

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO. 95-CVS-08788

GEORGE A. LEE,

PLAINTIFF,)

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C.S.X. TRANSPORTATION, INC.,

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DEFENDANT.)

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DEPOSITION

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DAVID ANDREW ECURT

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AT ROCKY MOUNT, NORTH CAROLINA  
JANUARY 22, 1997; 2:30 P.M.

REPORTED BY: MARTHA JEAN ROBBINS

C (COPY

A P P E A R A N C E S

FOR THE PLAINTIFF: MR. RICHARD N. SHAPIRO  
WILSON, HAJEK & SRAPIRO  
POST OFFICE BOX 5369  
VIRGINIA BEACH, VIRGINIA 23455

FOR THE DEFENDANT: MR. JOHN C. MILLBERG  
MR. WILLIAM W. STEWART, JR.  
MILLBERG & GORDON  
1030 WASHINGTON STREET  
RALEIGH, NORTH CAROLINA 27605

ALSO PRESENT: MR. HEYWARD W. WATFORD, JR.  
CLAIMS REPRESENTATIVE  
C.S.X. RAIL TRANSPORT

MR. GEORGE LEE

ASSOCIATED REPORTING & TRANSCRIPTION  
P. O. BOX 17418, RALEIGH, N. C. 27619  
(919) 782-5526

T A B L E O F C O N T E N T S

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED BETWEEN THE PARTIES TO THIS ACTION, THROUGH THEIR RESPECTIVE COUNSEL OF RECORD:

(1) THAT THE DEPOSITION OF DAVID ANDREW HURT MAY BE TAKEN ON WEDNESDAY, JANUARY 22, 1997, BEGINNING AT 2:30 P.M., IN THE OFFICES OF C.S.X. TRANSPORTATION, ROCKY MOUNT YARD, 101 SUTTON ROAD, ROCKY MOUNT, NORTH CAROLINA, BEFORE MARTRA JEAN ROBBINS, A NOTARY PUBLIC.

(2) SAID DEPOSITION SHALL BE TAKEN FOR THE PURPOSE OF DISCOVERY OR FOR USE AS EVIDENCE IN THIS ACTION, OR FOR BOTH PURPOSES.

(3) ANY OBJECTIONS OF ANY PARTY HERETO AS TO NOTICE OF THE TAKING OF SAID DEPOSITION OR AS TO THE TIME OR PLACE THEREOF, OR AS TO THE COMPETENCY OF THE PERSON BEFORE WHOM THE SAME SHALL BE TAKEN, ARE HEREBY WAIVED.

(4) THE NORTH CAROLINA RULES OF CIVIL PROCEDURE SHALL CONTROL THE TAKING OF SAID DEPOSITION AND THE USE THEREOF IN COURT.

(5) OBJECTIONS TO QUESTIONS AND MOTIONS TO STRIKE ANSWERS NEED NOT BE MADE DURING THE TAKING OF THE DEPOSITION, BUT MAY BE MADE FOR THE FIRST TIME DURING THE PROGRESS OF THE TRIAL OF THE CASE, OR AT ANY PRETRIAL HEARING HELD BEFORE ANY STATE COURT MMGE FOR THE PURPOSE

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OF RULING THEREON OR AT ANY OTHER HEARING OF SAID CASE AT WHICH SAID DEPOSITION MIGHT BE USED, EXCEPT THAT AN OBJECTION AS TO THE FORM OF A QUESTION MUST BE MADE AT THE TIME SUCH QUESTION IS ASKED OR OBJECTION IS WAIVED AS TO THE FORM OF THE QUESTION.

(6) THAT THE RIGHT TO READ AND SIGN THE TRANSCRIPT BY THE WITNESS IS HEREBY WAIVED BY THE WITNESS.

(7) EXCEPT AS WAIVED BY THIS STIPULATION, THE PROVISIONS OF THE NORTH CAROLINA RULES OF CIVIL PROCEDURE SHALL APPLY TO THE TAKING OF SAID DEPOSITION AND AS TO ITS SUBMISSION TO THE RESPECTIVE DEPONENT, CERTIFICATION AND FILING UNDER SEAL WITH THE APPROPRIATE NOTICING ATTORNEY.

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WHEREUPON,

2

3

DAVID ANDREW MMT,

4

HAVING FIRST BEEN DULY SWORN,

5

WAS EXAMINED AND TESTIFIED

6

AS FOLLOWS:

7

DIRECT KXAMINATION BY MR. MILLBERG:

8

(THEREUPON, PHOTOGRAPHS WHICH WERE REFERRED TO

9

IN THE DEPOSITION WERE MARKED AS DEFENDANT'S

10

DEPOSITION EXHIBIT NOS. 1 THROUGH 34, HURT

11

DEPOSITION, FOR IDENTIFICATION.)

12

WOULD YOU PLEASE STATE YOUR FULL NAME FOR THE

13

RECORD, SIR?

14

A DAVID ANDREW HURT.

is Q

AND YOUR ADDRESS, SIR?

16

A 677 UNION MILL ROAD, LA CROSSE, VIRGINIA.

17

Q WHAT TOWN?

18

A LA CROSSE.

19

Q WHERE IS LA CROSSE? WHAT'S IT NEAR?

20

A IT'S NEAR SOUTH HILL, VIRGINIA.

21

Q OKAY. ARE YOU EMPLOYED, SIR?

22

A AM I EMPLOYED?

23

Q YES, SIR.

24

A WELL, PART TIME.

7

1 AND BY WHOM ARE YOU EMPLOYED PART TIME?

2 MR. SHAPIRO: WELL, JUST ME INTERJECT

3 HERE. HE'S AN INDEPENDENT CONTRACTOR. MAYBE

NOT

4 THAT'S WHY HE PAUSED. I DON'T KNOW. HE'S

5 REALLY A STRAIGHT EMPLOYEE, BUT GO AHEAD.

6 THAT'S JUST TO CLARIFY.

7 Q (BY MR. MILLBERG) DO YOU DO SOME WORK FOR THE  
8 WILSON, RAJEK & SHAPIRO FIRM FROM TIME TO TIME?

9 A I DO.

10 AND IS THAT AS A --- IS THAT RELATIONSHIP THAT YOU  
11 HAVE WITH TRAT FIRM, TRAT YOU DO SOME WORK FOR

THEM

12 AS AN INDEPENDENT CONTRACTOR FROM TIME TO TIME?

13 A I DO.

14 Q AND WHAT KIND OF WORK DO YOU DO FOR THAT LAW FIRM?

IN

15 A WELL, THE KIND OF WORK THAT I DO IS --- WELL, IN ---

WORK

16 REFERENCE TO --- WRAT I'M SAYING IS, THE KIND OF

17 I DO IS MOSTLY --- IT'S A RELATIONSHIP WITH CLIENTS.

18 I TALKS TO THEM AND THEY CALLS ME AND SOMETIME I

19 EVEN GOES OUT TO --- AND, OCCASIONALLY, TO TAKE

20 PICTURES FOR THEM AND TAKE STATEMENTS FOR THEM.

KIND

21 TYPICALLY, MR. HURT, HOW OFTEN DO YOU DO THIS

22 OF WORK FOR WILSON, RAJEK & SRAPIRO?

23 A HOW OFTEN?

24 Q YES, SIR.



1 A I DON'T KNOW. IT'S --- IT'S NO SET TIME FRAME.  
2 Q RIGHT. WELL, CAN YOU GIVE ME SOME IDEA? YOU KNOW,  
3 IN A GIVEN WEEK, HOW MANY HOURS DO YOU DO WORK FOR  
4 WILSON, HAJEK & SHAPIRO?  
5 MR. SHAPIRO: WELL, THAT PROBABLY COULD  
6 VARY TREMENDOUSLY, MR. MILLBERG.  
7 WITNESS: YES.  
8 MR. MILLBERG: THAT'S WHY I'M ASKING THE  
9 QUESTION.  
10 A YEAH, IT COULD VARY FROM ZERO HOURS TO THREE HOURS  
11 TO FIFTEEN HOURS.  
12 Q (BY MR. MILLBERG) AND HOW LONG HAVE YOU BEEN DOING  
13 THIS KIND OF WORK FOR THEM?  
14 A OFF AND ON, I WOULD SAY FOUR YEARS.  
15 Q DO YOU PROVIDE --- DO YOU HAVE A CORPORATION OR  
16 PARTNERSHIP OR ANYTHING OF THAT NATURE, OR YOU JUST  
17 DO THIS WORK INDIVIDUALLY, YOURSELF?  
18 A INDIVIDUAL, MYSELF.  
19 Q DO YOU PERFORM THESE KINDS OF SERVICES FOR ANY OTHER  
20 LAW FIRMS?  
21 A NO.  
22 Q HAVE YOU EVER BEEN REPRESENTED BY THE WILSON & HAJEK  
23 FIRM?  
24 A YES, I HAVE.

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1 Q AND WAS THAT IN CONNECTION WITH A SUIT AGAINST A  
2 RAILROAD?

3 A YES, SIR.

4 Q WHICH RAILROAD WAS THAT?

5 A NORFOLK & SOUTHERN.

6 Q AND APPROXIMATELY WHEN WERE YOU LAST REPRESENTED BY  
7 THE WILSON & HAJEK FIRM?

8 A IN 19 --- I CAN'T REMEMBER, BUT I THINK IT WAS BACK

9 1987 OR 1989.

10 WHAT WAS YOUR JOB CLASSIFICATION WHEN YOU WERE WITH  
11 THE NORFOLK-SOUTHERN?

12 A NUMEROUS OF THINGS. I WAS ANYTHING FROM THE LABOR  
13 WORK, MACHINE OPERATOR WORK. I DID FOREMAN WORK,  
14 HAD SOME GANGS. JUST ABOUT ANYTHING IN THE M.W.  
15 DEPARTMENT.

16 Q ANYTHING IN THE MAINTENANCE-OF-WAY DEPARTMENT?

17 A THAT'S RIGHT.

18 Q DID YOU EVER WORK AS A TRAINMAN OR AN ENGINEER?

19 A NO, I HAVEN'T. WELL, I --- WELL, LET ME CORRECT

20 I NEVER WORKED AS A TRAINMAN OR AS A ENGINEER, BUT

21 HAVE WORKED AROUND TRAINS, YES.

22 AND HOW LONG DID YOU WORK FOR A RAILROAD?

23 A TWENTY YEARS.

24 Q WERE YOU A MEMBER OF A UNION?

IN

THAT.

I

1 A YES, I WERE.  
2 Q WHICH ONE?  
3 A THE M.W.  
4 Q THE SAME ONE MR.---  
5 A MAINTENANCE-OF-WAY, YES.  
6 Q PARDON ME?  
7 A MAINTENANCE-OF-WAY.  
a Q IS THAT THE SAME ONE THAT MR. LEE BELONGS TO?  
9 A NO. I DON'T KNOW WHAT UNION TRAT HE BELONGS TO PER  
10 SE --- MR. LEE.

11 MR. SHAPIRO: IT'S PROBABLY THE SAME,  
12 MAINTENANCE-OF-WAY UNION.

13 A IT PROBABLY IS.  
14 Q (BY MR. MILLBERG) OKAY. HAVE YOU EVER HELD ANY  
15 OFFICE WITH THE UNION?

16 A NO.  
17 Q WHEN YOU PERFORM WORK FOR THE WILSON & HAJEK FIRM,  
18 HOW DO YOU BILL THEM FOR IT?

19 MR. SHAPIRO: NOW, WE'RE GETTING A LITTLE  
20 FAR AFIELD FROM AN INVESTIGATION OF ANY  
21 DISCOVERY ISSUES IN THE CASE. I'M TRYING TO BE  
22 LENIENT SINCE WE TURNED OVER PHOTOS AND WE ALSO  
23 SAID THAT HE TOOK THEM. TRY TO BE REASONABLE.

24 MR. MILLBERG: I'M JUST TRYING TO GET AN  
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1 IDEA OF HOW OFTEN AND HOW MUCH WORK HE DOES FOR  
2 YOU ALL.

3 A I DIDN'T---  
4 (BY MR. MILLBERG) DO YOU SEND THEM A BILL FOR YOUR  
5 TIME WHEN YOU DO WORK FOR THEM?

6 A EXPENSES.  
7 SO, YOU KEEP UP WITH YOUR EXPENSES AND SEND THEM A  
8 BILL AND THEY REIMBURSE YOU FOR THEM.

9 A YES.

10 Q IS THAT CORRECT?

11 A RIGHT.

12 HOW ABOUT, SAY, YOU SPENT TWO OR THREE HOURS DOING  
13 SOME INVESTIGATIVE WORK FOR THEM. WOULD YOU CHARGE  
14 THEM FOR YOUR TIME?

15 A THAT DEPENDS ON HOW YOU LOOK AT IT. IN ONE SENSE,  
16 IF I WORK TWO HOURS A DAY, THEN, I PROBABLY  
17 WOULDN'T. IF I WORKED FOUR HOURS A DAY, THEN, I  
is PROBABLY WILL.

19 Q SO, SOME OF THE TIME THAT YOU SPEND FOR THEM, YOU  
20 DON'T CHARGE THEM FOR AT ALL?

21 A NO, BECAUSE --- BECAUSE, SEE, THIS IS --- IT'S KIND OF  
22 LIKE THIS. MR. WILSON AND THEM JUST PAYS ME

AND---

23 AND IT'S NO SET HOURS THAT I HAVE FOR THAT DAY. DO  
24 YOU UNDERSTAND WHAT I'M SAYING?

1 Q NO. CAN YOU EXPLAIN THAT TO ME A LITTLE MORE? I'M  
2 NOT CLEAR ON THAT. EXPLAIN TO ME HOW TRAT WORKS.  
3 A OKAY. IT'S A AGREEMENT WITH ME AND THIS FIRM AS TO  
4 A CERTAIN SUM THAT THEY PAY ME, AND I WORKS AT MY  
5 OWN PACE.  
6 OKAY. AND---  
7 A IT'S NO PUNCHING A CLOCK, IT'S NO --- THAT TYPE.  
8 I SEE. SO, THEY PAY YOU A SET AMOUNT AND WHATEVER  
9 WORK YOU DO, YOU DO, AND YOU DON'T SEND THEM A  
10 SEPARATE BILL FOR IT?  
11 A THAT'S RIGHT.  
12 OKAY. AND WHAT WORK WERE YOU ASKED TO DO IN  
13 CONNECTION WITH THE GEORGE LEE CASE?  
14 A WAS I ASKED TO DO?  
15 Q YES, SIR.  
16 A OKAY. NONE THAT I WAS ASKED TO DO. MR. LEE CALLED  
17 ME AND SAID HE HAD A INJURY AND --- AND I ASKED HIM  
18 HOW, SO HE WENT ON TO EXPLAINS TO ME HOW HE GOT  
19 INMMED. WE'RE TALKING BACK, I GUESS, THREE --- TWO  
20 OR THREE YEARS AGO, MAYBE. AND SO --- SO, HE  
21 EXPLAINED TO ME WHAT HE WAS DOING, AND SO I GOT WITH  
22 MR. LEE AND TALKED WITH MR. LEE AND INTERVIEWED MR.  
23 LEE, AND TURNED IT OVER TO THE ATTORNEYS.  
24 I TAKE IT, MR. LEE WAS SOMEONE @T YOU

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1           BEFOREHAND? DID YOU KNOW MR. LEE BEFORE THIS  
2           ACCIDENT?

3   A       YES, I DID.

4   Q       HOW DID YOU KNOW HIM?

5   A       I LIVED IN ROANOKE RAPIDS, SO I CAME TO KNOW  
6           EVERYONE IN ROANOKE RAPIDS --- IN THAT AREA.

7   Q       YOU USED TO LIVE THERE, OR YOU LIVE THERE NOW?

8   A       I USED TO LIVE THERE.

9   Q       I SEE. DID YOU GROW UP WITH MR. LEE?

10  A       NO, I DIDN'T.

11  Q       ARE YOU OLDER THAN HE IS OR YOUNGER THAN HE IS?

12  A       I DON'T KNOW. HE LOOK OLDER THAN I AM.

13           WELL, WHEN HE CAME TO TALK --- WELL, STRIKE THAT.

14           SO, HE CAME AND TOLD YOU ABOUT HIS ACCIDENT,

15           AND YOU GOT HIM TOGETHER WITH MR. WILSON?

16  A       RIGHT.

17  Q       AND WHEN HE --- ABOUT WHEN WAS THAT?

18  A       I DON'T HAVE THE SLIGHTEST IDEA. IT WAS A LONG TIME  
19           AGO, AND I --- I DON'T KNOW. NOW, IT --- IT COULD HAVE  
20           BEEN TWO OR THREE YEARS AGO. MAYBE MORE. I---

21           MR. SHA.PIRO: I CAN ASSIST IN THAT REGARD,  
22           IF YOU WANT ME TO. IT WAS CLEARLY IN AUGUST OF  
23           1993 BECAUSE WE'VE ALREADY SAID TRAT THE  
24           PHOTOGRAPHS MR. LEE AND MR. HURT GOT WERE IN

1                   AUGUST.  SO, IT CLEARLY HAD TO BE IN AUGUST.  
2                   (BY MR.  MILLBERG) DO YOU RAVE A RECOLLECTION  OF  
3                   ABOUT WHETHER WITHIN A DAY OR TWO OF HIS ACCIDENT,  
4                   OR WAS IT WEEK OR TWO AFTER THE ACCIDENT, OR WAS IT  
5                   A MONTH AFTER THE ACCIDENT? DO YOU RECALL  TRAT?  
6  A                OKAY.  WHAT ARE WE---  
7  Q                TRAT HE CAME TO TALK TO YOU.  
8  A                I DON'T KNOW UNLESS I LOOK BACK AT THE NOTES TRAT---  
9                   I THINK IT WAS --- I --- I DON'T HAVE NO IDEA OF THE  
10                  TIME, BUT I DO KNOW THE TIME THAT HE GOT A INJURY  
11                  BECAUSE IT --- I PROBABLY CAN LOOK AT THE NOTES AND  
12                  TELL YOU THAT.  
13  Q                DID YOU MAKE SOME MOTES ABOUT IT AT THE TIME?  
14  A                YES, I INTERVIEWED MR.  LEE.  
is  Q                AND WAS THAT ON THE VERY FIRST TIME THAT HE CAME TO  
16                  TALK TO YOU ABOUT IT?  
17  A                YES.  I INTERVIEWED HIM WHEN HE TALKED TO ME  THE  
18                  FIRST TIME, YES.  
19  Q                AND WHEN HE CAME TO TALK TO YOU, MR.---  
20  A                BUT HE DIDN'T CAME.  IT WAS A TELEPHONE  
21                  CONVERSATION.  
22  Q                HE CALLED YOU ON THE TELEPHONE.  I'M SORRY.  CALLED  
23                  YOTJ AT YOUR HOME?  
24  A                YES.

15

TO

OF

WAS

WAS

RAILROAD

THAT

TO

THE

OBJECTION

AND

TO

THAT.

CONVERSATION

1 Q AND WAS HE --- WAS IT YOUR IMPRESSION, YOUR  
 2 UNDERSTANDING THAT HE WAS CALLING YOU AND TALKING  
 3 YOU ABOUT THIS BECAUSE YOU WERE AN ACQUAINTANCE  
 4 HIS TRAT HE KNEW HAD WORKED FOR A RAILROAD? WHY  
 5 HE CALLING YOU?

6 A BECAUSE --- WELL, I GUESS BECAUSE HE KNEW THAT I  
 7 --- WHAT I DO, THAT I WAS --- IN CONNECTION WITH THE  
 8 WILSON LAW FIRM, AND WE DO HANDLE INJURED  
 9 PEOPLES' CLAIMS. HE KNEW THAT.

10 MR. SECAPRO: I'M JUST GOING TO ASK  
 11 YOU BE CAREFUL ABOUT ANY ATTORNEY-CLIENT  
 12 COMMUNICATIONS, AND YOU RAVE BEEN PRETTY  
 13 CAREFUL SO FAR. AS WE GET INTO IT, I WANT  
 14 JUST --- ANYTHING TRAT HE DID, PHOTOGRAPHS,  
 15 PEOPLE HE TALKED TO, I DON'T RAVE ANY  
 16 TO; BLTT IF IT'S COMMTJNICATIONS BETWEEN US  
 17 HIM OR US AND MR. LEE, I'M GOING TO OBJECT  
 18 IT.

19 MR. MILLBERG: I'M TRYING TO AVOID

20 MR. SHAPIRO: OKAY.

21 Q (BY MR. MILLBERG) MR. HURT, SO YOU MADE SOME NOTES  
 22 ABOUT TRAT FIRST INTERVIEW --- YOUR FIRST

23 WITH MR. LEE WHEN YOU TALKED TO HIM OVER THE  
24 TELEPHONE, YOU MADE SOME NOTES ABOUT THAT?

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- 1 A YES.
- 2 Q NOW, WHERE ARE THOSE NOTES NOW?
- 3 A THOSE ARE MY OWN PERSONAL NOTES. I ASKED HIM
- 4 QUESTIONS---WHEN, HOW, WHERE HE GOT IMMEDIATE; AND
- 5 THAT WAS MY OWN PERSONAL NOTES. AND THE NEXT THING
- 6 WAS THE INTERVIEW WITH MR. LEE.
- 7 Q SO, YOU HAD SOME PERSONAL NOTES THAT YOU HAD JOTTED
- 8 DOWN, I GUESS---
- 9 A YES.
- 10 Q --- AND, THEN, AT SOME POINT, YOU CONDUCTED A MORE
- 11 IN-DEPTH INTERVIEW WITH HIM?
- 12 A UH-HUH (YES).
- 13 Q WAS THAT ALL PART OF THE SAME CONVERSATION, OR WAS
- 14 THAT AT A LATER CONVERSATION?
- 15 A LATER CONVERSATION.
- 16 Q AND YOUR PERSONAL NOTES OF THAT FIRST CALL WITH HIM,
- 17 DO YOU STILL HAVE THOSE?
- 18 A NO, BECAUSE MY PERSONAL NOTES --- THEY WERE JUST --- IF
- 19 I CAN RECALL, THEY WERE JUST WHEN, WHERE, AND HOW THE
- 20 ACCIDENT HAPPENED.
- 21 Q AND WHAT HAPPENED TO THOSE PERSONAL NOTES? DO YOU
- 22 SEND THEM TO THE LAW FIRM? DO YOU---
- 23 A NO.
- 24 Q --- KEEP THEM YOURSELF, OR WHAT?

1 A NO. THOSE NOTES THAT I --- I DESTROYED THOSE NOTES  
2 AFTER I PUT IT ON THE INTERVIEW CHECKLIST.  
3 AND THE INTERVIEW CHECKLIST, I GUESS THAT'S WHAT YOU  
4 FILL OUT WHEN YOU DO THE MORE IN-DEPTH INTERVINW?  
5 A YES.  
6 Q AND HAVE YOU HAD --- I TAKE IT, THOSE WOULD HAVE BEEN  
7 IN ABOUT AUGUST OF 1993? THOSE WERE BEFORE YOU TOOK  
8 ANY PICTURES, WEREN'T THEY?  
9 A BEG YOUR PARDON?  
10 Q THOSE CONVERSATIONS THAT YOU HAD WITH HIM WERE  
11 BEFORE YOU TOOK ANY PICTURES?  
12 A YES.  
13 Q OKAY. HAVE YOU I= ANY MORE CONVERSATIONS WITH MR.  
14 LEE ABOUT THE CASE?  
15 A ABOUT---  
16 Q ABOUT THE CASE.  
17 A ABOUT HIS CASE?  
18 Q YES, SIR.  
19 A WE WENT OUT --- HE IDENTIFIED THE AREA, AND I TOOK  
20 PICTURES. AND HE IDENTIFIED THE --- WHAT HE WAS DOING  
21 AND THE TOOL TliAT HE WAS --- HE WAS USING, AND I TOOK  
22 PICTURES OF THOSE.  
23 WAS THAT ALL DONE ON THE SAME DAY?  
24 A NO, IT WASN'T.

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- 1 Q ON HOW MANY DIFFERENT DAYS DID YOU TAKE PICTURES?
- 2 A I BELIEVE IT WAS TWO.
- 3 AND WAS MR. LEE WITH YOU WHEN YOU TOOK ALL YOUR
- 4 PICTURES?
- 5 A HE WAS.
- 6 Q NOW, OTHER THAN --- I'M GOING TO COME BACK AND ASK YOU
- 7 SOME MORE ABOUT THOSE IN A SECOND; BUT OTHER THAN
- 8 THAT, HAVE YOU---OTHER THAN THOSE OCCASIONS, HAVE
- 9 YOU DISCUSSED THE CASE WITH MR. LEE ON OTHER
- 10 OCCASIONS?
- 11 A NO, BECAUSE I REALLY %TUST TURNED EVERYTHING, AND THE
- 12 PICTURES, OVER TO THE --- OVER TO THE OFFICE. I DON'T
- 13 BELIEVE THAT WE HAVE HAD A CONVERSATION ABOUT THE
- 14 CASE PER SE. I CAN'T --- I CAN'T RECALL.
- 15 Q NOW, YOU'VE TAKEN SOME PICTURES AT THE SCENE.
- 16 A UH-HUR (YES).
- 17 Q AND YOU'VE TAKEN SOME PICTURES OF SOME SIGNS?
- 18 A UH-HUH (YES).
- 19 Q IS THERE ANYTHING ELSE YOU'VE TAKEN PICTURES OF?
- 20 A WELL, I TOOK SOME PICTURES OF MR. LEE.
- 21 Q YOU'VE TAKEN SOME PICTURES OF MR. LEE?
- 22 A I.D. PICTURES. I THINK I TOOK SOME PICTURES OF MR.
- 23 LEE. IF IT IS, IT SHOULD BE THERE, YOU KNOW, I
- 24 MEAN---

1 TAKE YOUR TIME AND FLIP THROUGH THEM.  
2 (THEREUPON, THE WITNESS AND COUNSEL FOR THE  
3 PLAINTIFF REVIEW PHOTOGRAPHS.)  
4 A IT SEEMS LIKE THEY'RE ALL IN ORDER.  
5 DO THESE APPEAR TO BE THE PHOTOGRAPHS TRAT YOU TOOK  
6 IN CONNECTION WITH THE GEORGE LEE CASE?  
7 A YES, SIR.  
8 Q A NUMBER OF THESE PICTURES WERE TAKEN AT THE  
9 LOCATION WHERE MR. LEE CLAIMS TO HAVE BEEN INJURED.  
10 IS THAT CORRECT?  
11 A THAT'S CORRECT.  
12 Q WHEN YOU WENT THERE, WHO WENT THERE WITH YOU?  
13 A MR. LEE.  
14 Q ANYONE ELSE?  
15 A NO, SIR.  
16 Q HAD YOU EVER BEEN TO THAT LOCATION, BEFORE, FOR ANY  
17 REASON?  
18 A NO.  
19 Q HAVE YOU BEEN BACK THERE SINCE?  
20 A NO.  
21 Q HOW DID YOU GET TO THAT LOCATION? DID YOU DRIVE TO  
22 IT IN A VEHICLE?  
23 A YES. I BELIEVE SO, YES.  
24 Q DID MR. LEE POINT OUT TO YOU WHERE HE HAD BEEN

1 WRAT KIND OF PICTURES DID YOTJ TAKE OF MR. LEE?

2 A JUST PICTURES OF HIM.

3 Q DOING WRAT?

4 A STANDING THERE.

5 Q STANDING?

6 A STANDING.

7 MR. SELAPIRO: IT'S JUST AN IDENTIFICATION

8 PICTURE.

9 WITNESS: IDENTIFICATION PICTURES.

10 MR. SEL'KPIRO: WE TAKE ON'E OR TWO PICTURES

11 OF A CLIENT SO WE KNOW WHO IT IS.

12 WITNESS: THEY WANT TO KNOW WHAT HE LOOK

13 LIKE.

14 MR. SHAPIRO: REMEMBER, WE'RE NOT ALL IN

15 THE SAME CITY, AND SOMETIMES WE DON'T SEE THE

16 CLIENT FOR A LONG TIME.

17 Q (BY MR. MILLBERG) ANYTHING ELSE THAT YOU'VE TAKEN

18 PICTURES OF?

19 A NO.

20 LET ME ASK YOU ABOUT THESE PICTURES. I'VE HAD

21 MARKED, AS EXHIBITS I THROUGH 34 TO YOUR DEPOSITION,

22 SOME PHOTOGRAPHS THAT WERE PROVIDED TO ME BY

23 COUNSEL. CAN YOU IDENTIFY THOSE AS THE PHOTOGRAPHS

24 YOU TOOK IN CONNECTION WITH THIS CASE? GO AHEAD AND

1 PLACING THE --- WHERE HE HAD ATTEMPTED TO PLACE THE  
2 SIGN IN QUESTION?  
3 A YES, HE DID.  
4 Q CAN YOU --- WE'VE GOT THE THIRTY-FOUR PHOTOGRAPHS YOU  
5 TOOK OUT ON THE TABLE IN FRONT OF YOU NOW, SPREAD  
6 OUT, MR. HURT. CAN YOU PICK ANY OF THESE  
7 PHOTOGRAPHS AND IDENTIFY THEM AS ONES WHERE YOU WERE  
8 ATTEMPTING TO SHOW WHERE MR. LEE @ PLACED THE  
9 SIGN?  
10 A OKAY.  
11 MR. SHAPIRO: IF YOU SEE ANY, FLIP IT OVER  
12 AND REFER TO IT WITH THE NUMBER.  
13 A OKAY. THIS IS THE AREA. THIS IS THE AREA. THIS  
14 IS --- BECAUSE THIS IS COMING UP. THIS IS THE AREA  
is ON ---  
16 Q (BY MR. MILLBERG) YOU'RE TALKING ABOUT PICTURE NO.  
17 13?  
is A YES.  
19 Q OKAY. I DIDN'T MEAN TO INTERRUPT YOU. WHAT DOES  
20 THAT SHOW?  
21 A OKAY. THAT'S --- LOOKING FROM HERE, THIS IS THE  
22 BRIDGE TO MY LEFT; AND BACK IN THIS AREA, HERE, IS  
23 WHERE MR. LEE EXPLAINED THAT HE WAS PUTTING UP THE  
24 SIGN.

ASSOCIATED REPORTING & TRANSCRIPTION  
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1 Q DO YOU SEE ANY OTHER PHOTOGRAPHS THAT SHOW THE AREA  
2 WHERE MR. LEE TOLD YOU HE WAS PUTTING UP THE SIGN?  
3 OTHER THAN NO. 13.

4 A I DON'T SEE A PICTURE --- THAT'S THE END OF THE  
5 BRIDGE. OH, OKAY. OKAY. THIS IS THE VIEW A LITTLE  
6 BIT BETTER, SIR.

7 Q NO. 23?

8 A YES, UH-HUH.

9 Q WHAT DOES IT SHOW?

10 A OKAY. MR. LEE EXPLAINED THAT HE WAS PUTTING THE  
11 SIGN UP TTUST IN THIS GRASS RIGHT HERE (INDICATING).

12 MR. SERAPIRO: CAN YOU DESCRIBE THAT BETTER  
13 FOR THE RECORD IN RELATION TO WHAT'S IN THE  
14 PICTURE?

15 WITNESS: OKAY. IN RELATION TO WHAT---  
16 IT'S THE BRIDGE --- IT'S AT THE END OF THE  
17 BRIDGE. I WOULD SAY THIS WILL BE THE SOUTH END  
18 OF THE BRIDGE, AND THE SIGN WOULD BE FACING  
19 NORTH.

20 MR. SH"IRO: UNFORTUNATELY, THERE'S NO  
21 DIRECTION INDICATION. YOU KNOW IT, BUT NOBODY  
22 ELSE DOES. BUT HE DID DESCRIBE THE SIDE TO THE  
23 RIGHT OF THE TRACK THAT'S SHOWN THERE.

24 WITNESS: UH-HUH (YES). THAT WOULD BE THE

1 SOUTH END OF THE BRIDGE, COMING NORTH.

2 (BY MR. MILLBERG) WHAT DOES EXHIBIT NO. 2 SHOW?

3 A I DON'T KNOW. TUST A PATH THROTJGH THE TRACK.

4 AND WHERE, IN RELATION TO WHERE THE ACCIDENT

5 HAPPENED, IS THAT AREA SHOWN IN EXHIBIT 2?

6 MR. SHAPIRO: IF YOU RECALL AND CAN TELL,

7 MR. HURT. HE HASN'T SEEN THOSE PHOTOS IN A

8 LONG TIME.

9 A IT'S --- IT'S BEEN --- IT'S BEEN THREE YEARS NOW, AND

10 I'M RAVING TROUBLE IDENTIFYING THIS PICTURE HERE.

11 Q (BY MR. MILLBERG) DOES THAT APPEAR TO YOU TO BE THE

12 AREA WHERE THE ACCIDENT HAPPENED?

13 A YOU KNOW, I --- I --- IT DOESN'T --- IT REALLY DOESN'T.

14 DON'T KNOW.

15 Q IT "DOES NOT"'.>

16 A I DON'T KNOW BECAUSE --- IT SEEMS TO ME TRAT IT'S---

17 THERE WAS NO HOUSES THERE.

18 Q DO YO'U KNOW WHY YOU TOOK TRAT PHOTOGRAPH, NO. 2?

19 A UNLESS IT WAS %TUST LAYING OUT THE AREA.

20 Q THE SAME QUESTIONS, MR. HURT, WITH REGARD TO

21 PICTURES 1 AND 3, EXHIBITS I AND 3.

22 A YEAH.

23 THEY DON'T REALLY SHOW THE AREA OF THE ACCIDENT

24 EITHER, DO THEY?

1 MR. SHAPIRO: TO THE EXTENT THAT YOU  
2 REMEMBER ANYTHING ABOUT THE SCENE THERE.

3 A I DON'T REMEMBER. I DO REMEMBER THIS.

4 MR. SHAPIRO: WHICH ONE WAS THAT?  
5 (BY MR. MILLBERG) YOU REMEMBER 23?

6 A YES.

7 BUT 1, 2 AND 3, YOU CAN'T RECALL WHY YOU TOOK THOSE  
8 PICTURES. IS THAT CORRECT?

9 A NO.

10 Q HOW ABOUT EXHIBIT 6, WHERE WAS THAT PHOTOGRAPH  
11 TAKEN?

12 A THIS ONE RIGHT HERE?

13 YES, SIR.

14 A THIS IS --- WAS TAKEN AT THE SAME LOCATION. I WAS  
15 STANDING AND POINTING DOWN. THIS IS THE RIVER AND  
16 THIS IS WHAT --- THERE WAS NO WATER IN THE RIVER.  
17 WHERE YOU STANDING WHEN YOU TOOK THAT?

18 A I WAS STANDING AT THIS ANGLE RIGHT HERE.

19 Q WERE YOU STANDING ON THE BRIDGE?

20 A YES.

21 Q ON THE --- YOU UNDERSTAND THE TRACKS THERE RUN  
22 GENERALLY NORTH TO SOUTH?

23 A RIGHT.

24 Q IN OTHER WORDS, YOU'D BE LOOKING OVER THE---

1 A I WOULD BE---

2 Q --- EAST SIDE OR THE WEST SIDE OF THE TP-ACKS?

3 A I WOULD BE LOOKING OVER THE WEST SIDE. I WOULD BE

4 STANDING SOUTH, LOOKING TO THE WEST SIDE.

5 Q WHERE WAS PICTURE NO. 14 TAKEN?

6 A I CAN'T IDENTIFY TRAT AREA.

7 Q PARDON ME?

8 A I CAN'T IDENTIFY THIS AREA.

9 Q DO YOU RECALL WHAT YOU WERE TRYING TO SHOW WHEN YOU

10 TOOK THAT PICTURE?

11 A I GUESS, NO, I DON'T.

12 Q NOW, IT'S MY UNDERSTANDING FROM WHAT MR. LEE TOLD US

13 WHEN WE TOOK HIS DEPOSITION, THAT THE PHOTOGRAPHS OF

14 THE SIGNS THAT YOU TOOK---

is A UH-HUH (YES).

16 Q --- WERE TAKEN IN ROANOKE RAPIDS.

17 A THAT'S CORRECT.

is Q IS THAT CORRECT?

19 A UH-HUH (YES).

20 Q THERE'RE SEVEP-AL SIGN PHOTOGRAPHS HERE, AND THEY

21 WERE ALL TAKEN AT THE SAME LOCATION?

22 A YES.

23 Q AND THAT PRECISE LOCATION WAS WHERE, EXACTLY, IN

24 ROANOKE RAPIDS?

1 A AT THE STATION, RIGHT HERE. THE STATION IN ROANOKE  
2 RAPIDS.  
3 ANr) LTUST FOR THE RECORX), MR. HURT, I'VE NOW GATHERED  
4 TOGETHER EXHIBITS 26 THROUGH 34 WHICH APPFAR TO BE  
5 ALL OF THE PHOTOGRAPHS OF SIGNS.  
6 A UH-HUH (YES).  
7 Q AND IS THAT THE BATCH THAT WERE TAKEN AT THE STATION  
8 AT ROANOKE RAPIDS, EXHIBITS 26 THROUGH 34? IS THAT  
9 CORRECT?  
10 A YES, SIR.  
11 Q OKAY. TRAT IS CORRECT, THEY WERE ALL TAKEN AT THE  
12 STATION IN ROANOKE PAPIDS?  
13 A YES, SIR.  
14 AND WERE THEY TAKEN ON THE SAME DAY AS THE SCENE  
is PHOTOGRAPHS, OR WERE THOSE PICTURES TAKEN ON A  
16 SEPARATE OCCASION?  
17 A A SEPARATE DAY, I BELIEVE.  
18 Q NOW, WHO WAS WITH YOU WHEN YOU TOOK THE PHOTOGRAPHS  
19 OF THE SIGNS?  
20 A MR. LEE.  
21 Q AND WAS ANYONE ELSE PRESENT?  
22 A NO.  
23 Q AND WERE THEY TAKEN BEFORE OR AFTER YOU TOOK THE  
24 PHOTOGRAPHS OF THE SCENE?

- 1 A AFTER.
- 2 Q WAS IT THE VERY NEXT DAY?
- 3 A I CAN'T RECALL HOW LONG, BUT I KNOW IT WASN'T THE  
4 NEXT DAY.
- 5 Q DO YOU RECALL WHY YOU DIDN'T GO AHEAD AND GET THEM  
6 ALL THE FIRST DAY?
- 7 A WELL, I DON'T KNOW, BUT --- I DON'T KNOW, BUT I KNOW  
8 IT WASN'T TAKEN THE FIRST DAY. IT WAS, LIKE, MAYBE  
9 A WEEK OR TWO LATER.
- 10 Q WHEN YOU WENT TO THE SCENE, WENT ON C.S.X.'S  
11 RAILROAD TRACKS, WHOSE PERMISSION DID YOU HAVE TO DO  
12 SO, IF ANYONE'S?
- 13 A DID I GO ON THE PROPERTY?
- 14 Q YES, SIR.
- 15 A WHOSE PERMISSIONS?
- 16 Q YES, SIR.
- 17 A NO ONE.
- 18 Q YOU DIDN'T ASK FOR ANY PERMISSION, DID YOU?
- 19 A NO.
- 20 Q WHEN YOU WENT TO THE C.S.X. STATION IN ROANOKE  
21 RAPIDS AND PHOTOGRAPHED THEIR PROPERTY, DID YOU  
22 REQUEST ANYONE'S PERMISSION TO DO THAT BEFORE DOING  
23 IT?
- 24 A I WAS NOT ON THE PROPERTY AT THE TIME TO PHOTO THAT

1 BECAUSE RIGHT --- IT WAS IN THE PARKING LOT.  
2 WHO DOES THE PARKING LOT BELONG TO?  
3 A WELL, IN THAT AREA, IT'S A PARKING LOT THERE FOR A  
4 CONVENIENCE STORE. THERE'S A CONVENIENCE STORE  
5 RIGHT THERE. THE TRACKS RUN DOWN BESIDE OF IT. I  
6 DON'T IF YOU'RE FAMILIAR WITH THAT AREA IN THERE OR  
7 NOT, BUT IT'S --- YOU'VE GOT SEVEPAL ROADS. YOU'VE  
8 GOT A CAR SALESMAN RIGHT THERE, TOO, AND A --- AND THE  
9 STATION SITS RIGHT HERE. SO, REALLY, YOU KNOW, THIS  
10 IS SOME FAR BACK; BUT THE STATION, IT'S NO PROBLEM.  
11 Q PARDON ME?  
12 A FROM THE STATION, IT'S NO PROBLEM TO TAKE A PICTURE.  
13 IT'S RIGHT THERE IN THE MIDDLE OF TOWN.  
14 Q WHO PUT THIS SIGN UP ON THE DECK TO BE PHOTOGRAPHED  
15 IN EXHIBIT 26?  
16 A I CAN'T RECALL.  
17 Q DID YOU?  
is A NO.  
19 Q DID MR. LEE?  
20 A I DON'T KNOW. I DON'T KNOW IF IT WAS ALREADY THERE  
21 OR --- BUT, MOST TIMES, WE LTUST TOOK IT LIKE IT WERE.  
22 Q DO YOU RECALL IF EITHER YOU OR MR. LEE MOVED ANY OF  
23 THE SIGNS AROUND SO THEY COULD BE PHOTOGRAPHED?  
24 A NO. I DON'T THINK WE DID. I DON'T THINK WE---

1 Q DO YOU RECALL @LING ANY OF THE SIGNS THE DAY YOU  
2 WERE THERE?  
3 A NO, I DIDN'T. I DIDN'T, AND I R)ON'T THINK MR. LEE  
4 HANDLED NO SIGNS.  
5 Q NOW, YOU'VE GOT A COUPLE OF CLOSEUP PICTURES OF---  
6 A YES.  
7 Q --- THIS ONE SIGN SITTING ON THE DECK AT THE ROANOKE  
8 RAPIDS STATION.  
9 A YES.  
10 Q IT'S SHOWN IN EXHIBITS 26 AND 34.  
11 A RIGHT.  
12 Q WHY DID YOU TAKE THOSE PARTICULAR PICTURES, THOSE  
13 CLOSEUPS LIKE THAT?  
14 A OKAY. AS YOU KNOW, THESE ARE CLOSEUPS ALSO, AND WE  
15 ARE SHOWING IN THIS PICTURE THE SHAPE OF THE SIGN.  
16 THE SHAPE OF THE SIGN POLE?  
17 A YES. YES.  
18 Q AND WAS IT YOUR UNDERSTANDING TRAT THIS WAS THE  
19 SRAPE OF THE SIGN POLE INVOLVED IN MR. LEE'S  
20 ACCIDENT?  
21 A I BELIEVE SO. I BELIEVE SO. I BELIEVE TRAT MR.  
22 LEE --- WHATEVER MR. LEE POINTED OUT TO ME, THAT'S  
23 WRAT I TOOK.  
24 Q DID MR. LEE POINT OUT TO YOU WHETHER THE SIGN THAT

1 HE WAS PLACING AT THE TIME OF THE ACCIDENT HAD A  
2 FLAT END OR A POINTED END?

3 A I --- WHATEVER HE POINTED OUT THERE TO ME --- YOU KNOW,  
4 I THINK --- THAT'S WHY WE WENT TO IDENTIFY IT. I  
5 THINK HE DID SAY IT HAD A FLAT END. I THINK HE DID  
6 SAY IT.

7 AND WOULD THAT BE SOMETHING THAT WOULD BE IN YOUR  
8 INTERVIEW NOTES OF HIM?

9 A I'M NOT SURE.

10 Q IT MIGHT BE?

11 A I'M NOT SURE, BECAUSE WE'RE TALKING THREE YEARS AGO,  
12 AND I'M---

13 Q YES, SIR. SO, YOU JUST DON'T KNOW; MIGHT BE, MIGHT  
14 NOT BE?

15 A MIGHT BE, RIGHT. RIGHT, AND IT MAY NOT.

16 Q DO YOU KNOW WHAT KIND OF A SIGN THAT IS IN EXHIBIT  
17 NO. 26?

18 A A SLOW ORDER BOARD.

19 Q PARDON ME?

20 A ALL I KNOW IS A SLOW ORDER BOARD.

21 Q "SLOW ORDER---" WHAT?

22 A SLOW ORDER BOARD.

23 MR. SE[APIRO: "BOARD."

24 MR. MILLBERG: OH, "BOARD," I'M SORRY.

1                                   WITNESS: SLOW ORDER BOARD, YEAH.

2    Q    (BY MR. MILLBERG) IS THAT THE SAME KIND OF SIGNS

3            THAT NORFOLK-SOTYTHERN USED?

4    A    SIMILAR. SIMILAR.

5    Q    DO THEY HAVE YELLOW SIGNS WITH AN ORANGE STRIPE?

6    A    I BELIEVE THEY HAVE A YELLOW SIGN, YES.

7    Q    DOES IT HAVE AN ORANGE STRIPE?

8    A    I --- I CAN'T REMEMBER. IT'S BEEN TWENTY YEARS.

9            YOU'RE ASKING ME TO GO BACK TWENTY YEARS SINCE I'VE

10           BEEN INVOLVED IN NORFOLK-WESTERN SIGNS.

11   Q    SO, YOU DON'T KNOW?

12   A    NO. I KNOW THEY HAVE A YELLOW SIGN; BUT WHETHER IT

13           HAVE A ORANGE STRIPE OR NOT, I DO NOT KNOW.

14   Q    THEY RAVE SIGNS WITH POINTS ON THE END?

is   A    BEG YOUR PARDON?

16   Q    DO THEY HAVE SIGNS WITH POINTS ON THE END?

17   A    YES.

is                               MR. SELAPIRO: FOR NORFOLK-SOUTHERN?

19                               MR. MILLBERG: YES, SIR.

20   A    YES.

21   Q    (BY MR. MILLBERG) TO MAKE IT EASIER TO DRIVE THEM

22            INTO THE GROUND?

23   A    YES.

24            IS THAT SOMETHING YOU'VE DONE BEFORE, WHEN YOU

1 WORKED IN MAINTENANCE-OF-WAY WITH N.S. OR NORFOLK-  
2 WESTERN, WHOEVER IT WAS BACK THEN?

3 A MANY TIMES, YES.

4 Q IS TRAT SOMETHING THAT YOTJ HAD DONE BY YOURSELF IN  
5 THE PAST?

6 A PUT UP A SLOW ORDER? WELL, WITH THE NORFOLK AND  
7 WESTERN, WHEN YOU PUT THEM UP, USTJALLY, TWO PEOPLES  
8 WOULD PUT UP A SLOW ORDER BOARD.

9 Q AND WOULD YOU USE ANY --- WHEN YOU DID IT, WHEN YOU  
10 PUT UP SIGNS OF THAT TYPE, WHAT KIND OF TOOLS DID  
11 YOU USE, IF ANY?

12 A OKAY. MOSTLY, IF THE SIGN WAS A POINTED END, WE  
13 WOULD USE AN LINING BAR---  
14 PARDON ME?

15 A WE USED A LINING BAR, SOMETHING HEAVY, TO PENETRATE  
16 THE GROUND, SHAKE IT BACK AND FORWARDS TO MAKE THE  
17 HOLE. THEN, ONE PERSON WILL SET IT, AND THE OTHER  
is PERSON WOULD DRIVE IT WITH A EIGHT-POUND OR A TEN-  
19 POUND HAMMER.

20 WELL, EXPLAIN THAT TO ME. YOU SAID A "LINING---  
21 WHAT? A LINING, WHAT?

22 A A LINING BAR.

23 Q A LINING BAR.

24 A A LINING BAR.

1 Q AND AN EIGHT- OR TEN-POUND HAMMER.

2 A UH-HUH (YES).

3 DID YOU USE THEM BOTH SETTING ONE SIGN, OR WERE

4 THOSE TWO DIFFERENT TECHNIQUES?

5 A BOTH SETTING ONE SIGN, BECAUSE THOSE SIGNS ARE VERY

6 DIFFICULT TO GET IN THE GROUND.

7 Q IS TRAT RIGHT?

8 A YES, THEY'RE VERY DIFFICULT.

9 Q YOU DON'T THINK ONE PERSON COULD DO IT BY HIMSELF

10 SAFELY?

11 A I DON'T KNOW, BUT WE DIDN'T. WE DIDN'T.

12 Q DID YOU EVER SEE ANYBODY DO IT BY THEMSELF?

13 A NO. I'VE SEEN THEM TAKE IT UP, BUT NEVER I'VE SEEN

14 THEM PUT DOWN BY THEIRSELF. I DID SEE ONE PERSON

is TAKE THEM UP.

16 Q DO YOU THINK ONE PERSON COULD DO IT?

17 A I DON'T KNOW. I LTUST DON'T KNOW. IN MY TWENTY

18 YEARS, I NEVER SEEN IT DONE, YOU KNOW.

19 Q WHEN YOU USED A LINING BAR, TELL ME WHAT A LINING

20 BAR IS.

21 A WELL, A LINING BAR IS JUST A STRAIGHT PIECE OF IRON

22 THAT WEIGHS MAYBE TWENTY-FIVE OR THIRTY POUNDS AND

23 IT'S VERY POINTED ON THE END; AND WHAT WE DO, WE

24 TAKE THIS AND PUT IT IN THE GROUND --- DRIVE IT IN THE

1 GROUND AND MAE THE HOLE. AND, THEN, WE SET THE  
2 SIGN IN. THE LINING BAR IS FOR THE DEPTH OF THE  
3 HOLE THAT WE ARE MAKING, AND THE --- WHEN WE SET THE  
4 SIGN OVER IN THE HOLE, TO TIGHTEN IT UP, WE TOOK A  
5 @R AND DRIVE IT FROM THE TOP DOWN. THAT'S  
6 GENERALZALLY THE WAY THAT WE DONE IT AT NORFOLK-  
7 WESTERN.

8 SO, THE LINING BAR IS WHAT YOU MAKE THE HOLE WITH?

9 A YES, IN THE --- IN THE EARTH, YES.

10 Q AND HOW WOULD YOU GET THE LINING BAR INTO THE  
11 GROUND? HOW WOULD YOU DRIVE IT INTO THE GROUND?

12 A BY PUNCHING IT, UP-AND-DOWN MOTION.

13 Q WITH YOUR HANDS?

14 A YES.

15 Q OKAY.

16 A NOW, THAT'S DEPENDING ON HOW HARD IS THE GROUND.

17 NOW, SOMETIMES, YOU HAVE TO PUT A RUBBER ON THIS  
18 HAMMER AND TAP THAT LINING BAR DOWN.

19 Q BUT YOU'VE USED A LINING BAR PLENTY OF TIMES WITHOUT  
20 A HAMMER TO MAKE YOUR HOLE. ISN'T THAT RIGHT?

21 A YES.

22 OKAY. SO, THE LINING BAR IS SOMETHING YOU SIMPLY

23 USED TO MAKE YOUR HOLE; BUT THE WAY YOU WOULD

24 USUALLY USE THAT WAS, YOTJ WOULD GRASP IT WITH BOTH

1 @S AND YOU WOULD DRIVE IT DOWN INTO THE GROUND.

2 A UK-HUH (YES).

3 Q IS THAT CORRECT?

4 A UH-MM (YES).

5 Q I NEED A "YESU OR A "NO."

6 A "YES."

7 Q OKAY. AND WRAT DOES A LINING BAR WEIGH?

8 A WRAT DOES IT DO?

9 Q WHAT DO YOU THINK IT WEIGHS?

10 MR. SHAPIRO: "WEIGHS."

11 MR. MILLBERG: I THINK WE MENTIONED IT

12 EARLIER.

13 A I --- IDON'T KNOW, BUT I --- I WOULD SAY ABOUT --- BY

14 JUST HANDLING THEM, THEY GOT TO WEIGH TWENTY-FIVE

OR

15 THIRTY POUNDS. IT'S A---.

16 (BY MR. MILLBERG) AND WHEN YOU USED THE LINING BAR

17 AND APPLIED IT IN THAT FASHION YOU'VE JUST

DESCRIBED

is TO ME, WOULD YOU DO THAT BY YOURSELF?

19 A THE LINING BAR, YES.

20 Q SO, YOU WOULD PICK IT UP AND THRUST IT DOWN INTO

THE

21 GROUND. TRAT PART OF IT WAS A ONE-MM JOB?

22 A YES.

23 WHEN YOU WERE AT NORFOLK-SOUTHERN OR --- WAS IT

24 NORFOLK-SOUTHERN OR NORFOLK-WESTERN THAT YOU WORKED

1 FOR?

2 A NORFOLK AND WESTERN.

3 I'M SORRY FOR SAYING IT WRONG. WHEN YOU WERE WITH  
4 NORFOLK-WESTERN, YOU NEVER USED A POST DRIVER, LIKE  
5 THIS THING RIGHT HERE, FOR PUTTING TEMPORARY ADVANCE  
6 WARNING BOARDS INTO THE GROUND, DID YOU?

7 A YES, WHEN WE I= THEM, BUT IT WAS VERY SELDOM THAT  
8 WE HAD THEM OUT ON THE JOB, YOU KNOW.

9 Q THAT CERTAINLY WAS NOT A REGULAR WAY WHICH YOU USED  
10 TO APPLY THESE TEMPORARY KINDS OF SIGNS, WAS IT?

11 A I DON'T EVEN KNOW THAT THEY HAD IT BACK IN TRAT DAY.

12 Q WELL, DO YOU RECALL EVER USING ONE LIKE THAT?

13 A 14AYBE ONCE. MAYBE ONCE, AND THAT WAS IN THE LATER  
14 YEARS.

is Q IT CERTAINLY WASN'T THE NORM, WAS IT?

16 A SAY WHAT, NOW?

17 Q IT CERTAINLY WASN'T THE NORMAL WAY TO DO IT, WAS IT?

18 A WELL, YOU KNOW, THEY CHANGED FROM TIME TO THEM.

19 LIKE I SAY, IN LATER YEARS --- LIKE I SAY, IN LATER  
20 YEARS, WE DID HAVE ONE OF THOSE.

21 Q YOU DID HAVE, OR YOU THINK YOU H=?

22 A WE DID HAVE IN LATER YEARS, BUT THOSE SIXTEEN YEARS,  
23 WE USED --- USED A LINING BAR AND A HAMMER.

24 AND PLENTY OF TIMES, YOU'VE USED A LINING BAR

1           WITHOUT A RAMMER, HAVEN'T YOU?

2    A    HAVE I USED A LINING BAR WITHOUT A HAMMER?

3    Q    YES, SIR.

4    A    THAT DEPENDS ON --- TRAT JUST DEPENDS ON THE EARTH.

5    Q    YES, SIR. BUT I'M SAYING THERE WERE PLENTY OF TIMES

6           AND CIRCUMSTANCES WHERE YOU DID.

7    A    OH, YES. YES.

8    Q    I TAKE IT THAT THIS KIND OF THING, TAKING

9           PHOTOGRAPHS AND SO FORTH, MR. HURT, TRAT'S THE

10           TYPICAL KIND OF THING THAT YOU MIGHT DO IN

11           CONNECTION WITH A RAILROAD CASE.

12   A    UH-HUH (YES).

13   Q    IS THAT FAIR TO SAY?

14   A    UH-HUH (YES).

15           AND WHEN YOU DO THAT, HAS IT EVER BEEN YOUR PRACTICE

16           TO GET PERMISSION FROM ANYONE WITH THE RAILROAD

17           BEFORE GOING ON RAILROAD PROPERTY?

is   A    I HAVE---IF I DO THAT, YES, I WOULD ASK, YOU KNOW,

19           "DO YOU MIND?" IF THEY TELL ME, "NO," OKAY, TRAT'LL

20           BE FINE, YOU KNOW; BUT I WOULD ASK. BUT THERE WAS

21           NO ONE AROUND TO ASK WHEN I---

22   Q    PARDON ME?

23   A    NO ONE WAS AROUND TO ASK WHEN I GOT THIS PICTURE.

24           WELL, HAVE YOU EVER CALLED UP AHEAD OF TIME TO GET

- 1 PERMISSION?
- 2 A NOT THAT DAY, NO, I HAVEN'T.
- 3 Q I-IAVE YOU EVER?
- 4 A NO. NO.
- 5 OKAY. SO, IT'S YOUR PRACTICE JUST TO GO ON PAILROAD
- 6 PROPERTY AND TAKE PICTURES?
- 7 A NO, NOT --- NOT MY PRACTICE.
- 8 Q WELL, HOW ELSE HAVE YOU DONE?
- 9 A WELL, LIKE I SAY, I HAVE TOOK THE PICTURES. YOU'VE
- 10 GOT A SET OF PICTURES HERE THAT I DID NOT TOUCH THE
- 11 RAILROAD PROPERTY AT ALL AND GOT GOOD PICTURES RIGHT
- 12 THERE IN ROANOKE RAPIDS, YOU KNOW. AND IF YOU LOOK
- 13 AT THIS EXHIBIT HERE, YOU WILL SEE WHERE I TOOK
- 14 THESE PICTURES FROM A ANGLE AT WHERE THE SIGNS WERE
- is SITTING.
- 16 Q WHEN YOU TOOK EXHIBIT NO. 6---
- 17 A NO, I'M TALKING ABOUT THIS ONE (INDICATING).
- is I'M ASKING YOU ABOUT THIS ONE. WHEN YOU TOOK
- 19 EXHIBIT NO. 6---
- 20 A UH-HUH (YES).
- 21 Q --- WHOSE PROPERTY WERE YOU STANDING ON?
- 22 A I WAS STANDING ON THE BRIDGE, LOOKING---I WAS
- 23 STANDING --- LIKE I SAID BEFORE, I WAS STANDING AT THE
- 24 SOUTH END OF THE BRIDGE, LOOKING WEST.

1 Q THE SOUTH END OF THE RAILROAD BRIDGE?

2 A YES.

3 SO, WHOSE PROPERTY WAS THAT?

4 MR. SHAPIRO: WELL, I'M GOING TO OBJECT,  
5 MR. MILLBERG, BECAUSE UNLESS THERE'S A SIGN  
6 THAT SAYS WHO OWNS IT --- I MEAN, PRESUMABLY, YOU  
7 THINK THE RAILROAD OWNS IT, BUT YOU NEED---

8 MR. MILLBERG: I JUST WANT---

9 (BY MR. MILLBERG) IT WAS YOUR UNDERSTANDING THAT  
10 THE RAILROAD --- IT WAS YOUR UNDERSTANDING THAT THAT  
11 WAS RAILROAD PROPERTY, WASN'T IT?

12 A NOT EXACTLY. I'M---

13 Q WHO DO YOU THINK OWNED IT?

14 A I DON'T KNOW. IT COULD BE THE RAILROAD. WHO OWNED  
is THE RIVER? I DON'T KNOW.

16 Q WELL, YOU WORKED FOR TWENTY YEARS FOR THE RAILROAD,  
17 DIDN'T YOU, MR. HURT?

18 A YES, I DID.

19 Q YOU KNOW THAT THE RAILROADS OWN THE RAILROAD TRACKS  
20 THEY OPERATE OVER. ISN'T THAT TRUE?

21 MR. SHAPIRO: AND SOMETIMES THEY LEASE IT,  
22 MR. MILLBERG.

23 A THEY --- THEY LEASE IT, YES.

24 (BY MR. MILLBERG) THEY LEASE IT OR THEY OWN IT.

1 IT'S THEIR PROPERTY. YOU KNOW THAT, DON'T YOU?

2 A I DON'T KNOW, BECAUSE WHEN I WAS WITH THE RAILROAD,  
3 I WAS OUST LIKE ANY OTHER EMPLOYEE. I GOES TO WORK,  
4 I DO WHAT I'M TOLD AND GET MY PAYCHECK. I DIDN'T  
5 GET INTO A LOT OF WHO OWNED WHAT. I DON'T KNOW.

6 Q IS THERE ANYBODY ELSE THAT YOU THINK MIGHT OWN THESE  
7 RAILROAD TRACKS OTHER THAN C.S.X.?

8 A C.S.X. OWN TRACKS. I DO KNOW C.S.X. OWN TRACKS. I  
9 DO KNOW AMTRAK OWN TRACKS. I DO KNOW THAT --- I DO  
10 KNOW THE N&W OWN TRACKS, AND ON AND ON. SO, I MEAN,  
11 I DON'T KNOW WHO OWN WHAT. YOU KNOW, YOU'RE ASKING  
12 ME A QUESTION THAT I CAN'T ANSWER.

13 Q WELL, MY QUESTION IS, DO YOU HAVE ANY IDEA THAT  
14 ANYONE OTHER THAN C.S.X. OWNED THESE TRACKS WHERE  
15 THIS C.S.X. EMPLOYEE CLAIMS HE WAS HURT?

16 A I DON'T KNOW. I AGAIN SAY I DON'T KNOW IF IT'S  
17 C.S.X., AGAIN, BECAUSE I RAVE THOUGHT TRAT I WAS IN  
18 ONE PLACE AND, QUITE CONTRARY, IN ANOTHER ONE. I  
19 DON'T KNOW.

20 Q DID YOU INTERVIEW ANY WITNESSES ABOUT THIS CASE, MR.  
21 HURT?

22 A (NO RESPONSE).

23 Q DID YOU INTERVIEW ANY WITNESSES?

24 A I DON'T THINK I DID. I DON'T KNOW.

1 Q DID YOU EVER TALK TO KELLY PARKER?

2 A NO, I DIDN'T.

3 Q EVER TALK TO LESLIE STONE?

4 A NO.

5 Q EVER TALK TO ANY CO-EMPLOYEES OF MR. LEE?

6 A I DON'T KNOW. NO, I DON'T THINK SO. I DON'T KNOW  
7 BECAUSE I--- AGAIN, THIS HAS BEEN OVER THREE YEARS  
8 AGO, AND --- AND I HAVE NOT BEEN THAT CLOSE IN CONTACT  
9 WITH THIS CASE.

10 DID YOU TAKE ANY MEASUREMENTS?

11 A NO, I DON'T THINK SO. IT'S NOT IN THE PICTURES,  
12 RIGHT?

13 YOU DON'T RECALL ANY MEASUREMENTS?

14 A NO.

is Q WHEN YOU TOOK THE PICTURES OF THESE SIGNS, DID YOU  
16 REALIZE THAT NONE OF THEM WERE THE SIGN INVOLVED IN  
17 THE ACCIDENT?

18 A THAT'S WHY MR. LEE WAS THERE, TO POINT OUT THE TYPE  
19 OF SIGN THAT HE WAS WORKING WITH AT THE TIME HE GOT  
20 INVOLVED.

21 SO, YOU REALIZED THAT NONE OF THEM WERE "THE" SIGN  
22 INVOLVED IN THE ACCIDENT?

23 A RIGHT.

24 Q HAVE YOU MADE ANY VIDEOTAPES IN THIS CASE?

1 A NO, I HAVEN'T.

2 HAVE YOU BEEN PRESENT WHEN ANY VIDEOTAPES WERE MADE  
3 IN THIS CASE?

4 A NO.

5 HAVE YOU PHOTOGRAPHED ANYONE ATTEMPTING TO PLACE A  
6 SIGN?

7 A HAVE I PHOTOGRAPHED?

8 Q YES, SIR.

9 A NO.

10 Q OR MADE ANY SUCH VIDEOTAPE?

11 A NO.

12 MR. MILLBERG: I REQUEST A COPY OF THE  
13 INTERVIEW NOTES WITH MR. LEE AND, SPECIFICALLY,  
14 I WANT TO KNOW WHAT HE SAID ABOUT WHETHER THE  
is SIGN WAS FLAT OR POINTED.

15 MR. SHAPIRO: OUR OBJECTION WOULD BE WORK  
16 PRODUCT GROUNDS, ATTORNEY-CLIENT PRIVILEGE;  
is BUT --- SO, I THINK YOU'D BETTER RANDLE IT WITH  
17 THAT ASSUMPTION. I THINK THE INTERVIEW WITH  
18 THE CLIENT --- THE NOTES WOULD BE PRIVILEGED, AND  
19 TRAT WOULD BE OUR POSITION.

20 I DON'T DISAGREE TRAT AN APPROPRIATE  
21 INTERROGATORY TRAT ASKED TliAT PARTICULAR  
22 QUESTION IS NOT APPROPRIATE, BUT I DON'T THINK

1 GIVING OUR NOTES THAT HAVE EVERYTHING ELSE IN  
2 THEM WOULD BE APPROPRIATE. THAT WOULD BE OUR  
3 POSITION. AND THERE'S TIME TO ASK THAT  
4 INTERROGATORY, TOO, BECAUSE WE --- I'LL ANSWER IT  
5 IF YOU ASK IT.

6 MR. MILLBERG: TO ANSWER WHAT  
7 INTERROGATORY?

8 MR. SEEAPIRO: IF YOU PROPOUND AN  
9 INTERROGATORY ASKING ME THE QUESTION ABOUT DID  
10 MR. LEE SAY --- YOU KNOW, WHAT DID MR. LEE STATE  
11 ABOUT THE SIGN, I'LL ANSWER IT BECAUSE IT WOULD  
12 BE TIMELY. BUT I DON'T THINK THAT WE HAVE TO  
13 GIVE YOU INTERVIEW NOTES OF OUR CLIENT THAT HAS  
14 MANY OTHER THINGS IN THERE. THAT WOULD BE  
15 PRIVILEGED. BUT I'LL ANSWER THE QUESTION.

16 MR. MILLBERG: I'D REQUEST A REDACTED COPY  
17 OF THAT DOCUMENT, REDACTING OUT EVERYTHING ELSE  
18 IN IT EXCEPT THAT---

19 MR. SEEAPIRO: IF IT WERE THERE---

20 MR. MILLBERG: --- AND THE DATE.

21 MR. SEEAPIRO: I WOULD CONSIDER THAT, IF IT  
22 WAS IN THERE. THAT'S OUR USUAL INTERVIEW  
23 CHECKLIST WE USE WITH EVERY CLIENT. I DON'T  
24 KNOW THAT IT WOULD BE IN THERE. I'LL LOOK

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1                   THROUGH IT. I'LL LOOK THROUGH IT.  
2           Q       (BY MR. MILLBERG) LET ME GO BACK TO THE EARLY PART,  
a                   MR. MMT, FOR TUST A MINUTE AND CLARIFY A THING OR  
4                   TWO.  
5                   YOU SAID TRAT YOU HAD AN INITIAL CONVERSATION  
6                   WITH MR. LEE OVER THE TELEPHONE.  
7           A       TJH-= (YES) .  
  
8           Q       HE CALLED YOU, AND HE TOLD YOU LTUST THE BASICS ABOUT  
  
9                   WHAT HAD HAPPENED---  
  
10          A       YES.  
11          Q       --- WI-IAT, WHERE AND WHEN, SOMETHING TO TRAT EFFECT.  
12          A       UH-HUH (YES).  
13          Q       AND, THEN, YOU SAID YOU "M A LATER CONVERSATION  
14                   WHERE YOU INTERVIEWED HIM IN DEPTH.  
15          A       UH-HUH (YES).  
16          Q       WHO MADE THAT CALL, YOU OR HIM? THE SECOND CALL.  
17          A       THE SECOND CALL?  
18          Q       YES, SIR.  
19          A       THE SECOND CALL WHEN I INTERVIEWED HIM, I WENT OUT  
20                   TO MR. LEE'S HOUSE AND INTERVIEWED HIM.  
21          Q       OH, YOU WENT TO HIS HOUSE AND INTERVIEWED HIM---  
22          A       YES.  
23          Q       --- IN PERSON?  
24          A       YES.

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1 Q I SEE. WAS ANYONE ELSE PRESENT AT THAT TIME?  
2 A NO, THERE WASN'T.  
3 Q I= MR. LEE HIRED OR IZETAINED THE WILSON & HAJEK  
4 FIRM TO REPRESENT HIM AT THAT POINT, OR DID THAT  
5 COME LATER?  
6 A WHAT POINT YOU'RE TALKING ABOUT NOW?  
7 Q THE POINT WHEN YOU TOOK THE --- WHEN YOU WENT TO HIS  
8 HOME AND TOOK THE DETAILED INTERVIEW FROM HIM.  
9 A OH, TRAT CAME LATER. IT CAME LATER.  
10 Q WHICH CAME LATER?  
11 A THE WILSON & HAJEK CAME LATER.  
12 Q OKAY. SO, YOU TOOK THAT DETAILED INTERVIEW OF HIM  
13 BEFORE HE HAD HIRED THE WILSON & HAJEK FIRM?  
14 A YES.  
15 Q YOU MENTIONED EARLIER THAT YOU'RE PAID ON A REGULAR  
16 BASIS BY THE WILSON & HAJEK FIRM, MR. HURT. is  
17 THAT --- I NEED TO ASK YOU A COUPLE OF QUESTIONS ABOUT  
18 TRAT. ARE YOU PAID MONTHLY, TWICE MONTHLY?  
19 MR. SH"IRO: I DON'T SEE HOW IT'S  
20 RELEVANT TO ANY ISSUE IN THE CASE.  
21 MR. MILLBERG: IT GOES TO BIAS.  
22 MR. SH"IRO: OH, WELL, WE'LL STIPULATE  
23 THAT THE MAN IS BIASED FOR OUR LAW FIRM BECAUSE  
24 HE'S OTJR INVESTIGATOR. I THINK ANYONE WOULD

1 UNDERSTAND IF HE'S COMPENSATED BY A FIRM, HE  
2 WOULD BE BIASED IN SOMEWAY TOWARD THE FIRM.  
3 MR. MILLBERG: OKAY.  
4 MR. SH"IRO: I DON'T THINK TRAT IT WOULD  
5 MATTER ABOUT---  
6 MR. MILLBERG: WELL, I THINK I'M ENTITLED  
7 TO A COUPLE OF DETAILS. I'M NOT GOING TO ASK  
8 MUCH, RICK.  
9 MR. SEEAPIRO: WELL, I'M GOING TO SEE HOW  
10 IT GOES. I HAVEN'T INSTRUCTED HIM NOT TO  
11 ANSWER A QUESTION YET, BUT YOU'RE GETTING  
12 MIGHTY CLOSE. YOU CAN ANSWER WHETHER IT'S  
13 BIMONTHLY OR MONTHLY?  
14 A BIMONTHLY.  
15 Q (BY MR. MILLBERG) BIMONTHLY. AND IS YOUR  
16 COMPENSATION SET AT SO MUCH PER YEAR, LIKE A SALARY?  
17 A YES, IT IS.  
18 Q OKAY. AND---  
19 MR. SHAPIRO: HE ALSO BILLS FOR EXPENSES  
20 AND TRAVEL. HE SAID THAT.  
21 MR. MILLBERG: YES, SIR, PLUS EXPENSES. 1  
22 RECOGNIZE THAT.  
23 Q (BY MR. MILLBERG) WRAT IS TRAT ANNUAL SALARY?  
24 MR. SHAPIRO: I'M GOING TO OBJECT TO THAT.  
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1 I'M GOING TO OBJECT AND DIRECT HIM NOT TO  
2 ANSWER THAT QUESTION. IF YOU CAN CONVINC A  
3 JUDGE THAT THAT SOMEHOW IS RELEVANT, I --- YOU  
4 KNOW, AND YOU OUGHT TO SEE WHAT ELSE YOU WANT,  
5 BUT I'M GOING TO DIRECT HIM NOT TO ANSWER THAT  
6 QUESTION.

7 MR. MILLBERG: TRAT'S WHAT I WANT.

8 MR. SECAPIRO: YOU WANT ONE YEAR OR EACH  
9 YEAR OR --- I MEAN, IT MIGHT BE DIFFERENT. I  
10 MEAN, WHAT WOULD BE---

11 Q (BY MR. MILLBERG) WAS IT CHANGED SINCE 1993?

12 A NO.

13 Q THE SAME AMOUNT PER YEAR SINCE 1993, 1994, 1995 AND  
14 1996?

15 MR. SHAPIRO: HAS YOUR COMPENSATION GON'VE  
16 UP OR DOWN, OR BEEN THE SAME?

17 WITNESS: THE SAME.

18 MR. MILLBERG: THE SAME. OKAY. THAT'S  
19 ALL I WANT TO KNOW, IS WHAT THAT ANNUAL AMOUNT  
20 IS.

21 MR. SEIAPIRO: OKAY. WELL, I'M GOING TO  
22 DIRECT HIM NOT TO ANSWER THAT QUESTION. I  
23 THINK TRAT'S REALLY GETTING TOO PAR INTO---  
24 WE'VE ALREADY SAID TRAT WE'D STIPULATE TRAT HE

I --- SINCE HE'S CONTRACTED FOR OUR FIRM, HE'S  
2 OBVIOUS BIASED TOWARD OUR FIRM. I DON'T THINK  
3 IT GOES TO ANY ISSUE THAT RELATES TO ANYTHING  
4 THAT'S NOT KNOWN. I MEAN, WE PRESUME HE'S  
5 BIASED TOWARD OUR FIRM, SO I DON'T THINK IT HAS  
6 A PROBATIVE VALUE.

7 Q (BY MR. MILLBERG) OBVIOUSLY, YOU KNOW THE ANSWER TO  
8 THAT QUESTION. I'M NOT ASKING YOU RIGHT NOW TO TELL  
9 IT TO ME, BUT YOU KNOW HOW MUCH YOU'RE PAID, DON'T  
10 YOU, Z4R. HURT?

11 MR. SEEAPIRO: I MEAN, YOU COULD MAKE ---  
12 WITH REFERENCE, HE COULD FIND IT OUT AND ---

13 Q (BY MR. MILLBERG) EITHER YOU KNOW OR YOU COULD  
14 FIGURE IT OUT?

15 MR. SELAPIRO: WE AGREE TO THAT. HE CAN  
16 FIND IT, YES.

17 WITNESS: YEAH, RIGHT.

is MR. MILLBERG: OKAY. FINALLY --- THIS IS  
19 NOT A QUESTION. JUST, I WANTED TO STATE ONE  
20 THING ON THE RECORD JUST SO THAT IT'S CLEAR IN  
21 THE FUTURE, AND THAT IS, THAT MR. HMT DOES NOT  
22 HAVE THE PERMISSION OF C.S.X. TRANSPORTATION,  
23 INC., TO GO ON ITS PROPERTY AT ANY TIME FOR ANY  
24 PURPOSE WITHOUT RECEIVING PERMISSION AHEAD OF  
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1 TIME. I WANT THAT TO BE CLEAR ON THE RECORD IN  
2 THE EVENT IT EVER COMES UP AGAIN.

3 MR. SH"IRO: OKAY. I RAVE SOME QUESTIONS  
4 FOR MR. HURT.

5 CROSS-EXAMINATION BY MR. SHAPIRO:

6 Q MR. HURT, WHEN YOU TOOK THESE PHOTOGRAPHS THAT WERE  
7 AT THE AREA OF THE RAILROAD TRACK---

8 A UH-HUH (YES).

9 Q --- DID YOU PARK A CAR NEARBY?

10 A YES.

11 Q DID YOU SEE ANY SIGNS TRAT INDICATE WHO THE OWNER OF  
12 THE PROPERTY WAS BEFORE YOU ENTERED ON THE PROPERTY?

13 A NO, I DIDN'T.

14 Q WAS THERE ANY SIGN POSTED THAT SAID "NO  
15 TRESPASSINGN?

16 A NO.

17 Q WAS THERE A GATE YOU HAD TO ENTER?

is A LET'S SEE. NO.

19 Q WAS THERE CRAIN YOU HAD TO CROSS?

20 A NO.

21 Q WAS THERE ANY INDICATION WHATSOEVER WHO THE OWNER OF  
22 THE PROPERTY WAS OR THAT THERE WAS NO TRESPASSING?

23 A NO.

24 Q WHEN YOU TOOK THE PHOTOGRAPHS OF THE SIGNS IN

I ROANOKE RAPIDS, WAS THERE A GATE?

2 A NO.

3 a WHERE YOU WERE STANDING, WAS THERE A SIGN THAT SAID

4 "NO TRESPASSING"?

5 A NO.

6 Q DID YOU HAVE TO GO THROUGH ANY TYPE OF GATE, FENCE

7 OR BARRICADE OF ANY KIND TO ENTER THE AREA WHERE YOU

8 TOOK THE PHOTOGRAPHS?

9 A NO.

10 MR. SHIRO: I HAVE NOTHING FURTHER.

11 MR. MILLBERG: IN CONNECTION WITH MY LAST

12 STATEMENT, MR. HURT, IN THE STATE OF NORTH

13 CAROLINA, THE C.S.X. TRANSPORTATION, INC.,

14 OPERATES TRAINS OVER TRACKS THAT IT OWNS. I'M

15 TELLING YOU THAT SO THAT YOU KNOW THAT IN THE

16 FUTURE. IF YOU GO OUT ON TRACKS WHERE A C.S.X.

17 EMPLOYEE IS INJURED WHILE HE WAS WORKING, YOU

18 MAY ASSUME THOSE TRACKS ARE OWNED BY C.S.X.

19 MR. SHAPIRO: OKAY. MR. HURT, YOU HAVE

20 THE RIGHT TO REVIEW THE TRANSCRIPT OR RELY ON

21 THE ACCURACY OF THE COURT REPORTER, AND I THINK

22 YOU CAN RELY ON HER. I DON'T THINK THERE'RE

23 ANY COMPLICATED ISSUES. OKAY?

24 WITNESS: OKAY.

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MP, . SHAPIRO: HE WAIVES.

(THEREUPON, THE WITNESS WAS DISMISSED AT  
3:35 P.M.)

RF.ADIMG AND SIGN3NG

(PHOTOGRAPHS MARKED AS DEFENDANT'S DEPOSITION  
EXHIBIT NOS. 1 THROUGH 34 WERE RETAINED BY  
COUNSEL FOR THE DEFENDANT AND NO COPIES ARE  
BEING ATTACHED TO THE TRANSCRIPT.)

STATE OF NORTH CAROLINA  
COUNTY OF WILSON

C E R T I F I C A T E

1, MARTHA JEAN ROBBINS, NOTARY PUBLIC/REPORTER, DO  
HEREBY CERTIFY THAT DAVID ANDREW HURT WAS DULY SWORN BY  
ME PRIOR TO THE TAKING OF THE FOREGOING DEPOSITION; AND  
THAT SAID DEPOSITION WAS TAKEN AND TRANSCRIBED UNDER MY  
SUPERVISION; AND THAT THE FOREGOING 51 PAGES CONSTITUTE A  
TRUE AND ACCURATE TRANSCRIPT OF THE TESTIMONY OF THE  
WITNESS.

I DO FURTHER CERTIFY THAT THE PERSONS WERE PRESENT  
AS STATED IN THE CAPTION.

I DO FURTHER CERTIFY THAT I AM NOT OF COUNSEL FOR,  
OR IN THE EMPLOYMENT OF, EITHER OF THE PARTIES TO THIS  
ACTION, NOR AM I INTERESTED IN THE RESULTS OF THIS  
ACTION.

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED MY  
NAME THIS 29TH DAY OF JANUARY, 1997.

MARTHA JEAN ROBBINS, NC

MY COMMISSION EXPIRES:  
JULY 8, 1998.

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