A I don't recall.
 20 Q But I take it that it wasn't like they had
 21 an already existing 18,000-pound rated module just
 22 waiting to stick into the RV?
 23 A Well, they had a module for a different bus
 24 manufacturer, and they were going to -- and so they
 25 had an idea of what it would take to get us there.

ProTEXT Transcript Condensing for Windows

137
 1 But no. Would that module fit in a Wanderlodge? No.
 2 Q So, in essence, what you are saying is that
 3 even though they had a 18,000 pound module for one
 4 application, there would be some redesign and
 5 engineering associated with delivering to you an
 6 18,000-pound independent front suspension?
 7 A That's correct.
 8 Q And did they ever give you numbers for
 9 that, what it would cost?
 10 A I don't recall them giving me numbers.
 11 Q Now, when Mr. Carson was doing his due
 12 diligence and he had people at Blue Bird, did you
 13 disclose all this to them, that there was this tie
 14 rod issue that was being looked at by TRW?
 15 A Yes.
 16 Q And did you disclose to them that
 17 ArvinMeritor had been approached about an
 18 18,000 pound axle?
 19 A Yes.
 20 Q And that it was your view that that's what
 21 you needed to do to have an 18,000-pound retrofitted
 22 axle?
 23 A Well, and I explained to them that we had
 24 the 17 almost prepared. And that the 18 would be the
 25 next step.

139
 1 status of that as you were reporting it?
 2 A There was no status. The issue was 17,
 3 that was the focus.
 4 Q Okay. Because they didn't want to spend
 5 the money on the 18,000?
 6 A I'm not sure of the reason.
 7 Q All right. Was any of this in the budget
 8 that was not approved?
 9 A No, it --
 10 Q For example --
 11 A -- was separate.
 12 Q The budget was for fixes not involving the
 13 front, replacing the front axle?
 14 A That's correct.
 15 Q And am I correct understanding that if you
 16 did all the weight reducing things you were thinking
 17 about, you wouldn't need to go to an 18,000-pound
 18 axle?
 19 A Correct.
 20 Q So the choices were we either buy an
 21 18,000-pound independent front suspension, or we do
 22 all these weight reducing things that you were
 23 proposing?
 24 A Correct.
 25 Q And you wanted to do the weight reducing

138
 1 Q And is that how things existed when the --
 2 in August of 2007 when the closing took place, TRW
 3 was still working on the 17,000 and was about ready
 4 to install those?
 5 A I believe it was right around that time,
 6 yes.
 7 Q And ArvinMeritor had been approached about
 8 an 18,000-pound but had not yet done any engineering
 9 on this system?
 10 A Correct.
 11 Q That's how things stood at the closing?
 12 A Yes.
 13 Q Now, at any of the meetings that you
 14 attended, for example, these weekly agendaed items,
 15 did you discuss what you've been telling us about
 16 TRW and ArvinMeritor?
 17 A Yes, they asked me status.
 18 Q And you would report, well, ArvinMeritor --
 19 or you would say that TRW is testing, they are going
 20 to redesign this prototype, and we are going to have
 21 a tie rod soon?
 22 A Yes.
 23 Q And you were telling management that you
 24 had approached ArvinMeritor about 18,000-pound
 25 independent front suspension and what? What was the

140
 1 things?
 2 A That's what I felt was necessary.
 3 Q And that would save you from having to go
 4 to ArvinMeritor to pay to redesign a whole
 5 independent front suspension?
 6 A Well, it was actually cheaper to do that.
 7 Q To do the 18,000 pounds?
 8 A Yes.
 9 Q Why did you want to do the weight saving
 10 things instead?
 11 A Because you typically in the industry, you
 12 continuously add weight, add weight, add weight, and
 13 it never goes away. And at some point, you have to
 14 say, okay, we've got to strip off the weight, because
 15 if you put an 18,000-pound front axle on, somebody is
 16 going to be a void, because they are going to have
 17 their anvil collections they are going to carry
 18 around with them.
 19 Q And the sales people were telling customers
 20 nothing about the overweight problem. They are going
 21 to keep adding features to keep selling more and more
 22 RVs, right?
 23 A Well, I don't know what specifically they
 24 were telling them.
 25 Q All right. Were any of these facts that

ProTEXT Transcript Condensing for Windows

141
 1 you've told us about, the weight problem, the weight
 2 saving measures you were proposing, the TRW fixes,
 3 the 18,000-pound axle, independent front suspension
 4 alternative, were any of these things ever
 5 communicated to the dealer network, to your
 6 knowledge?
 7 A I don't know.
 8 Q For example, was there ever a time when
 9 representatives from Coachworks division, Blue Bird
 10 Body Company, ever came to Parliament or the other
 11 dealers and updated the dealer network on what was
 12 happening at Blue Bird Body Company to solve the
 13 weight problem?
 14 A I don't know.
 15 MR. MILBRATH: Let's take a break
 16 and go off the record for a minute.
 17 (Discussion off record.)
 18 (Luncheon recess, 1:09 p.m.)
 19 (Reconvene, 2:03 p.m.)
 20 BY MR. MILBRATH:
 21 Q Did you tell me that while you were an
 22 employee of Coachworks, a division of Blue Bird Body
 23 Company, that you asked ArvinMeritor to begin testing
 24 for an 18,000-pound axle?
 25 A That was going to be stage two of the

143
 1 Q And when was that supposed to kick in?
 2 A After the -- after we became legal with all
 3 the axle weight ratings.
 4 Q And what would that involve?
 5 A That would have involved wheels, tires,
 6 brakes, structure.
 7 Q Getting the front end rated at 17,000 and
 8 any structural work that would be required for that,
 9 is that what you are saying?
 10 A No, for 18,000.
 11 Q For 18.
 12 So when did -- what was Phase II projected
 13 to begin then?
 14 A It was right around the time when the
 15 company was sold.
 16 Q And did those two have anything to do with
 17 each other?
 18 A No, not necessarily because they would
 19 not -- at first I asked them to test at 18, and they
 20 said that it wouldn't work because it's a brake issue
 21 at that point, brake, and wheel, and tire issue. So
 22 the only upgrade they would make to the current
 23 suspension assembly was to 17,000.
 24 Q And what did that entail?
 25 A Which one, the 17,000?

142
 1 process, yes.
 2 Q Was there an actual purchase order from
 3 Blue Bird Body Company to ArvinMeritor for that?
 4 A I believe the purchase order was for the
 5 17,000-pound testing.
 6 Q 17,000-pound testing of the tie rods?
 7 A Of the whole assembly.
 8 Q So tell me what you understood -- withdraw
 9 that.
 10 Is that Phase I?
 11 A Yes.
 12 Q Tell me what Phase I consisted of exactly
 13 then.
 14 A Start with a standard front suspension
 15 assembly. Set it up in their test lab, cycle test it
 16 to 250,000 miles at 17,000-pound weight and see if
 17 there were any failures and what they were.
 18 Q Failures of the front suspension system as
 19 a whole?
 20 A Of any of the components.
 21 Q And did they do that?
 22 A Yes.
 23 Q And then what was Phase II?
 24 A Phase II would have been the redesign to an
 25 18,000-pound front suspension.

144
 1 Q Yes.
 2 A First was to test a stock assembly, note
 3 any failures, find those components, and redesign
 4 those components to survive the 17,000 durability
 5 test.
 6 Q And that test was actually done, you say?
 7 A Yes.
 8 Q And did it pass?
 9 A At first it did not.
 10 Q And that's because of the tire rods?
 11 A Correct.
 12 Q But the other components, as you understood
 13 it, passed ArvinMeritor's test?
 14 A Yes.
 15 Q That would mean that if you fix the tire
 16 rod problem, the independent front suspension
 17 assembly should work fine at 17,000 pounds?
 18 A Correct.
 19 Q But not for a higher load?
 20 A Correct.
 21 Q And some of these vehicles would, in fact,
 22 have enough load on the front end that 17,000 would
 23 not cut it?
 24 A Well, depending on how the customer loaded
 25 it.

ProTEXT Transcript Condensing for Windows

145
 1 Q Because there were assemblies, like
 2 Mackillop's, Wilson's, that if you put passengers in
 3 there, there would be no capacity left for cargo
 4 without tipping over the 17,000 pound; isn't that so?
 5 A There would have been some cargo, not a
 6 whole lot.
 7 Q Now, did you ever look at or ask anyone to
 8 look at the Hadley air suspension system and what
 9 impact it had in delivering a particular load on the
 10 front end?
 11 A No.
 12 Q Were you aware of any issues over having a
 13 differentiated load so that you could have, say,
 14 8,800 pounds of load on the left side, and 8,000 on
 15 the right?
 16 A Yes.
 17 Q And did you determine that the Hadley
 18 system was contributing to that differential?
 19 A No, it wasn't contributing.
 20 Q What was causing the difference in load?
 21 A It was more of the overall interior layout,
 22 interior and component layout.
 23 Q Because the way it was laid out, there were
 24 actually sides of some RVs that were heavier than
 25 others?

147
 1 A I think at that point it was probably
 2 Russell Hight.
 3 Q And was that turned down?
 4 A I'm not sure.
 5 Q Were you aware that shortly after you met
 6 with Mr. Bauer in October 2007, there was an accident
 7 contributing to a death of a person in an RV?
 8 A I've been told of it since then, but I
 9 wasn't aware of the circumstance.
 10 Q And you're -- well, let me ask it this way:
 11 Since Phase II had not begun, had you gotten any sort
 12 of pricing from ArvinMeritor as to what an
 13 18,000-pound assembly would cost?
 14 A No.
 15 Q But you understood it would be less
 16 expensive as a fix than the various weight reduction
 17 measures that you were proposing?
 18 A Yes.
 19 Q But you didn't know what that less
 20 expensive dollar figure would be?
 21 A Well, there was some numbers thrown around,
 22 but there was never a firm quote.
 23 Q What were the numbers that were thrown
 24 around?
 25 A I believe it was somewhere around a quarter

146
 1 A Yes.
 2 Q And the Hadley system would not compensate
 3 for that?
 4 A It would, but it compensated from a level
 5 standpoint, not a weight standpoint.
 6 Q So as of the time of the sale, what you
 7 have characterized as Phase II had not begun, right?
 8 A To the best of my knowledge, it had not.
 9 Q And what you've characterized as Phase I
 10 was still in progress, because TRW had just about
 11 finished its work on a redesigned tie rod; is that
 12 right?
 13 A Well, they had finished that, and we had --
 14 we were putting together the campaign protocols that
 15 they had in place.
 16 Q Because you would have to tell the people
 17 you need to come in and get this retrofitted?
 18 A Yeah, exactly.
 19 Q Were you concerned about notifying
 20 customers in the meantime that some of their units
 21 might be dangerously overweight?
 22 A It was a suggestion.
 23 Q And who made that suggestion?
 24 A I believe quality did.
 25 Q And in the person of whom?

148
 1 of a million.
 2 Q I'll show you what has been marked as
 3 Exhibit 128 previously identified in the Bauer
 4 deposition.
 5 This is ArvinMeritor form. Have you have
 6 you seen this before today?
 7 A Yes.
 8 Q And what is it?
 9 A This is a request to make a -- an
 10 application request for an axle.
 11 Q And what sort an axle?
 12 A This one is for a rear axle.
 13 Q And why -- are you the one who made this
 14 request?
 15 A Yes.
 16 Q It shows Eric Johnson, Senior Project
 17 Engineer, right?
 18 A Yes.
 19 Q And the date is September -- can you make
 20 that out? 26th or 28th?
 21 A 26th, I think.
 22 Q 2003, right?
 23 A Yes.
 24 Q And there is an explanation for the
 25 request, right?

ProTEXT Transcript Condensing for Windows

SHEET 38 PAGE 149

PAGE 151

149
 1 A Yes.
 2 Q And did you write that?
 3 A Yes.
 4 Q And what does it say?
 5 A "Blue Bird Wanderlodge request that Meritor
 6 increase the drive axle weight rating to
 7 23,000 pounds for all coach and RV applications.
 8 This will provide the necessary safety margin for the
 9 coach platform and allow increased cargo carrying
 10 capacity for the RV."
 11 Q What did you mean by "safety margin"?
 12 A We had an issue on the coach that we were
 13 getting close to the axle weight rating.
 14 Q That being the drive axle rating?
 15 A Yes.
 16 Q And what did you mean when you referred to
 17 increasing the cargo carrying capacity?
 18 A It would increase the cargo carrying
 19 capacity of the RV.
 20 Q Because if you were overweight on the drive
 21 axle, that would impede your ability to put cargo in
 22 the RV, right?
 23 A Well, it would allow the GVWR to be
 24 increased, which by calculation would give you more
 25 cargo carrying capacity.

151
 1 Q Do you remember when you sent the
 2 18,000 pound request that was sent back by
 3 ArvinMeritor?
 4 A I don't know specifically.
 5 Q Was it in the 2005 time frame?
 6 A Either 2005 or 2006.
 7 MR. MILBRATH: Mark this as the
 8 next exhibit for this deposition, which will
 9 be 229.
 10 (Plaintiff's Exhibit No. 229 marked for
 11 identification.)
 12 BY MR. MILBRATH:
 13 Q I've marked as Exhibit 229 a document
 14 produced by Blue Bird as Blue Bird 013196. This is
 15 another ArvinMeritor axle component application,
 16 right?
 17 A Uh-huh (affirmatively). Yes.
 18 Q Now, this one has Scott Bauer as the OEM
 19 signer dated February, it looks like, 16, 2008?
 20 A Yes.
 21 Q And it asks an increase to 18,000 on the
 22 front axle. Do you see that?
 23 A Yes.
 24 Q And it says, "Blue Bird Corporation
 25 proposal would be to increase the front IFS module to

PAGE 150

PAGE 152

150
 1 Q Now, for the front axle, it shows
 2 18,000 pounds. Do you see that?
 3 A No.
 4 Q Or is that 16? I'm sorry.
 5 A I think that's 16.
 6 Q All right. Yes, it is 16,000.
 7 And the drive is 23, and the tag is 13,
 8 right?
 9 A 21-5- and 13, yes.
 10 Q Okay. Now, did you prepare a form like
 11 this to increase it to 18,000?
 12 A The front axle? I believe I did an 18,000
 13 and they rejected it because they didn't want to have
 14 two programs in place for the same project.
 15 Q Because you had done one already for a
 16 17,000?
 17 A Correct.
 18 Q And so they said don't send us this until
 19 we are ready for an 18,000?
 20 A Actually I did and they sent it back.
 21 Q They sent it back?
 22 A Uh-huh (affirmatively).
 23 Q Do you believe that a copy of that exists
 24 somewhere?
 25 A Probably with Meritor.

152
 1 18,000 as listed above." That would suggest that
 2 there was no earlier written application like this,
 3 wouldn't it?
 4 A For 18,000?
 5 Q Yes.
 6 A There wasn't, they returned it to me.
 7 Q Okay. And give me your best time frame
 8 when you believe it was returned.
 9 A 2005 or 2006. I don't remember the dates.
 10 Q The next statement says, "Drive axle limit
 11 at 20,500 pounds allows for 1,900 tongue load, 19,000
 12 maximum trailer weight, which would raise the drive
 13 axle load to 22,000 pounds with the trailer. The
 14 450 LXI sales brochure stated that there was a 70,500
 15 to GCWR. The area shaded in green were copied from a
 16 previous form supplied by Erik Johnson in 19/07."
 17 Does that make any sense to you?
 18 A No.
 19 Q So you don't know what that is saying?
 20 A Well, I know what it's saying, but the date
 21 is not correct.
 22 Q Okay. Explain that, if you will.
 23 A Drive axle limit is 23. The hitch was
 24 rated at -- it was either 18,000 or 18,500, and this
 25 data would suggest it was 18,500.

ProTEXT Transcript Condensing for Windows

153
 1 Q Already?
 2 A Yes.
 3 Q Okay.
 4 A So I don't know where the 1900 pound tongue
 5 load or 19,000 pound max trailer weight came from. I
 6 don't know where the 20,500 pounds came from. But
 7 the 70,500 pounds was based on a GVW of 52,000 and a
 8 trailer weight of 18,5-.
 9 Q So Mr. Bauer has got it wrong here?
 10 A Well, he's just got some incomplete data.
 11 Q But your testimony is this is actually the
 12 second and not the first application for an
 13 18,000-pound independent front suspension for that
 14 450 LXI?
 15 A That's correct.
 16 Q And who was it that you were dealing with
 17 that sent back the earlier 18,000-pound application?
 18 A Steve Federighe.
 19 MR. MILBRATH: I'm going to mark as
 20 the next exhibit, Exhibit 230. The next one
 21 will be 231.
 22 (Plaintiff's Exhibit No. 230 marked for
 23 identification.)
 24 BY MR. MILBRATH:
 25 Q And this is my only copy of this. This is

155
 1 at Coachworks, a division of Blue Bird, you put in
 2 the first request for 18,000 independent front
 3 suspension and ArvinMeritor, in the person of
 4 Mr. Federighe, returned it?
 5 A Yes.
 6 Q And then after you were working for
 7 Mr. Carson's company, Complete Coachworks, you then
 8 put in a second request for 18,000?
 9 A Correct.
 10 Q And that's what -- that's the exhibit we
 11 are just talking about?
 12 A Yes.
 13 Q And then Mr. Bauer's request for 18,000
 14 independent front suspension would have been the
 15 third request; is that right?
 16 A Yes, because it's dated after mine.
 17 Q So you were -- your reason for preparing
 18 Exhibit 230 after you began working for Carson's
 19 company was what?
 20 A Well, the process that we agreed on,
 21 Coachworks and ArvinMeritor, was complete the 17,000
 22 upgrade which as it shows on that document we did.
 23 And then once that was complete and the project was
 24 closed, start another project for the 18,000. They
 25 didn't want to get drawings crossed, designs crossed

154
 1 also an ArvinMeritor document produced by Blue Bird
 2 under Bates No. 010858 ask if you've seen that
 3 before?
 4 A Yes.
 5 Q And what is that?
 6 A This is a document that I prepared for the
 7 18,000.
 8 Q Is it complete?
 9 A Let's see. There is no Meritor approval.
 10 Q And that would be consistent with it being
 11 returned back to you, I guess?
 12 A Well, this one was prepared after Complete
 13 Coach took over the company. I had forgotten about
 14 this document.
 15 Q So is this yet a third request?
 16 A This was the first request from me after
 17 the 17,000 was completed.
 18 Q Is there an earlier 18,000 request or would
 19 this give us the earliest point in time when an
 20 18,000 was requested?
 21 A There was an earlier one, but it was
 22 returned to me.
 23 Q Okay. So I hope I'm not confusing anyone
 24 else, I may be confusing myself.
 25 I guess you are saying that while you were

156
 1 in the two modules.
 2 Q So what happened to this request, Exhibit
 3 230?
 4 A I'm not sure. That would have been about
 5 an 18 to 24 month program.
 6 Q Meaning it would maybe be 24 months before
 7 you could retrofit coaches with the 18,000-pound
 8 axle?
 9 A You wouldn't retrofit.
 10 Q You would not?
 11 A There would be no retrofit.
 12 Q Would just be going forward?
 13 A Would have to be.
 14 Q What would you do about people like Wilson
 15 and Mackillop?
 16 A That was what the 17,000 was primarily
 17 focused on.
 18 Q But are you aware that after
 19 Dr. Mackillop's unit was retrofitted with the new tie
 20 rods with the 17,000-pound rating, that he was told
 21 he still couldn't drive his RV because it was too
 22 heavy?
 23 A I wasn't aware of that.
 24 Q So was there any plan to do anything for
 25 people like that, that you still wouldn't drive it?

ProTEXT Transcript Condensing for Windows

157
 1 A What was the weight?
 2 Q It was at 17,000 pounds with no people and
 3 no cargo.
 4 A Well, was it getting heavier?
 5 Q I'm sorry?
 6 A Was it getting heavier?
 7 Q That's a good question, because when it
 8 left your plant, according to your spreadsheet, it
 9 wasn't 17,000 on the front.
 10 A Correct. This one shows it at 17,000 with
 11 a quarter tank of fuel -- or a quarter tank of water.
 12 Q Just short of 17,000 with a quarter tank of
 13 water?
 14 A Correct.
 15 Q Or excuse me. It shows you at 15,800 with
 16 a quarter tank of water, right?
 17 A No. I'm sorry, this document.
 18 Q You are referring to Exhibit 120.
 19 (Tenders document.)
 20 So you admit for Exhibit 120, you have
 21 three different weights ranging between 16,8- and 17.
 22 You can't drive a coach with that kind of weight
 23 without it being over the rated capacity with nobody
 24 in it, right?
 25 A Well, there is water in it.

159
 1 still wasn't in place any plan to retrofit all those
 2 coaches that had been built before that were not
 3 drivable.
 4 MR. WASMUTH: Object to the form
 5 of the question to the extent it assumes
 6 facts not in evidence, but you can answer.
 7 A Well, the only retrofit available was tie
 8 rods.
 9 Q Was what?
 10 A Tie rods.
 11 Q That wouldn't fix somebody who was over 17,
 12 would it?
 13 A No, they would need to readjust their
 14 contents.
 15 Q Well, what if there was no contents on the
 16 17?
 17 A Well, then for some reason it's getting
 18 heavier. If you go from the one document to the
 19 other, you've got a disparity and we need to figure
 20 out where the disparity is.
 21 Q When would you admit that Exhibit 1 -- for
 22 a vehicle that meets the characteristics of Exhibit
 23 120, that there is effectively no carrying capacity?
 24 A Well, it depends on where the contents are
 25 located. If they are more towards the front, you are

158
 1 Q Water in it.
 2 But under the cargo carrying capacity
 3 guidelines, you are supposed to be able to have it
 4 full of water, full of gas, four people, right?
 5 A Was the coach empty? All it says is to
 6 remove the items from the bays.
 7 Q It says what?
 8 A Remove the items from the bays.
 9 Q That would suggest it's pretty empty, there
 10 is nobody in it, there is a quarter of water.
 11 A Right. But I mean, the cabinetry up above,
 12 was that full of the owner's items?
 13 Q So for people like Mackillop -- I mean,
 14 you -- Dr. Mackillop or Wilson who paid nearly a
 15 million dollars for their units, they would have the
 16 right to expect they would be able to put people and
 17 stuff in their cabins, right?
 18 A I understand, but I don't know that you've
 19 got all the data on that document.
 20 Q On Exhibit 120?
 21 A Yes.
 22 Q Well, so what you are saying is even after
 23 you left Blue Bird Body Company and its management
 24 that didn't want to spend money solving this problem,
 25 you are working for a new company, Coachworks. There

160
 1 biasing all your load towards the front.
 2 Q Well, if you put -- where was the intended
 3 location of cargo in the RV?
 4 A Throughout, throughout the unit.
 5 Q What are the bays for?
 6 A Anything the customer wants to put in.
 7 Q Such as cargo?
 8 A Correct.
 9 Q That's just typically what people put in
 10 the bays, right?
 11 A I understand, yes.
 12 Q I mean, we all can agree with that. That's
 13 the intended purpose, is cargo goes in a bay, isn't
 14 it?
 15 A Yes.
 16 Q All right. And for a vehicle like
 17 Dr. Mackillop's, there is no ability to put any cargo
 18 in there, because any cargo is going to tip you over
 19 17,000, and he's already at 17,000, right?
 20 A Well, it depends on what the cargo was.
 21 Q But it could be anything. It could be a
 22 set of golf clubs, it could be an overnight bag with
 23 100 pounds in it. He's going to -- it's going to put
 24 him over the 17,000-pound rating with nobody inside,
 25 isn't it?

ProTEXT Transcript Condensing for Windows

161
1 A Well, he needs to move the load towards the
2 rear.
3 Q So if a guy like -- you think it's fair
4 that your company wouldn't advise people like him?
5 He may be paying nearly \$1 million for your unit, but
6 you're not going to have the ability to put any cargo
7 in it?
8 A Well, I'm not sure what was advised other
9 than the sticker that was put on, because before the
10 retrofit with this set of 16,000-pound front axle
11 rating, you've got 3277 pounds of cargo carrying
12 capacity.
13 Q But that capacity is meaningless if you
14 can't put anything on it once it -- because you are
15 so close to the rated capacity on the front.
16 A Well, it depends on where the cargo goes.
17 All this --
18 Q If you put cargo --
19 A -- this sticker is not based on individual
20 axles, it's based on the vehicle.
21 Q If you put cargo -- well, then how is a
22 customer going to know, given what you've told them
23 in this sticker, that you've got to put it in the
24 bedroom on top of your bed or someplace on the tag
25 axle in order to not be a driver hazard, because you

163
1 Q Where do you put 3,200 pounds if you have
2 17,000 pounds on the front end already?
3 A Well, usually you've got considerable
4 weight in the rear in the closet.
5 Q How much weight can you put in the closet
6 without contributing a pound to the front?
7 A Actually the weight that put in the rear
8 closet would subtract weight from the front.
9 Q So if you have a bus with no one on it and
10 it weighs 17,000 and you put weight in the closet,
11 you've now reduced weight on the front?
12 A Absolutely.
13 Q And how does that happen?
14 A Because your drive axle becomes your
15 fulcrum.
16 Q So if -- so does Dr. Mackillop solve his
17 problem by putting all 3,000 pound in the closets?
18 A No, but just paying attention to how he's
19 distributing it, and if he has a big disparity in
20 weight after he's loaded his coach, I mean, just
21 readjusting things.
22 Q Where does it say that in the label?
23 A It doesn't say that on the label.
24 Q So the label is materially misleading if
25 his vehicle weighs 17,000 and it's rated at 17,000?

162
1 don't have any rating available to you on the front.
2 How are they going to know that?
3 A Well, it was not expressly dictated to
4 them, though.
5 Q It's what?
6 A I did not expressly dictate that to them.
7 Q What do you mean by that?
8 A I didn't tell them where they could put the
9 cargo.
10 Q Well, would a reasonable person assume that
11 they should be able to put cargo in a cargo bay?
12 A Well, the folks that have other
13 Wanderlodge, are they all exhibiting the same
14 issues?
15 Q I mean, you understand there are 58 very
16 pissed off sets of customers here, don't you?
17 A Are they all pissed off?
18 Q We'll let a jury decide that.
19 A That's not my argument, you know. The
20 people that have had several coaches that understand
21 weight distribution, that's just -- you get used to
22 doing that. So when you by a new coach, you
23 understand that I have my golf clubs, I need to put
24 them in the last bay; I have my pillows and blankets,
25 I can put them in the first bay.

164
1 MR. WASMUTH: Objection. Assumes
2 facts not in evidence.
3 A Well, the label is based on overall
4 capacity. It does not single out any axle.
5 BY MR. MILBRATH:
6 Q So how would a person know from the label
7 that there isn't any 3,200 pounds of capacity
8 available to them, but, in fact, zero capacity,
9 unless he loads it all in the rear somewhere,
10 rearward of his bedroom?
11 A Well, that would have to be communicated to
12 him by somebody, and I did not communicate that.
13 Q That would be a material fact for somebody
14 to know before they spent a million bucks buying
15 something that they can't put any cargo in the cargo
16 bay, right?
17 MR. WASMUTH: Object to the form
18 of the question. Assumes facts not in
19 evidence.
20 A Well, again, you've got this rating, this
21 RVIA rating, which is one item. And if you
22 distribute that weight throughout the coach, you
23 should be fine, according to RVIA.
24 BY MR. MILBRATH:
25 Q Where does the RVIA say it's okay to

ProTEXT Transcript Condensing for Windows

165
 1 mislead the public about cargo carrying capacity?
 2 MR. WASMUTH: Objection,
 3 argumentative. It assumes facts not in
 4 evidence. You can answer.
 5 A I'm not sure I understand the question.
 6 BY MR. MILBRATH:
 7 Q You agree that a reasonable person reading
 8 the label would not understand that the 3,200 pounds
 9 certified must be placed somewhere so that it only
 10 adds a load to the rear, to the tag axle. It doesn't
 11 say that.
 12 A Correct, it doesn't say that.
 13 Q And no one would assume on an RV that has
 14 cargo bays, that you couldn't put any cargo in them.
 15 That would be unreasonable to assume that, wouldn't
 16 it?
 17 A Well, again, it depends on the cargo.
 18 Q Well, can we agree that the bays are for
 19 cargo?
 20 A Yes.
 21 Q Can we agree that most people would think
 22 if you buy an RV with a 3,200-pound rating for cargo,
 23 that you could put the cargo in the bays.
 24 MR. WASMUTH: Objection. Calls
 25 for the witness to speculate. You can

167
 1 every time Blue Bird has rated this RV, it's in the
 2 neighborhood of 17,000. You understand that?
 3 A Yes.
 4 Q So it really doesn't depend on that
 5 particular one, does it?
 6 A On this particular weight?
 7 Q On this particular weight. The fact is, if
 8 it's 17,000 with nothing, and you add cargo for
 9 traveling in the bays, where they are supposed to be
 10 capable of receiving weight, that unit will be over
 11 the 17,000 capacity.
 12 A But is this an empty coach?
 13 Q You see anything to indicate that it's a
 14 full coach? There's is no body shown here.
 15 A Well, it doesn't indicate either way.
 16 That's my point.
 17 Can I ask you a question?
 18 Q No, sir.
 19 Why did you leave the employment of
 20 Coachworks?
 21 A Had a management conflict.
 22 Q With whom?
 23 A Dale Carson.
 24 Q And what was the management conflict with
 25 Mr. Carson?

166
 1 answer.
 2 A It depends on what the cargo.
 3 BY MR. MILBRATH:
 4 Q Why would someone believe that that depends
 5 on what the cargo is?
 6 A Well, if you collect feathers, you could
 7 fill the bay and it weighs 10 pounds. If you collect
 8 anvils, you could fill the bay and it could weigh
 9 10 tons.
 10 Q What if you are traveling, like most people
 11 do for these things?
 12 A Well, most people that are full-timers
 13 understand distribution of weight.
 14 Q But why would they understand that they
 15 can't put anything in their cargo bay?
 16 A Well, most of them do and they are still
 17 legal, as far as I know.
 18 Q But if you put any cargo in Dr. Mackillop's
 19 unit, and it's 17,000 pounds already, you are going
 20 to tip it over on the front axle, aren't you?
 21 A Well, again, my question would be, what
 22 condition exactly was the vehicle in when this weight
 23 was done.
 24 Q But you understand there are other ratings.
 25 Those are all from Blue Bird. You understand that

168
 1 A Our management styles differed.
 2 Q And it didn't have anything to do with your
 3 previous association with the cargo problem?
 4 A No.
 5 Q Were you fired or did you leave
 6 voluntarily?
 7 A Left voluntarily.
 8 MR. BEACHAM: Excuse me just a
 9 second, Steve. I'm sorry to interrupt, but
 10 I think maybe the witness has shifted a
 11 little bit, and I think he's a little
 12 further away or something. I'm having a
 13 little trouble hearing.
 14 THE WITNESS: I'm sorry, I'll
 15 speak up.
 16 MR. BEACHAM: Thank you.
 17 BY MR. MILBRATH:
 18 Q Was Mr. -- is it Neshati, is that how you
 19 say it?
 20 Who were the other managers besides Carson?
 21 A Vickie Hernandez was purchasing, John
 22 Pervis was production, Russell Hight was quality.
 23 Q Do you see on your spreadsheet -- well,
 24 I'll go back to that -- let's see -- Unit 581?
 25 A Yes.

ProTEXT Transcript Condensing for Windows

169
 1 Q Down towards the bottom?
 2 A Yes.
 3 Q And what is the front axle load on
 4 Unit 581?
 5 A 16,140.
 6 Q At full fuel?
 7 A That's correct.
 8 Q Take moment look at Exhibit 180.
 9 (Tenders document.)
 10 This is an e-mail exchange about that
 11 Unit 581 that was sold to the Biggs. Do you see
 12 that?
 13 A Yes.
 14 Q And Exhibit 180, Mr. Clark says with a cart
 15 that was added, presumably after the Biggs' unit was
 16 manufactured, there is only 7 pounds for other gear.
 17 Do you see that?
 18 A Yes.
 19 Q And then Mr. Moses says, "With a cart in
 20 bay one, plus four bodies, full fuel and water, seven
 21 pounds is the available capacity on the front axle."
 22 Do you see that?
 23 A Yes.
 24 Q And then Mr. Clark says, "We need to review
 25 whether we can justify self certifying the front IFS

171
 1 proposed at least twice; isn't that correct?
 2 A Well, it depends on if this is all the
 3 weight that -- was this coach full, the cabinets and
 4 such?
 5 Q I don't know.
 6 A Yes, he is close to capacity on the front.
 7 Q And the point of Exhibit 180, though, is
 8 that there really isn't a way around the cargo
 9 capacity problem unless you do have the 18,000-pound
 10 front suspension, unless you play games like telling
 11 the owner to put all of his weight at the very rear
 12 of his coach and nothing in the bays; isn't that
 13 correct?
 14 A No, that's not correct.
 15 Q What's not correct about it?
 16 A Well, you have to distribute it not
 17 equally, but distribute it with some thought in mind.
 18 Q Well, how would you distribute it so you
 19 don't contribute beyond the 7 pounds available in the
 20 Biggs unit, for example?
 21 A Well, some questions you have to ask are
 22 No. 1, where were the four bodies? I'm assuming two
 23 of them were in the front. Are the other two sitting
 24 on their laps, which contributes more to the front
 25 axle or are they sitting further back in the coach

170
 1 to 17XXX, say, 17,500 or even 17,300, to give us a
 2 shot at satisfying more owners." Do you see that?
 3 A Yes.
 4 Q So Mr. Clark is resulting to subterfuge to
 5 try to figure out a way around this cargo problem,
 6 isn't he?
 7 MR. WASMUTH: Objection. Assumes
 8 facts not in evidence.
 9 A I don't know what the circumstance was.
 10 BY MR. MILBRATH:
 11 Q And then Mr. Dave Whelan, do you know him?
 12 A I've seen him his name before. I don't
 13 know him.
 14 Q Says, "Well, we can add a weight pack to
 15 shift weight on the rear." Do you see that?
 16 A Yes.
 17 Q And Mr. Miles says, "No, we can't do that
 18 because the tag axle is pretty much maxed out. We
 19 need to have a brainstorming session." Do you see
 20 that?
 21 A Yep -- yes.
 22 Q And the problem there is there just isn't
 23 any way to make that Biggs unit or these other units
 24 fully compliant with their cargo capacity unless you
 25 have the 18,000-pound front axle assembly that you

172
 1 which contribute less?
 2 The water tank was full, although most of
 3 the Wanderlodge customers do not travel with full
 4 water tanks; if the cabinetry and such was full. You
 5 know, this coach might have been ready for a trip at
 6 that point.
 7 I think the first thing I would suggest to
 8 Mr. Biggs is take the cart out of bay one and move it
 9 to bay three.
 10 Q Would you expect that Mr. Biggs had a cargo
 11 carrying sicker just like the one that Dr. Mackillop
 12 had?
 13 A I wouldn't expect that.
 14 Q Well, there would be a sticker just like --
 15 similar to his?
 16 A Yes.
 17 Q That would certify the cargo carrying
 18 capacity?
 19 A Yes.
 20 Q And it wasn't 7 pounds, was it?
 21 A Well, this is not saying the cargo carrying
 22 capacity is 7 pounds. It's saying he has 7 pounds
 23 remaining.
 24 Q It would have been around 3,000 pounds,
 25 wouldn't it?

ProTEXT Transcript Condensing for Windows

173
1 A More or less, yes.
2 Q Because 3,200 was the average capacity,
3 according to your manual, right?
4 A Yes.
5 Q So if Biggs had the average capacity, he
6 would have at least 3,000 pounds certified on his
7 label?
8 A Yes.
9 Q Not 7?
10 A No, not 7.
11 MR. MILBRATH: I'm marking as
12 Exhibit 231 a document produced by Blue
13 Bird. It's Bates No. 023332.
14 (Plaintiff's Exhibit No. 231 marked for
15 identification.)
16 A Can I make one comment before we continue?
17 BY MR. MILBRATH:
18 Q Yes.
19 A I had said earlier that the gentleman's
20 name was Lee Atwood. When I saw this e-mail, his
21 name is Lee Moses.
22 Q Lee Moses. So every time you said Atwood,
23 it should be Moses?
24 A That's correct.
25 Q Okay. So Lee Moses was a consultant to the

175
1 to retrofit all 58 450 LXI motor homes with the
2 EX-225 brake system and new tie rods." Do you know
3 what he's talking about?
4 A Yes.
5 Q What is that?
6 A The EX-225 brake system was the latest
7 model, the 450s had DX series on them. And the issue
8 was that Meritor was going to phase out the DX
9 series, and they wanted to change -- have us change
10 to the EX series.
11 Q And did that ever happen?
12 A Not while I was there.
13 Q The new tie rods, were those the 17,000
14 rated tie rods?
15 A I believe so.
16 Q And do you know who Paul Yousif is?
17 A No.
18 Q Going back to this meeting you had around
19 September 11, 2007, did you talk to Mr. Bauer about
20 the 18,000-pound rated independent front suspension?
21 A I don't recall specifically.
22 Q Did you have the belief before you left
23 Coachworks that an 18,000-pound independent front
24 suspension module had been ordered by Blue Bird?
25 A No.

174
1 buyer, Mr. Carson's company?
2 A Correct.
3 Q And later became a consultant to Blue Bird
4 Body Company; is that right?
5 A I don't know.
6 Q This e-mail exchange I'm showing you is
7 Exhibit 2- --
8 A -31.
9 Q -31. To begin at the bottom, there is an
10 e-mail from Dale Carson to Kevin Li, L-I. That's
11 somebody at ArvinMeritor apparently, right?
12 A Yes.
13 Q And it shows you as getting a copy and
14 Christopher (sic) Majeske, M-A-J-E-S-K-E. Who is
15 that?
16 A Christoph was the -- he was associated with
17 Cerberus. I'm not exactly sure how.
18 Q And Macy Neshati is who?
19 A He was VP of sales for Complete Coachworks.
20 Q Was he one of your managers?
21 A VP of sales.
22 Q So you and he did not deal with each other?
23 A Briefly, not day-to-day.
24 Q It says, "Kelvin, we, Coachworks Holdings,
25 have been asked by Blue Bird Body to supply a quote

176
1 Q Did you have any reason to believe that
2 there would be an 18,000-pound module?
3 A Only after it was properly designed.
4 Q And did you have any belief as to when that
5 would happen, if it ever did?
6 A No. At that point, that was beyond what I
7 was working on.
8 Q I'll show you Exhibit 116 previously
9 identified in the Bauer deposition.
10 (Tenders document.)
11 And there was an open letter on the
12 website, to our valued customers by Macy Neshati.
13 He's vice president of sales at Coachworks while you
14 were there, right?
15 A Correct.
16 Q And this is in December of '07, right? I
17 see where -- or maybe it's not.
18 A I don't know that it's dated specifically.
19 Oh, here it is. 3/12 of 2008, 2008. Top left.
20 Q And it refers to coaches that exceed
21 17,000 pounds when loaded will need to remain parked
22 until a new 18,000 pound axle becomes available in
23 late December of this year. Do you see that?
24 A Yes.
25 Q What was the source of Mr. Neshati's

ProTEXT Transcript Condensing for Windows

SHEET 45 PAGE 177

PAGE 179

177
 1 representation that there would be a new 18,000 pound
 2 axle available in December of '08?
 3 A No idea. And I think I could make the
 4 statement that I don't believe that Meritor could do
 5 the design project that quickly.
 6 Q So you were not the source of that
 7 information?
 8 A No.
 9 Q That information, so far as you can tell,
 10 is false, right?
 11 MR. WASMUTH: Objection to the
 12 extent it assumes facts not in evidence.
 13 A Well, unless they had a different axle
 14 available.
 15 BY MR. MILBRATH:
 16 Q I'll show you Exhibit 112 from the Bauer
 17 deposition. This is what purports to be an
 18 ArvinMeritor 18K tie rods test report dated June 28,
 19 '07, right?
 20 A Yes.
 21 Q And it does say an 18K tie rod test report.
 22 A Yes.
 23 Q Does that imply that it's a test report of
 24 a tie rod that would be suitable for an 18K loading
 25 with a new ArvinMeritor front module?

179
 1 A I believe it to be true, yes.
 2 Q Do you know when it was elevated to an 18K?
 3 A I'm not sure.
 4 Q But you would have been the asker, right?
 5 A Probably, yes.
 6 Q And then it says, "ArvinMeritor performed a
 7 series of lab tests in late '05 and early 2006 and
 8 found out that parts made with Mac-steel," -- that's
 9 M-A-C-steel -- "did not meet the predefined target.
 10 TRW, supplier of tie rods, then came up with a
 11 modified design." Is that true?
 12 A Yes.
 13 Q Is it correct that all 58 of the units are
 14 those that had met the Mac-steel units, the defective
 15 tie rods?
 16 A I would assume so, yes, but I don't know
 17 that for sure.
 18 Q Then it refers to testing another four
 19 units of tie rods of a modified design, and it gives
 20 those results.
 21 And are those consistent with passing or
 22 failing?
 23 A That would be passing.
 24 Q Because -- and then it says, "All four
 25 units passed the bogey of 150,000 cycles for motor

PAGE 178

PAGE 180

178
 1 A Yes.
 2 Q And is that what you had asked them to do?
 3 A Well, I think in discussing how to go about
 4 the redesign, they knew that we were going to be
 5 requesting the 18,000 axle. So they went ahead and
 6 designed the tie rod to suit that when that axle
 7 assembly became available.
 8 Q And it shows a report was copied to
 9 E. Johnson. Is that you?
 10 A Yes.
 11 Q And did you receive a copy of this report?
 12 A I would suppose I did.
 13 Q If turn to the second page of this report,
 14 it refers to a Blue Bird purchase order of
 15 November 3, '05. Do you see that?
 16 A Hang on.
 17 Q Up at the top.
 18 A Okay, I've got it.
 19 Q It says, "Blue Bird originally requested
 20 ArvinMeritor to validate three units of the front
 21 steering tie rods under the 17K axle loading
 22 condition. The loading was then asked to increase to
 23 18K through e-mail communication." Do you see that?
 24 A Yes.
 25 Q Is that a true statement?

180
 1 homes and 300,000 cycles for coaches."
 2 A Correct.
 3 Q Is 300,000 cycles equivalent to
 4 300,000 miles?
 5 A No, it's closer to half a million miles. A
 6 cycle would be one series of all the different
 7 conditions. 150,000 cycles is closer to 250,000
 8 miles.
 9 Q That would mean that in June 2007, there
 10 were tie rods that would, in fact, last a half
 11 million miles that TRW had designed, right?
 12 A That's what it's saying, yes.
 13 Q And those tie rods would function under an
 14 18,000-pound load, right?
 15 A Yes.
 16 Q And those tie rods could be retrofitted
 17 into units that had already been sold, all 58 of
 18 these units, right?
 19 A Yes.
 20 Q As of June 2007?
 21 A Correct.
 22 Q Why was the retrofitting not accomplished
 23 at that point?
 24 A It was in process to do that.
 25 Q What was involved?

ProTEXT Transcript Condensing for Windows

181
 1 A The issues with the field campaign.
 2 Q So are you telling us that by June 2007,
 3 TRW had designed, ArvinMeritor and TRW had
 4 successfully tested tie rods to retrofit into the
 5 58 units?
 6 A Yes.
 7 Q And that all it required at that point was
 8 the field campaign?
 9 A Correct.
 10 Q And what steps were taken between June 2007
 11 and the first reported death of a customer in
 12 October 2007 to implement a field campaign?
 13 A I'm not sure.
 14 Q Isn't the truth that nothing was done?
 15 A Well, like I said, we had conference calls
 16 with ArvinMeritor and TRW, and they were actually
 17 going to conduct the field campaign. What they had
 18 asked of Coachworks was to provide them with a list
 19 and any relevant location information for the units.
 20 Q And did that happen?
 21 A Were they provided that list?
 22 Q Yes.
 23 A I'm not sure.
 24 Q Well, did -- Coachworks at that the point
 25 was still part of Blue Bird Body Company, right?

183
 1 evidence.
 2 A I don't know.
 3 BY MR. MILBRATH:
 4 Q Who would know?
 5 A Possibly sales or service. I would lean
 6 more towards service.
 7 Q Who at service would that be?
 8 A I'm trying to remember who was in charge of
 9 service at that time. You've got to give me a
 10 minute. I'm sorry, it's been couple of years.
 11 Q All right. Not a problem.
 12 A They were down the hill in the service
 13 building, and the person's name would have been -- I
 14 can't remember, I'm sorry. If it comes to me, I'll
 15 tell you.
 16 Q Now, once the Coachworks division was
 17 bought by Carson's company and became Complete
 18 Coachworks, what effort was undertaken to notify and
 19 line up these people for their new tie rods?
 20 A I don't know what effort was undertaken.
 21 (Plaintiff's Exhibit No. 232 marked for
 22 identification.)
 23 BY MR. MILBRATH:
 24 Q I'll show you Exhibit 232. This is a Blue
 25 Bird 023335.

182
 1 A Yes.
 2 Q Coachworks, as part of Blue Bird Body
 3 Company, had a distribution network, right?
 4 A Parts distribution?
 5 Q Well, no. You had a dealer network and a
 6 distribution network and you knew who your customers
 7 were, right?
 8 A Yes.
 9 Q You knew how to reach these people, right?
 10 A I would assume so.
 11 Q In fact, you would have even had their cell
 12 phones. You could have called them at their RVs?
 13 A I don't know.
 14 Q Well, what effort was undertaken by
 15 Coachworks, as part of Blue Bird Body Company, before
 16 the sale to notify people so that they could come in
 17 and get their new tie rods?
 18 A I don't know.
 19 Q Have you seen anything to indicate that
 20 anything was done?
 21 A Not that I can recall.
 22 Q So fair inference from the lack of
 23 documentation is that not a darn thing was done.
 24 MR. WASMUTH: Objection,
 25 argumentative. Assumes fact not in

184
 1 (Tenders document.)
 2 And you began a bottom e-mail on this
 3 series. You'll see that it says from Dale Carson,
 4 that was your boss, right?
 5 A Yes.
 6 Q To Kelvin at ArvinMeritor with a copy to
 7 you?
 8 A Yes.
 9 Q "We've been asked by Blue Bird to supply a
 10 quote to retrofit the brake system and the new tie
 11 rods." We talked about that earlier. Do you see
 12 that?
 13 A Yes.
 14 Q And then the middle e-mail, it says from
 15 Mr. Christoph Majeske?
 16 A Yes.
 17 Q Will let you know -- we'll get back from --
 18 quote, "Will let you know we get something back from
 19 Arvin."
 20 Then Mr. Miles says, "We are missing weight
 21 data on 22 of the 58 units. Erik Johnson with
 22 Coachworks is trying to find the weight data on those
 23 22 units." Now, why would you not have that weight
 24 data?
 25 A Because those weight slips were not given

ProTEXT Transcript Condensing for Windows

SHEET 47 PAGE 185

PAGE 187

185
 1 to me at that time.
 2 Q Why not?
 3 A Because I had not asked to have everything
 4 certified that weight at a certified scale.
 5 Q These are the units that were made earlier
 6 in the 2004 time frame?
 7 A Correct. The blanks on this form
 8 (Indicating.)
 9 Q So going back to this meeting with
 10 Mr. Bauer on or about September 11th, did he ask you
 11 for any assistance at that point?
 12 A No.
 13 Q And Exhibit 113, which should be in front
 14 of you, two pages back, I asked you a little bit
 15 about that before lunch, second page. It says, "On
 16 October 11, 2007, Cerberus advised Blue Bird
 17 engineering that legal counsel had determined that
 18 all repairs or field actions related to this concern
 19 are the responsibility of CCW and no field action is
 20 required by BB." That's Blue Bird. "Any future
 21 inquiries relating to this concern by owners,
 22 et cetera, are to be directed to CCW." Do you see
 23 that?
 24 A Yes.
 25 Q And basically Blue Bird was taking the

187
 1 A I recall that.
 2 Q Do you remember Bauer telling you that it
 3 was his recommendation to Blue Bird management that
 4 there be a remedy, that they fix these overweight
 5 conditions?
 6 A He may have said that. I don't recall it
 7 specifically.
 8 Q But Blue Bird elected to do nothing, right?
 9 A Well, that's what this document states.
 10 Q Now, I'm going to ask you about an
 11 interesting amendment to that document.
 12 I'll show you Exhibit 114.
 13 (Tenders document.)
 14 That looks like, if you look at the first
 15 page, the same document as Exhibit 113, doesn't it?
 16 It has you as the engineering lead; it has the same
 17 date, September 20, 2007. Do you see that?
 18 A Yes.
 19 Q And the content is very similar, isn't it?
 20 A Yes, except there is two owner reports
 21 instead of three.
 22 Q And the second page is different than the
 23 first page, isn't it?
 24 A Yes.
 25 Q And on this version of the same report,

PAGE 186

PAGE 188

186
 1 position on October 11 that it's none of our concern
 2 that all these 58 units are out there with overweight
 3 conditions, and it's entirely the concern of
 4 Coachworks, right?
 5 MR. WASMUTH: Objection. Assumes
 6 facts not in evidence.
 7 BY MR. MILBRATH:
 8 Q Is that how you understood that?
 9 A Well, it says, "Responsibility of CCW," and
 10 I don't know what that responsibility is.
 11 Q And it even says, "The conclusion" -- down
 12 at the bottom, you see it's checked, "This concern is
 13 closed, because it does not pose an unreasonable risk
 14 to motor vehicle safety and does not constitute a
 15 noncompliance to applicable federal motor vehicles
 16 standards." Do you see that?
 17 A Yes.
 18 Q And that just wasn't true, was it?
 19 A Not for all the units.
 20 Q In fact, didn't you tell Mr. Bauer that you
 21 thought that there needed to be a recall?
 22 A I don't recall that.
 23 Q Do you recall telling Bauer that your
 24 previous quality people thought that there was a risk
 25 to motor safety over these overweight conditions?

188
 1 Blue Bird has no longer -- is no longer washing their
 2 hands of this matter, and, in fact, is proposing a
 3 containment action, isn't it, and a corrective
 4 action?
 5 A Yes.
 6 Q So do you have any understanding as to why
 7 this same document was modified to show a different
 8 conclusion?
 9 A No.
 10 Q Could it be that this document was altered
 11 after the death of the first victim?
 12 A I don't know.
 13 Q Did Mr. Bauer ever disclose this modified
 14 document to you?
 15 A No.
 16 Q When you met with Mr. Bauer on or around
 17 September 11 and thereafter in your two following
 18 meetings, did you ever talk to him about warranty
 19 issues?
 20 A I don't recall.
 21 Q Who was it that had responsibility for
 22 insuring that Blue Bird Body Company, when there was
 23 a Coachworks division of it, complied with this
 24 warranty obligations?
 25 A Who was the warranty administrator?

ProTEXT Transcript Condensing for Windows

189
 1 Q Well, who had responsibility for insuring
 2 that warranty commitments were being fulfilled?
 3 A I don't know specifically.
 4 Q Well, if a particular coach had a certified
 5 cargo carrying capacity of 3,200 pounds, let's say --
 6 A Yes.
 7 Q -- and, in fact, it had under 1,000 pounds,
 8 you would consider that as significant departure from
 9 the representation, I take it?
 10 A Yes.
 11 Q And that would raise a concern under the
 12 warranty of Blue Bird Body Company, wouldn't it?
 13 A Only if it's determined that's a
 14 warrantable item.
 15 Q Well, if it didn't have the capacity
 16 represented, it was because it was too heavy such
 17 that the capacity couldn't be realized, right?
 18 A Yes.
 19 Q And that would be a defect, wouldn't it?
 20 MR. WASMUTH: Objection. Calls
 21 for a legal conclusion. You can answer it.
 22 A I think you would have to determine where
 23 the disparity in weight is.
 24 BY MR. MILBRATH:
 25 Q As an engineer, you would see that as an

191
 1 was requested, an additional item, an optional item.
 2 BY MR. MILBRATH:
 3 Q So you don't think that being over the
 4 rated capacity that you've certified for the vehicle
 5 is a defect?
 6 A I didn't say that.
 7 Q Well, is it?
 8 MR. WASMUTH: Same objection.
 9 A If it -- I would not consider it a defect,
 10 I would consider it a warrantable item, if you could
 11 correct it.
 12 BY MR. MILBRATH:
 13 Q And the warrantor in that case is Blue Bird
 14 Body Company?
 15 A I'm not sure how that functioned.
 16 Q Well, who at Blue Bird Body Company was in
 17 charge of warranty related matters?
 18 A I don't know.
 19 Q There wasn't a person.
 20 A There was -- at Blue Bird Body Company?
 21 Q Yeah. Was there someone at Blue Bird Body
 22 Company that was the go-to person on warranty
 23 disputes?
 24 A I don't know.
 25 Q Wasn't there a warranty database?

190
 1 item to be fixed by the warrantor, wouldn't you?
 2 A If it was determined that it was a
 3 warrantable item, sure.
 4 Q And being overweight on the front end is a
 5 warrantable item if you can fix it, right?
 6 A Well, it depends, again, on what the
 7 item -- on what the issue is.
 8 Q Because if it's over the rated capacity,
 9 that's a warrantable defect, isn't it?
 10 MR. WASMUTH: Same objection.
 11 A Again, it depends on what the issue is.
 12 BY MR. MILBRATH:
 13 Q I mean, the issue is the overweight
 14 problem, the very problem that you had been
 15 documented. Being over the rated capacity is a legal
 16 issue for you as you've acknowledged, right?
 17 A Yes, yes.
 18 Q And because it is a defect, and
 19 nonconformance with a certified capacity, isn't it?
 20 A Well, it depends on whether or not it's a
 21 defect.
 22 Q Is there any doubt in your mind that being
 23 over the rated capacity is a defect?
 24 MR. WASMUTH: Same objection.
 25 A Only if it was -- if it was something that

192
 1 A There was a system called Boss, but I think
 2 that was an order system.
 3 Q So was there a person in charge of making
 4 sure that if you had a vehicle that was over the
 5 rated capacity, that warranty claims were being
 6 honored?
 7 A Well, I would assume there is some person,
 8 sure.
 9 Q And you don't know who that was?
 10 A No.
 11 Q But if Dr. Mackillop bought his unit from
 12 Parliament, Parliament would be the likely person
 13 that would do the repair work, right?
 14 A I would think if he was close by there,
 15 yes.
 16 Q And if he came to Parliament and the coach
 17 was known to be overweight, that would be a
 18 warrantable item, wouldn't it?
 19 MR. WASMUTH: Same objection.
 20 MR. BEACHAM: Objection.
 21 A It depends on what was found.
 22 BY MR. MILBRATH:
 23 Q Well, if the front end capacity is 16,000
 24 and his unit is 17,000, isn't it a warranty item?
 25 MR. WASMUTH: Same objection.

ProTEXT Transcript Condensing for Windows

193
 1 MR. BEACHAM: I join in the
 2 objection.
 3 A I think you would have to determine what
 4 legally is a warrantable item.
 5 BY MR. MILBRATH:
 6 Q You are the Chief Engineer. From your
 7 perspective, nonconformity with a rating capacity on
 8 the front end of a vehicle is an item of defect that
 9 should be covered by the warranty, is it not?
 10 MR. WASMUTH: Same objection.
 11 A I think I would want to know what the cause
 12 is before I made any determination.
 13 BY MR. MILBRATH:
 14 Q Well, whatever the cause was, the same
 15 thing that you'd been observing that you're making
 16 the things too heavy.
 17 A Well, I think, number one, you have to see
 18 why is this one too heavy, and then make a
 19 determination probably with the owner to say here's
 20 what we can do to reduce some weight.
 21 Q And aren't those things that you can do to
 22 reduce the weight, things that are covered by a
 23 warranty?
 24 A Again, I don't know how the warranty is
 25 structured.

195
 1 he wants it fixed, there is no system in place for
 2 Coachworks to make a decision on --
 3 A For a complete --
 4 Q -- fixing it? Yeah.
 5 A Yes, there was an extensive system.
 6 Q What was that system?
 7 A It was all based in California, but it was
 8 fairly extensive.
 9 Q Who was that person?
 10 A I don't know who the person was.
 11 Q But there was an extensive system like that
 12 at Complete Coachworks?
 13 A Yes.
 14 Q But there was not a system like that at
 15 Blue Bird Body Company?
 16 A I'm not aware of one.
 17 Q Why not?
 18 A I never was involved with warranty.
 19 Q Well, who would be the most likely suspect
 20 before the sale who had responsibility for warranty
 21 issues?
 22 A Normally it would be a quality person.
 23 Q And who was a quality person, in say, June
 24 or July, 2007?
 25 A I think that would have been Russell Hight

194
 1 Q Wasn't there a system in place for
 2 Parliament to make a warranty claim on Blue Bird Body
 3 Company?
 4 A I would assume so. I'm not --
 5 Q So wouldn't they, in the regular course of
 6 their business, fax, or e-mail, or call Blue Bird
 7 Body Company for warranty work?
 8 A I'm sure that's probably in place.
 9 Q All right. And so as engineer of the
 10 company, you don't know who the person was that would
 11 be responsible for making those decisions?
 12 A No.
 13 Q And that wasn't your responsibility?
 14 A No.
 15 Q So a Chief Engineer has no responsibility
 16 for warranty related work?
 17 A I had limited responsibility.
 18 Q What was that?
 19 A It was whatever Dale told me my
 20 responsibility was.
 21 Q And you and he disagreed on that?
 22 A Yes.
 23 Q Well, did he have any system in place --
 24 say, if Parliament places a call, Mackillop's unit is
 25 17,000 pounds, it's certified at 16, it's not safe,

196
 1 at that point.
 2 Q Now, you talked to Bauer in September 2007
 3 about the overweight condition.
 4 A Yes.
 5 Q And there was already a decision made back
 6 in June that there would be a field campaign to
 7 retrofit all 58 units with the TRW designed
 8 replacement tie rods, correct?
 9 A Right.
 10 Q So when you are talking to Bauer and you
 11 are thinking about needing to do a field campaign,
 12 and you know all these units are overweight, was
 13 there any discussion about notifying dealers like
 14 Parliament, hey, some of the Blue Bird units that are
 15 sitting on your lot are probably overweight and
 16 needed to be retrofitted with a tie rod?
 17 A Well, actually as part of the conference
 18 calls with ArvinMeritor and TRW, they wanted to
 19 approach the dealers first, because they felt that
 20 that would be the largest group of coaches.
 21 Q Who wanted to approach the dealers first?
 22 A I believe it was TRW.
 23 Q And who at TRW proposed approaching the
 24 dealers first?
 25 A I don't know, it was a conference call.

ProTEXT Transcript Condensing for Windows

197
 1 Q When was that call?
 2 A Summer of '07.
 3 Q And who was on the conference call besides
 4 yourself and someone from TRW?
 5 A I believe it would have been Steve
 6 Federighe from ArvinMeritor and -- there was probably
 7 total ten to 12 people.
 8 Q From Blue Bird?
 9 A I was the only one from Blue Bird.
 10 Q You were the only one from Blue Bird.
 11 There were reps from TRW, right?
 12 A Yes.
 13 Q And ArvinMeritor?
 14 A Yes.
 15 Q Anyone else?
 16 A I don't think so.
 17 Q Was this before or after the sale?
 18 A Before.
 19 Q And so tell me what was discussed in the
 20 conference call?
 21 A Basically where the owners were, was it
 22 something that had to be handled immediately. Was it
 23 something where we had to request that owners park
 24 the units. Where the majority of the coaches would
 25 be located. What to do if you couldn't find an owner

199
 1 having home addresses or if it was the issue of
 2 actually finding the vehicles.
 3 Q At that point in time wasn't the practice
 4 that if you bought a unit from Parliament or
 5 someplace, you would be asked to fill out a card
 6 identifying who you were, acknowledging you're
 7 registering the warranty, and here's your address and
 8 here's your phone number?
 9 A I don't know about that. The only thing I
 10 knew that it was suggested that they bring the coach
 11 back to Wanderlodge for training. Some did and some
 12 didn't.
 13 Q Now, were there any decisions made in this
 14 conference call about who would do what?
 15 A I believe TRW was going to handle the
 16 majority of the field campaign.
 17 Q And what were they going to do in that
 18 regard?
 19 A They were going to replace tie rods, and
 20 ArvinMeritor was going to supply them with a data
 21 plate to replace.
 22 Q And who was going to pay for all this?
 23 A I don't know that that was ever decided.
 24 Q And that gets me back to warranty, because
 25 Blue Bird Body Company was the company that issued

198
 1 because they are out traveling somewhere, and
 2 identifying shops that could do proper alignments on
 3 independent front suspension on a motor home. Just
 4 the whole process of how to go out and get the work
 5 done.
 6 Q And what was decided?
 7 A Well, I believe it was the TRW people that
 8 said if we could get -- if Coachworks could get a
 9 list of owners to them, that they would try to
 10 identify who was who and where they were.
 11 And I'm incorrect in saying I was the only
 12 one from Blue Bird there.
 13 Robert Preston was the service manager at
 14 Coachworks.
 15 Q Would that mean that Preston was also the
 16 guy in charge of warranty issues?
 17 A I don't know if he had final say. I know
 18 that he was privy to warranty issues.
 19 Q And did Mr. Preston undertake to notify
 20 people?
 21 A I'm not sure.
 22 Q You said there was discussion about how we
 23 can find the owner. Didn't Blue Bird have ownership
 24 records from their warranty claims already?
 25 A Well, I don't know if it was the issue of

200
 1 the warranties on these units, right?
 2 A Yes.
 3 Q And you've previously said that Coachworks
 4 had assumed a certain level of the warranty
 5 responsibility, right?
 6 A You said that.
 7 Q Isn't that your understanding of the sale
 8 of documents --
 9 A Yes.
 10 Q -- that there were documents that said up
 11 to a defined level, Coachworks undertook to perform
 12 the warranty responsibility in the place of Blue
 13 Bird?
 14 A Well, I don't know what the documents said.
 15 Q It gives you two companies. One is the
 16 primary obligor and one is the secondary obligor.
 17 Between Coachworks and Blue Bird, who was going to
 18 pay for all this?
 19 A I don't know.
 20 Q Was this ever decided?
 21 A I don't think we decided it because the
 22 people in that conference call were not the financial
 23 people.
 24 Q So you were just -- it was a preliminary
 25 discussion. No one had the authority to bind the

ProTEXT Transcript Condensing for Windows

201
1 other company as to who would do what exactly?
2 A That's probably correct, yes.
3 Q Because if you don't have authority to
4 commit to spend the money, you don't have authority
5 to make something happen, do you?
6 A Right. And I think what you were probably
7 going to see was a write-up of some sort that says
8 here's what it's going to cost to go out and
9 retrofit.
10 Q Well, that's what I've been looking for,
11 and I haven't seen anything like that. Did you ever
12 see a document that said here's how we are going to
13 pay for all this?
14 A Here's how --
15 Q In other words, any kind of an e-mail or
16 anything, budget where Coachworks said we are going
17 to pay for the retrofitting of these tie rods and any
18 alignment issues, et cetera?
19 A I don't know that I ever saw any e-mails to
20 that regard.
21 Q Did you ever see anything from Blue Bird
22 Body Company that said that Blue Bird was going to
23 pay for that?
24 A Only what was in here (Indicating.)
25 Q And that's a no. You are referring to the

203
1 Q On or near that.
2 So it would have been after you had gone to
3 speak to Mr. Bauer. Are you aware of any efforts to
4 notify Parliament, hey, don't close on this unit
5 until we fix it?
6 A No.
7 Q Was there any system in place, to your
8 knowledge, for dealers to weigh these units when they
9 got through putting their extras on them?
10 A They could just take it to a scale.
11 Q And would you expect them to do that?
12 A Would we require it? No.
13 Q Did you have anything to do with any of the
14 advertising literature that was used by Blue Bird
15 Body Company? As an example, if there was a brochure
16 on the LXI, would you have reviewed that brochure for
17 technical deficiencies and information?
18 A I may have.
19 Q Were you aware of what literature was used
20 regularly by Blue Bird to promote the sale of the
21 Wanderlodge 450 LXI?
22 A Not specifically, but I think I'm about to
23 be.
24 Q I'll show you, for example, Exhibit 150,
25 the Blue Bird Coachworks coach specs. Is this

202
1 first version of this memo, the one before the death
2 of the driver.
3 A I don't know that we realized what the
4 dates were of the second memo you gave me,
5 Exhibit 114.
6 Q Yeah. What does that say?
7 A Per vehicle costs estimates for containment
8 action.
9 Q And who is going to pay for that?
10 A I don't know.
11 Q Exhibit 114 would then suggest that nobody
12 committed to spend any money before September of '07,
13 right?
14 A For the field campaign, that's what it
15 appears to be.
16 Q All right. But even at this date,
17 September 20, 2007, there were Blue Bird units
18 sitting in lots like those at Parliament. What
19 effort was made to notify the dealer network?
20 A I don't know.
21 Q Dr. Mackillop took delivery of his RV on
22 September 12th.
23 A Of?
24 Q '07.
25 A Okay.

204
1 something you would have reviewed in your capacity as
2 an engineer at the company just to determine if the
3 information was accurate?
4 A I usually proofread more like manuals and
5 stuff.
6 Q You would proofread the owner's manual?
7 A Yes.
8 Q Wouldn't have proofread documents like
9 Exhibit 150?
10 A Well, I'm looking for -- this one doesn't
11 jump out at me.
12 Q Just turning to the third page of this
13 exhibit, RM 1364, it has a subcategory entitled,
14 "Chassis." And it's says, "16,000-pound front axle."
15 A Okay, I see that.
16 Q Is that -- is the purchaser entitled to
17 believe that that is a true statement?
18 A Yes.
19 Q And on Page 1372, the last sentence, it's
20 kind of hard to read on this copy, Blue Bird says,
21 "We offer an exclusive, new five year, three year
22 warranty." What does that mean to you?
23 A Well, there is a five year, three year
24 warranty.
25 Q You would take it to mean literally what it

ProTEXT Transcript Condensing for Windows

SHEET 52 PAGE 205

PAGE 207

205
 1 says, right?
 2 A No, I don't think I would, because it says,
 3 "See your Wanderlodge dealer for full details."
 4 Q Well, would you expect the Wanderlodge
 5 dealer to be able to supply?
 6 A I would say it would probably be limited to
 7 some regard because most warranties are.
 8 Q To what?
 9 A I would say it's probably limited to some
 10 regard because most warranties are.
 11 Q But if the dealer were to say the same
 12 thing that the advertisement said, you would take it
 13 to mean just what it says, that there is a warranty;
 14 not a limited warranty, but a warranty?
 15 A Well, I think I would ask what a five year,
 16 three year warranty is.
 17 Q Exclusive, new three year, five year
 18 warranty.
 19 A But what does that mean? Is it three years
 20 or is it five years?
 21 Q What does it mean to you?
 22 A It means I would start asking questions,
 23 especially if I'm spending a million dollars.
 24 Q But if you would -- in just plain English
 25 language, five year or three year would suggest that

207
 1 recall at all?
 2 A No.
 3 Q Do you have a recollection of being
 4 contacted by e-mail or telephone by Mr. Bauer after
 5 your initial discussion with him about the weights of
 6 the vehicles?
 7 A I don't recall specifically, no.
 8 Q What did you understand Mr. Bauer's role to
 9 be in the company at that point in time?
 10 A Engineering.
 11 Q And did he seem interested in what you had
 12 to offer or was he conducting all of this on his own?
 13 A I don't think that there was an engineer
 14 that was interested in getting another project
 15 anywhere in the company. Everybody was taxed.
 16 Q Everybody was what?
 17 A Taxed.
 18 Q Busy?
 19 A Everybody had a full plate, yes.
 20 Q Did he later consult with you after you
 21 left the employment of Coachworks?
 22 A Of Complete Coachworks?
 23 Q Yes.
 24 A I don't think so.
 25 Q And you left on October what?

PAGE 206

PAGE 208

206
 1 there are a five year warranty on some items and
 2 three years on others, right?
 3 A Okay, I'll accept that.
 4 Q And there is nothing at all to suggest that
 5 there's a limited warranty, is there?
 6 A Well, I think if there is five years on
 7 some items and three years on others, that's a limit.
 8 Q Do you know that there's a distinction
 9 between a full warranty and a limited warranty?
 10 A Yes.
 11 Q There is nothing in that language that
 12 tells you that there's a limited warranty, is there?
 13 A Well, that's probably because a lawyer
 14 didn't write it. Sorry, I had to put that in.
 15 Q And if Parliament were to tell the customer
 16 that there is a full warranty, that would be
 17 consistent with the language of warranty as opposed
 18 to limited warranty, wouldn't it?
 19 A I would say yes.
 20 Q And you don't believe that any of that you
 21 were asked to review in your capacity in engineering?
 22 A Well, if I was asked to review data in a
 23 brochure like this, it would have been the technical
 24 data, not the warranty data.
 25 Q Did you have any participation in the

208
 1 A I believe it was the 20th, 19th or 20th.
 2 Q And you started right away working for IDS?
 3 A I left Coachworks on a Friday, I started
 4 IDS on a Monday.
 5 Q You're a lucky man.
 6 A (Witness nods head affirmatively.)
 7 Q Did IDS -- does IDS have any involvement in
 8 the coach business now?
 9 A No.
 10 Q Is there any business relationship between
 11 IDS and Blue Bird Body Company or any of its
 12 affiliates?
 13 A Not any more.
 14 Q Was there at one time?
 15 A Yes.
 16 Q What was the relationship?
 17 A Coachworks built some prototype container
 18 units before IDS had a manufacturing facility.
 19 Q But these were container units?
 20 A Yes. They weren't wheeled. They were just
 21 containers.
 22 Q We discussed various proposals that you
 23 made and others made to fix the weight problem.
 24 A Yes.
 25 Q And you even went to the point of preparing

ProTEXT Transcript Condensing for Windows

209
 1 a budget --
 2 A Yes.
 3 Q -- for resolving the weight problem.
 4 Was there ever a time in the meetings that
 5 you attended or your discussions with management at
 6 the Coachworks division of Blue Bird Body Company
 7 where anyone brought up whether there was an
 8 obligation to notify customers and dealers of the
 9 overweight problem and its potential risk to safety?
 10 A Only quality.
 11 Q And that was Mr. who?
 12 A It was either Mr. Dhavale or Mr. Hight,
 13 depending on when the discussion took place.
 14 Q And his proposal was ignored?
 15 A Well, I don't think he had a proposal. He
 16 was just voicing his opinion.
 17 Q That there was enough risk of safety that
 18 people should be warned?
 19 A Correct. And that was part of the reason
 20 why we were -- we ended up contracting with
 21 ArvinMeritor.
 22 Q But that was only to get the 17,000-pound
 23 rating?
 24 A Correct.
 25 Q It would have been a pretty simple matter

211
 1 the production line?
 2 A Yes.
 3 Q Could you describe for us what that quality
 4 system was and how the approval process went?
 5 A There were a series of inspectors. At
 6 predetermined points in the assembly process, the
 7 inspectors would perform a checklist that was already
 8 written up, and they had to either pass or reject
 9 that specific item, and that would be before the line
 10 could move.
 11 Q Could you give us an example?
 12 A Of?
 13 Q The checklist.
 14 A Oh, okay. The chassis station, you would
 15 have to check torques on all nuts on fasteners. You
 16 would do a visual inspection of any welds. You would
 17 check for any scared paint. You would check for
 18 welding burns, you would look at clearances at
 19 specific areas, and then you would sign off. And
 20 there was probably a series of 40 items.
 21 Q What did those checklists look like?
 22 A Nine-and-a-half by 11, almost like a
 23 spreadsheet except it was just two columns, and each
 24 inspector had a little ink stamp with their
 25 initials -- or I think it was a number and their

210
 1 to simply send out some kind of notice to all your
 2 recipients of warranties that they should have their
 3 units weighed and determine how far overweight they
 4 were, right?
 5 A Probably, yes.
 6 Q And was there any discussion about what's
 7 going to happen if we do that?
 8 A No, not really.
 9 Q Was it simply a matter of cost that someone
 10 decided we don't really want to spend money on fixing
 11 this problem at all, that the Coachworks division of
 12 Blue Bird Body Company elected not to notify
 13 customers and dealers?
 14 MR. WASMUTH: I'll object to the
 15 form of the question to the extent it calls
 16 for the witness to speculate.
 17 A I don't know what the reason would have
 18 been.
 19 BY MR. MILBRATH:
 20 Q A few other items. You obviously were
 21 aware of the engineering -- the production line and
 22 the engineering behind it during the time that you
 23 were at Coachworks division, right?
 24 A Yes.
 25 Q Were there quality systems in place during

212
 1 initials they would stamp that particular row.
 2 Q To indicate that, in fact, they looked at
 3 it and they proved it?
 4 A Yes, they approved it. And they wouldn't
 5 stamp it until it was approved, and if there was a
 6 reject, that would note it so it could be corrected
 7 before they would stamp it.
 8 Q Was there any sort of checklist for the
 9 weights on the various axles?
 10 A I don't think there was a pass/fail
 11 checklist, I think that was part of test drive
 12 process was to weigh. And it was done at Body
 13 Company on their scale, because it was free. But you
 14 couldn't get a true, three axle weight on their
 15 scale.
 16 Q Why not?
 17 A Just the way it was configured.
 18 Q So did they leave the plant without any
 19 real weighing of the loads on the axles?
 20 A They had a front axle and a rear axle
 21 assembly which was both rear axles.
 22 Q Well, would that give you an accurate
 23 reading of the load on the front axle, for example?
 24 A Not necessarily because of how the scale
 25 was configured.

ProTEXT Transcript Condensing for Windows

213
 1 Q So how would Blue Bird Body Company know if
 2 the cargo carrying capacity certification was true or
 3 not true?
 4 A I don't know.
 5 Q And what did you do to fix that?
 6 A Asked quality to fill each unit with fuel
 7 and take it to the certified scale in Byron.
 8 Q And you began that in about 2005?
 9 A Yes.
 10 Q Is that why there are some in 2004, but not
 11 others?
 12 A Correct. Those would have been weighed at
 13 Blue Bird. I'm not sure why I have the one in the
 14 middle. Maybe it didn't sell for a while.
 15 Q Were you involved in the testing of the
 16 first prototype for the 450 LXI?
 17 A To some extent.
 18 Q Could you explain that testing process for
 19 us?
 20 A The first tests were done at experimental
 21 at Blue Bird body regarding anything that could be
 22 done in-house, lighting tests, headlight test,
 23 seatbelt anchorage test. And then we took a shell
 24 unit to the Bosch Proving Grounds in Sound Bend,
 25 Indiana for durability tests.

215
 1 A They wanted an air leveling system.
 2 Q The air leveling was added during the
 3 prototyping?
 4 A If it wasn't -- I think we prototyped it on
 5 a prototype, yes.
 6 Q All right. So was there a weighing of the
 7 front axle on their prototype?
 8 A Yes.
 9 Q And is that shown on this exhibit?
 10 A Yes.
 11 Q As which unit, the first one?
 12 A It would actually be the second one was the
 13 first one built.
 14 Q All right. Let me borrow that back from
 15 you.
 16 (Tenders document.)
 17 Q So Unit No. 1 is the prototype, and Unit
 18 No. 2 is a fully dressed out unit?
 19 A Correct. Unit No. 2 was the production
 20 pilot. Unit No. 1 was strictly a show unit.
 21 Q Was the production pilot sold to anybody?
 22 A Yes.
 23 Q Who?
 24 A Chauncey, Beau Chauncey.
 25 Q Now, what are the axle weights on Unit

214
 1 Q And by shell unit, you mean what?
 2 A It was a motor home with nothing inside.
 3 It had the -- it was fully enclosed, and it had the
 4 slide rooms in it, but just the driver's seat. It
 5 was weighted to GVW.
 6 Q I'm sorry?
 7 A GVWR, evenly distributed.
 8 Q And what were the results of the test?
 9 A There is no real result. I mean, you will
 10 see components fail at Bosch durability test, you
 11 expect it.
 12 Q Would that explain why they were numerous
 13 failures documented in the Bosch reports?
 14 A Yes.
 15 Q Would you expect the kind of failures that
 16 you had in the prototype?
 17 A I don't recall what they all were. I mean,
 18 there were several coaches that we sent to Bosch.
 19 I'd have to look at that specific test.
 20 Q Did you go through various iterations of
 21 the Hadley system as a result of that?
 22 A I don't recall if that was a result of the
 23 durability test or not. I think that was more of a
 24 sales desire at first.
 25 Q What do you mean by that?

216
 1 No. 2?
 2 A 15,500 on front; 17,500 on the drive;
 3 12,220 on the tag. That's with half a tank of fuel.
 4 Q 15,5- with no one on board?
 5 A That would have been with no one on board
 6 and no liquids because there is another weight that I
 7 have here in comments that was done on August 18th of
 8 '05. The front is at 16,480; the drive is at 18,720;
 9 the tag at 12,820.
 10 Q Why did you notice -- note the 16,4-?
 11 A I don't recall why I reweighed it. I don't
 12 remember why I did that.
 13 Q So 16,4- is obviously above the rated
 14 capacity?
 15 A Yes.
 16 Q And why was that the case?
 17 A Well, usually it's expected to some degree
 18 on a prototype.
 19 Q You mean you deliberately overweighed it?
 20 A No, it's hand built. There is not a lot of
 21 manufacturing processes in place at that point.
 22 Q So does the weight -- front end weight of
 23 Unit 2 fairly represent the 2004 units or is it too
 24 heavy?
 25 A I think it's too heavy.

ProTEXT Transcript Condensing for Windows

217
 1 Q And why was it -- that weighed in with
 2 nobody on board, and half a tank of gas, 15,5-, why
 3 did it weigh 15,5-?
 4 A I don't recall.
 5 Q That would suggest if you add your four
 6 hypothetical passengers, and around 3,000 pounds of
 7 weight, that you would be over on that --
 8 A No.
 9 Q -- first unit?
 10 A Not on the total.
 11 Q Not on the what?
 12 A Total weight.
 13 Q But you would be over on the front?
 14 A Depends on your weight distribution.
 15 Q So what you are telling me is from the
 16 very, very beginning, there was a weight problem on
 17 the front?
 18 A There was limited capacity on the front.
 19 Q If your concern was meeting the front
 20 capacity -- you certify 16,000 on a 15,500 weight?
 21 A (Witness nods head affirmatively.)
 22 Q You've only got 500 pounds.
 23 A Yes.
 24 Q And the passenger weighs 150, and the
 25 driver weighs 200, you are almost already there with

219
 1 bays, and the engine.
 2 Q Is the Webasto system something that was
 3 added after the units began to be sold?
 4 A No.
 5 Q So it was right there from the beginning?
 6 A Yes.
 7 Q And did you have any involvement in its
 8 engineering?
 9 A I was in charge of it.
 10 Q And what were the advantages to the Webasto
 11 system?
 12 A Seven heating zones throughout the interior
 13 and lots of heat in the bays, and it heated all of
 14 your domestic hot water as well.
 15 Q How did it heat the domestic hot water?
 16 A There was a heat exchanger built into the
 17 system.
 18 Q And the heat exchanger was part of the
 19 engine?
 20 A No, it's in with the Webasto. It's a
 21 purchase component.
 22 Q So when the unit is parked, does the
 23 Webasto system still run?
 24 A If you are calling for heat or hot water.
 25 Q So Dr. Mackillop is Canadian.

218
 1 just two people in it, right?
 2 A You are getting closer, yes.
 3 Q And it wouldn't take very much luggage in
 4 the bay to turn you over the 16 limit, would it?
 5 A The potential is there, yes.
 6 Q Which would mean that if you tried to load
 7 that coach up with full water, full gas, four people
 8 and 3,200 pounds of capacity, you are well exceeding
 9 the front rating, aren't you?
 10 A If you didn't distribute your weight
 11 correctly, yes.
 12 Q And would the purchaser know that?
 13 A I don't know.
 14 MR. MILBRATH: All right. Let's
 15 take about five minutes. I'm having trouble
 16 finding my document.
 17 (Brief recess, 3:57 p.m.)
 18 (Reconvene, 4:00 p.m.)
 19 MR. MILBRATH: Back on the record.
 20 BY MR. MILBRATH:
 21 Q What is a Webasto system?
 22 A It is a diesel fired hydronic heating
 23 system.
 24 Q And what is its purpose?
 25 A It heats the interior of the coach, the

220
 1 A Okay.
 2 Q So he's going to need a lot of heat.
 3 A Yes.
 4 Q So if he's parked and he needs heat, how is
 5 it going to get him heat?
 6 A You turn on the control switch, which was,
 7 I believe, in the galley, and set your thermostats.
 8 Q And where does the heat come from?
 9 A From the boiler in the third luggage bay.
 10 Q Now, is it necessary for the generator to
 11 be on in that setting?
 12 A No.
 13 Q So where does the power for the heating
 14 zones come from?
 15 A From the onboard batteries.
 16 Q So what is it that heats the heating zones
 17 in the interior, exactly?
 18 A It's a diesel-fired boiler, so it's fuel
 19 source is diesel fuel.
 20 Q All right. And what runs the diesel-fired
 21 boiler?
 22 A Diesel fuel and 24 volts DC.
 23 Q All right. So there is a diesel engine
 24 that fires a boiler for the Webasto system?
 25 A No, no diesel engine.

ProTEXT Transcript Condensing for Windows

SHEET 56 PAGE 221

PAGE 223

221
 1 Q No diesel engine.
 2 A It's its own --
 3 Q So what is the mode of force here? You are
 4 taking -- where is the battery that's supplying the
 5 power for this system?
 6 A The batteries were located in the engine
 7 compartment.
 8 Q Did you ever have any complaints over the
 9 Webasto system?
 10 A Only one.
 11 Q From whom?
 12 A I don't remember who. I think it came from
 13 sales.
 14 Q What was the complaint?
 15 A They wanted a solenoid valve in the engine
 16 heat loop.
 17 Q So is there a set of drawings available
 18 that you know of for the Webasto system that shows
 19 schematically how this system separates?
 20 A Yes.
 21 Q Where would we find that?
 22 A I don't know where all the data is stored,
 23 if Blue Bird Body has it or if whoever purchased the
 24 intellectual property at the auction has it.
 25 Q But the heat comes from a diesel-fired

223
 1 boiler?
 2 A It's in the rear section of the third
 3 luggage bay.
 4 Q And you helped design this system?
 5 A Yes.
 6 Q And is there a Webasto company that was a
 7 supplier of the parts?
 8 A The supplier of the boiler and the pump.
 9 Q And what parts did you design?
 10 A It was basically the integration of all the
 11 components and then the enclosure to house the
 12 boiler, and balancing the heat in all the different
 13 zones.
 14 Q And how is it balanced?
 15 A They are valves. There is a main manifold
 16 that comes off the Webasto that feeds each zone and
 17 you can manually balance it by manipulating those
 18 valves. And that was a factory balance only. Once
 19 it was balanced, the customer didn't have to worry
 20 about it.
 21 THE REPORTER: I'm sorry, once it
 22 was balanced?
 23 THE WITNESS: Once it was
 24 balanced, the customer didn't have to worry
 25 about it. It was a one-time adjustment.

PAGE 222

PAGE 224

222
 1 boiler?
 2 A Yes.
 3 Q And how does that diesel-fired boiler
 4 operate when the coach is parked, say, overnight in
 5 the cold?
 6 A From the batteries.
 7 Q And how do you keep from draining your
 8 batteries?
 9 A There is an auto start for the generator.
 10 Q And the generator, then -- there is a
 11 generator that is unique to that system?
 12 A No, the main generator. If your batteries
 13 get down below a certain voltage, the generator would
 14 start.
 15 Q So ultimately -- let's say it's cold, you
 16 are parked overnight, you are running the Webasto
 17 system, there is only so much energy in the
 18 batteries, you are going to have to start up the
 19 generator.
 20 A Our testing indicated 48 hours or greater
 21 with fully charged batteries.
 22 Q And the generator for the Webasto system is
 23 where?
 24 A It's the main generator in the nose.
 25 Q Okay. And where is the diesel-fired

224
 1 BY MR. MILBRATH:
 2 Q And what is the source -- you said you had
 3 a main manifold?
 4 A Yes.
 5 Q Which is located where?
 6 A Right above the Webasto.
 7 Q So if you are operating Webasto, it
 8 wouldn't be necessary for you to operate the engine
 9 in the bus itself, would it?
 10 A When you are parked, no.
 11 Q So even when it fires up the generator in
 12 the bay, there would be no need to operate the
 13 engine?
 14 A Correct.
 15 MR. MILBRATH: Okay. I have no
 16 other -- well, I do have one set --
 17 THE WITNESS: Can I ask where you
 18 are going with all that?
 19 MR. WASMUTH: No, you can't.
 20 THE WITNESS: Okay.
 21 MR. MILBRATH: It's unique to
 22 Dr. Mackillop's unit. There is some issues
 23 about his unit that are not common to some
 24 of the other problems.
 25 (Plaintiff's Exhibit No. 233 marked for

ProTEXT Transcript Condensing for Windows

225
 1 identification.)
 2 BY MR. MILBRATH:
 3 Q I'll show you what I've marked for your
 4 deposition as Exhibit 233.
 5 (Tenders document.)
 6 Have you seen that before today?
 7 MR. WASMUTH: You gave me the one
 8 you wrote on.
 9 (Tenders document.)
 10 MR. BEACHAM: Did you say you are
 11 finished questioning?
 12 MR. MILBRATH: Just about. One
 13 more exhibit. I'm on Exhibit 233, which was
 14 Exhibit 103 in the Bauer deposition.
 15 MR. BEACHAM: No problem. I
 16 didn't want you all to hang up on me before
 17 I got to ask a couple.
 18 BY MR. MILBRATH:
 19 Q Any of this look familiar to you?
 20 A No, not really.
 21 Q So were you involved in the steering
 22 resolution summit?
 23 A Not in 2002.
 24 Q And there is some sections on this document
 25 that relate to tie rod, load capacity and the like.

227
 1 Q 45 being the 450 LXI?
 2 A Correct.
 3 Q So did this have any influence on the
 4 450 LXI design?
 5 A Ultimately, yes.
 6 Q In what sense?
 7 A Well, it raised the gross axle weight
 8 rating from 13,000 to 16,000.
 9 Q 16,000 wasn't enough?
 10 A Ultimately, no.
 11 Q And the 450 LXI design, did they simply
 12 rely upon this work for the earlier, smaller version
 13 in arriving at the 16,000-pound rating?
 14 A I'm not sure. I would have to study this
 15 document for awhile to tell you that.
 16 MR. MILBRATH: I have no other
 17 questions.
 18 MR. WASMUTH: Frank, if you want
 19 to go ahead, please do.
 20 MR. BEACHAM: Okay, Ed.
 21 DIRECT EXAMINATION
 22 BY MR. BEACHAM:
 23 Q Mr. Johnson, my name is Frank Beacham.
 24 Obviously we've not met in person, but I represent
 25 Parliament Coach Company, and I've just got a few

226
 1 I take it that you were not involved in any of this,
 2 and so you are not the one to ask?
 3 A No. I would assume the gentleman that was
 4 involved with this was -- he left the company and I
 5 was asked to fill in for him.
 6 Q And who is that?
 7 A His name was Mark Thompson.
 8 Q So when did you begin filling in for him?
 9 A It was when the 45-foot coach was in
 10 development. This appears that it was done for the
 11 38-foot durability test, because there is a lot of
 12 data that's somewhat wrong.
 13 Q So this is not for the 450 LXI, but for its
 14 predecessor?
 15 A Well, I think the issue that they were
 16 seeing -- I mean, if you look at Page 1 -- let's see,
 17 where did I just see it? Originally the M380, which
 18 was the 38-foot version that they were just starting
 19 production on when I started, was at the durability
 20 track, and the front axle was rated at 13,000 pounds.
 21 And what this appears to be is they wanted to up the
 22 weight rate to 16,000. And they wanted to have a
 23 common platform between 38 and 45-foot vehicles, so I
 24 knew the 45 was coming then, but we hadn't started
 25 it.

228
 1 questions for you.
 2 Are you familiar with Parliament Coach
 3 Company?
 4 A Yes.
 5 Q Or Parliament Coach Corporation is the
 6 name.
 7 How are you familiar with Parliament?
 8 A Well, I know they were a dealer for
 9 Wanderlodge. I also know Harvey Mitchell and Steve
 10 Mitchell.
 11 Q Okay. And do you know them exclusively
 12 from your employment with the entities that we've
 13 been discussing today or do you know them outside of
 14 that context?
 15 A I've known Harry Mitchell in the industry
 16 for probably 20 years.
 17 Q Okay. And Steve?
 18 A Steve, I met when I was at Wanderlodge.
 19 Q Okay. And what has been the nature of your
 20 knowledge of them, or have you dealt directly with
 21 them, or is this just sort of see each other at the
 22 trade shows kind of thing?
 23 A More or less see each other at the trade
 24 shows and at functions that would be going on at Blue
 25 Bird, Rally in the Valley, stuff like that.

ProTEXT Transcript Condensing for Windows

229
 1 Q Okay. How about actual business
 2 transactions?
 3 A You mean with me personally?
 4 Q Well, let's start there. Yeah, with you
 5 personally.
 6 A No, not with me personally.
 7 Q Okay. How about when I say business
 8 transaction, I mean business related. Related to
 9 your role as engineer, have you had any interaction
 10 with Parliament?
 11 A No, not outside of any training that would
 12 be happening during the rally, and that would be only
 13 if a salesman decided he wanted to sit in.
 14 Q Okay. So from time to time you would
 15 conduct training at the rallies?
 16 A Yes.
 17 Q Okay. What kind of training would be that
 18 be?
 19 A Usually on the Webasto heating system.
 20 Q On the heating system?
 21 A Heating system, air conditioning system. I
 22 would discuss generator maintenance. I would discuss
 23 different maintenance issues on the coaches. I was
 24 involved in the roundtable discussions with owners so
 25 we could listen to issues, ideas, comments, concerns

231
 1 specific to the 450 LXI, were they?
 2 A No, they were in general for Wanderlodge.
 3 Q Okay. Across the product --
 4 A Yeah.
 5 Q -- range?
 6 A Yes.
 7 Q Okay. Did you ever have any discussions
 8 with -- you personally with anyone at Parliament at
 9 any time about the axle loading or the overweight
 10 recreational vehicles?
 11 A No.
 12 Q Okay. Did anybody from Parliament ever
 13 attend any of the staff meetings that you discussed
 14 earlier with Mr. Milbrath where safety concerns or
 15 concerns over the weight of the 450 LXI were ever
 16 brought up?
 17 A No.
 18 Q Okay. Do you have any knowledge of
 19 Parliament's awareness of the weight issue? Do you
 20 have any independent knowledge of Parliament? For
 21 instance, have you discussed with Parliament -- I'm
 22 sorry. I'll withdraw that because you've already
 23 answered that.
 24 Do you have any -- outside of any
 25 discussions that you have not had with Parliament,

230
 1 that they had and try to make a determination of what
 2 we could react to.
 3 Q Okay. And is it your recollection that
 4 anybody from Parliament was at one of those sessions
 5 or are you just saying somebody from Parliament may
 6 have been in some of those sessions?
 7 A They may have been. I don't recall
 8 specifically if somebody was sitting in there.
 9 Q Okay. They may have been but...
 10 A Well, these were fairly large seminars.
 11 Q Okay. You have no specific recollection of
 12 anyone from Parliament being in any of those
 13 sessions?
 14 A No.
 15 Q Were any of those training sessions or
 16 owner -- I'm sorry, what was the term you used about
 17 the owner session s?
 18 A Roundtable.
 19 Q Were any of the training sessions or the
 20 owner roundtable sessions related to the subject of
 21 waiting on front axles?
 22 A No, not specifically. I mean, we discussed
 23 more about loading of vehicles.
 24 Q Okay. I guess I should back up and say
 25 these training sessions or roundtables were not

232
 1 have you any knowledge of Parliament's awareness of
 2 the weight issue that we've been discussing all day?
 3 A No.
 4 MR. BEACHAM: Okay. Ed and Steve,
 5 that's all I've got for right now. I may
 6 have a couple more, Ed, if you are going to
 7 ask any --
 8 MR. WASMUTH: Yeah, I am.
 9 MR. BEACHAM: -- or if not, I
 10 guess we are done.
 11 MR. MILBRATH: Can I ask a couple
 12 of Webasto questions?
 13 MR. WASMUTH: Sure. Go ahead.
 14 MR. MILBRATH: I was looking
 15 through my notes --
 16 MR. WASMUTH: Go ahead.
 17 MR. MILBRATH: -- if I could follow
 18 up on the Webasto issue.
 19 MR. WASMUTH: Go ahead.
 20 RECCROSS EXAMINATION
 21 BY MR. MILBRATH:
 22 Q Is there a recirculation pump in that
 23 system?
 24 A Yes.
 25 Q And does it run continuously when the unit

ProTEXT Transcript Condensing for Windows

233
 1 is on?
 2 A Yes.
 3 Q And it's powered by the battery?
 4 A Correct.
 5 Q So it requires the generator to run it when
 6 it runs low on the battery?
 7 A Yes.
 8 Q Is it necessary for the -- withdraw that.
 9 Is it possible to heat the coach without
 10 heating the engine?
 11 A That was the comment that I got from
 12 owners, that they wanted to add a valve to that
 13 circuit.
 14 Q And was that one added?
 15 A We did the engineering work, but in the
 16 midst of that, the division was sold.
 17 Q So is it -- under the existing design, is
 18 it possible to heat the coach without heating the
 19 engine?
 20 A With a valve -- if a valve was retrofit
 21 into the system, yes.
 22 Q But not otherwise?
 23 A There's manual valves now, but you have to
 24 turn them off.
 25 Q So is that fix simply adding a valve?

235
 1 temperature?
 2 Q Yes.
 3 A Yes.
 4 Q And what is the function of the Webasto
 5 button near the galley?
 6 A It turns the system on and off.
 7 Q And is that the same as the engine preheat
 8 button on the dash?
 9 A Yes.
 10 Q Is the engine and radiator heated whenever
 11 the Webasto is turned on by either switch?
 12 A Currently, yes.
 13 Q And is that a situation where you were
 14 attempting to correct with your fix?
 15 A Yes.
 16 Q So the Webasto has to be on to heat the
 17 coach, even when the engine is running?
 18 A No -- no, I'm sorry, I take that back.
 19 Yes.
 20 Q Because it's required to keep the
 21 recirculation pump --
 22 A That's correct.
 23 Q -- running?
 24 Even when the engine is running, the
 25 Webasto burner will cycle on to bring the radiator

234
 1 A A valve and then controlling it
 2 electrically at the right time.
 3 Q Did you ever -- did you actually design
 4 that fix?
 5 A Yes.
 6 Q And are there drawings --
 7 A Yes.
 8 Q -- of that fix?
 9 If I wanted to find them, where would I
 10 find them?
 11 A That was when we were still part of Body
 12 Company. The work was done in CATIA, so chances are
 13 it's in the Body Company database for drawings.
 14 Q Under that fix, would you heat the engine
 15 without heating the radiator?
 16 A No.
 17 Q Does the burner use ethylene glycol?
 18 A The burner does not, the system does.
 19 Q And what does the ethylene glycol do?
 20 A That is the heating transfer fluid in the
 21 system.
 22 Q So is it necessary for the Webasto boiler
 23 to operate and maintain a minimal radiator
 24 temperature?
 25 A Operate and maintain a minimum radiator

236
 1 heat up to the minimal?
 2 A Only if called for.
 3 Q Called for in what respect?
 4 A Well, if the coolant temperature is not
 5 warm enough, the burner will fire to bring that
 6 coolant temperature up if you are heating the
 7 interior of the coach.
 8 Q So the Webasto burner will cycle on to
 9 bring the radiator heat up to a minimum, say, you are
 10 in cold conditions, if the engine load is not enough
 11 to keep the radiator hot?
 12 A Correct.
 13 Q Is that a problem?
 14 A No. The system was designed to do that.
 15 MR. MILBRATH: Okay. Thanks.
 16 DIRECT EXAMINATION
 17 BY MR. WASMUTH:
 18 Q I want to get out some of the exhibits.
 19 First of all, by way of background, you
 20 mentioned Coachworks. Where was the Coachworks
 21 facility physically in relationship to the Blue Bird
 22 Body Company plant?
 23 A The opposite side of Highway 49.
 24 Q Okay. And where were the -- that's where
 25 the production facility was?

ProTEXT Transcript Condensing for Windows

237
 1 A For Coachworks, yes.
 2 Q And where were the Coachworks' offices?
 3 A In that same building.
 4 Q Did anyone have -- in Coachworks have an
 5 office on other side of the street, to your
 6 knowledge?
 7 A Not that I know of.
 8 Q While you were participating in any of
 9 these staff meetings that you mentioned earlier, do
 10 you recall anyone from the other side of the street
 11 coming over to participate in any of those meetings?
 12 A No.
 13 Q Did you ever participate in meetings on the
 14 other side of the street at the bus company plant?
 15 A It was only training, it wasn't really
 16 meetings.
 17 Q Okay. Did you ever discuss -- go over
 18 across the street to discuss any 450 LXI design
 19 issues with any of the engineers over on the bus side
 20 of the facility?
 21 A Not after we got into production.
 22 Q What about preproduction, who would you
 23 have talked with?
 24 A The man in experimental, the technicians.
 25 Q Who were building the prototypes?

239
 1 Q And what, based on your experience, could
 2 those things include?
 3 A There is a myriad. I mean, anything from
 4 dog kennels, to additional awnings, to platforms on
 5 the roof to watch the races, to whatever.
 6 Q So an e-mail reference earlier, a coach
 7 that had an electric cart mounted in it, would that
 8 be the kind of option that sticker refers to?
 9 A Well, if the owner purchased it from the
 10 dealer.
 11 Q Okay.
 12 A But that would be like -- I'm assuming
 13 that's like a golf cart.
 14 Q Well, based on your experience, did Blue
 15 Bird install golf carts --
 16 A No.
 17 Q -- at the factory?
 18 A No.
 19 Q Is there anything on the sticker that makes
 20 reference to an individual axle weight rating?
 21 A No.
 22 Q The calculation is essentially comparing
 23 the combined gross vehicle weight rating to the
 24 actual weight of the whole vehicle; is that correct?
 25 A Yes.

238
 1 A Yes.
 2 Q Take a look at Exhibit 102 a second.
 3 In any of these coaches, was the combined
 4 gross vehicle weight exceed the combined gross
 5 vehicle weight rating?
 6 A No.
 7 Q Take a look at Exhibit 228, the
 8 photographs.
 9 Do you see at the bottom where it says,
 10 "warning"?
 11 A Yes.
 12 Q Read that for the record, please, would
 13 you?
 14 A "Consult owner manuals for specific
 15 weighing instructions and towing guidelines,
 16 including auxilliary brake requirements for any towed
 17 trailer or towed vehicle."
 18 Q And what does the line above the warning
 19 say?
 20 A "Dealer installed equipment and towed
 21 vehicle tongue weight will reduce cargo carrying
 22 capacity."
 23 Q What was your understanding of what dealer
 24 installed equipment consisted of?
 25 A Anything that the factory didn't install.

240
 1 Q Looking back at Exhibit 102 a second, do
 2 you recall ever actually being physically present at
 3 the Pilot station when any of those coaches were
 4 weighed?
 5 A Yes, several times.
 6 Q Okay. Do you recall how many times?
 7 A I would say half a dozen.
 8 Q And on those other occasions, you would
 9 just give the instructions to the quality people as
 10 to what to do?
 11 A Well, the first time we went, I went with
 12 them, and I showed them how I wanted it weighed.
 13 Q Okay.
 14 A And I told them I didn't want them in it, I
 15 wanted it to be full of fuel; but we couldn't fill at
 16 the Pilot, we had to fill at the plant.
 17 Q Okay. And after those few initial times,
 18 you ceased going?
 19 A Only when I had some time, or, you know,
 20 there was something that quality may have wanted me
 21 to listen to something or something along those
 22 lines.
 23 Q Let's take a look at Exhibit 120.
 24 You mentioned the Blue Bird -- the bus
 25 plant having a scale; is that correct?

ProTEXT Transcript Condensing for Windows

SHEET 61 PAGE 241

PAGE 243

241
 1 A Yes.
 2 Q Do you remember what kind of scale it was?
 3 A Not the manufacturer, but it was a big
 4 drive on scale.
 5 Q Was it capable of giving a reading on an
 6 individual axle?
 7 A No, not with any kind of precision.
 8 Q Okay. Now, you mentioned the coaches being
 9 weighed. Is that where the coaches -- were coaches
 10 weighed on that scale on a routine basis?
 11 A Yes.
 12 Q And was that weight recorded somewhere?
 13 A Yes.
 14 Q And it was recorded as a -- what would have
 15 been recorded would have been the gross vehicle
 16 weight, correct, the combined weight?
 17 MR. MILBRATH: Object to the form.
 18 BY MR. WASMUTH:
 19 Q Well, do you know what would have been
 20 recorded from that scale?
 21 A It would have been the front axle, the rear
 22 axil set and the total.
 23 Q Okay. Now, you mentioned -- speaking of --
 24 thinking about these labels, who was responsible for
 25 printing those labels, what department, I should say?

243
 1 we chose the more difficult of the events. We
 2 torqued the coach enough to where we were popping
 3 skins loose and breaking windows.
 4 Q Why would you do that to the coach?
 5 A Because I wanted to see what it could do.
 6 Q Essentially you wanted it to fail?
 7 A I wanted to see how far you can take it
 8 before it does fail.
 9 Q And what was your assessment of the
 10 durability testing on the coach?
 11 A Well, we passed all the testing. We were
 12 complimented numerous times by the technicians at
 13 Sound Bend. We would leave -- I actually went to the
 14 track once and we would leave to go on our durability
 15 cycle, and all -- there was another RV company that
 16 had a unit there, and they would go to the track just
 17 to drive in circles, and we would go out in the
 18 woods, and we would be doing these events that
 19 just -- I couldn't film it inside. I had to get out
 20 to film it. And it just -- it was a tank on wheels
 21 and that's what we were going after.
 22 Q Now, was there an attempt to simulate a
 23 certain amount of mileage being put on the unit?
 24 A Yes. A typical test at Bosch is one track
 25 mile can equal up to 30 miles of real world use.

PAGE 242

PAGE 244

242
 1 A Quality control.
 2 Q And would you be physically present when
 3 the labels were presented?
 4 A No, I just -- I helped to set up the
 5 spreadsheet and then lay out the print template so it
 6 would print in the right places.
 7 Q And what data needed to be entered into the
 8 spreadsheet to do the calculations?
 9 A Basically the unloaded vehicle weight.
 10 Q And did individual axle weight need to be
 11 loaded into the spreadsheet --
 12 A No.
 13 Q -- to produce the label?
 14 Now, you mentioned that 450 LXI being
 15 subject to durability testing at the Bosch Proving
 16 Grounds. Explain for the jury what that test
 17 involved.
 18 A Well, basically it is -- it's located in
 19 Sound Bend, Indiana. They have various -- they call
 20 them events, anywhere from broken concrete that's
 21 poured into wet concrete so it sticks out of the
 22 concrete up to 6 inches; cycle bumps where you can
 23 actually twist the body up to 3 inches; a track where
 24 you just put miles on; and there's a number of
 25 events, undulations for slow, severe twisting. And

244
 1 Q And how far did you try to push the 450?
 2 A We wanted to go at least 250,000 miles.
 3 Q Now, you testified earlier about
 4 conversations beginning, I think, in 2005 with
 5 ArvinMeritor about upgrading the independent front
 6 suspension to 17,000 pounds. Do you recall that?
 7 A Yes.
 8 Q How often would you talk with ArvinMeritor
 9 about this issue during that time period?
 10 A For general status during their durability
 11 testing, it was weekly. When there were other
 12 issues, it would be more frequent.
 13 Q What was ArvinMeritor told by Blue Bird
 14 about why they wanted to have a 17,000-pound range
 15 front axle?
 16 MR. MILBRATH: Objection. Lacks
 17 predicate at this time.
 18 BY MR. WASMUTH:
 19 Q During this 2005, 2007 time period?
 20 A Because the coaches were getting heavier.
 21 Q What was said about whether or not any of
 22 the coaches were at or near an axle rating?
 23 A I don't recall specifically.
 24 Q What was ArvinMeritor's reaction, if any,
 25 to the situation of the coaches getting heavier?

ProTEXT Transcript Condensing for Windows

245
 1 A I think they found it to be somewhat
 2 routine.
 3 Q That was your assessment of their reaction?
 4 A Yeah.
 5 Q Did at any time they ever urge Blue Bird to
 6 immediately park all the coaches?
 7 A No.
 8 Q Did they ever urge Blue Bird to immediately
 9 inform the owners of that?
 10 A No.
 11 Q Did TRW ever take any of those steps?
 12 A I don't know.
 13 Q Now, did you undertake as a part of your
 14 responsibilities any efforts to monitor the
 15 performance of the independent front suspension in
 16 the field as it was in use, I should say?
 17 A We had one coach which was the first -- was
 18 the production pilot that came back to us and the
 19 gentleman that bought it, Beau Chauncey, was a
 20 full-timer.
 21 And he came in for some other work, and the
 22 service guys called me out to Service to look at the
 23 coach. And we realized that -- I don't know why, but
 24 his wife had purchased a pallet of shower cleaner and
 25 put it in the front bay.

247
 1 Q Now, when coaches would come in for service
 2 from time to time, would the alignment be checked on
 3 those coaches?
 4 A Yes. If it was a customer request, yes.
 5 Q During the course of your time with Blue
 6 Bird, did you notice any -- what, if any, unusual
 7 alignment issues did you notice with the 450 LXI?
 8 A It was more a matter of training the
 9 personnel on how to do a six-wheel alignment than
 10 actual issues with the alignment.
 11 Q Aside from the training issues, did you see
 12 any unusual performance or any unusual out of
 13 alignment conditions in the 450 LXI?
 14 A No, not really.
 15 Q Now, you mentioned earlier, I think, very
 16 early today, you had a view that there was safety
 17 factor built into the weight rating --
 18 A Yes.
 19 Q -- of the IFS.
 20 Based on your understanding, your work at
 21 Blue Bird, what was that safety rating --
 22 A 1. --
 23 Q -- or safety factor?
 24 A 1.2.
 25 Q And that's a multiple of the weight rating?

246
 1 So I asked the service guys to please weigh
 2 the coach. We found that the front axle was way over
 3 18,000. And we asked Mr. Chauncey if we could swap
 4 out his front IFS suspension, because I wanted to see
 5 it. And I convinced my boss that we needed to do
 6 that, and Mr. Chauncey agreed, and we did that.
 7 Q And what examination was made of the
 8 independent front suspension removed from
 9 Mr. Chauncey's coach?
 10 A We cleaned it, sandblasted it, inspected it
 11 visually, used a dye penetrant to test welds and look
 12 for cracks. I don't know if we sent it back to
 13 ArvinMeritor or not, I don't believe we did.
 14 Q Do you have any recollection of how many
 15 miles the coach had on it at that point?
 16 A It wasn't very many.
 17 Q And what, if anything, did you discover
 18 about the condition of the IFS?
 19 A That there was no problems with it.
 20 Q Now, did Blue Bird have the capacity to
 21 check the alignment of coaches?
 22 A Yes.
 23 Q What sort of facility did it have for that?
 24 A We had a beeline system that was geared
 25 specifically towards independent front suspension.

248
 1 A Times 1.2.
 2 Q And I think we did the math earlier, so for
 3 a 16,000-pound axle --
 4 A Is 19,2-?
 5 Q -- safety factor is 19,2-?
 6 A Yes.
 7 Q Now, you mentioned that the work that was
 8 done, the testing work that was done by ArvinMeritor
 9 for the upgraded tie rod, do you remember that?
 10 A Yes.
 11 Q Was that -- did Blue Bird have to pay --
 12 Coachworks have to pay ArvinMeritor to perform that
 13 work?
 14 A Yes.
 15 Q Do you recall how much Blue Bird paid to
 16 have that work performed?
 17 A What I recall is \$150,000.
 18 Q You mentioned earlier discussions with
 19 Scott Bauer beginning in around September of 2007
 20 about the weight issue. What was your observation of
 21 Scott Bauer's reaction to all of this coming up at
 22 that time?
 23 A Well, besides not wanting to have another
 24 project, he didn't know anything about it, so there
 25 was some degree of surprise.

ProTEXT Transcript Condensing for Windows

249
 1 Q Did you ever speak with anyone else on the
 2 other side of the street in 2007 about this other
 3 than Scott Bauer?
 4 A I don't believe I did.
 5 Q I want to look a second at 120.
 6 Other than what's printed on that sheet, do
 7 you have any understanding of the condition of the
 8 coaches that might have been weighed at Coachworks in
 9 2008?
 10 A Other than what's on here?
 11 Q Correct.
 12 A No.
 13 Q Do you know what kind of scales would have
 14 been used to generate those weights?
 15 A Well, judging by the instructions, it says
 16 roll upon scales, and I know that the experimental
 17 department in Body Company had a set of load scales
 18 that they used for weighing coaches.
 19 Q But it doesn't reflect them being weighed
 20 at the Pilot.
 21 A This, no.
 22 Q When you were examining the weight
 23 situation in the time period beginning in 2005 and
 24 into 2007, did you have a view as to whether or not
 25 what you were seeing created an imminent risk of

251
 1 Q And why was that?
 2 A The first two bays were filled with bottles
 3 of liquid.
 4 Q But you ordinarily would not weigh a
 5 vehicle full, you would weigh it empty, wouldn't you?
 6 A Yes.
 7 Q So you would only weigh it with full fuel,
 8 full water, and you would assume four hypothetical
 9 passengers about 154 pounds a passenger, right?
 10 A Yes.
 11 Q But you wouldn't weigh it filed with
 12 fluids?
 13 A Correct. It was an unloaded vehicle weight
 14 is what I was after.
 15 Q And you do have that unloaded vehicle
 16 weight on the -- albeit not consistent with the CCC,
 17 on your chart, right?
 18 A Yes. That would be the total weight.
 19 Q Now, so that was the one with 17 -- excuse
 20 me -- 15,500 pounds on the front?
 21 A I'm sorry, what was the number again?
 22 Q I think you said it was No. 2.
 23 A Oh, yes, that's correct.
 24 Q Now --
 25 A And that is with a half a tank of fuel.

250
 1 safety, safety risk to the operators of the vehicle?
 2 A No, I didn't see the need -- the imminent
 3 risk. I saw something that we were working on,
 4 working towards correcting. And if we would have
 5 seen any imminent risk, I'm sure that it would have
 6 been dealt with.
 7 MR. WASMUTH: That's all I have.
 8 Thank you, Mr. Johnson.
 9 MR. MILBRATH: A few follow up
 10 questions.
 11 FURTHER RE-CROSS EXAMINATION
 12 BY MR. MILBRATH:
 13 Q The Chauncey vehicle was which one sold?
 14 A I'm sorry.
 15 Q Was that the second one?
 16 A 275. And that was the production pilot.
 17 Q So that would be the first one?
 18 MR. WASMUTH: No, on this chart,
 19 it's 2.
 20 BY MR. MILBRATH:
 21 Q It's no. 2 on your chart?
 22 A Yes.
 23 Q And you said it was weigh over 18,000 on
 24 the front?
 25 A Yes.

252
 1 Q Your chart, by the way, although you were
 2 not there to look at every one of these pilots on
 3 No. 102, records correctly the certified weight
 4 receipts you received from Pilot, right?
 5 A Correct.
 6 Q So you -- Blue Bird -- the coachworks
 7 division of Blue Bird paid for the Pilot to do that,
 8 correct?
 9 A Correct.
 10 Q And received those weight ratings in the
 11 ordinary course of its business?
 12 A Yes.
 13 Q And then you recorded those on your chart?
 14 A Yes.
 15 Q Your chart accurately reflects those
 16 certified weight ratings?
 17 A Yes.
 18 Q And you relied upon those weight ratings in
 19 your business?
 20 A To track the weight of the coaches, yes.
 21 Q Counsel used the phrase, "the other side of
 22 the street." Did you understand him to mean the Blue
 23 Bird bus -- I mean, Blue Bird school bus side?
 24 A That was the normal phraseology that we
 25 used, yes.

ProTEXT Transcript Condensing for Windows

253
 1 Q The other side of the street, the people
 2 that make the school buses?
 3 A Correct.
 4 Q But up until August, it was part of a
 5 common company, was it not?
 6 A Yes.
 7 Q And the manager of your side reported to
 8 Blue Bird Body Company senior management, right?
 9 A I'm not sure who he reported to.
 10 Q Well, he didn't have anybody else to report
 11 to. Mr. Wayne -- what is his name?
 12 A Joseph.
 13 Q Wayne Joseph?
 14 A Yes.
 15 Q Had no one else to report to accept senior
 16 management at Blue Bird, right, because he was a guy
 17 in charge of your division?
 18 A I understand.
 19 Q So if he made a decision not to spend money
 20 to fix this problem, he was acting on behalf of Blue
 21 Bird Body Company, was he not?
 22 MR. WASMUTH: Object to the form.
 23 It calls for a legal conclusion. You can
 24 answer it if you have an answer.
 25 A Again, I'm not sure. There were owners

255
 1 tag axle?
 2 A I think that was about right, yes.
 3 Q And do you know if that was ever changed?
 4 A I don't know if it was changed. I did not
 5 change it.
 6 Q If you changed it to 65/35, what would the
 7 effect be on the front axle load?
 8 A You would remove loading from the front
 9 axle.
 10 Q Does that increase the load on the drive
 11 axle?
 12 A Ultimately, yes.
 13 Q Did you attempt to comply with DOT limits
 14 in the axle ratings?
 15 A I attempted, not succeeded.
 16 Q But your intention was not to violate the
 17 DOT limit?
 18 A Correct.
 19 Q Do you know what the DOT limits were on the
 20 front axle?
 21 A Front axle, DOT would be 20,000.
 22 Q And the drive axle?
 23 A That would be 20,000.
 24 Q And the rear and the tag axle?
 25 A Tag axle would be 20 by itself, but the

254
 1 beyond Blue Bird, and I don't know exactly who he
 2 answered to.
 3 Q Are you aware of any fixes to the alignment
 4 that were required on this bus -- excuse me, on this
 5 RV?
 6 A No.
 7 Q Would you be surprised to learn that as
 8 part of the recall, there were a number of RVs like
 9 Dr. Mackillop's that required mechanical alterations
 10 to correct the alignment?
 11 A I guess I would ask what kind of mechanical
 12 alterations?
 13 Q No one has told you anything about that?
 14 A No.
 15 Q You --
 16 A I mean, did they have to be realigned?
 17 Q It wasn't a matter of realigning, it was
 18 that they couldn't be realigned without mechanical
 19 fixes.
 20 A Okay.
 21 Q You're not aware of that?
 22 A No.
 23 Q You testified earlier about a fulcrum
 24 effect. In the Hadley system, was there an intended
 25 ratio of about 60/40 between the drive axle and the

256
 1 tandems are 34. So if you take the drive and tag,
 2 you have to weigh those as a unit, unless they are
 3 more than 4 feet apart.
 4 Q What do the 150,000 that Blue Bird spent,
 5 according to your testimony, go for at ArvinMeritor?
 6 A Testing and development for the -- testing
 7 primarily of the front IFS assembly.
 8 Q For the 17,000 rating?
 9 A Correct.
 10 Q But not for the 18,000?
 11 A I'm not sure how the purchase order was
 12 worded.
 13 MR. MILBRATH: Thanks. I have no
 14 other questions.
 15 MR. WASMUTH: Thank you. We are
 16 done.
 17 MR. MILBRATH: You have the right
 18 to read the transcript and to note any
 19 changes in recording of a question or an
 20 answer on an errata sheet or you can waive
 21 that right. The choice is entirely yours.
 22 THE WITNESS: I have to make a
 23 decision now?
 24 MR. MILBRATH: Yeah, but if you are
 25 in doubt, why don't you just say you'll get

ProTEXT Transcript Condensing for Windows

257

1 a copy from Ed?

2 THE WITNESS: All right.

3 MR. WASMUTH: I would recommend

4 you reserve signature and I'll get you a

5 copy.

6 THE WITNESS: Okay. That's fine.

7 I'll get a copy.

8 MR. BEACHAM: Thank you,

9 Mr. Johnson.

10 THE WITNESS: You're welcome.

11 MR. WASMUTH: Thank you, Frank.

12 (Deposition concluded 4:50 p.m.)

13

14

15

16

17

18

19

20

21

22

23

24

25

258

1 E R R A T A P A G E

2

3 I, ERIK JOHNSON, the witness herein, have

4 read the transcript of my testimony and the same is

5 true and correct, to the best of my knowledge, with

6 the exception of the following changes noted below,

7 if any:

Page / Line /	Change	/ Reason
8 _____	_____	_____
9 _____	_____	_____
10 _____	_____	_____
11 _____	_____	_____
12 _____	_____	_____
13 _____	_____	_____
14 _____	_____	_____
15 _____	_____	_____
16 _____	_____	_____
17 _____	_____	_____
18 _____	_____	_____
19 _____	_____	_____
20 _____	_____	_____
21 _____	_____	_____

22 Sworn to and subscribed before me,

23 this the ____ day of _____, 2009.

24 _____

25 Notary Public
My commission expires: